

**PART 63 - [AMENDED]**

1. The authority citation for part 63 continues to read as follows: Authority 42 U.S.C. 7401 et seq.

2. Part 63 is amended by adding new sections 63.40 - 63.48 to subpart B to read as follows:

Subpart B - Requirements for Control Technology  
Determinations for Major Sources In Accordance with Clean  
Air Act (Act) Sections 112(g) and 112(j)

Sec. 63.40 Applicability of section 63.40 through 63.44.

63.41 Definitions.

63.42 Requirements for constructed and reconstructed  
major sources.

63.43 Maximum achievable control technology (MACT)  
determinations for constructed and reconstructed  
major sources.

63.44 Requirements for constructed or reconstructed  
major sources subject to a subsequently  
promulgated MACT standard or MACT requirement.

**63.40 Applicability of section 63.40 through 63.44**

(a) Applicability. The requirements of section  
63.40 through 63.44 of this subpart carry out section  
112(g)(2)(B) of the Act as amended in 1990 (1990  
Amendments).

(b) Overall requirements. The requirements of section 63.40 through 63.44 of this subpart apply to the owner or operator of a major source of hazardous air pollutants (HAP) who constructs or reconstructs a major source after the effective date of section 112(g) in the State or local jurisdiction in which the major source is (or would be) located, unless the owner or operator of such major source has received all necessary permits for such construction or reconstruction project before the effective date of section 112(g).

(c) Exclusion for electric utility steam generating units. The requirements of this subpart do not apply to electric utility steam generating units until such time as these units are added to the source category list pursuant to section 112(c)(9) of the Act.

(d) Relationship to State and local requirements. Nothing in this subpart shall prevent a State or local agency from imposing more stringent requirements than those contained in this subpart.

(e) Relationship to Other Standards. Nothing in this subpart shall require a case-by-case identification of MACT for a stationary source regulated, or specifically exempted, by a relevant standard in another

subpart of this part. This paragraph shall be interpreted to exempt only those stationary sources at a major source which have been specifically addressed by, and are within a source definition for, another subpart of part 63.

(f) Exclusion for stationary sources in deleted source categories. The requirements of this subpart do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to section 112(c)(9) of the Act.

(g) Exclusion for research and development activities. The requirements of this subpart do not apply to research and development activities, as defined in section 63.41 of this subpart.

#### **63.41 Definitions**

Terms used in this subpart that are not defined below have the meaning given to them in the Act and in subpart A.

Affected source means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct of a major source" or the definition of "reconstruct of a major source" contained in this subsection.

Affected States are all States or local jurisdictions:

(1) Whose air quality may be affected and that are contiguous to the State or local jurisdiction in which a MACT determination is made in accordance with this subpart; or

(2) Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this subpart.

Available information means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the permitting authority:

(1) a relevant proposed regulation, including all supporting information;

(2) background information documents for a draft or proposed regulation;

(3) data and information available from the Control Technology Center developed pursuant to section 113 of the Act, and

(4) data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base, and

(5) any additional information that can be expeditiously provided by the Administrator, and

(6) for the purpose of determinations by the permitting authority, any additional information provided by the applicant or others, and any additional information considered available by the permitting authority.

Construct a major source means

(1) to fabricate (on site), erect, or install a stationary source or group of stationary sources on a green-field site, if such stationary source or group of sources emits or has the potential to emit (PTE) HAP in amounts that would constitute a major source as defined in subpart A of this part, or

(2) to fabricate (on site), erect, or install at any site a stationary source or group of stationary sources that in and of itself emits or has the potential to emit HAP in amounts that would constitute a major source as defined in subpart A of this part, unless:

(i) the stationary source or group of sources satisfies the following criteria: (A) emissions of HAP from the stationary source or group of stationary sources will be controlled by emission control equipment which was previously installed at the same site as the source or group of sources; and (B) (1) the installation of such emission control equipment was originally required at the existing source as a condition of construction pursuant to a determination of best available control technology (BACT) or lowest achievable emission rate (LAER) under part 51 or 52 (and will control HAP), or a determination of toxics-best available control technology (T-BACT) pursuant to State or local law, or (2) in the judgment of the permitting authority, the emission control equipment represents one of the best control technologies for control of HAP, considering current control effectiveness; and (C) the resulting level of control of emissions of HAP for all sources to be controlled by the existing control equipment will be at least equivalent to the level of control provided by the control equipment prior to the inclusion of additional sources, or

(ii) the stationary source or group of stationary sources will be an integral component of an existing

process or production unit, and addition of the component to the existing process or production unit does not constitute reconstruction of a major source as defined by this subsection.

