

§ 63.72

40 CFR Ch. I (7-1-04 Edition)

condition or preventable equipment breakdown shall not be considered malfunctions.

Not feasible to prescribe or enforce a numerical emission limitation means a situation in which the Administrator or a State determines that a pollutant (or stream of pollutants) listed pursuant to section 112(b) of the Act cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal law; or the application of measurement technology to a particular source is not practicable due to technological or economic limitations.

Permitting authority means either a State agency with an approved permitting program under Title V of the Act or the Administrator in cases where the State does not have an approved permitting program.

Post-reduction year means the one year period beginning with the date early reductions have to be achieved to qualify for a compliance extension under subpart D of this part, unless a source has established with the permitting authority an earlier one year period as the post-reduction year. For most sources, the post-reduction year would begin with the date of proposal of the first section 112(d) standard applicable to the early reductions source; however, for sources that have made enforceable commitments, it would be the year from January 1, 1994, through December 31, 1994.

Responsible official means one of the following:

(1) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representative is approved in advance by the permitting authority.

(2) For a partnership or sole proprietorship, a general partner or the proprietor, respectively.

(3) For a municipality, State, Federal, or other public agency, either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Reviewing agency means a State agency with an approved permitting program under Title V of the Act. An EPA Regional Office is the reviewing agency where the State does not have such an approved permitting program.

State means a State or local air pollution control agency.

[57 FR 61992, Dec. 29, 1992, as amended at 59 FR 59924, Nov. 21, 1994]

§ 63.72 General provisions for compliance extensions.

(a) Except as provided in paragraph (f) of this section, a permitting authority acting pursuant to a permitting program approved under Title V of the Act shall by permit allow an existing source to meet an alternative emission limitation in lieu of an emission limitation promulgated under section 112(d) of the Act for a period of 6 years from the compliance date of the otherwise applicable standard provided the source owner or operator demonstrates:

(1) According to the requirements of § 63.74 that the source has achieved a reduction of 90 percent (95 percent or more in the case of hazardous air pollutants which are particulates) in emissions of:

(i) Total hazardous air pollutants from the source;

(ii) Total hazardous air pollutants from the source as adjusted for high-risk pollutant weighting factors, if applicable.

(2) That such reduction was achieved before proposal of an applicable standard or, for sources eligible to qualify for an alternative emission limitation

Environmental Protection Agency

§ 63.74

as specified in paragraph (c) of this section, before January 1, 1994.

(b) A source granted an alternative emission limitation shall comply with an applicable standard issued under section 112(d) of the Act immediately upon expiration of the six year compliance extension period specified in paragraph (a) of this section.

(c) An existing source that achieves the reduction specified in paragraph (a)(1) of this section after proposal of an applicable section 112(d) standard but before January 1, 1994, may qualify for an alternative emission limitation under paragraph (a) of this section if the source makes an enforceable commitment, prior to proposal of the applicable standard, to achieve such reduction. The enforceable commitment shall be made according to the procedures and requirements of § 63.75.

(d) For each permit issued to a source under paragraph (a) of this section, there shall be established as part of the permit an enforceable alternative emission limitation for hazardous air pollutants reflecting the reduction which qualified the source for the alternative emission limitation.

(e) An alternative emission limitation shall not be available with respect to standards or requirements promulgated to provide an ample margin of safety to protect public health pursuant to section 112(f) of the Act, and the Administrator will, for the purpose of determining whether a standard under section 112(f) of the Act is necessary, review emissions from sources granted an alternative emission limitation under this subpart at the same time that other sources in the category or subcategory are reviewed.

(f) Nothing in this subpart shall preclude a State from requiring hazardous air pollutant reductions in excess of 90 percent (95 percent in the case of particulate hazardous air pollutants) as a condition of such State granting an alternative emission limitation authorized in paragraph (a) of this section.

§ 63.73 Source.

(a) An alternative emission limitation may be granted under this subpart to an existing source. For the purposes of this subpart only, a source is defined as follows:

(1) A building structure, facility, or installation identified as a source by the EPA in appendix B of this part;

(2) All portions of an entire contiguous plant site under common ownership or control that emit hazardous air pollutants;

(3) Any portion of an entire contiguous plant site under common ownership or control that emits hazardous air pollutants and can be identified as a facility, building, structure, or installation for the purposes of establishing standards under section 112(d) of the Act; or

(4) Any individual emission point or combination of emission points within a contiguous plant site under common control, provided that emission reduction from such point or aggregation of points constitutes a significant reduction of hazardous air pollutant emissions of the entire contiguous plant site.

(b) For purposes of paragraph (a)(4) of this section, emissions reductions are considered significant if they are made from base year emissions of not less than:

(1) A total of 10 tons per year of hazardous air pollutants where the total emissions of hazardous air pollutants in the base year from the entire contiguous plant site is greater than 25 tons per; or

(2) A total of 5 tons per year of hazardous air pollutants where the total emissions of hazardous air pollutants in the base year from the entire contiguous plant site is less than or equal to 25 tons per year.

§ 63.74 Demonstration of early reduction.

(a) An owner or operator applying for an alternative emission limitation shall demonstrate achieving early reductions as required by § 63.72(a)(1) by following the procedures in this section.

(b) An owner or operator shall establish the source for the purposes of this subpart by documenting the following information:

(1) A description of the source including: a site plan of the entire contiguous plant site under common control which contains the source, markings on the site plan locating the parts of the site