

RULE 211 - MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY REQUIREMENTS FOR MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS

Adopted 1-28-99

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100 GENERAL

- 101 **PURPOSE:** The purpose of this rule is to require the installation of maximum achievable control technology (MACT) at any constructed or reconstructed major source of hazardous air pollutants (HAPs) after January 1, 1999.
- 102 **APPLICABILITY:** The requirements of this rule shall apply to all owners or operators that construct or reconstruct a major source of HAPs, unless the major source is exempt pursuant to Section 110 of this rule.
- 103 **SEVERABILITY:** If any section, subsection, sentence, clause, phrase, or portion of this rule is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- 110 **EXEMPTIONS:** The requirements of this rule shall not apply to the following:
- 110.1 Any major source that is specifically regulated by a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) of the Federal Clean Air Act. Any case-by-case MACT review process already underway when a Section 112(d) of the Federal Clean Air Act MACT standard is promulgated shall be terminated;
 - 110.2 Any major source that has been specifically exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) of the Federal Clean Air Act;
 - 110.3 Any major source that has received an Authority to Construct permit pursuant to Rule 201 - GENERAL PERMIT REQUIREMENTS for such construction or reconstruction project prior to June 29, 1998,
 - 110.4 Electric utility steam generating units unless and until such time as these limits are added to the source category list pursuant to 112(c)(5) of the Federal Clean Air Act.
 - 110.5 The case-by-case MACT requirements of this rule shall not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to 112(c)(9) for the Federal Clean Air Act.
 - 110.6 Research and development activities as defined in Section 207.
- 200 **DEFINITIONS:** Terms used in this rule that are not defined in this section have the meaning given to them in District Rule 101 - GENERAL PROVISIONS AND DEFINITIONS, Rule 202 - NEW SOURCE REVIEW, or 40 CFR Parts 63.40 through 63.44
- 201 **CONSTRUCT A MAJOR STATIONARY SOURCE:** Construct a major source shall have the same meaning as in 40 CFR Part 63.41.
- 202 **HAZARDOUS AIR POLLUTANT (HAPs):** Any air pollutant listed in or pursuant to Section 112(b) of the Federal Clean Air Act.
- 203 **MAJOR STATIONARY SOURCE OF HAPs:** Any stationary source or group of stationary sources located within a contiguous area and under common control that emit or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of a single HAP or 25 tons per year or more of any combination of HAPs.
- 204 **MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT):** The emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar sources, and which reflects the maximum degree of reduction in emissions that the Air Pollution Control Officer, 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.

- 205 **POTENTIAL TO EMIT:** 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.
- 206 **RECONSTRUCT A MAJOR STATIONARY SOURCE:** Reconstruct a major source shall mean the same as defined in 40 CFR Part 63.41.
- 207 **RESEARCH AND DEVELOPMENT OPERATION:** An operation whose primary purpose is for research and development of new processes and products, that is conducted under the close supervision of technically trained personnel, and that is not involved in the manufacture of final or intermediate products for commercial purposes.
- 208 **RESPONSIBLE OFFICIAL:** For the purpose of this rule, a responsible official shall mean one of the following:
- 208.1 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 Title V permit and either:
- a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - b. The delegation of authority to such representatives is approved in advance by the Air Pollution Control Officer;
- 208.2 For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- 208.3 For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this rule, 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., a Regional Administrator of EPA); or
- 208.4 For phase II acid rain facilities subject to Title IV requirements:
- a. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Federal Clean Air Act or the regulations promulgated thereunder are concerned; and
 - b. The designated representative for any other purposes under 40 CFR Part 70 regulations.

300 STANDARDS

- 301 **MACT REQUIREMENTS:** Any person constructing or reconstructing a major source of HAPs shall apply MACT unless the source is exempt pursuant to Section 110 of this rule.

400 ADMINISTRATIVE REQUIREMENTS

- 401 **APPLICATION REQUIREMENTS FOR A CASE-BY-CASE MACT DETERMINATION:**
- 401.1 The Responsible Official of a major source subject to this rule shall submit an application for a MACT determination. The application shall specify a control technology selected by the Responsible Official that, if properly operated and maintained, will meet the MACT emission limitation or standard. The application shall meet the requirements set forth in 40 CFR Parts 63.43(d) and (e).

