

**REGULATION IV
AUTHORITY TO CONSTRUCT REGULATIONS**

**RULE 427 MACT REQUIREMENTS FOR MAJOR SOURCES OF HAZARDOUS
AIR POLLUTANTS**

1.0 PURPOSE

The purpose of this rule is to provide a program that implements Section 112(g) of the Clean Air Act of 1990. The rule requires the installation of best available control technology for toxics (T-BACT) at any constructed or reconstructed major source of hazardous air pollutants (HAPs). 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 the Federal Clean Air Act (CAA), § 112 (g)(2)(B) and implemented through 40 CFR, subpart B §§ 63.40-63-.44.

2.0 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 4.0 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.

3.0 EFFECTIVE DATE: This Rule was effective on June 11, 1998.

Note: 40 CFR section 63.41 defines an effective date of section 112(g)(2)(B) as the date the permitting authority specifies when it adopts a program to implement section 112(g)(2)(B) or June 29, 1998 whichever is earlier.

4.0 EXEMPTIONS: The provisions of this rule do not apply to:

- 4.1 any major source that is subject to an existing National Emissions Standard (NESHAPs) for HAPs pursuant to sections 112(d), 112(h), or 112(j) of the CAA.
- 4.2 any major source that has been specifically exempted from regulation under a NESHAP issued pursuant to sections 112(d), 112(h) or 112(j) of the CAA.
- 4.3 any major source that has received all necessary air quality permits for such construction or reconstruction project before June 29, 1998,
- 4.4 any electric utility stem 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,

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- 4.5 any stationary sources that are in a source category that has been deleted from the source category list pursuant to section 112(c)(9) of the CAA,
- 4.6 research and development activities as defined in 40 CFR section 63.41, and
- 4.7 any other stationary source exempted by section 112 of the CAA.

5.0 DEFINITIONS

Terms used in this Rule that are not defined in this section have the meaning given to them in District Rule 522.

5.1 Best Available Control Technology for Toxics (T-BACT)

T-BACT means the most effective emissions limitation or control technique which:

5.1.1 has been achieved in practice for such permit unit category or class of sources, or

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

5.2 Construct a Major Source means the same as defined in 40 CFR section 63.41 Definitions.

5.3 Hazardous Air Pollutants (HAPs) means any air pollutant in or pursuant to CAA, section 112(b).

5.4 Major Source of HAPs means 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 hazardous air pollutants or 25 tons per year or more of any combination of hazardous air pollutants.

5.5 Potential to Emit (PTE) means 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.

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5.6 **Reconstruct a Major Source** means the same as defined in 40 CFR section 63.41 Definitions.

6.0 REQUIREMENTS

No person shall construct a major source or reconstruct a major source of HAPs unless the air pollution control officer determines that the T-BACT requirements of this rule will be met.

7.0 CALCULATION PROCEDURES

The potential to emit for a source of HAP emissions shall equal the sum of the potentials to emit of the constructed or reconstructed source of HAPs. All fugitive HAP emissions associated with the construction or reconstruction shall be included in the potential to emit determination.

8.0 ADMINISTRATIVE PROCEDURES

An application for authority to construct a major source or reconstruct a major source of HAPs shall be subject to the administrative procedures contained in Rule 522, Part 5.0, as pertains to the requirements that provide for public participation in the T-BACT determination and ensure that construction may not begin until the permitting authority determines that emission limitation equivalent to T-BACT will be met.