

**RULE 808. NEW SOURCE REVIEW FOR MAJOR SOURCES OF HAZARDOUS AIR POLLUTANTS. (Adopted 5/20/1999)**

**A. Applicability**

The requirements of this Rule apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants (HAP) after the effective date of this Rule. Compliance with this Rule does not relieve any owner or operator of a major stationary source of HAP from complying with all other District rules and regulations, any applicable state airborne toxic control measure (ATCM), or other applicable state or federal law.

**B. Exemptions**

The provisions of this rule shall not apply to:

1. 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 federal Clean Air Act.
2. 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 federal CAA.
3. Research and development activities, as defined in Section C of this Rule.
4. Any major HAP source regulated or 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 (CAA) and incorporated in chapter 40 of the CFR part 63 (40CFR63).
5. The owner or operator of a major HAP source that has received an Authority to Construct for such construction or reconstruction project before June 29, 1998.

**C. Definitions**

The following definitions apply to this rule. Other terms not defined below may be defined in either the federal Clean Air Act or Rule 102.

**"Affected States"** means any:

1. State for which air quality may be affected by a major source for which a T-BACT determination is made in accordance with this Rule and that is contiguous to the state of California; or
2. State where air quality may be affected and that is within 50 miles of the major source for which a T-BACT determination is made in accordance with this Rule.
3. Indian nations that have applied for state status.

**"Available Information"** means, for purposes of identifying control technology options for the applicable source, information contained in the following information sources as of the date of issuance of the Authority to Construct containing the T-BACT determination:

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 federal CAA;
4. Data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base or T-BACT data base;
5. Any additional information that can be expeditiously provided by the U.S. EPA; and
6. For the purpose of determinations by the District, any additional information provided by the applicant or others, and any additional information considered available by the District.

**"Construct a Major Source" means:**

1. To fabricate, erect, or install at any greenfield 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 or more of any HAP or 25 tons per year or more of any combination of HAP, or
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 or more of any HAP or 25 tons per year or more of any combination of HAP, unless the process or production unit satisfies criteria a. through f. below:
  - a. All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this Rule will be controlled by emission control equipment which was previously installed at the same site as the process or production unit.
  - b. The District has determined:
    - 1) That within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit, the existing emission control equipment represented best available control technology (BACT), lowest achievable emission rate (LAER) under 40CFR51 or 52, or a MACT standard for the category of pollutants that includes those HAP to be emitted by the process or production unit; or
    - 2) That the control of HAP provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources. This means that the level of control must be equivalent to an existing BACT, LAER, or MACT determination.
  - c. The District 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 District has provided notice and an opportunity for public comment concerning both its determination that criteria in 2.a, 2.b, and 2.c above apply and the continued adequacy of any prior LAER, BACT, or MACT determination.
  - e. If any commenter has asserted that a prior LAER, BACT, or MACT determination is no longer adequate, the District has determined that the level of control required by that prior determination remains adequate.
  - f. Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the District are predicated will be construed by the

District as applicable requirements under Section 504(a) and either have been incorporated into any existing Part 70 permit for the affected facility or will be incorporated into such permit upon issuance.

**"Control Technology"** means measures, processes, methods, systems, or techniques to limit the emission of HAP including, but not limited to, measures that:

1. Reduce the quantity 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 U.S.C. 7412(h); or
5. Are a combination of 1 through 4 above.

**"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 cogenerates 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.

**"Greenfield Site"** means a contiguous area under common control that is an undeveloped site or a developed site for which the total emissions of HAP from stationary sources do not exceed the major source threshold.

**"List of Source Categories"** means the Source Category List required by Section 112(c) of the federal Clean Air Act.

**"Maximum Achievable Control Technology (MACT) Emission Rate"** means the hazardous pollutant emission rate which is no less stringent than the emission rate achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the District determines is achievable by the applicable source. Such determinations shall consider the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements.

