Michigan Department Of Environmental Quality
Air Quality Division

State and Federal Regulatory Excerpts Associated with Rules 215 & 216

Changes at a Major Stationary Source after Renewable Operating Permit Issuance

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I. INTRODUCTION

Guidance addressing changes at major stationary sources after the Renewable Operating Permit (ROP) is issued is provided in the Michigan Department of Environmental Quality's "Life After ROP" Workbook. The purpose of this document is to provide additional background information.

Once an ROP is issued, changes at a source must be addressed through the provisions of either Rule 215 or Rule 216. This document details the basis and context for those regulatory requirements and procedures. The first section addresses the required time frames associated with making a change and a revision to the ROP. The second section includes an analysis into the background of change notifications, amendments, and modifications providing excerpts from the state and federal regulatory structures.

II. TIMELINES

This section contains flow diagrams which outline time frames necessary to meet the requirements of Rule 215 and Rule 216. In addition, each diagram provides a brief description of the individual rule requirements and citations to the corresponding federal requirements.

Brackets are used within the flow diagrams to indicate associated citations for Michigan's rules and/or federal regulations. The citations are abbreviated due to space constraints. "R215…" and "R216…" indicate Michigan's corresponding rule and subrule. All federal rules are organized into the Code of Federal Regulations (CFR). The federal regulations to implement the operating permit program required by Title V of the Clean Air Act are included in Part 70 of Title 40 of the CFR. Federal regulations are cited in order of Title, Part, Subpart or Section. Therefore, all federal citations for the Part 70 provisions will be indicated in the flowcharts as "40CFR 70…"

Renewable Operating Permit (ROP) Program -
Timelines for Rule 215(1)(a) and (1)(b) Changes

Rule 215(1)(a) Operational Flexibility to Contravene Conditions

Rule 215(1)(a): A change that will contravene a specific permit condition is identified (per Clean Air Act Section 502(b)(10))* → Source sends written notification, received by AQD 7 days in advance of change** {R215(3)(c), 40CFR 70.4(b)(12)} → Source makes the change

* A change can be made pursuant to this subdivision if (1) the change is not a Title I modification, (2) actual emissions do not exceed the emissions allowable under the permit and (3) the change does not violate any applicable requirement, including any applicable requirement for monitoring, recordkeeping, reporting or compliance certification. 40 CFR Part 70.4(b)(12)(i) (FR32299) and Michigan's Title V Submittal specify that this category addresses Clean Air Act Section 502(b)(10) changes. 40 CFR Part 70 Preamble (FR32266-32267) provides further detail, including an example where the permit specifies a particular brand of coating, along with the emission limit applicable to that coating. In this case, the source can change the brand of coating using a 7-day notice, so long as the new coating complies with the emission limit.
** The notification must include a brief description of the change, identify the date the change will occur, the resultant emissions and any permit term or condition that will no longer be applicable as a result of the change. See also Rule 215(3)(c) for notification requirements.

Rule 215(1)(b) Operational Flexibility for Emission Trading Within a Source (Intra-facility Trading)

Rule 215(1)(b): A change involving an intra-facility emissions trading action is identified* → Source sends written notification, received by AQD 7 days in advance of change** {R215(1), 40CFR 70.4(b)(12)} → Source makes the change

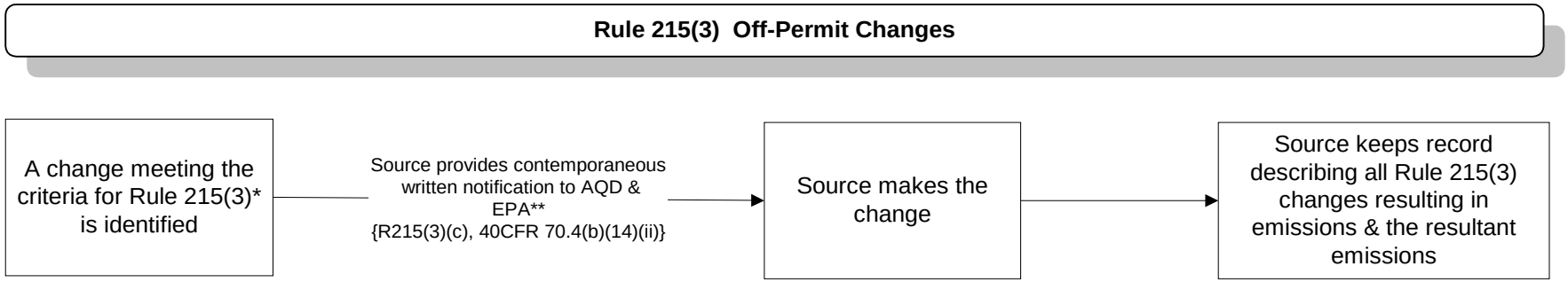
* Rule 215(1)(b) provides for emission trading within a source. 40 CFR 40.4(b)(12)(ii) allows trading of increases and decreases within the permitted source where allowed under a federally-approved implementation plan. Generally, EPA's position is that the change can be made under this provision without prior revision to the ROP only if the ROP specifically includes language to provide for this option and if the change does not affect an emission limit or other applicable requirement within the ROP. See also Rule 216(2).
** The notification must include all information required by the approved emission trading program including description and date of the change, any change in emissions that will result, pollutants subject to the trade, requirements which will be met through the trade, and the requirements of the trading program for which the source will comply and which allow the trade.

Renewable Operating Permit (ROP) Program
Timeline for Rule 215(2) Changes

Rule 215(2) Emission Reduction Credits Trading Between Stationary Sources (Inter-facility Trading)

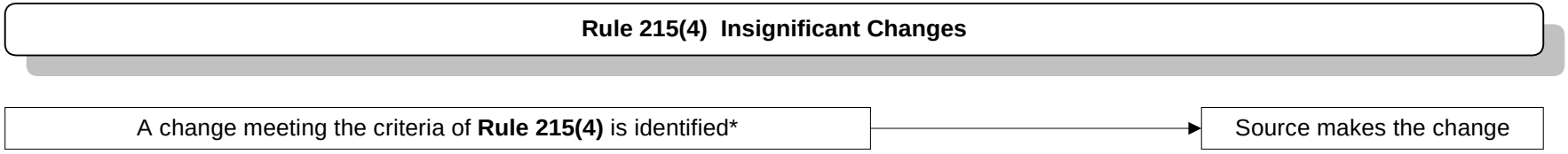
* Rule 215(2) provides for emission trading between stationary sources. 40 CFR 70.6(a)(8) allows changes without revision of the permit where already provided for within the permit and also allowed under a federally-approved emissions trading program. A change can be made under this provision without prior revision to the ROP only if the ROP specifically includes language to provide for this option and if the change does not affect an emission limit or other applicable requirement within the ROP. Michigan does not currently have a federally-approved emissions trading program. See also Rule 216(2).

Renewable Operating Permit (ROP) Program
Timelines for Rule 215(3) & Rule 215(4) Changes



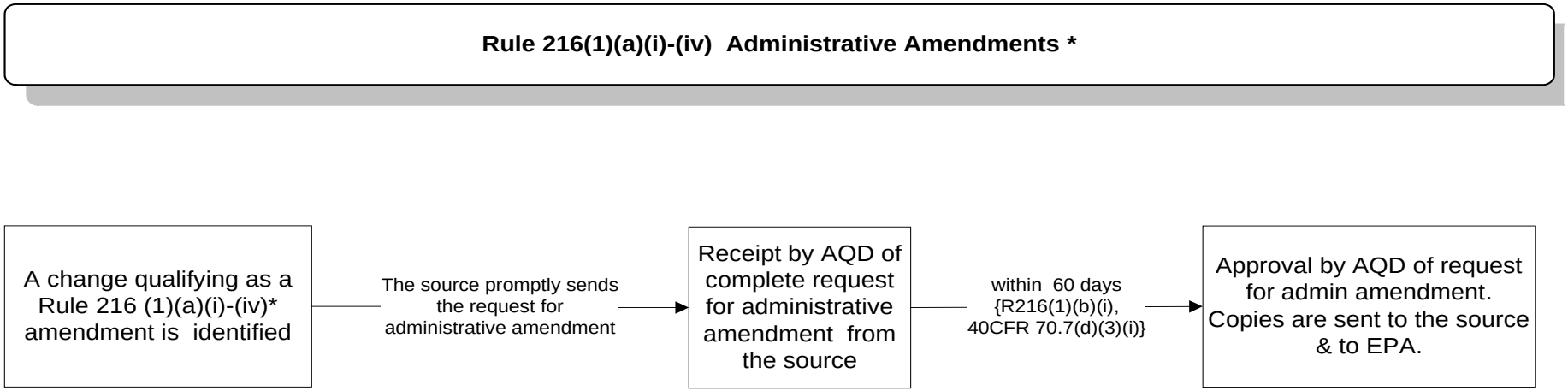
* Rule 215(3) specifies that a person may make a change at a stationary source covered by an ROP that is not specifically addressed or prohibited by the ROP without a revision to the ROP if (1) the change complies with all applicable requirements, (2) the change is not a major modification, and (3) if the source is an affected source under the Title IV acid rain provisions, the change is not contrary to any applicable requirements of Title IV. An example of a Rule 215(3) change is when a source gets a minor NSR permit to add a new emission unit. See also 40 CFR 70.4(b)(14) and (15).

