

§ 136.4

40 CFR Ch. I (7–1–14 Edition)

[38 FR 28758, Oct. 16, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 136.3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 136.4 Application for and approval of alternate test procedures for nationwide use.

(a) A written application for review of an alternate test procedure (alternate method) for nationwide use may be made by letter via email or by hard copy in triplicate to the National Alternate Test Procedure (ATP) Program Coordinator (National Coordinator), Office of Science and Technology (4303T), Office of Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Any application for an alternate test procedure (ATP) under this paragraph (a) shall:

(1) Provide the name and address of the responsible person or firm making the application.

(2) Identify the pollutant(s) or parameter(s) for which nationwide approval of an alternate test procedure is being requested.

(3) Provide a detailed description of the proposed alternate test procedure, together with references to published or other studies confirming the general applicability of the alternate test procedure for the analysis of the pollutant(s) or parameter(s) in wastewater discharges from representative and specified industrial or other categories.

(4) Provide comparability data for the performance of the proposed alternate test procedure compared to the performance of the reference method.

(b) The National Coordinator may request additional information and analyses from the applicant in order to determine whether the alternate test procedure satisfies the applicable requirements of this part.

(c) *Approval for nationwide use.* (1) After a review of the application and any additional analyses requested from the applicant, the National Coordinator will notify the applicant, in writing, of acceptance or rejection of the alternate test procedure for nationwide use in CWA programs. If the application is not approved, the National Coordinator will specify what additional

information might lead to a reconsideration of the application, and notify the Regional Alternate Test Procedure Coordinators of such rejection. Based on the National Coordinator's rejection of a proposed alternate test procedure and an assessment of any approvals for limited uses for the unapproved method, the Regional ATP Coordinator or permitting authority may decide to withdraw approval of the method for limited use in the Region.

(2) Where the National Coordinator approved an applicant's request for nationwide use of an alternate test procedure, the National Coordinator will notify the applicant that the National Coordinator will recommend rule-making to approve the alternate test procedure. The National Coordinator will notify the Regional ATP Coordinator or permitting authorities that they may consider approval of this alternate test procedure for limited use in their Regions based on the information and data provided in the applicant's application. The Regional ATP Coordinator or permitting authority will grant approval on a case-by-case basis prior to use of the alternate test procedure for compliance analyses until the alternate test procedure is approved by publication in a final rule in the FEDERAL REGISTER.

(3) EPA will propose to amend 40 CFR part 136 to include the alternate test procedure in § 136.3. EPA shall make available for review all the factual bases for its proposal, including any performance data submitted by the applicant and any available EPA analysis of those data.

(4) Following public comment, EPA shall publish in the FEDERAL REGISTER a final decision on whether to amend 40 CFR part 136 to include the alternate test procedure as an approved analytical method.

(5) Whenever the National Coordinator has approved an applicant's request for nationwide use of an alternate test procedure, any person may request an approval of the method for

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limited use under §136.5 from the EPA Region.

[77 FR 29809, May 18, 2012]

§136.5 Approval of alternate test procedures for limited use.

(a) Any person may request the Regional Alternate Test Procedure (ATP) Coordinator or permitting authority to approve the use of an alternate test procedure in the Region.

(b) When the request for the use of an alternate test procedure concerns use in a State with an NPDES permit program approved pursuant to section 402 of the Act, the requestor shall first submit an application for limited use to the Director of the State agency having responsibility for issuance of NPDES permits within such State (*i.e.*, permitting authority). The Director will forward the application to the Regional ATP Coordinator or permitting authority with a recommendation for or against approval.

(c) Any application for approval of an alternate test procedure for limited use may be made by letter, email or by hard copy. The application shall include the following:

(1) Provide the name and address of the applicant and the applicable ID number of the existing or pending permit and issuing agency for which use of the alternate test procedure is requested, and the discharge serial number.

(2) Identify the pollutant or parameter for which approval of an alternate test procedure is being requested.

(3) Provide justification for using testing procedures other than those specified in Tables IA through IH of §136.3, or in the NPDES permit.

(4) Provide a detailed description of the proposed alternate test procedure, together with references to published studies of the applicability of the alternate test procedure to the effluents in question.

(5) Provide comparability data for the performance of the proposed alternate test procedure compared to the performance of the reference method.

(d) *Approval for limited use.* (1) After a review of the application by the Alternate Test Procedure Regional ATP Coordinator or permitting authority, the Regional ATP Coordinator or permit-

ting authority notifies the applicant and the appropriate State agency of approval or rejection of the use of the alternate test procedure. The approval may be restricted to use only with respect to a specific discharge or facility (and its laboratory) or, at the discretion of the Regional ATP Coordinator or permitting authority, to all dischargers or facilities (and their associated laboratories) specified in the approval for the Region. If the application is not approved, the Regional ATP Coordinator or permitting authority shall specify what additional information might lead to a reconsideration of the application.

(2) The Regional ATP Coordinator or permitting authority will forward a copy of every approval and rejection notification to the National Alternate Test Procedure Coordinator.

[77 FR 29809, May 18, 2012]

§136.6 Method modifications and analytical requirements.

(a) *Definitions of terms used in this section*—(1) *Analyst* means the person or laboratory using a test procedure (analytical method) in this part.

(2) *Chemistry of the method* means the reagents and reactions used in a test procedure that allow determination of the analyte(s) of interest in an environmental sample.

(3) *Determinative technique* means the way in which an analyte is identified and quantified (e.g., colorimetry, mass spectrometry).

(4) *Equivalent performance* means that the modified method produces results that meet or exceed the QC acceptance criteria of the approved method.

(5) *Method-defined analyte* means an analyte defined solely by the method used to determine the analyte. Such an analyte may be a physical parameter, a parameter that is not a specific chemical, or a parameter that may be comprised of a number of substances. Examples of such analytes include temperature, oil and grease, total suspended solids, total phenolics, turbidity, chemical oxygen demand, and biochemical oxygen demand.

(6) *QC* means “quality control.”

(b) *Method modifications.* (1) If the underlying chemistry and determinative