**"Process or Production Unit"** means any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

**"Reconstruct a Major Source"** means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAP, 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; and
2. It is technically and economically feasible for the reconstructed major source to meet the applicable T-BACT emission limitation for new sources established under this Rule.

**"Research And Development Activities"** means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where

such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

**"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.

**"Toxic Best Available Control Technology (T-BACT)"** means the most stringent emissions limitation or control technique without considering cost-effectiveness which:

1. has been achieved in practice for the type of source, category of source, or modification proposed; or
2. is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment and implementation of pollution prevention measures, found by the Control Officer to be technologically feasible for such source, category, or modification, and which limits air emissions of toxic substances to the maximum extent feasible.

#### **D. Requirements**

1. All owners and operators of stationary sources subject to this Rule shall install T-BACT. All T-BACT determinations shall include controls to a level that the Control Officer has determined to be, at a minimum, no less stringent than MACT new source review, as required by Section 112(g)(2)(B) of the CAA.
2. No person may begin actual construction or reconstruction of a major source of HAP unless:
  - a. The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) in 40CFR63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in 40CFR63, Subpart A; or
  - b. The District has made a final and legally effective case-by-case T-BACT determination pursuant to the provisions of Subsections D.3 and D.4 such that, based upon available information, emissions from the applicable source will be controlled to a level no less stringent than the maximum achievable control technology emission rate.
3. The following shall apply to the preparation of an Authority to Construct application or other application for an applicable source requiring a T-BACT determination, and all subsequent review of the application and all actions concerning the application taken by the District.
  - a. The T-BACT emission rate or T-BACT requirements recommended by the applicant and approved by the District shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the District.
  - b. The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the District may approve such a standard if the District 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 federal Clean Air Act.
  - c. If the U.S. EPA has either proposed a relevant emission standard pursuant to Section 112(d) or Section 112(h) of the federal Clean Air Act or adopted a presumptive MACT determination for the source category which includes the applicable source, then the T-BACT requirements applied to the applicable source shall have considered those MACT

emission limitations and requirements of the proposed standard or presumptive MACT determination.

4. Application Contents for T-BACT Determinations: An application for an Authority to Construct that includes a T-BACT determination shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the T-BACT emission rate or standard as determined according to the principles set forth in Subsection D.3 of this Rule.
  - a. In each instance where an applicable source would require additional control technology or a change in control technology, the application for a T-BACT determination shall contain the following information on the applicable source:
    - 1) The name and address (physical location);
    - 2) A brief description and identification of any listed source category or categories in which it is included;
    - 3) The expected construction or reconstruction schedule, including commencement date, completion date, and start-up date;
    - 4) The HAP emitted and the estimated emission rate for each such HAP;
    - 5) Any federally enforceable emission limitations applicable;
    - 6) The maximum and expected utilization of capacity and the associated uncontrolled emission rates;
    - 7) The controlled emissions in tons per year at expected and maximum utilization of capacity;
    - 8) A recommended emission rate consistent with the principles set forth in Subsection D.3;
    - 9) The control technology selected to meet the recommended T-BACT emission rate, including technical information on the design, operation, size, estimated control efficiency of the control technology. The District may also require the manufacturer's name, address, telephone number, and relevant specifications and drawings;
    - 10) Supporting documentation, including identification of alternative control technologies considered by the applicant to meet the proposed emission rate, and analysis of cost, non-air quality health environmental impacts, and energy requirements for the selected control technology; and
    - 11) Any other relevant information required pursuant to 40CFR63, Subpart A.
  - b. In each instance where the owner or operator contends that an applicable source will be in compliance, upon startup, with the T-BACT determination without a change in control technology, the application for a T-BACT determination shall contain the following information:
    - 1) The information described in Subsection D.4.a; and
    - 2) Documentation of the control technology in place.

5. The final and legally effective T-BACT determination shall take effect on the date of issuance of the Authority to Construct for the applicable source.
6. T-BACT determinations must be incorporated into Part 70 permits following the issuance of the Authority to Construct. If the initial Part 70 permit has not been issued, the owner or operator is required to submit a Part 70 application or application amendment. If the District has issued the Part 70 permit, the owner or operator is required to submit an application for a significant Part 70 permit modification.