** The written notice must describe the change, including all of the following information: (i) the date of the change, (ii) any change in emissions, (iii) any pollutants emitted, (iv) any applicable requirement that would apply as a result of the change, and (v) a statement that the notification is being provided pursuant to Rule 215(3).



* Generally, changes covered by the Permit to Install (PTI) exemption provisions referenced in Rule 212(1)-(3) may be made without a revision to the ROP unless that change would result in emissions that exceed a synthetic minor limit in the ROP (in which case PTI requirements would be triggered). The only difference from Rule 215(3) changes is that a notification is not required.

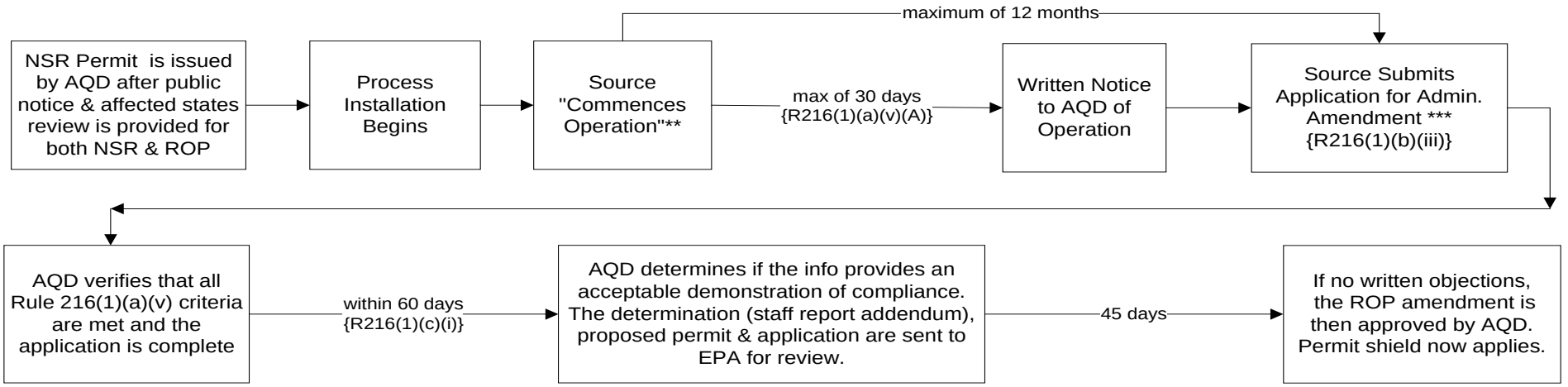
Renewable Operating Permit (ROP) Program
Timeline for Rule 216(1)(a)(i)-(iv) Changes



* This type of administrative amendment addresses minor administrative changes. These include any of the following: (i) correction to typographical errors, (ii) a change in the name, address, or phone number of the responsible official or other contact person for the ROP or a similar minor administrative change at the source, (iii) a change that provides for more frequent monitoring or reporting, or (iv) a change in the ownership or operational control of a source where the department determines that no other change in the permit is necessary and a written agreement between the parties has been submitted to the department. See also 40 CFR 70.7(d).

Renewable Operating Permit (ROP) Program
Timeline for Rule 216(1)(a)(v) Changes

Rule 216(1)(a)(v) Administrative Amendments *

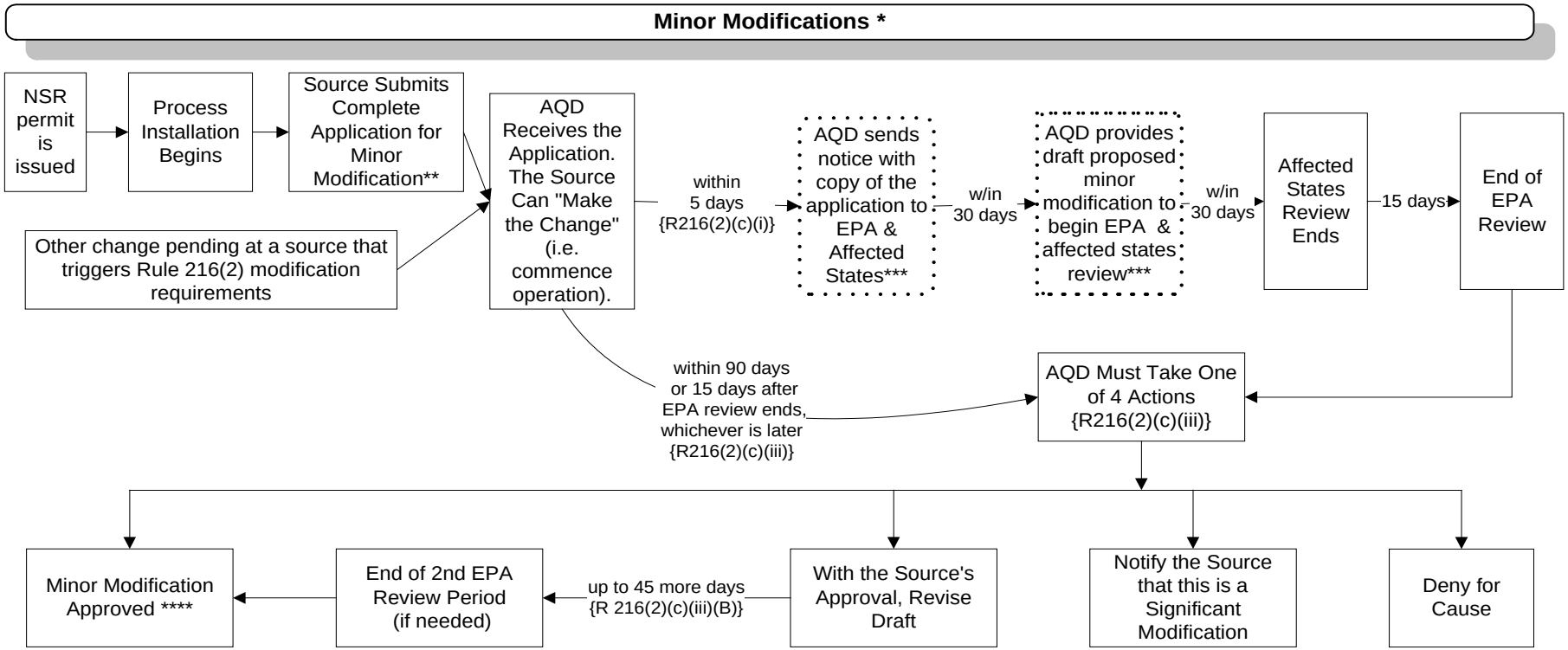


* To qualify as an administrative amendment, Rule 216(1)(v) specifies that (1) the NSR permit must meet the permit content requirements of Rule 213 (including monitoring, recordkeeping & reporting), (2) the public participation & affected states review procedures were substantially equivalent to those required by Rule 214, (3) the source is in compliance with the terms & conditions of the NSR permit, & (4) no changes are required to the terms & conditions of the NSR permit. This includes NSR permits for Title I modifications and Section 112(g) case-by-case MACT determinations that meet the specified criteria. If the change does not meet the criteria, the application must be denied. This general concept is taken from 40 CFR 70.7(d)(1)(v).

** Rule 216(1)(a)(v)(A) specifies that the written notice must be within 30 days after "completion of the installation, construction, reconstruction, relocation, alteration, or modification of the process or process equipment.…" Rule 201(7) specifies that this is "considered to occur not later than commencement of trial operation of the process or process equipment." This is summarized as "Source commences operation."

*** Rule 216(1)(a)(v)(B) specifies that the source must request that the contents of the permit to install be incorporated as an administrative amendment. The request must include (1) the results of all testing, monitoring and recordkeeping performed to determine the actual emissions and to demonstrate compliance with the PTI, (2) a schedule of compliance and (3) a "truth, accuracy & completeness" certification by the responsible official.

