

(d) Permit applications for sources subject to enforceable commitments pursuant to § 63.75 shall be submitted no later than April 30, 1994.

(e) If the post-reduction year does not end at least one month before the permit application deadline under paragraph (c) of this section, the source may file the post-reduction emissions information required under § 63.74(d)(2), (d)(3), and (d)(5) later as a supplement to the original permit application. In such cases, this supplemental information shall be submitted to the permitting authority no later than one month after the end of the post-reduction year.

(f) If a source test will be the supporting basis for establishing post-reduction emissions for one or more emissions units in the early reductions source, the test results shall be submitted by the applicable deadline for submittal of a permit application as specified in paragraph (c) or (d) of this section.

(g) Review and disposition of permit applications submitted under this section will be accomplished according to the provisions of the applicable permit program established pursuant to title V of the Act.

[58 FR 62543, Nov. 29, 1993, as amended at 59 FR 59924, Nov. 21, 1994]

**§ 63.78 Early reduction demonstration evaluation.**

(a) The permitting authority will evaluate an early reduction demonstration submitted by the source owner or operator in a permit application with respect to the requirements of § 63.74.

(b) An application for a compliance extension may be denied if, in the judgement of the permitting authority, the owner or operator has failed to demonstrate that the requirements of § 63.74 have been met. Specific reasons for denial include, but are not limited to:

(1) The information supplied by the owner or operator is incomplete;

(2) The required 90 percent reduction (95 percent in cases where the hazardous air pollutant is particulate matter) has not been demonstrated;

(3) The base year or post-reduction emissions are incorrect, based on methods or assumptions that are not valid,

or not sufficiently reliable or well documented to determine with reasonable certainty that required reductions have been achieved; or

(4) The emission of hazardous air pollutants or the performance of emission control measures is unreliable so as to preclude determination that the required reductions have been achieved or will continue to be achieved during the extension period.

**§ 63.79 Approval of applications.**

(a) If an early reduction demonstration is approved and other requirements for a complete permit application are met, the permitting authority shall establish by a permit issued pursuant to title V of the Act enforceable alternative emissions limitations for the source reflecting the reduction which qualified the source for the extension. However, if it is not feasible to prescribe a numerical emissions limitation for one or more emission points in the source, the permitting authority shall establish such other requirements, reflecting the reduction which qualified the source for an extension, in order to assure the source achieves the 90 percent or 95 percent reduction, as applicable.

(b) An alternative emissions limitation or other requirement prescribed pursuant to paragraph (a) of this section shall be effective and enforceable immediately upon issuance of the permit for the source and shall expire exactly six years after the compliance date of an otherwise applicable standard issued pursuant to section 112(d) of the Act.

**§ 63.80 Enforcement.**

(a) All base year or post-reduction emissions information described in § 63.74 and required to be submitted as part of a permit application under § 63.77 or an enforceable commitment under § 63.75 shall be considered to have been requested by the Administrator under the authority of section 114 of the Act.

(b) Fraudulent statements contained in any base year or post-reduction emissions submitted to a State or EPA Regional Office under this subpart shall be considered violations of section 114 of the Act and of this subpart

## § 63.81

and, thus, actionable under section 113 of the Act and can be considered, in appropriate cases, violations of 18 U.S.C. 1001, the general false swearing provision of the United States Code.

(c) If a source subject to an enforceable commitment fails to achieve reductions before January 1, 1994, sufficient to qualify the source for an extension under this subpart, the source shall be considered to be in violation of the commitment and shall be subject to enforcement action under section 113 of the Act.

(d) If an early reduction demonstration in a permit application filed under § 63.77 is disapproved for a source not subject to an enforceable commitment, the owner or operator shall comply with an applicable standard issued under section 112(d) of the Act by the compliance date specified in such standard.

(e) If an early reduction demonstration in a permit application filed under § 63.77 is disapproved for a source that is subject to an enforceable commitment, the owner or operator shall comply with an applicable standard issued under section 112(d) of the Act by the compliance date specified in such standard and will be subject to enforcement action under section 113 of the Act.

(f) A violation of an alternative emission limitation or other requirement established by permit under § 63.79 (a) or (b) for the source is enforceable pursuant to the authority of section 113 of the Act notwithstanding any demonstration of continuing 90 percent (95 percent for hazardous air pollutants which are particulates) emission reduction over the entire source.

### § 63.81 Rules for special situations.

(a) If more than one standard issued under section 112(d) of the Act would be applicable to a source as defined under § 63.73, then the date of proposal referred to in §§ 63.72(a)(2), 63.72(c), 63.74(d)(4), 63.75(c), and 63.77(c) is the date the first applicable standard is proposed.

(b) Sources emitting radionuclides are not required to reduce radionuclides by 90 (95) percent. Radionuclides may not be increased from the

## 40 CFR Ch. I (7-1-08 Edition)

source as a result of the early reductions demonstration.

### Subpart E—Approval of State Programs and Delegation of Federal Authorities

#### § 63.90 Program overview.

The regulations in this subpart establish procedures consistent with section 112(l) of the Clean Air Act (Act) (42 U.S.C. 7401-7671q). This subpart establishes procedures for the approval of State rules, programs, or other requirements such as permit terms and conditions to be implemented and enforced in place of certain otherwise applicable section 112 Federal rules, emission standards, or requirements (including section 112 rules promulgated under the authority of the Act prior to the 1990 Amendments to the Act). The authority to implement and enforce section 112 Federal rules as promulgated without changes may be delegated under procedures established in this subpart. In this process, States may seek approval of a State mechanism for receiving delegation of existing and future unchanged Federal section 112 standards. This subpart clarifies which part 63, subpart A General Provisions authorities can be delegated to States. This subpart also establishes procedures for the review and withdrawal of section 112 implementation and enforcement authorities delegated through this subpart. This subpart also establishes procedures for the approval of State rules or programs to establish limitations on the potential to emit pollutants listed in or pursuant to section 112(b) of the Act.

(a) *Definitions.* The following definitions apply to this subpart.

*Alternative requirements* means the requirements, rules, permits, provisions, methods, or other enforceable mechanisms that a State submits for approval under this subpart or subpart A and, after approval, replaces the otherwise applicable Federal section 112 requirements, provisions, or methods.

*Applicability criteria* means the regulatory criteria used to define all affected sources subject to a specific section 112 rule.

*Approval* means a determination by the Administrator that a State rule,