402 ADMINISTRATIVE PROCEDURES FOR REVIEW OF THE NOTICE OF MACT APPROVAL/DISAPPROVAL:

- 402.1 The Air Pollution Control Officer shall notify the Responsible Official in writing, within 45 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.
- 402.2 The Air Pollution Control Officer shall initially approve the recommended MACT emission limitation and other terms set forth in the application, or the Air Pollution Control Officer shall notify the Responsible Official in writing of its intent to disapprove the application, within 30 calendar days after the Responsible Official is notified in writing that the application is complete.
- 402.3 Before the Air Pollution Control Officer decides whether to finally disapprove the application, the Responsible Official 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 Air Pollution Control Officer.
- 402.4 The Air Pollution Control Officer shall either initially approve or issue a final disapproval of the application within 90 days after it notifies the Responsible Official of an intent to disapprove or within 30 days after the date additional information is received from the Responsible Official; whichever is earlier.
- 402.5 A final determination by the Air Pollution Control Officer to disapprove any application shall be in writing and shall specify the grounds on which the disapproval is based. If any application is finally disapproved, the Responsible Official may submit a subsequent application concerning construction or reconstruction of the same major stationary source, provided that the subsequent application has been amended in response to the stated grounds for the prior disapproval.
- 402.6 An initial decision to approve an application for a MACT determination shall be set forth in the Notice of MACT Approval as described in Section 403.

403 NOTICE OF MACT APPROVAL:

- 403.1 The Notice of MACT Approval shall contain a MACT emission limitation (or a MACT work practice standard if the Air Pollution Control Officer determines it is not feasible to prescribe or enforce an emission standard) to control the emission of HAP. The MACT emission limitation or standard shall be determined by the Air Pollution Control Officer and shall conform to the principles set forth in 40 CFR Part 63.43(d).
- 403.2 The Notice of MACT Approval shall specify any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements. The Notice of MACT Approval shall include:
- a. In addition to the MACT emission limitation or MACT work practice standard established under this rule, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation;
 - b. Compliance certifications, testing, monitoring, reporting and record keeping requirements that are consistent with the requirements of 40 CFR Part 70.6(c);
 - c. In accordance with Section 114(a)(3) of the Federal Clean Air Act (42 USC 7414(a)(3)), monitoring shall be capable of demonstrating 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 rule, including emission limitations;
 - d. A statement requiring the Responsible Official to comply with all applicable requirements contained in Subpart A of 40 CFR Part 63;
- 403.3 All provisions contained in the Notice of MACT Approval shall be federally enforceable upon the effective date of issuance of such notice.

403.4 The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the Air Pollution Control Officer has granted an extension providing that the construction has commenced or will commence within 24 months of the date the Notice of MACT Approval was issued.

404 **OPPORTUNITY FOR PUBLIC COMMENT ON THE NOTICE OF MACT APPROVAL:**

404.1 The Air Pollution Control Officer shall provide opportunity for public comment on the Notice of MACT Approval, including, at a minimum:

- a. Availability for public inspection, in at least one location in the area affected, of the information submitted by the Responsible Official and of the Air Pollution Control Officer'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 stationary source information and initial decision specified in Section 404.1(a).

404.2 At the discretion of the Air Pollution Control Officer, the Notice of MACT Approval setting forth the initial decision to approve the Authority to Construct application may become final automatically at the end of the comment period if no adverse comments are received. If adverse comments are received, the District 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.

405 **NOTIFICATION REQUIREMENTS:**

405.1 The Air Pollution Control Officer shall send a copy of the final Notice of MACT Approval or the notice of approval of a Title V permit application incorporating a MACT determination to EPA and to all other State and local air pollution control agencies having jurisdiction in affected States.

405.2 Within 60 days of the issuance of the final Notice of MACT Approval, or Title V permit incorporating a MACT determination, the Air Pollution Control Officer shall provide a copy of such notice to the U.S. EPA, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

500 MONITORING AND RECORDS

501 **RECORD KEEPING REQUIREMENTS:** The Responsible Official of the stationary source subject to this rule shall keep records specified in Section 403.2 and shall quantify the annual emissions in tons per year for each HAP pollutant regulated under this rule. The records shall be kept on-site for 5 years and made available for review by the Air Pollution Control Officer upon request.