Renewable Operating Permit (ROP) Program
Timeline for Rule 216(2) Changes



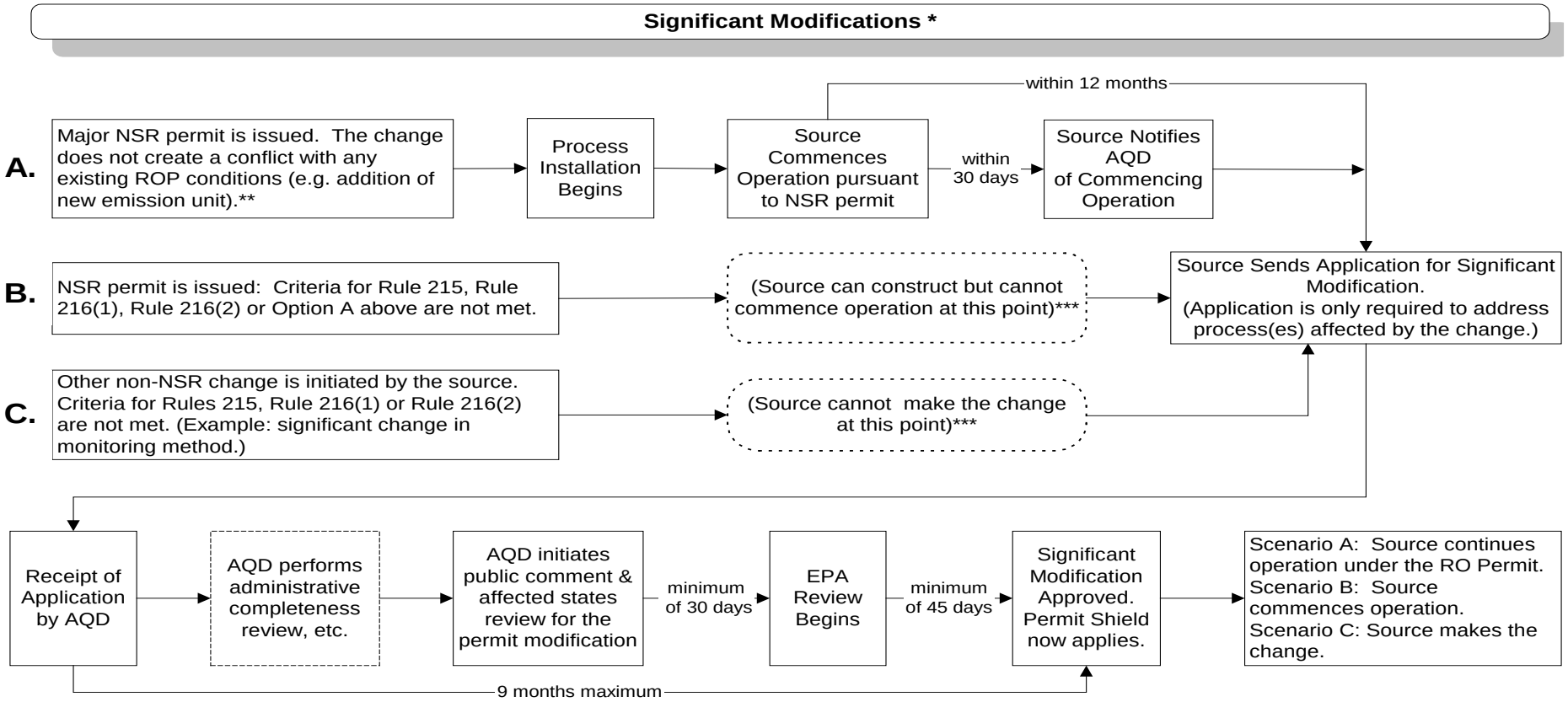
* A minor modification is defined in Rule 216(2)(b) by what it is not. If a change does not require a significant modification (per Rule 216(3)) and does not qualify under Rule 215 or Rule 216(1) provisions, it may require a minor modification. For minor NSR permits issued after the ROP is issued, the permit must meet Rule 213 content requirements and the other criteria in Rule 216(2) to qualify as a minor modification. Emission trading actions may be allowed as minor modifications where provided for within the permit.

** Rule 216(2)(b) specifies that the ROP modification application must include: (i) description of change, emissions & new applicable requirements; (ii) proposed changes to the ROP; (iii) the certification by responsible official and (iv) AQD forms for submitting the application to EPA & affected states.

*** Because Michigan's regulation does not require the applicant to submit a draft permit (as assumed in Part 70), Region 5 will informally allow an additional 30 days for AQD staff to incorporate the application into a draft permit to submit to the EPA. See 40 CFR 70.7(e)(2)(iii) for federal regulatory language. The provisions of Rule 216(2)(c)(iii) are structured to implement the timetable for issuance specified in 40 CFR 70.7(e)(2)(iv).

**** Permit Shield does not apply until public comment is held; therefore, the permit shield for minor modifications will not apply until public participation process for ROP renewal.

Renewable Operating Permit (ROP) Program
Timeline for Rule 216(3) Changes



* A significant modification is one which is not an administrative amendment or a minor modification, and which involves any of the following (unless part of an NSR permit meeting Rule 216(1)(a)(v)): (i) a Title I modification (PSD, Rule 220, NSPS, Section 112 MACT); (ii) a change that would result in emissions that exceed the emissions allowed under the ROP; (iii) the change would significantly affect an existing monitoring, recordkeeping or reporting requirement in the ROP; (iv) the change would require or modify a case-by-case determination; (v) the change would establish or modify a synthetic minor limit. The process for handling an application for a significant modification to an ROP is equivalent to that for initial issuance of the ROP, except that Rule 216(3)(d) and 40 CFR 70.7(e)(4)(ii) specify that the significant modification is required to be acted upon within 9 months.

** Although generally expected to be processed as administrative amendment, the situation may occur where the criteria of Rule 216(1)(a)(v) are not met or the source may otherwise choose to apply for a significant modification, regardless. Option A is consistent with 40 CFR 70.5(a)(1)(ii).

*** If a proposed change does not qualify for any of the other categories (which include operational flexibility, off-permit changes, administrative amendment, minor modification or Option A), the change is considered to be of a nature that it must be approved and incorporated into the ROP before the source can make the change. See 40 CFR Part 70 preamble, page 32287.

III. REGULATORY COMPARISON

This section provides a discussion of Rules 215 and 216 and their relation with the underlying federal regulatory requirements. The first column quotes Michigan's rules. The second column quotes Michigan's Title V Submittal to the United States Environmental Protection Agency. In this legally-enforceable program submittal, the descriptions specify how Michigan's program meets all federal requirements to obtain final approval of Michigan's renewable operating permit program. The third column quotes from the 40 CFR Part 70 regulations themselves, whereas the final column contains quotes from the Part 70 Preamble which provides discussion of the intent and context of the Part 70 regulations. (The "{FR…}" citations are to the exact page in the Federal Register where the quote may be found.) Together, these quotes provide a more complete picture of the regulatory framework and background associated with Rules 215 and 216.

Rule 215(1)(a) "Contravening" for "Section 502(b)(10)" Changes

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
Rule 215. (1) The following provisions apply to operational flexibility within a stationary source. As provided in 40 C.F.R. §70.4(B)(12), a person may make either of the following changes to process or process equipment within a stationary source covered by a renewable operating permit without a revision to that permit, if the changes are not a modification under any applicable provision of title I of the clean air act and the changes do not exceed the emissions allowable under the renewable operating permit, whether expressed therein as a rate of emissions or in the terms of total emissions, if the person provides written notification to the department and the United States environmental protection agency at least 7 days prior to the change. The permittee and the department shall attach each such notice to their copy of the relevant permit: (a) As provided in 40 C.F.R. §70.2 and 40 C.F.R. §70.4(B)(12)(i), a person may make changes that contravene a specific permit condition, if the changes are not modifications under any provision of title I of the clean air act and the changes do not exceed the emissions allowable under the renewable operating permit, whether expressed therein as a rate of emissions or in terms of total emissions. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring, including test methods, recordkeeping, reporting, or compliance certification requirements. For each such change, the written notification required in this subrule shall include all of the following information: (i) A brief description of the change within the stationary source. (ii) The date on which the change will occur. (iii) Any change in emissions. (iv) Any permit term or condition that is no longer applicable as a result of the change. (b)… (c) For the purposes of this subrule, the emissions allowable under the renewable operating permit include any emission limitation, standard, or condition, including a work practice standard, that is required by an applicable requirement or any emission limitation, standard, or condition, including a work practice standard, that establishes an emissions cap which the source has assumed to avoid an applicable requirement.	1. Operational Flexibility … · "Section 502(b)(10)" Changes - Rule 215(1)(a) provides for a person to make changes which would contravene a specific permit term or condition, provided that the change is not a modification under any applicable provision of Title I of the CAA and the emissions resulting from the change do not exceed the emissions allowable under the ROP. Such changes are referred to as "Section 502(b)(10)" changes in 40 CFR 70 regulations and these provisions are consistent with the requirements of 40 CFR 70.4(b)(12)(i). Pursuant to Rule 215(5), the permit shield does not apply to any "Section 502(b)(10)" changes.	**70.4(b)(12)(i)** The program shall allow permitted sources to make section 502(b)(10) changes without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions). (A) For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. (B) The permit shield described in §70.6(f) of this part shall not apply to any change made pursuant to this paragraph (12)(i). **70.2** "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. **70.2** "Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.	{FR32267} Nothing in title V or the Act allows permitted sources to violate applicable requirements. If a SIP emission limit applies to each emissions unit at a facility, a title V permit cannot authorize any one unit to violate that emission limit, even if the average emissions across the facility are equal to the emissions that are allowed at the facility under the SIP. …The regulations provide that the source must give at least a 7-day advance notice of any change made pursuant to the section 502(b)(10) process. The source, the permitting authority, and EPA must attach a copy of a 7-day advance notice describing the change to their copy of the relevant permit. … Further, no change under this provision can exceed 'emissions allowable under the permit.' The EPA has defined this term to mean a federally-enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emission limit (including work practice standards) or a federally-enforceable emission cap that the source has assumed to avoid applicable requirements. This definition clarifies that changes under this provision cannot increase emissions beyond what is provided for by the terms and conditions of the permit. Under the regulations, programs must allow 'section 502(b)(10) changes' as those that contravene a permit term, but exclude from this definition any changes that violate applicable requirements or contravene permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. This definition is designed to prevent changes to permit terms that are critical to determining the 'emissions allowable' under the permit. An example of how this provision would operate would be a permit in which the federally-enforceable portion specifies a particular brand of coating, along with the emission limit applicable to that coating. This provision would allow the source to change that brand of coating using a 7-day notice. Of course, the new brand must comply with the emission limit.

