

RULE 3.13 TOXICS NEW SOURCE REVIEW

ADOPTED June 9, 1999

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100 GENERAL

101 **PURPOSE:** The purpose of this Rule is to require the installation of best available control technology for toxics (T-BACT) at any constructed or reconstructed major source of hazardous air pollutants (HAPs).

102 **APPLICABILITY:** The requirements of this Rule shall apply to any owner or operator that constructs or reconstructs a major source of HAPs, as described in section 112(g) of the federal Clean Air Act (CAA), unless the major source is exempt pursuant to Section 110 of this Rule.

Compliance with this rule does not relieve any owner or operator of a major source of HAPs from complying with all other District rules or regulations, any applicable State airborne toxic control measure (ATCM), or other applicable State and Federal laws.

103 **EFFECTIVE DATE:** This Rule is effective on June 9, 1999.

110 **EXEMPTIONS:** The provisions of this Rule do not apply to:

110.1 Any major source of HAPs that is subject to an existing National Emissions Standard for Hazardous Air Pollutants (NESHAPs) pursuant to Sections 112(d), 112(h) or 112(j) of the federal Clean Air Act (CAA);

110.2 Any major source of HAPs that has been specifically exempted from regulation under a NESHAP issued pursuant to Sections 112(d), 112(h) or 112(j) of the CAA;

110.3 Any major source of HAPs that has received all necessary air quality permits for such construction or reconstruction before June 29, 1998;

110.4 Electric utility steam generating units, unless and until such time as these units are added to the source category list pursuant to section 112(c)(5) of the CAA;

110.5 Any 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 CAA;

110.6 Research and development activities as defined in 40 CFR part 63, subpart B, section 63.41;

110.7 Any other stationary source exempted by section 112 of the CAA.

200 DEFINITIONS: Terms used in this Rule that are not defined in this section have the meaning given to them in the CAA, 40 CFR part 63, Sections 63.2 and 63.41, and District Rule 3.4. New Source Review.

201 BEST AVAILABLE CONTROL TECHNOLOGY FOR TOXICS (T-BACT): The most effective emissions limitation or control technique which:

201.1 Has been achieved in practice for such permit unit category or class of sources; or

201.2 Is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment, found by the Air Pollution Control Officer to be technologically feasible for such a category or class of sources, or for a specific source.

202 CONSTRUCT A MAJOR SOURCE:

202.1 To fabricate, erect, or install at any green-field site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs; or

202.2 To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies all of the following criteria:

a. All HAPs emitted by the process or production unit that would otherwise be controlled under the requirements of this subpart will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

b. (i) The permitting authority has determined within a period of five years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP's to be emitted by the process or production unit; or

- b. (ii) The permitting authority determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination);
- c. The permitting authority determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;
- d. The permitting authority has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;
- e. If any person has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, the permitting authority has determined that the level of control required by that prior determination remains adequate; and
- f. Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the permitting authority are applicable requirements under Section 504(a) of the CAA and either have been incorporated into any existing title V permit for the affected facility or will be incorporated into such permit upon issuance.

203 **GREENFIELD SITE:** A contiguous area under common control that is an undeveloped site.

204 **HAZARDOUS AIR POLLUTANTS (HAPS):** Any air pollutant listed in or pursuant to Section 112(b) of the CAA.

205 **MAJOR SOURCE OF HAPS:** Any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

206 **POTENTIAL TO EMIT (PTE):** The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of

operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitations or the effect it would have on emissions are incorporated into the applicable permit as enforceable permit conditions.

207 **RECONSTRUCT A MAJOR SOURCE:** The replacement of components of an affected or a previously unaffected stationary source to such an extent that:

207.1 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; and

207.2 It is technologically and economically feasible for the reconstructed source to meet the relevant standard(s) established pursuant to Section 112 of the CAA.

208 **STATIONARY SOURCE:** Any building, structure, facility, or installation which emits or may emit any air pollutant.

300 STANDARDS: Any person constructing or reconstructing a major source of HAPs shall apply T-BACT unless the major source of HAPs is exempt pursuant to section 110 of this Rule. All T-BACT determinations shall ensure a level of control that the Air Pollution Control Officer (APCO) has determined to be, at a minimum, no less stringent than new source maximum achievable control technology (MACT) as required by Section 112(g)(2)(B) of the CAA, and implemented through 40 CFR part 63, Subpart B, Sections 63.40 through 63.44.

400 CALCULATION PROCEDURES: The potential to emit for a major source of HAPs shall equal the sum of the potentials to emit for all permit units of the constructed or reconstructed major source of HAPs. All fugitive HAP emissions for all permit units associated with the construction or reconstruction shall be included in the potential to emit determination.

500 ADMINISTRATIVE PROCEDURES: An application for authority to construct a major source or reconstruct a major source of HAPs shall be subject to the applicable administrative procedures contained in District Rule 3.4, New Source Review.