Control technology means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including, but not limited to, measures that:

(1) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications,

(2) enclose systems or processes to eliminate emissions,

(3) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point,

(4) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 USC 7412(h), or

(5) are a combination of the above.

Effective date of section 112(g) in a State or local jurisdiction means the date on which a program to implement section 112(g) in such State or local jurisdiction is adopted by the permitting authority, or if a State or local permitting authority has adopted such a program prior to promulgation of this rule, the date of promulgation of this rule. This date shall not exceed 18 months beyond the date of promulgation of today's rule.

Electric utility steam generating unit means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

Emission point means any part or activity of a stationary source that emits or could emit any hazardous air pollutant.

Green-field site means a contiguous area under common control that is:

- (1) an undeveloped site, or



(2) a developed site for which the total emissions of HAP from stationary sources do not exceed the major source threshold.

Integral component of a process or production unit means a stationary source or group of stationary source(s) which is an essential part of a process or production unit such that the process or production unit could not perform its intended function without the component.

List of Source Categories means the Source Category List required by section (c) of the Act, initially published at 57 FR 31576, and as amended.

Maximum achievable control technology (MACT) emission limitation for new sources means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the permitting authority, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

Notice of MACT Approval means a document issued by a permitting authority containing all federally enforceable conditions necessary to enforce the application of, and operation of MACT or other control technologies such that the MACT emission limitation is met.

Permitting authority means the permitting authority as defined in part 70 of this chapter.

Process means a collection of equipment that functions as an integrated system and is capable of performing an independent operation or function.

Production unit means any collection of structures and/or equipment (including any associated storage structures and product transfer equipment) that is capable of processing, assembling, applying or otherwise using material inputs to manufacture an intended product.

Reconstruct a major source means the replacement of components at an existing process or production unit or group of process or production units that in and of itself emits or has the potential to emit HAP in amounts that would constitute a major source as defined in subpart A of this part, whenever: (1) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a

comparable process or production unit or group of process or production units, and (2) it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this subpart.

Research and development activities means activities conducted to test more efficient production processes or methods for preventing or reducing adverse environmental impacts, provided that the activities do not include the production of an intermediate or final product for sale or exchange for commercial profit, and activities at a research or laboratory facility that is operated under the close supervision of technically trained personnel the primary purpose of which is to conduct research and development into new processes and products and that is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

Responsible official means the responsible official as defined in part 70 of this chapter.

Similar source means a stationary source or process that has comparable emissions and is structurally similar

in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

United States means the United States of America, its possessions and territories.

**63.42 Requirements for constructed and reconstructed major sources**

After the effective date of a title V permit program in any State, no person may construct or reconstruct a major source of HAP in such State, unless the permitting authority determines, according to the provisions of section 63.43 of this subpart, that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources. Such determination will be made on a case-by-case basis when no relevant standard has been promulgated under another subpart of this part. When a relevant standard has been promulgated, then the constructed or reconstructed major source shall achieve all emission limitations and requirements of the relevant standard, including relevant requirements in subpart A of this part.

**63.43 Maximum achievable control technology (MACT) determinations for constructed and reconstructed major sources**

(a) Applicability. The requirements of this section apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a determination of maximum achievable control technology pursuant to section 63.42 of this subpart.

(b) Requirements for constructed and reconstructed major sources.

(1) When no emission standard applicable to a particular construction or reconstruction of a major source has been promulgated by the Administrator under this part, and a case-by-case determination of MACT is required by section 63.42, the owner and operator shall obtain from the permitting authority an approved MACT determination according to one of the review options contained in paragraph (c) of this section.