Rule 215(1)(b) Emission Trading Within a Stationary Source

(See also Rule 216(2) Minor Modifications)

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
Rule 215. (1) The following provisions apply to operational flexibility within a stationary source. As provided in 40 C.F.R. §70.4(B)(12), a person may make either of the following changes to process or process equipment within a stationary source covered by a renewable operating permit without a revision to that permit, if the changes are not a modification under any applicable provision of title I of the clean air act and the changes do not exceed the emissions allowable under the renewable operating permit, whether expressed therein as a rate of emissions or in the terms of total emissions, if the person provides written notification to the department and the United States environmental protection agency at least 7 days prior to the change. The permittee and the department shall attach each such notice to their copy of the relevant permit: (a)… (b) As provided in 40 C.F.R. §70.4(B)(12)(ii), a person may trade increases and decreases in emissions within the stationary source according to procedures specified by an applicable emissions trading program that has been approved by the administrator of the United States environmental protection agency as a part of Michigan's state implementation plan, if the person has provided written notification to the department and the United States environmental protection agency of the changes at least 7 days prior to the activity taking place. (i) The written notification required in this subdivision shall include all information required by the approved state implementation plan, including at a minimum, all of the following information: (A) When the proposed change will occur. (B) A description of each such change. (C) Any change in emissions. (D) The permit requirements with which the stationary source will comply using the emissions trading provisions of the approved state implementation plan for trading within a stationary source. (E) The pollutants emitted subject to the emissions trade. (F) The provisions of the approved state implementation plan. with which the stationary source will comply and which provide for the emissions trade within the stationary source. (ii) Compliance with the permit requirements that the stationary source will meet using the emissions trade shall be determined according to the requirements of the approved state implementation plan authorizing the emissions trade within the stationary source. (c) For the purposes of this subrule, the emissions allowable	Emissions Trading Within a Stationary Source - In keeping with 40 CFR 70.4(B)(12)(ii), Michigan's Rule 215(1)(b) provides for the trading of emissions increases and decreases among the process and process equipment at a stationary source as allowed by procedures specified in a federally approved emissions trading program as part of Michigan's State Implementation Plan (SIP). This provision requires a detailed written notification to be submitted to the MDEQ at least 7 days before the activity would occur. Pursuant to Rule 215(5), the permit shield does not apply to any intra-facility trading activities.	**70.4(b)(12)(ii)** The program may provide for permitted sources to trade increases and decreases in emissions in the permitted facility, where the applicable implementation plan provides for such emissions trades without requiring a permit revision and based on the 7-day notice prescribed in this paragraph (b)(12)(ii). This provision is available in those cases where the permit does not already provide for such emissions trading. (A) Under this paragraph (b)(12)(ii), the written notification required above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the applicable implementation plan and that provide for the emissions trade. (B) The permit shield described in §70.6(f) of this part shall not extend to any change made under this paragraph (b)(12)(ii). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the applicable implementation plan authorizing the emissions trade. **70.4(b)(12)(iii)** The program shall require the permitting authority, if a permit applicant requests it, to issue permits that contain terms and conditions, including all terms required under §§70.6(a) and (c) of this part to determine compliance, allowing for the trading of emissions increases and decreases <u>in</u> the permitted facility solely for the purpose of complying with a	{FR32259} Thus a SIP containing a generic trading rule and a replicable procedure for implementing the rule through a permit may allow trading to occur without a permit revision, provided the permit contains the replicable procedure. This is similar to the way in which permits allow sources to shift among alternate scenarios that were initially provided for in the permit. If States choose to implement trading in this manner, the provisions of the permit allowing the trades must incorporate all of the procedural protections contained in the underlying SIP. As discussed in the section on operational flexibility, States may also elect to develop SIP's that set forth trading and compliance provisions that sources could use to comply with SIP limits after 7-days notice. The SIP would have to include compliance requirements and procedures for the trade which are sufficiently specific to demonstrate compliance. Such provisions can prove useful to sources in cases where permits do not already provide for emission trades. {FR32267} The second method for implementing operational flexibility would allow a source to trade emissions within the permitted facility to meet its SIP limits, where the permit

Rule 215(1)(b) Emission Trading Within a Stationary Source

(See also Rule 216(2) Minor Modifications)

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
under the renewable operating permit include any emission limitation, standard, or condition, including a work practice standard, that is required by an applicable requirement or any emission limitation, standard, or condition, including a work practice standard, that establishes an emissions cap which the source has assumed to avoid an applicable requirement. Rule 213(9) A renewable operating permit shall include terms and conditions for the trading of emissions increases and decreases among process and process equipment within the stationary source solely for the purpose of complying with an emissions cap that is established in the permit independent of otherwise applicable requirements, if the terms and conditions have been requested by a person in an application for a renewable operating permit. If a person wishes to include the terms and conditions in a renewable operating permit, the permit application shall include proposed replicable procedures and permit terms that the person believes ensure the emissions trades are quantifiable and enforceable. The terms and conditions shall include those necessary to meet the requirements of subrules (2) to (4) of this rule. The department shall not be required to include in the emissions trading provisions any process or process equipment for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Both of the following provisions apply to the trading of emissions increases and decreases among process and process equipment solely for the purpose of complying with an emissions cap: (a) A written notification to the department and the United States environmental protection agency is required 7 days in advance of any emissions trade under this subrule. The notice shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit. (b) The permit shield described in subrule (6) of this rule shall extend to terms and conditions that allow the increases and decreases in emissions.		federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The permitting authority shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. (A) Under this paragraph (b)(12)(iii), the written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit. (B) The permit shield described in §70.6(f) of this part may extend to terms and conditions that allow such increases and decreases in emissions. **70.2** "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.	does not already provide for such emissions trading but the SIP does. {FR32267} Nothing in title V or the Act allows permitted sources to violate applicable requirements. If a SIP emission limit applies to each emissions unit at a facility, a title V permit cannot authorize any one unit to violate that emission limit, even if the average emissions across the facility are equal to the emissions that are allowed at the facility under the SIP. {FR32268} The third method for implementing operational flexibility requires the permitting authority to provide for emissions trading in the permit for the purposes of complying with certain emissions caps. {FR32287} See Rule 216(2) minor modifications.

Rule 215(2) Emission Trading Between Stationary Sources

(See also Rule 216(2) Minor Modifications)

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
(2) The following provisions apply to emission reduction credits trading between stationary sources. As provided in 40 C.F.R. §70.6(A)(8), a person may make any changes without revision to the renewable operating permit where provided for in the renewable operating permit and allowed by an applicable interstate or regional emissions trading program that has been approved by the administrator of the United States environmental protection agency.	2. Emission Trading Between Stationary Sources Rule 215(2) includes provision to allow for market-based emission trading program activities consistent with the provisions of 40 CFR 70.6(a)(8) after the trading program has been approved by the U.S. EPA as a part of Michigan's SIP. The emissions trading program will specifically identify the types of changes that could be considered under this provision. Pursuant to Rule 215(5), the permit shield does not apply to any inter-facility trading activities.	**70.6(a)(8)** *Emissions trading.* A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.	{FR32259} Thus a SIP containing a generic trading rule and a replicable procedure for implementing the rule through a permit may allow trading to occur without a permit revision, provided the permit contains the replicable procedure. This is similar to the way in which permits allow sources to shift among alternate scenarios that were initially provided for in the permit. If States choose to implement trading in this manner, the provisions of the permit allowing the trades must incorporate all of the procedural protections contained in the underlying SIP. {FR32287} See Rule 216(2) minor modifications.