**E. Requirements for an Applicable Source Subject to a Subsequently Promulgated MACT Standard or MACT Requirement.**

1. If the U.S. EPA promulgates an emission standard under Section 112(d) or Section 112(h) of the federal Clean Air Act or the District issues a determination under Section 112(j) of the federal Clean Air Act that is applicable to a stationary source or group of sources before the date that the owner or operator has obtained a final and legally effective T-BACT determination pursuant to this Rule, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any T-BACT determination, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.
2. If the U.S. EPA promulgates a federal emission standard under Section 112(d) or Section 112(h) of the federal Clean Air Act or the District makes a determination under Section 112(j) of the federal Clean Air Act that is applicable to a stationary source or group of sources that has been the subject of a prior T-BACT determination pursuant to this Rule, and the owner or operator obtained a final and legally effective T-BACT determination prior to the promulgation date of such emission standard, then:
  - a. If the initial Part 70 permit has not yet been issued, the District shall issue an initial Part 70 permit which incorporates either the federal emission standard or the Section 112(j) determination, or;
  - b. If the initial Part 70 permit has been issued, the District shall revise the Part 70 permit according to the reopening procedures in Rule 1304 to incorporate either the federal emission standard or the Section 112(j) determination.
  - c. The U.S. EPA may include in the emission standard established under Section 112(d) or Section 112(h) of the federal Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective T-BACT determination and that have submitted the information required in Subsection G.2 of this Rule to the U.S. EPA before the close of the public comment period for the standard established under Section 112(d) of the federal Clean Air 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. In that event, the District shall incorporate the applicable compliance date in the Part 70 permit.
  - d. If no compliance date has been established in the promulgated 112(d) or 112(h) standard or Section 112(j) determination, for those sources that have obtained a final and legally effective T-BACT determination, then the District shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a Section 112(j) determination is made.
3. Notwithstanding the requirements of Subsections E.1 and E.2, if the U.S. EPA promulgates an emission standard under Section 112(d) or Section 112(h) of the federal Clean Air Act or the District issues a determination under Section 112(j) of the federal Clean Air Act that is applicable

to a stationary source or group of sources that holds a prior T-BACT determination pursuant to this Rule, and the level of control required by the emission standard issued under Section 112(d) or Section 112(h) or the determination issued under Section 112(j) is less stringent than the level of control required by any emission rate or standard in the prior T-BACT determination, the District is not required to incorporate any less stringent terms of the promulgated standard into the applicable Part 70 permit and may at its discretion consider any more stringent provisions of the prior T-BACT determination to be applicable legal requirements when issuing or revising such a permit.

**F. Administrative Procedures**

When a T-BACT determination is required under Subsection D.2.b, the owner and operator shall obtain from the District an approved T-BACT determination as part of the Authority to Construct.

An application for Authority to Construct requiring a T-BACT determination shall be subject to the "large source" provisions of Rule 208.

**G. Notice and Opportunity for Public Comment**

1. The District shall provide opportunity for public comment on the T-BACT determination in the Authority to Construct, including:
  - a. Availability at the District office of the information submitted by the owner or operator and the District's preliminary decision to approve the application,
  - b. A 30 day period for submittal of public comment, and
  - c. A notice by prominent advertisement in at least one newspaper of general circulation in Santa Barbara County.
2. If no adverse comments are received, the Authority to Construct will become final at the end of the comment period. 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.
3. The District shall send a copy of the final Authority to Construct incorporating a T-BACT determination to the U.S. EPA, and all other State and local air pollution control agencies having jurisdiction in affected states. The District shall also send an electronic copy of the final copy of the Authority to Construct in an acceptable electronic format to the U.S. EPA for inclusion in the MACT data base.

**H. Rule Effective Date**

The Rule shall be effective upon its adoption.