(2) When construction or reconstruction of a major source is subject to a standard promulgated in another subpart of this part, and that subpart does not establish a specific administrative procedure for review of the construction or reconstruction, then:

(i) if the constructed or reconstructed major source will be in compliance with such standard upon startup by virtue of being incorporated into existing control technology, then the owner or operator of the major source shall notify the permitting authority, in accordance with either the procedures in paragraph (f) of this section or other procedures established by the permitting authority, before commencement of the construction or reconstruction;

(ii) if the construction or reconstruction would require additional control technology or a change in control technology, the owner or operator of the major source shall obtain approval according to one of the review options contained in paragraph (c) of this section.

(3) When construction or reconstruction of a major source is subject to a standard promulgated in another subpart of this part, and that subpart establishes a specific administrative procedure for review of the construction or reconstruction, the owner or operator shall follow the administrative procedure in such subpart in lieu of the review procedures in paragraph (c) of this section.

(c) Review options.

(1) When the permitting authority requires the owner or operator to obtain, or revise, a part 70 permit (or other permit issued pursuant to title V of the Act) before construction or reconstruction of the major source, or when the permitting authority allows the owner or operator at its discretion to obtain or revise such a permit before construction or reconstruction, and the owner or operator elects that option, the owner or operator shall follow the administrative procedures in the program approved under part 70 (or in other regulations issued pursuant to title V of the Act, where applicable).

(2) When an owner or operator is not required to obtain or revise a part 70 permit (or other permit issued pursuant to title V of the Act) before construction or reconstruction, the owner or operator (unless the owner or operator voluntarily follows part 70 or 71) shall either, at the discretion of the permitting authority:

(i) Apply for and obtain a Notice of MACT Approval according to the procedures outlined in paragraph (f) through (h) of this section, or

(ii) Apply for a MACT determination under any other administrative procedures for preconstruction review and approval established by the permitting authority for a State or local jurisdiction which provide for public participation in the determination, and ensure that no person may construct or reconstruct a major source in that State or local jurisdiction unless the permitting authority determines that the MACT emission limitation for new sources will be met.

(3) When applying for a permit pursuant to title V of the Act, an owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such determinations satisfies the requirements of section 112(g) for each such scenario.

(4) Regardless of the review process, the MACT emission limitation and requirements established shall be consistent with the principles established in paragraph (d) of this section, the MACT emission limitation and requirements shall be supported by the information listed in paragraph (e) of this section, and the owner or operator shall comply with the requirements in paragraphs (j) through (m) of this section.



(d) Principles of MACT determinations. The following general principles shall govern preparation by the owner or operator of each permit or other application requiring a MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the permitting authority:

(1) When an emission standard applicable to the constructed or reconstructed major source has been promulgated pursuant to section 112(d) or section 112(h) of the Act, the permitting authority shall determine that the terms and conditions in the proposed MACT determination are sufficient to assure that all emission limitations and other requirements set forth in the relevant standard will be met; (2) When an emission standard applicable to the constructed or reconstructed major source has not been promulgated pursuant to section 112(d) or section 112(h) of the Act:

(i) The MACT emission limitation or MACT requirements recommended by the applicant and adopted by the permitting authority shall not be less stringent than the emission control which is achieved in practice by the

best controlled similar source, as determined by the permitting authority.

(ii) Based upon available information, as defined in this subpart, the MACT emission limitation and control technology (including any requirements under subparagraph (iii) below) recommended by the applicant and selected by the permitting authority shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction;

(iii) The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the permitting authority may adopt such a standard if the permitting authority specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Act.

(iv) If the Administrator has either proposed a relevant emission standard pursuant to section 112(d) or

section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall be capable of achieving all new source MACT emission limitations and requirements of the proposed standard or presumptive MACT determination, unless the application contains information adequate to support a contention that:

(A) different emissions limitations represent the maximum achievable control technology emission limitations for the source category, or

(B) requirements different from those proposed by EPA will be effective in ensuring that MACT emissions limitations are achieved.

(e) Application requirements for a case-by-case MACT determination.

(1) An application for a MACT determination (whether a permit application under title V of the Act, an application for a Notice of MACT Approval, or other document specified by the permitting authority under section 63.43(c)(2)(ii) above) shall specify a control technology selected by the owner or operator that, if

properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in paragraph (d) of this section. Such application shall include a certification from a responsible official that the specified control technology meets the requirements of section 112(g) of the Act.