Rule 215(3) Off-permit Changes

AQD Rule Requirements	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
Rule 215 (3) The following provisions apply to off-permit changes. as provided in 40 C.F.R. §70.4(B)(14) and (15), a person may make a change at a stationary source covered by a renewable operating permit that is not addressed or prohibited by the renewable operating permit without a revision to the renewable operating permit, if all of the following provisions are met: (a) The change complies with all applicable requirements and is not a modification under any applicable provision of title I of the clean air act. (b) If the stationary source is an affected source under title IV of the clean air act, the change is not contrary to any applicable requirement of title IV of the clean air act. (c) The person shall provide contemporaneous written notification to the department and the United States environmental protection agency of each change. The written notice shall describe the change, including all of the following information: (i) The date of the change. (ii) Any change in emissions. (iii) Any pollutants emitted. (iv) Any applicable requirement that would apply as a result of the change. (v) A statement that the notification is being provided pursuant to this subrule. (d) The person shall keep a record describing changes made at the stationary source that result in emissions of an air contaminant which are subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from the changes.	3. Off-Permit Changes Rule 215(3) provides for sources to make changes that are not specifically addressed or prohibited by the ROP, provided the change complies with all applicable requirements and is not a modification under any applicable provision of Title I of the CAA. This provision is consistent with 40 CFR 70.4(b)(14) & (15). It is anticipated that this provision will be used primarily where the MDEQ has approved a minor permit to install for a new process that does not affect the terms and conditions of the ROP. In this case the new process would continue to operate under the terms and conditions of the new permit to install until the renewal of the ROP. Pursuant to Rule 215(5), the permit shield does not apply to any off-permit changes.	70.4 {State program submittals} (b)(14) If a State allows changes that are not addressed or prohibited by the permit, other than those described in paragraph (b)(15) of this section, to be made without a permit revision, provisions meeting the requirements of (i) through (iii) of this paragraph. Although a State may, as a matter of State law, prohibit sources from making such changes without a permit revision, any such prohibition shall not be enforceable by the Administrator or by citizens under the Act unless the prohibition is required by an applicable requirement. Any State procedures implementing such a State law prohibition must include the requirements of (i) through (iii) of this paragraph. (i) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition. (ii) Sources must provide contemporaneous written notice to the permitting authority and EPA of each such change, except for changes that qualify as insignificant under the provisions adopted pursuant to §70.5(c). Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change. (iii) The change shall not qualify for the shield under §70.6(f). (iv) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes. (15) Provisions prohibiting sources from making, without a permit revision, changes that are not addressed or prohibited by the part 70 permit, if such changes are subject to any requirements under title IV of the Act or are modifications under any provision of title I of the Act.	{32269&70} Section 502(a) prohibits a source from operating any of certain listed types of sources 'except in compliance with a permit****'. EPA's view is that it does not violate this prohibition for a source to operate in ways that are neither addressed nor prohibited by the permit…70.4(b)(14) and (15) of the regulations provide that a State may allow a permitted source to make changes that are not addressed or prohibited by the permit, without requiring a permit revision, as long as they are not modifications under any provision of title I, are not subject to any requirements under title IV of the Act, and meet all applicable requirements of the Act. … One inherent limitation on the changes a source can make under the off-permit concept is that off-permit changes are limited to those activities not 'addressed' by the permit. Therefore, off-permit changes cannot alter the permitted facility's obligation to comply with the compliance provisions of its title V permit, which under S70.8 will be 'addressed' in each permit. Such requirements include monitoring (including test methods), recordkeeping, reporting and compliance certification requirements.

Rule 215(4) Insignificant Changes

AQD Rule Requirements	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
Rule 215 (4) The following provisions apply to insignificant changes. A person may make a change at a stationary source covered by a renewable operating permit that involves the insignificant activities listed pursuant to R 336.1212(2) or that involves the installation, construction, reconstruction, relocation, alteration, or modification of any process or process equipment listed pursuant to R 336.1212 (3) and (4) without a revision to the renewable operating permit, if none of the following provisions apply to the change: (a) The change would result in a violation of any applicable requirement. (b) The change would require or modify any of the following: (i) A case-by-case determination of an emission limitation or other standard. (ii) For temporary sources, a source-specific determination of ambient air impacts. (iii) A visibility or increment analysis. (c) The change would seek to establish or modify an emission limit, standard, or other condition of the renewable operating permit that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. (d) The change is a major offset modification or a modification under any applicable requirement of section 111, section 112, or part C of title I of the clean air act.	<u>4. Insignificant Changes</u> Rule 215(4) provides for changes at stationary sources that involve the insignificant activities and exempt processes listed in Rule 212. This provision is a logical extension of the program flexibility provided by 40 CFR 70.5(c). This provision allows the MDEQ to identify a list of insignificant activities that need not be included in a permit application. If such activities need not be reported in the application, it is not logical to require those activities to be reported under the permit. All activities listed in Rule 212 are currently exempt from the permit to install program. The MDEQ views this provision as providing for consistency between these two permit programs. Pursuant to Rule 215(5), the permit shield does not apply to any changes involving insignificant activities or exempt equipment.		

Rule 216(1) Administrative Amendments

AQD Rule Requirements	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
(1) All of the following provisions apply to administrative permit amendments: (a) An administrative permit amendment is a modification to a renewable operating permit that involves any of the following: (i) A change that corrects typographical errors. (ii) A change in the name, address, or phone number of the responsible official or other contact person identified in the application for the renewable operating permit or a similar minor administrative change at the stationary source. (iii) A change that provides for more frequent monitoring or reporting. (iv) A change in the ownership or operational control of a stationary source where the department determines that no other change in the permit is necessary, if a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new persons owning or operating the stationary source has been submitted to the department. The new person owning or operating the stationary source shall also notify the department of any change in the responsible official or contact person regarding the renewable operating permit. (v) A change that incorporates into the renewable operating permit the terms and conditions of a permit to install issued pursuant to R 336.1201, if the permit to install includes terms and conditions that comply with the permit content requirements contained in R 336.1213, the procedure used to issue the permit to install was substantially equivalent to the requirements of R 336.1214(3) and (4) regarding public participation and review by affected states, the process or process equipment is in compliance with, and no changes are required to, the terms and conditions of the permit to install that are to be incorporated into the renewable operating permit, and both of the following have occurred: (A) A person has notified the department, in writing, within 30 days after completion of the installation, construction, reconstruction, relocation, or modification of the process or process equipment covered by the permit to install, unless a different time frame is specified by an applicable requirement and required by the permit to install. (B) Upon completion of all testing, monitoring, and recordkeeping required by the terms and conditions of the permit to install, but not later than 12 months after the date of completion reported in subparagraph (A) of this paragraph unless a different time frame is specified in the permit to install, a person has requested that the contents of the permit to install be incorporated into the renewable operating permit as an administrative permit amendment. The request shall include all of the following: *(1) The results of all testing, monitoring, and recordkeeping performed by the person to determine the actual emissions from the process or process equipment and to demonstrate compliance with the terms and conditions of the permit to install.*	1. Administrative Permit Amendments Section 5506(4)(k) of Part 55, Act 451 and Rule 216(1)(a) define the types of changes that qualify as administrative permit amendments. This definition includes all changes included under 40 CFR 70.7(d)(1). Rule 216(1)(a)(v) includes in the definition of an administrative permit amendment a change that incorporates the terms and conditions of a permit to install issued pursuant to Rule 201, provided the permit to install includes terms and conditions which meet the ROP content requirements of Rule 213 and the procedure for issuing the permit to install included a public participation process and affected state review substantially equivalent to the requirements for issuance of ROPs pursuant to Rule 214. Terms and conditions from a permit to install cannot be incorporated into an ROP as an administrative permit amendment if the permittee is not in compliance with those terms and conditions or if the permittee is requesting changes to those terms and conditions. Once a permit to install has been issued, the permittee is required to notify the MDEQ within 30 days of commencing operation of the change authorized by the permit to install unless a different time frame is authorized in the permit. Upon completion of all testing, monitoring, and recordkeeping required by the permit to install, but not more than 12 months after the date of completion of the change unless a different time frame is specified, the permittee is required to report the results to the MDEQ. This report must also request that the terms and conditions of the permit to install be incorporated into their ROP as an administrative permit amendment. Besides the results of the testing, monitoring, and recordkeeping, this report must include a schedule of compliance and a certification by a responsible official. This report combined with the information in the M-001 application form results in a complete application for a modification to the ROP consistent with the requirements of 40 CFR 70.5. The process for making administrative permit amendments, except for those changes which incorporate the terms and conditions of a permit	70.7(d) Administrative permit amendments. (1) An "administrative permit amendment" is a permit revision that: (i) Corrects typographical errors; (ii) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source; (iii) Requires more frequent monitoring or reporting by the permittee; (iv) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority; (v) Incorporates into the part 70 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of §§70.7 and 70.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in §70.6; or (vi) Incorporates any other type of change which the	{32290} An administrative permit amendment would include administrative changes such as correction of typographical errors, changes in address, change of ownership, etc. EPA also proposed to treat as administrative permit amendments any changes that have been processed under an approved State preconstruction review program. The proposal stated that since these changes have already received sufficient EPA review and appear to offer adequate opportunity for public comment and a hearing, EPA believed it would be unnecessary for them to undergo the full permit revision procedure described in section 502(b)(6) simply to incorporate the results of the NSR program. Section 70.7(d)(3)(i) requires the permitting authority to take final action on a request for an administrative amendment to a permit within 60 days of receipt of such request. This 60-day period was intended as a convenience to the permitting authority, not as a waiting period imposed on a source seeking to implement

