

measures (as defined in § 63.2) such that no hazardous air pollutant is emitted from any source of emissions to which any requirement under the subpart applies.

(3) Each emission limitation under the subpart is greater than zero.

(b) *General requirements for pollution prevention exemption.* (1) Until the owner or operator receives written notification that the Administrator has approved a pollution prevention exemption according to this section, the major or area source is subject to all applicable requirements in the subpart.

(2) Upon receipt by the owner or operator of the written notification of approval from the Administrator, the major or area source is no longer subject to the subpart.

(3) The approved exemption applies only as long as no hazardous air pollutant is emitted from any source of emissions to which any requirement under the subpart applies. The owner or operator must notify the Administrator at least 30 days prior to emitting a hazardous air pollutant. If any hazardous air pollutant is emitted from any such source of emissions, the major or area source is subject to the subpart, and the owner or operator must comply with the subpart as of that date.

(4) If the applicability of the subpart is the only reason that the major or area source is subject to requirements under 40 CFR part 70 or 71 (*i.e.*, the title V operating permits program), after receiving the written notification that the source is no longer subject to the subpart, the owner or operator may apply to the permitting authority to no longer be subject to the title V operating permits program and to have the existing permit rescinded.

(c) *Request for pollution prevention exemption.* (1) The owner or operator may submit a written request to the Administrator at any time after the first applicable compliance date for the major or area source to no longer be subject to the subpart. For a source at a Performance Track member facility, the owner or operator must submit the request to the Administrator and is encouraged to submit it to the designated performance track contact within EPA. (The Administrator will designate a central contact within the EPA to facilitate and expedite the review of a Performance Track member facility's request for a pollution prevention exemption.)

(2) The written request may include any information that the owner or operator considers useful to demonstrate that the subpart should no longer apply. At a minimum, the written request must include the information in

paragraphs (c)(2)(i) through (c)(2)(vi) of this section.

(i) A statement identifying the subpart and each source of emissions that is currently subject to the subpart, and indicating that the owner or operator is applying for the major or area source to no longer be subject to the subpart.

(ii) A description of the pollution prevention measures used to eliminate the hazardous air pollutant emissions, and a demonstration that the measures qualify as pollution prevention as defined in § 63.2.

(iii) A demonstration that the pollution prevention measures have eliminated all hazardous air pollutant emissions from each source of emissions to which any requirement under the subpart applies.

(iv) Documentation that the subpart does not include a limit of zero hazardous air pollutant emissions for any source of emissions to which any requirement under the subpart applies.

(v) A certification signed by a responsible official that the major or area source will not resume emitting any hazardous air pollutant from any source of emissions to which any requirement under the subpart applies unless the owner or operator notifies the Administrator in writing at least 30 days prior to emitting a hazardous air pollutant.

(vi) A certification signed by a responsible official that the subpart will again apply to the major or area source on the date that the source resumes emitting a hazardous air pollutant, and that the owner or operator will comply with all applicable requirements of the subpart on that date.

(d) *Review and approval or disapproval of request for pollution prevention exemption.* (1) For each request submitted for a pollution prevention exemption in accordance with paragraph (c) of this section, the Administrator will notify the owner or operator in writing of the approval of, or intent to deny approval of, the request within a 45-day notification period after receiving the request. For a source at a Performance Track member facility, the notification period for approval or intent to deny is 30 days after receiving the request.

(2) The major or area source is subject to the subpart until the Administrator notifies the owner or operator in writing of the approval of the request to no longer be subject to the subpart. Failure of the Administrator to notify the owner or operator in writing of the approval of, or intent to deny approval of, the request within the applicable notification period after receiving the

request does not constitute approval of the request.

(3) The Administrator may specify additional compliance requirements as a condition of approving the request that the subpart no longer apply.

(4) If the Administrator intends to disapprove the request that the subpart no longer apply, the Administrator will notify the owner or operator in writing of the intent to deny approval within the applicable notification period after receiving the request. The written notification will include the information in paragraphs (d)(4)(i) through (d)(4)(iii) of this section.

(i) Notice of the information and findings on which the intended disapproval is based.

(ii) Notice of opportunity for the owner or operator to present additional information to the Administrator before final action on the request.

(iii) A deadline for presenting the additional information to the Administrator.

(5) If additional information is submitted according to paragraph (d)(4)(ii) of this section, the Administrator will notify the owner or operator in writing of the approval or disapproval of the request within the applicable notification period after receiving any additional information. If additional information has not been submitted by the deadline established according to paragraph (d)(4)(iii) of this section, the Administrator will disapprove the request. Failure of the Administrator to notify the owner or operator in writing of the approval or disapproval within the applicable notification period after receiving the additional information does not constitute approval of the request.

(6) If the Administrator approves the request that the subpart no longer apply, the Administrator will transmit written approval to the owner or operator that includes the elements in paragraphs (d)(6)(i) through (d)(6)(v) of this section. The written approval document shall be enforceable under the CAA.

(i) Identification of the subpart of this part that no longer applies.

(ii) Identification of each specific source of emissions to which the approval would apply, *i.e.*, the source(s) of emissions to which the subpart would no longer apply.

(iii) Any additional compliance measures deemed necessary by the Administrator.

(iv) A requirement that the owner or operator provide written notice to the Administrator at least 30 days prior to emitting a hazardous air pollutant from the source of emissions to which the approval applies.