(2) In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(i) The name and address (physical location) of the major source to be constructed or reconstructed;

(ii) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(iii) The expected commencement date for the construction or reconstruction of the major source;

(iv) The expected completion date for construction or reconstruction of the major source;

(v) The anticipated date of start-up for the constructed or reconstructed major source;

(vi) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the permitting authority to determine MACT;

(vii) Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

(viii) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the permitting authority to determine MACT;

(ix) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the permitting authority to determine MACT;

(x) A recommended emission limitation for the constructed or reconstructed major source that complies with all relevant emission standards under this part and, where no applicable standard has been promulgated,

consistent with the principles set forth in paragraph (d) of this section;

(xi) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the permitting authority);

(xii) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(xiii) Any other relevant information required pursuant to subpart A of this part.

(3) In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this subpart without a change in control technology, the application for a MACT determination shall contain the following information:

(i) the information described in (e)(2)(i) through (e)(2)(x) of this section, and

(ii) documentation of the control technology in place.

(f) Administrative procedures for review of the Notice of MACT Approval.

(1) The permitting authority will notify the owner or operator in writing, within 30 days from the date the application is first received, as to whether the application for a MACT determination is complete or whether additional information is required.

(2) The permitting authority will initially approve the recommended MACT emission limitation and other terms set forth in the application, or the permitting authority will notify the owner or operator in writing of its intent to disapprove the application, within 60 calendar days after the owner or operator is notified in writing that the application is complete.

(3) The owner or operator may present, in writing, within 60 calendar days after receipt of notice of the permitting authority's intent to disapprove the application, additional information or arguments pertaining to, or amendments to, the application for

consideration by the permitting authority before it decides whether to finally disapprove the application.

(4) The permitting authority will either initially approve, or issue a final disapproval, of the application within 90 days after it notifies the owner or operator of an intent to disapprove or within 30 days after the date additional information is received from the owner or operator, whichever is earlier.

(5) A final determination by the permitting authority to disapprove any application will be in writing and will specify the grounds on which the disapproval is based. If any application is finally disapproved, the owner or operator may submit a subsequent application concerning construction or reconstruction of the same major source, provided that the subsequent application has been amended in response to the stated grounds for the prior disapproval.

(6) An initial decision to approve an application for a MACT determination will be set forth in the Notice of MACT Approval as described in paragraph (g) of this section.

(7) The Administrator may approve, in accordance with subpart E of this part, alternative administrative



procedures that are substantially equivalent to those in this section, and that result in federally enforceable emission limitations equivalent to MACT.

(g) Notice of MACT approval.

(1) The Notice of MACT Approval will contain a MACT emission limitation (or a MACT work practice standard if the permitting authority determines it is not feasible to prescribe or enforce an emission standard under section 112(h)(2) of the Act) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the permitting authority and will conform to the principles set forth in paragraph (d) of this section.

(2) The Notice of MACT Approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and recordkeeping requirements. The Notice of MACT approval shall include:

(i) In addition to the MACT emission limitation or MACT work practice standard required by paragraph (h)(1) of this section, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation;

(ii) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with the requirements of section 70.6(c) of this chapter;

(iii) In accordance with section 114(a)(3) of the Act, monitoring shall be capable of detecting deviations from each applicable emission limitation or other standard with sufficient reliability and timeliness to determine continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under this subpart, including emission limitations;

(iv) A statement requiring the owner or operator to comply with all applicable requirements contained in subpart A of this part;

(3) All provisions contained in the Notice of MACT approval shall be federally enforceable upon the effective date of issuance of such notice, as provided by paragraph (j) of this section.

(5) The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the permitting authority

has granted an extension which shall not exceed an additional 12 months.

(h) Opportunity for public comment on the Notice of MACT Approval.

(1) The permitting authority will provide opportunity for public comment on the Notice of MACT Approval, including, as a minimum,

(A) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the permitting authority's initial decision to approve the application;

(B) A 30-day period for submittal of public comment; and

(C) A notice by prominent advertisement in the area affected of the location of the source information and initial decision specified in paragraph (h)(1)(A) of this section.