Rule 216(1) Administrative Amendments

AQD Rule Requirements	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
(2) A schedule of compliance for the process or process equipment. *(3) A certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the request are true, accurate, and complete.* (b) An administrative permit amendment, for changes identified in subdivision (a)(i) to (iv) of this subrule, shall be reviewed and final action taken according to the following procedure: (i) The department shall take final action to approve or deny the request for an administrative permit amendment within 60 days of the receipt of the request, unless the department requests additional information to clarify the request. If the department requests additional information, the department shall take final action within 60 days of the receipt of the additional information. Upon approval of the request, the change shall be incorporated into the renewable operating permit without providing notice to the public or affected states. The change shall be clearly designated as an administrative permit amendment. (ii) Upon approval, the department shall transmit a copy of the administrative permit amendment to the person that requested the amendment and the United States environmental protection agency. (iii) A person may implement the changes identified in the request for an administrative permit amendment, at the person's own risk, immediately upon submittal of the request to the department. After the change has been made, and until the department takes final action as specified in paragraph (i) of this subdivision, a person shall comply with both of the applicable requirements governing the change and the permit terms and conditions proposed in the application for the administrative amendment. If a person fails to comply with the permit terms and conditions proposed in the application for the administrative amendment during this time period, the terms and conditions contained in the renewable operating permit are enforceable. (iv) The permit shield provided under R 336.1213(6) does not extend to administrative amendments made pursuant to subdivision (a)(i) to (iv) of this subrule. (c) An administrative permit amendment, for changes identified in subdivision (a)(v) of this subrule, shall be reviewed and final action taken according to the following procedure: (i) Within 60 days after receipt by the department of all the information required pursuant to subdivision (a)(v)(B) of this subrule, the department shall determine whether the information provides an acceptable demonstration of compliance with the terms and conditions of the permit to install and shall transmit a copy of the information together with the determination and a proposed amended renewable operating permit to the United States environmental protection agency for a 45-day review period pursuant to 40 C.F.R. §70.8(c). (ii) The department shall not take a final action to approve the administrative permit amendment if the administrator of the United States environmental protection agency objects to its approval, in	to install, is consistent with the requirements found in 40 CFR 70.7(d)(3) and is found in Rule 216(1)(b). The process for incorporating the terms and conditions of a permit to install as an administrative permit amendment is found in Rule 216(1)(c). This process requires the MDEQ to determine whether the information included in the report provides an acceptable demonstration of compliance with the permit to install and to transmit a copy of the report and the proposed amended ROP to the U.S. EPA for a 45-day review period. Rule 216(1)(c)(ii) specifies that the MDEQ will not approve incorporation of the terms and conditions of the permit to install into the ROP as an administrative permit amendment if the Administrator of the U.S. EPA objects during the 45-day review period. To provide for clarity during the 12-month period when the stationary source is operating under both the ROP and the permit to install before the conditions of the permit to install are incorporated into the ROP, Rule 216(1)(c)(iii) provides that the permittee may choose to comply only with the modified terms and conditions of the permit to install. However, if the permittee does not comply with the terms and conditions of the permit to install, the existing terms and conditions contained in the ROP are enforceable. This requirement is similar to the flexibility provided to a permittee under the minor permit modification procedures contained in 40 CFR 70.7(e)(2)(v). The permit shield does not apply to any administrative permit amendment until the MDEQ has approved the amendment. Rule 216(1)(d) provides for the appeal process if the MDEQ should deny any administrative permit amendment.	Administrator has determined as part of the approved part 70 program to be similar to those in paragraphs (d)(1)(i) through (iv) of this section. (2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act. (3) Administrative permit amendment procedures. An administrative permit amendment may be made by the permitting authority consistent with the following: (i) The permitting authority shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph. (ii) The permitting authority shall submit a copy of the revised permit to the Administrator. (iii) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request. (4) The permitting authority may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in §70.6(f) for administrative permit amendments made pursuant to paragraph (d)(1)(v) of this section which	changes qualifying for the administrative amendment track. To clarify this meaning, new section 70.7(d)(3)(iii) provides that a source may implement changes addressed in a request for an administrative amendment immediately upon submittal of the request. Except as discussed above, section 70.7(d)(4) has been revised to clarify that the permit shield may not attach for these changes.

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AQD Rule Requirements	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
writing, within 45 days of receipt by the United States environmental protection agency, of the information required in paragraph (i) of this subdivision. The department shall follow the procedure specified in 40 C.F.R. §70.8(c) in response to an objection by the administrator of the United States environmental protection agency. (iii) A person may make the change authorized by the permit to install immediately after the permit to install has been approved by the department. After the change has been made, and until the department takes final action on the administrative permit amendment as specified in paragraph (ii) of this subdivision, the person shall comply with both the applicable requirements governing the change and the terms and conditions approved as a part of the permit to install. During this time period, the person may choose to not comply with the existing terms and conditions of the renewable operating permit that are modified by the permit to install. However, if the person fails to comply with the terms and conditions of the permit to install during this time period, the terms and conditions contained in the renewable operating permit are enforceable. The permit shield provided under R 336.1213(6) does not apply to the changes until the administrative permit amendment has been approved by the department. (d) If the department denies the request for an administrative permit amendment, the department shall notify the person requesting the administrative permit amendment, in writing, that the request has been denied and the reasons for the denial. Any appeal of a denial by the department of an administrative permit amendment shall be pursuant to section 631 of 1961 PA 236, MCL 600.631. The denial of an administrative permit amendment pursuant to subrule (1)(c) of this rule is not a revocation of the permit to install.		meet the relevant requirements of §§70.6, 70.7, and 70.8 for significant permit modifications.	

Rule 216(2) Minor Modifications

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
Rule 216(2) (2) All of the following provisions apply to minor permit modifications: (a) A minor permit modification is a change to a renewable operating permit for which none of the following provisions apply: (i) The change would violate any applicable requirement. (ii) The change would significantly affect any existing monitoring, reporting, or recordkeeping requirements contained in the renewable operating permit. (iii) The change would require or affect any of the following: (A) A case-by-case determination of a federally enforceable emission limitation or other standard. (B) For temporary sources, a source-specific determination of ambient impacts. (C) A visibility or increment analysis. (iv) The change would seek to establish or affect a federally enforceable term or condition in the renewable operating permit for which there is no corresponding underlying applicable requirement and that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. Following are examples of the terms and conditions described in this paragraph: (A) An emissions cap assumed to avoid classification as a modification under any applicable provision of title I of the clean air act. (B) An alternative emissions limit adopted by the stationary source as part of an early reduction program pursuant to section 112(i)(5) of the clean air act. (v) The change is defined as a major offset modification or a modification under any applicable requirement of section 111, section 112, or part C of title I of the clean air act. A minor permit modification includes a change authorized by a permit to install issued pursuant to R 336.1201, if the permit to install includes terms and conditions that comply with the permit content requirement of R 336.1213 and none of the provisions of this subrule apply. (b) An application requesting a minor permit modification shall contain reasonable responses to all requests for information in the minor permit modification application forms required by the department, including all of the following information: (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.	2. Minor Permit Modifications Provisions for minor permit amendments, which are consistent with the requirements of 40 CFR 70.7(e)(2), are included in the program. Just as in the federal requirements, Michigan's program does not define what a minor permit modification is but rather what it is not. Gatekeepers consistent with the federal requirements have been provided in Rule 216(2)(a). The requirements for an application for a minor permit modification are provided in Rule 216(2)(b) and the process for reviewing the application is provided in Rule 216(2)(c). As described in Operational Memorandum No. 2, the MDEQ primarily intends to use the minor permit modification process to incorporate the terms and conditions of permits to install in instances where the process for approval of that permit did not include public participation and affected state review substantially equivalent to the requirements of Rule 214. Consistent with the federal requirements, Rule 216(2)(f) states that the permit shield does not apply to minor permit modifications. Rule 216(2)(c)(iii)(D) provides for the appeal process if	**70.7(a)(4)** …For modifications processed through minor permit modification procedures, such as those in paragraphs (e)(2) and (3) of this section, the State program need not require a completeness determination. **70.7(e)(2)** Minor permit modification procedures. (i) Criteria. (A) Minor permit modification procedures may be used only for those permit modifications that: (1) Do not violate any applicable requirement; (2) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit; (3) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis; (4) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include: (A) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I; and (B) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act; (5) Are not modifications under any provision of title I of the Act; and (6) Are not required by the State program to be processed as a significant modification. (B) Notwithstanding paragraphs (e)(2)(i)(A) and (e)(3)(i) of this section, minor permit modification procedures may be used for	{FR32257} Minor permit modification procedures require that a source provide advance notice of the proposed change, but allow a change to take effect prior to the conclusion of the revision procedures… The modification procedures must generally be completed and final action taken by the permitting authority no later than 90 days following the filing of a complete application. {FR32272} … the Administrator has decided to change provisions for the determination of application completeness by default to 60 days (S70.5(a)(1)(iii)). This result applies to all permitting actions, except for processing minor permit modifications where no completeness determination is required. {FR32286} …First, a State could not allow a change to qualify for minor permit modification procedures unless it were less than a title I modification and met certain additional eligibility criteria. These stringent criteria, descried in paragraph (c) below, will assure that this procedure is not used for significant changes. Second, the State could not allow a change to be made until after the source filed a complete application for a permit modification…. The only exemption that the source could receive, and it would be a temporary one lasting only until its permit application is processed, is from the technical requirement that the source comply with the existing permit terms that are the subject of the proposed modification… Since the permit must issue or be denied in 90 days, the potential for significant illegal emissions increases to occur is negligible. {FR32287-32288} Only insignificant changes in existing monitoring, reporting, and recordkeeping requirements may go through the minor permit modification

