

15A NCAC 02D .1109 112(J) CASE-BY-CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) Applicability. This Rule shall apply only to sources of hazardous air pollutants required to have a permit pursuant to 15A NCAC 02Q .0500 and as described in 40 CFR 63.50. This Rule does not apply to research or laboratory activities as defined in Paragraph (b) of this Rule.

(b) Definitions. For the purposes of this Rule, the definitions in 40 CFR 63.2, 63.51, 15A NCAC 02Q .0526, and the following apply:

- (1) "Affected source" means the collection of equipment, activities, or both within a single contiguous area and under common control that is in a Section 112(c) source category or subcategory for which the Administrator has failed to promulgate an emission standard by the Section 112(j) deadline, and that is addressed by an applicable MACT emission limitation established pursuant to 40 CFR Part 63 Subpart B.
- (2) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including measures that:
 - (A) reduce the quantity or eliminate the emissions of such pollutants through process changes, substitution of materials, or other modifications;
 - (B) enclose systems or processes to eliminate emissions;
 - (C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emission point;
 - (D) are design, equipment, work practice, or operational standards, including requirements for operator training or certification, as provided in 42 USC 7412(h); or
 - (E) are a combination of Parts (A) through (D) of this definition.
- (3) "EPA" means the United States Environmental Protection Agency or its Administrator.
- (4) "Hazardous air pollutant" means any pollutant listed pursuant to Section 112(b) of the federal Clean Air Act.
- (5) "MACT" means maximum achievable control technology.
- (6) "Maximum achievable control technology" means:
 - (A) for existing sources,
 - (i) a MACT standard that EPA has proposed or promulgated for a particular category of facility or source;
 - (ii) the average emission limitation achieved by the best performing 12 percent of the existing facilities or sources for which EPA has emissions information if the particular category of source contains 30 or more sources; or
 - (iii) the average emission limitation achieved by the best performing five facilities or sources for which EPA has emissions information if the particular category of source contains fewer than 30 sources; or
 - (B) for new sources, the maximum degree of reduction in emissions that is deemed achievable but not less stringent than the emission control that is achieved in practice by the best controlled similar source.
- (7) "MACT floor" means:
 - (A) for existing sources:
 - (i) the average emission limitation achieved by the best performing 12 percent of the existing sources for which EPA has emissions information, excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction that complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate, as defined in Section 171 of the federal Clean Air Act, applicable to the source category or subcategory for categories and subcategories with 30 or more sources; or
 - (ii) the average emission limitation achieved by the best performing five sources for which EPA has emissions or could reasonably obtain emissions information in the category or subcategory for categories or subcategories with fewer than 30 sources;
 - (B) for new sources, the emission limitation achieved in practice by the best controlled similar source.

- (8) "New affected source" means a collection of equipment, activities, or both that was constructed after the issuance of a Section 112(j) permit for the source pursuant to 40 CFR 63.52 and is subject to the applicable MACT emission limitation for new sources. Each permit shall define the term "new affected source" that will be the same as the "affected source" unless a different collection is warranted based on consideration of factors including:
- (A) the emission reduction impacts of controlling individual sources versus groups of sources;
 - (B) the cost effectiveness of controlling individual equipment;
 - (C) the flexibility to accommodate common control strategies;
 - (D) the cost and benefits of emissions averaging;
 - (E) the incentives for pollution prevention;
 - (F) the feasibility and cost of controlling processes that share common equipment such as product recovery devices; and
 - (G) the feasibility and cost of monitoring.
- (9) "New facility" means a facility for which construction is commenced after the Section 112(j) deadline or after the proposal of a relevant standard pursuant to Section 112(d) or (h) of the Federal Clean Air Act, whichever comes first.
- (10) "Research or laboratory activities" means activities whose primary purpose is to conduct research and development into new processes and products if the activities are operated under the supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner, and if the source is not in a source category specifically addressing research or laboratory activities that is listed pursuant to Section 112(c)(7) of the Clean Air Act.
- (11) "Section 112(j) deadline" means the date 18 months after the date for which a relevant standard is scheduled to be promulgated pursuant to 40 CFR Part 63, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the Section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the Section 112(j) deadline is December 15, 1999.
- (12) "Similar source" means that equipment or collection of equipment that, by virtue of its structure, operability, type of emissions, and volume and concentration of emissions, is substantially equivalent to the new affected source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected source.

(c) Missed promulgation dates: 112(j). If EPA fails to promulgate a standard for a category of source pursuant to Section 112 of the Federal Clean Air Act by the date established pursuant to Sections 112(e)(1) or (3) of the federal Clean Air Act, the owner or operator of any source in such category shall submit, within 18 months after such date, a permit application, in accordance with the procedures in 15A NCAC 02Q .0526, to the Director and to EPA to apply MACT to such sources. Sources subject to this Paragraph shall be in compliance with this Rule within three years after the date that the permit is issued.

(d) New facilities. The owner or operator of any new facility that is a major source of hazardous air pollutants (HAP) that is subject to this Rule shall apply MACT in accordance with the provisions of 15A NCAC 02D .1112, 15A NCAC 02Q .0528, and .0526(e)(2).

(e) Case-by-case MACT determination. The Director shall determine MACT according to 40 CFR 63.55(a).

(f) Monitoring and recordkeeping. The owner or operator of a source subject to this Rule shall install, operate, and maintain monitoring capable of detecting deviations from each applicable emission limitation or other standards with sufficient reliability and timeliness to determine continuous compliance over the applicable reporting period. Such monitoring data may be used as a basis for enforcing emissions limitations established pursuant to this Rule.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5),(10);
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. February 1, 2004; July 1, 1998; July 1, 1996;
Readopted Eff. July 1, 2018.*