

Administrator in administering and enforcing the part 71 operating permits program.

(k) *EPA administration and enforcement of part 70 permits.* When the Administrator administers and enforces a part 71 program after a determination and notice under § 70.10(b)(1) of this chapter that a State or Tribe is not adequately administering and enforcing an operating permits program approved under part 70 of this chapter, the Administrator will administer and enforce permits issued under the part 70 program until part 71 permits are issued using the procedures of part 71. Until such time as part 70 permits are replaced by part 71 permits, the Administrator will revise, reopen, revise, terminate, or revoke and reissue part 70 permits using the procedures of part 71 and will assess and collect fees in accordance with the provisions of § 71.9.

(l) *Transition to approved part 70 program.* The Administrator will suspend the issuance of part 71 permits promptly upon publication of notice of approval of a State or Tribal operating permits program that fully meets the requirements of part 70 of this chapter. The Administrator may retain jurisdiction over the part 71 permits for which the administrative or judicial review process is not complete and will address this issue in the notice of State program approval. After approval of a State or Tribal program and the suspension of issuance of part 71 permits by the Administrator:

(1) The Administrator, or the permitting authority acting as the Administrator's delegated agent, will continue to administer and enforce part 71 permits until they are replaced by permits issued under the approved part 70 program. Until such time as part 71 permits are replaced by part 70 permits, the Administrator will revise, reopen, revise, terminate, or revoke and reissue part 71 permits using the procedures of the part 71 program. However, if the Administrator has delegated authority to administer part 71 permits to a delegate agency, the delegate agency will revise, reopen, terminate, or revoke and reissue part 71 permits using the procedures of the approved part 70 program. If a part 71 permit expires prior to the issuance of a part 70 permit, all terms and conditions of the part 71 permit, including any permit shield that may be granted pursuant to § 71.6(n), shall remain in effect until the part 70 permit is issued or denied, provided that a timely and complete application for a permit renewal was submitted to the permitting authority in accordance with

the requirements of the approved part 70 program.

(2) A State or local agency or Indian Tribe with an approved part 70 operating permits program may issue part 70 permits for all sources with part 71 permits in accordance with a permit issuance schedule approved as part of the approved part 70 program or may issue part 70 permits to such sources at the expiration of the part 71 permits.

(3) The Administrator shall rescind the part 71 permit for a source when it is replaced by a part 70 permit issued under the approved part 70 program.

(m) *Exemption for certain territories.* Upon petition by the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Marianas Islands, the Administrator may exempt any source or class of sources in such territory from the requirement to have a part 71 permit under this chapter. Such an exemption does not exempt such source or class of sources from any requirement of section 112 of the Act, including the requirements of section 112(g) or (j).

(1) Such exemption may be granted if the Administrator finds that compliance with part 71 is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant. Any such petition shall be considered in accordance with section 307(d) of the Act, and any exemption granted under this paragraph (m) shall be considered final action by the Administrator for the purposes of section 307(b) of the Act.

(2) The Administrator shall promptly notify the Committees on Energy and Commerce and on Interior and Insular Affairs of the House of Representatives and the Committees on Environment and Public Works and on Energy and Natural Resources of the Senate upon receipt of any petition under this paragraph (m) and of the approval or rejection of such petition and the basis for such action.

(n) *Retention of records.* The records for each draft, proposed, and final permit application, renewal, or modification shall be kept by the Administrator for a period of 5 years.

§ 71.5 Permit applications.

(a) *Duty to apply.* The owner or operator of a source required to obtain a permit under § 71.3 shall submit a timely and complete permit application in accordance with this section.

(b) *Timely application.*

(1) A timely application for a source which does not have an existing operating permit issued by a State under

the State's approved part 70 program and is applying for a part 71 permit for the first time is one that is submitted within 12 months or an earlier date after the source becomes subject to the part 71 program. Sources required to submit applications earlier than 12 months will be notified in advance by the permitting authority of this paragraph (b)(1) and given a reasonable time to submit their applications. In no case will this notice be given less than 120 days in advance of the submittal date.

(2) For purposes of changes eligible under § 71.6(q), a timely application is one that is submitted not later than 6 months after the notice required under § 71.6(q)(3).

(3) For purposes of permit revisions other than changes eligible under § 71.6(g), a timely application is one that is submitted by the relevant deadlines set forth in § 71.7(e), (f), (g), or (h).

(4) For purposes of permit renewal, a timely application is one that is submitted at least 6 months but no longer than 18 months prior to the date of the part 70 or part 71 permit expiration.

(5) Applications for initial phase II acid rain permits shall be submitted to the permitting authority by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides or by such other deadlines established under title IV of the Act and 40 CFR parts 72 through 78.

(c) *Complete application.* To be found complete, an application must provide all information required pursuant to paragraph (f) of this section sufficient to allow the permitting authority to begin processing the application, except that an application for a permit revision need supply such information only if it is related to the proposed change. Additionally, an initial applicant must remit payment of any fees owed pursuant to § 71.9 in order for the application to be found complete. The information supplied by the applicant pursuant to paragraph (f) of this section must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information consistent with paragraph (i) of this section. Unless the permitting authority determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in § 71.7(a)(3). If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the