Rule 216(2) Minor Modifications

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
(ii) The proposed changes to the terms and conditions of the renewable operating permit that the person applying for the minor permit modification believes are adequate to address the change and any new applicable requirements. (iii) A certification by the responsible official which states that the proposed modification meets the criteria for use of minor permit modification procedures and that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete. (iv) Completed forms, supplied by the department, for the department to use to notify the United States environmental protection agency and any affected states. (c) A minor permit modification shall be reviewed and final action taken according to the following procedure: (i) Within 5 working days of receipt by the department of an application for a minor permit modification that meets the requirements of subdivision (b) of this subrule, the department shall notify the United States environmental protection agency and any affected states of the requested minor permit modification. (ii) The department shall notify the administrator of the United States environmental protection agency and the affected state, in writing, of any refusal by the department to accept any recommendations for the minor permit modification that the affected state submitted to the department during the time period for review specified in paragraph (iii) of this subdivision and before final action has been taken on the minor permit modification. The notice shall include the department's reasons for not accepting any recommendation. The department is not required to accept recommendations that are not based on applicable requirements. (iii) The department shall not issue a final minor permit modification until after the United States environmental protection agency's 45-day review period or until the United States environmental protection agency has notified the department that the agency will not object to issuance of the minor permit modification. Within 90 days of the department's receipt of an application for a minor permit modification, or 15 days after the end of the United States environmental protection agency's 45-day review period, whichever is later, the department shall take 1 of the following actions and notify, in writing, the person applying for the minor permit modification of that action: (A) Approve the permit modification as proposed. (B) Revise the draft minor permit modification, with the consent of the person applying for the minor permit modification, and transmit the revised draft minor permit	the MDEQ should deny any minor permit amendment. The MDEQ has promulgated specific rules for market-based emission trading provisions. Language has been included in Rule 216(2)(e) to provide for the use of minor permit modifications to implement such approaches once they have been approved by the U.S. EPA as a part of the SIP. Any such program will identify the specific changes that could be made as minor permit modification. Provisions for group processing of minor permit modifications have not been included in Michigan's program.	permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA. (ii) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of §70.5(c) and shall include the following: (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs; (B) The source's suggested draft permit; (C) Certification by a responsible official, consistent with §70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and (D) Completed forms for the permitting authority to use to notify the Administrator and affected States as required under §70.8. (iii) EPA and affected State notification. Within 5 working days of receipt of a complete permit modification application, the permitting authority shall meet its obligation under §§70.8(a)(1) and (b)(1) to notify the Administrator and affected States of the requested permit modification. The permitting authority promptly shall send any notice required under §70.8(b)(2) to the Administrator. (iv) Timetable for issuance. The permitting authority may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to issuance of the permit modification, whichever is first, although the permitting authority can approve the permit modification prior to that time. Within 90 days of the permitting authority's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under §70.8(c), whichever is later, the	procedures of 70.7(e)(2) and (3). An example of an insignificant change in monitoring would be a switch from one validated reference test method for that pollutant and source category to another, where the permit does not already provide for an alternate test method. {FR32287} A source may request minor permit modification processing of a permit modification by filing a complete application demonstrating that it qualifies for such treatment. The application must also include the source's suggested draft permit. The source may make the proposed change after filing a complete application. {FR32288} Within 5 working days of receipt of a complete permit application, the permitting authority must fulfill its obligations under section 70.8(a)(1) and (b)(1) to notify affected States of the requested permit modification and transmit the proposed permit and other necessary documents to the Administrator. For purposes of EPA review and petitions to EPA, the draft permit would be the same as the proposed permit. The permitting authority would have to respond promptly to affected States' recommendations. If EPA objected to a permit modification, then the procedures in section 70.8 of this part would apply. The permitting authority may not issue a final permit modification until EPA's review period has elapsed without objection or EPA has sent written notice to the permitting authority that it will not object to the modification. However, the permitting authority may approve the modification prior to the time it finally issues the modification. The permitting authority must act within 90 days of receipt of an application for modification, or l5 days after the end of the Administrator's 45-day review period,

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AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
modification to the United States environmental protection agency. Transmittal of a revised draft minor permit modification to the United States environmental protection agency restarts the 45-day review period specified in this paragraph. (C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures. The notification by the department shall specify why the request does not meet the criteria for a minor permit modification. (D) Deny the permit modification application for cause. The notification by the department shall specify the reasons for the denial. The appeal of a denial by the department of a minor permit modification shall be pursuant to section 631 of 1961 PA 236, MCL 600.631. (d) A person may make the change proposed in the application for a minor permit modification, at the person's own risk, immediately after the department has received the application. After the change has been made, and until the department takes final action as specified in subdivision (c)(iii)(A) to (C) of this subrule, a person shall comply with both of the applicable requirements governing the change and the permit terms and conditions proposed in the application for the minor permit modification. During this time period, a person may choose to not comply with the existing permit terms and conditions that the application for a minor permit modification seeks to modify. However, if the person fails to comply with the permit terms and conditions proposed in the application for the minor permit modification during this time period, the terms and conditions contained in the renewable operating permit are enforceable. (e) Notwithstanding the restrictions of subdivision (a) of this subrule, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the approaches have been approved by the administrator of the United States environmental protection agency as a part of Michigan's state implementation plan. The approaches shall identify the specific modifications that can be made using the minor permit modification procedures. (f) The permit shield under R 336.1213(6) shall not extend to minor permit modifications.		permitting authority shall: (A) Issue the permit modification as proposed; (B) Deny the permit modification application; (C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (D) Revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by §70.8(a). (v) Source's ability to make change. The State program may allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions specified in paragraphs (e)(2)(v)(A) through (C) of this section, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it. (vi) Permit shield. The permit shield under §70.6(f) may not extend to minor permit modifications. **70.8** (1) The permit program shall require that the permitting authority provide to the Administrator a copy of each permit application (including any application for permit modification), each proposed permit, and each final part 70 permit. The applicant may be required by the permitting authority to provide a copy of the permit application (including the compliance plan) directly to the Administrator.	whichever time is later. This action may include a determination that minor permit modification procedures are inappropriate and that significant modification procedures must be followed (which would terminate the source's ability to operate out of compliance with its approved permit terms and conditions). {32287}The final rule also allows States to process "economic incentives, emissions trading, marketable permits, or other similar approaches" under the minor permit modification process, if the underlying SIP or EPA rule provides explicitly for use of minor permit modification procedures when implementing these types of changes. EPA is providing this form of permit modification for the same reason that it is expanding the use of the operational flexibility provisions for emissions trading: to encourage the use of market-based strategies, and to allow flexibility for processing changes under these programs, consistent with the requirements of title V. The term "other similar approaches" includes other programs that may achieve a similar result as an economic incentive program, a marketable permits program, or an emission trading program, but that may use a different mechanism or approach. This term is meant to allow States to use the minor permit modification process for other programs that may be developed in the future, provided that the underlying requirement explicitly allows for this type of processing. As with similar provisions elsewhere in this rule, future SIP's and EPA rules would have to contain compliance requirements and procedures that would assure that any or all market-based programs are quantifiable, accountable, and enforceable, and based on replicable procedures for determining the emission reductions expected from the program.

Rule 216(3) Significant Modifications

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
Rule 216(3) All of the following provisions apply to significant modifications: (a) A significant modification is a modification to a renewable operating permit which is not an administrative permit amendment pursuant to subrule (1) of this rule, or is not a minor permit modification pursuant to subrule (2) of this rule, and which involves any of the following changes, unless the change is allowed under the terms and conditions of a permit to install that has been approved by the department pursuant to the requirements of subrule (1)(a)(v) of this rule: (i) A modification under any applicable provision of title I of the clean air act. (ii) Except as provided pursuant to subrule (1)(c)(iii) of this rule, any change that would result in emissions that exceed the emissions allowed under the renewable operating permit. The emissions allowed under the permit include any emission limitation, production limit, or operational limit, including a work practice standard, required by an applicable requirement, or any emission limitation, production limit, or operational limit, including a work practice standard, that establishes an emissions cap that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. (iii) The change would significantly affect an existing monitoring, recordkeeping, or reporting requirement included in the renewable operating permit. (iv) The change would require or modify a case-by-case determination of an emission limitation or other standard, a source-specific determination of ambient air impacts for temporary sources, or a visibility or increment analysis. (v) The change would seek to establish or modify an emission limitation, standard, or other condition of the renewable operating permit that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. (b) An administratively complete application for a significant permit modification shall be limited to	3. Significant Permit Modifications Provisions for significant permit modifications, which are consistent with the requirements of 40 CFR 70.7(e)(4), are included in the program. Consistent with the federal requirements, Michigan's program provides, pursuant to Rule 216(3)(a), that a significant permit modification is defined as any revision which does not qualify as an administrative permit amendment or a minor permit modification. For significant modification applications, Michigan's program requires the use of the M-001 form along with the same application forms (see ATTACHMENT 1) required for initial and renewal applications. Rule 216(3)(b) provides that the application need only address that process or process equipment which is being modified. The terms and conditions of a significant permit modification and the process for approving such a modification are addressed in Rule 216(3)(c) and (d), respectively, and refer to the content (Rule 213) and approval process (Rule 214) requirements used for initial issuance of an ROP. Because significant permit modifications refer to the permit content requirements of Rule 213, the permit shield would apply to such modifications once the MDEQ has approved the modification. Rule 216(3)(e)	**70.7(a)(1)** A permit, permit modification, or renewal may be issued only if all of the following conditions have been met: (i) The permitting authority has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under §70.6(d); (ii) Except for modifications qualifying for minor permit modification procedures under §§70.7(e)(2) and (3), the permitting authority has complied with the requirements for public participation under paragraph (h) of this section; (iii) The permitting authority has complied with the requirements for notifying and responding to affected States under §70.8(b); (iv) The conditions of the permit provide for compliance with all applicable requirements and the requirements of this part; and (v) The Administrator has received a copy of the proposed permit and any notices required under §§70.8(a) and 70.8(b), and has not objected to issuance of the permit under §70.8(c) within the time period specified therein. **70.5(a)(1)(ii)** Part 70 sources required to meet the requirements under section 112(g) of the Act, or to have a permit under the preconstruction review program approved into the applicable implementation plan under part C or D of title I of the Act, shall file a complete application to obtain the part 70 permit or permit revision within 12 months after commencing operation or on or before such earlier date as the permitting authority may establish. Where an existing part 70 permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. **70.7(a)(4)** The permitting authority shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete.	{FR32287} Significant changes could not be made until the permitting authority issued the permit modification after review by affected States, the public, and the Administrator. {FR32288} Significant modifications are those modifications which do not qualify for treatment as minor permit modifications or administrative amendments. Significant changes to existing monitoring permit terms or conditions, or changes that would relax reporting or recordkeeping requirements would be significant modifications, since these types of changes are likely to affect how the permitting authority determines whether the source is in compliance with emission limitations and other permit terms and conditions. An example of such a change would be a switch from direct measurement of emissions to fuel sampling and analysis, such as switching from emissions monitoring of SO2 to sampling and analyzing coal sulfur content. The EPA believes it would be inappropriate for sources to be able to change the method of measuring compliance with its requirements using the minor permit modification procedures. Although EPA recognizes that there are legitimate economic reasons for making some changes quickly, there should be no such urgency for changing existing significant monitoring, reporting, or recordkeeping requirements. Nothing in section 70.7(e)(4)(i) regarding compliance provisions