(2) At the discretion of the permitting authority, the Notice of MACT Approval setting forth the initial decision to approve the application may become final automatically at the end of the comment period if no adverse comments are received. If adverse comments are

received, the permitting authority shall have 30 days after the end of the comment period to make any necessary revisions in its analysis and decide whether to finally approve the application.

(i) EPA notification. The permitting authority shall send a copy of the notice of MACT approval, notice of approval of a part 70 permit application, or other notice of approval issued pursuant to section 63.43(c)(2)(ii) above to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States.

(j) Effective date.

(1) When no emission standard applicable to the constructed or reconstructed major source has been promulgated under section 112(d) of the Act, the effective date of a MACT determination shall be the date a Notice of MACT Approval, notice of approval of a part 70 permit application, or other notice of approval issued pursuant to section 63.43(c)(2)(ii) above is issued to the owner or operator of the source.

(2) When an emission standard applicable to the constructed or reconstructed major source has been

promulgated under section 112(d) of the Act, the effective date shall be the date specified in the promulgated standard.

(k) Compliance date. A constructed or reconstructed major source which is subject to a MACT determination under this subpart shall be in compliance on the date of start-up. (1) Compliance with MACT determinations.

(1) An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the Notice of MACT Approval, notice of approval of a part 70 permit application, or other notice of approval issued pursuant to section 63.43(c)(2)(ii) above, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and record-keeping requirements.

(2) An owner or operator of a constructed or reconstructed major source shall be deemed to be in compliance with section 112(g)(2)(B) of the Act only to the extent that the constructed or reconstructed major

source is in compliance with all requirements set forth in the Notice of MACT Approval, notice of approval of a part 70 permit application, or other notice of approval issued pursuant to section 63.43(c)(2)(ii). Any violation of such requirements shall be deemed by the permitting authority and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) and shall subject the owner or operator to appropriate enforcement action under the Act.

(m) Reporting to the Administrator. Within 60 days of the issuance of a Notice of MACT Approval, notice of approval of a part 70 permit application, or other notice of approval issued pursuant to section 63.43(c)(2)(ii) above, the permitting authority shall provide a copy of the such notice to the Administrator, and shall provide a summary in a standard format for inclusion in the MACT data base, if such data base has been established by the Administrator.

**63.44 Requirements for constructed or reconstructed major sources subject to a subsequently promulgated MACT standard or MACT requirement.**

(a) If the Administrator promulgates an emission standard under section 112(d) of the Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this subpart before the date that the owner or operator has obtained a final and legally effective MACT determination under any of the review options available pursuant to section 63.43 of this subpart, the owner or operator of the source(s) shall comply with the promulgated standard rather than any MACT determination by the permitting authority, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates an emission standard under section 112(d) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this subpart and has been subject to a prior case-by-case MACT determination pursuant to section 63.43 of this subpart, and the owner or operator commenced construction or reconstruction of the major source in reliance on the case-by-case MACT determination

prior to the effective date of such emission standard, then the permitting authority shall (if the initial part 70 permit has not yet been issued) issue an initial operating permit which incorporates the emission standard, or shall (if the initial part 70 permit has been issued) revise the operating permit upon its next renewal to incorporate the emission standard.

(1) The EPA may include in the emission standard established under section 112(d) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this subpart and which have submitted the information required by section 63.43 of this subpart to the EPA before the close of the public comment period for the standard established under section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or 8 years after the date by which the owner or operator is required to comply with the MACT determination, whichever is earlier. In that event, the permitting authority shall incorporate the applicable compliance date in the part 70 operating permit.



(2) If no compliance date has been established in the promulgated standard for those sources which have obtained a final and legally effective MACT determination under this subpart, then the permitting authority shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or 8 years after the date by which the owner or operator is required to comply with the MACT determination, whichever is earlier.

(c) Notwithstanding the requirements of paragraphs (a) and (b) of this section, if the Administrator promulgates an emission standard under section 112(d) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this subpart and which is the subject of a prior case-by-case MACT determination pursuant to section 63.43 of this subpart, and the level of control required by the emission standard issued under section 112(d) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the permitting authority

is not required to incorporate any less stringent terms of the promulgated standard in the part 70 operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.