Rule 216(3) Significant Modifications

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
address only the process and process equipment that will be affected by the change. (c) The terms and conditions of a significant permit modification shall meet all the permit content requirements of R 336.1213 for the process and process equipment affected by the change. (d) The procedure for taking final action on significant permit modification shall follow the requirements of R 336.1214, except that final actions on significant permit modifications shall be taken within 9 months of the receipt by the department of an administratively complete application. (e) If a significant permit modification is denied, the department shall notify, in writing, the person applying for the modification. The notification of denial shall specify the reasons for the denial. Any appeal of a denial by the department of a significant permit modification shall be pursuant to section 631 of 1961 PA 236, MCL 600.631.	provides for the appeal process if the MDEQ should deny any significant permit amendment.	**70.7(e)(4)** Significant modification procedures. (i) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. The State program shall contain criteria for determining whether a change is significant. At a minimum, every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant. (ii) The State program shall provide that significant permit modifications shall meet all requirements of this part, including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The permitting authority shall design and implement this review process to complete review on the majority of significant permit modifications within 9 months after receipt of a complete application. **70.7(h)** Except for modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit.	shall be interpreted to prevent sources from making off-permit changes pursuant to section 70.4(b)(14) and (15), or using the operational flexibility provision in section 70.4(b)(12)(ii). When a source takes advantage of these provisions, it may alter its activities to such a degree that its original compliance terms are no longer relevant with respect to the change. A source which makes off-permit changes must comply with any compliance provisions imposed by the applicable requirements that apply to the off-permit change. Similarly, a source that uses the operational flexibility provision of section 70.4(b)(12)(ii) must comply with all compliance provisions imposed by the SIP provision authorizing the operational flexibility. If the source later decides to operate as originally permitted, it must comply with the compliance provisions in its original permit.

Rule 216(4) State-Only Modifications

AQD Rule Requirements	Quotes from Michigan's Title V Submittal	Part 70 Language	Quotes from Part 70 Preamble
Rule 216(4) (4) All of the following provisions apply to state-only modifications: (a) A state-only modification to a renewable operating permit involves changes to terms and conditions in the renewable operating permit that are designated as not enforceable under the clean air act pursuant to R 336.1213(5). If the change results in new applicable requirements that must be enforceable under the clean air act, then the change shall not be a state-only modification. (b) An application requesting a state-only modification shall contain reasonable responses to all requests for information in the application forms required by the department, including all of the following information: (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs. (ii) The proposed changes to the terms and conditions of the renewable operating permit that the person applying for the state-only modification believes are adequate to address the change and any new applicable requirements. (iii) A certification by the responsible official which states that the proposed modification meets the criteria for use of the state-only modification procedures and that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete. (c) A state-only modification shall be reviewed and final action taken within 90 days of the department's receipt of an application for the state-only modification. The department shall take 1 of the following actions and notify, in writing, the person applying for the state-only modification of that action: (i) Approve the state-only modification as proposed. (ii) Revise the draft state-only modification, with the consent of the person applying for the modification, and approve the revised modification. (iii) Determine that the requested modification does not meet the criteria for a state-only modification and should be reviewed pursuant to subrule (1), (2), or (3) of this rule. The notification by the department shall specify why the request does not meet the criteria for a state-only modification. (iv) Deny the state-only modification application for cause. The notification by the department shall specify the reasons for the denial. The appeal of a denial by the department of a state-only modification shall be pursuant to section 631 of 1961 PA 236, MCL 600.631. (d) A person may make the change proposed in the application for a state-only modification, at the person's own risk, immediately after the application has been received by the department. After the change has been made, and until the department takes final action as specified in subdivision (c)(i) to (iv) of this subrule, the person shall comply with both the applicable requirements governing the change and the permit terms and conditions proposed in the application for the minor permit modification. During this time period, the person may choose, at the person's own risk, to not comply with the existing permit terms and conditions that the application for a state-only modification seeks to modify. However, if the person fails to comply with the permit terms and conditions proposed in the application for the state-only modification during this time period, or if the state-only modification is denied by the department, the terms and conditions contained in the renewable operating permit are enforceable. (e) The permit shield provided under R 336.1213(6) does not apply to the state-only modification until the changes have been approved by the department.	4. State-Only Modifications A separate procedure is provided in Rule 216(4) to make changes to those terms and conditions of the ROP which are designated as “state enforceable only” or are not enforceable under the federal CAA. This procedure is designed to be similar to the procedure provided for minor permit modifications.		

Rule 217(2) Reopenings

AQD Rule Language	Quotes from Michigan's Title V Submittal	Part 70 Language	Part 70 Preamble
Rule 217(2) All of the following provisions apply to the reopening for cause of renewable operating permits: (a) Each renewable operating permit shall include provisions specifying the conditions under which the department shall reopen the renewable operating permit before the expiration of the permit. A permit shall be reopened and revised by the department under any of the following circumstances: (i) To incorporate new applicable requirements issued or promulgated after the issuance of the renewable operating permit, if 3 or more years remain in the term of the permit. The revision shall occur as expeditiously as practicable, but not later than 18 months after promulgation of the applicable requirement. A revision is not required if the effective date of the new applicable requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended beyond the effective date of the new applicable requirement pursuant to subrule (1)(a) of this rule. (ii) To incorporate new applicable standards and requirements for affected sources pursuant to title IV of the clean air act. (iii) If the department determines that the permit contains a material mistake, that information required by any applicable requirement was omitted, or that inaccurate statements were made in establishing the emission limitations or standards or the terms and conditions of the permit. (iv) If the department determines that the permit must be revised to ensure compliance with the applicable requirements. (b) Proceedings to reopen and issue a revised renewable operating permit shall follow the same procedures, including the procedures for public participation and for review by affected states and the United States environmental protection agency, and the same provisions for appeal that apply to the initial issuance of a renewable operating permit pursuant to R 336.1214. Any proceeding to reopen and issue a revised renewable operating permit shall affect only those parts of the permit for which cause to reopen exists. The department shall reopen a renewable operating permit as expeditiously as possible after it discovers that cause exists to reopen. (c) The department shall not initiate a reopening of a renewable operating permit pursuant to subrule (2)(a) of this rule before providing a notice of intent to reopen the renewable operating permit to the person owning or operating the stationary source. The notice shall be provided not less than 30 days in advance of the date that the renewable operating permit is to be reopened and shall specify the reasons for the reopening.	5. Reopenings Provisions for reopening ROPs, consistent with 40 CFR 70.7(f), are provided in Rule 217(2). The conditions under which the MDEQ would reopen a permit are listed in Section 5506(7) of Part 55, Act 451, and in Rule 217(2)(a). Rule 217(2)(b) requires that the process to issue a revised ROP after it has been reopened must be the same as required for initial issuance under Rule 214 and that the reopening shall affect only the portions of the permit which are being reopened. Rule 217(2)(c) requires the MDEQ to notify a permittee at least 30-days prior to initiating any reopening procedure. .	(f) Reopening for cause. (1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances: (i) Additional applicable requirements under the Act become applicable to a major part 70 source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to §§70.4(b)(10)(i) or (ii). (ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit. (iii) The permitting authority or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit. (iv) The Administrator or the permitting authority determines that the permit must be revised or revoked to assure compliance with the applicable requirements. (2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable. (3) Reopenings under paragraph (f)(1) of this section shall not be initiated before a notice of such intent is provided to the part 70 source by the permitting authority at least 30 days in advance of the date that the permit is to be reopened, except that the permitting authority may provide a shorter time period in the case of an emergency.	{FR32256} {FR32277} The EPA has decided to adopt a 'narrow' interpretation, under which a source cannot be shielded from applicable regulations, standards, implementation plans, or other requirements promulgated after issuance of a title V permit…. …It is clear from the language of the Act that only requirements that have been reviewed by the permitting authority and identified as such in the permit can be shielded against. Review by the permitting authority would include a determination of applicability and a determination of the source's obligation(s) under the provision(s). This review includes the opportunity for public participation, EPA veto, and judicial review…