



**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION**

**OPERATIONAL MEMORANDUM
NO. 3**

**SUBJECT: PROCEDURE FOR LIMITING POTENTIAL TO EMIT BELOW MAJOR
SOURCE THRESHOLDS UNDER THE RENEWABLE OPERATING PERMIT
PROGRAM**

EFFECTIVE DATE: November 9, 1994

REVISED DATE: January 31, 1996, May 1, 1996, & February 14, 1997

PREAMBLE

Title V of the federal Clean Air Act requires the development of a renewable operating permit (ROP) program for all "major sources". The definition of "major source" is based on a stationary source's "potential to emit" an air contaminant. Without enforceable restrictions to the contrary, a source's potential to emit is based on operation at maximum design capacity on a continuous schedule throughout the year. This procedure is designed to provide guidance on how a person would go about limiting a stationary source's potential to emit to below applicable major source thresholds and avoid applicability of the ROP program through a permit to install. (Note: Operational Memorandum No. 4 discusses additional alternatives available to qualified sources to avoid being subject to the ROP program.)

POLICY

To limit a source's potential to emit below an applicable major source threshold a person may choose to obtain a permit to install issued by the Michigan Department of Environmental Quality (MDEQ) which includes enforceable limitations which restrict the potential to emit of their stationary source (this type of permit is commonly referred to by United States Environmental Protection Agency (EPA) as a "synthetic minor" permit). Rule 205 sets forth the criteria necessary for such a new permit to be considered legally enforceable. Table 1 lists the major source thresholds for the ROP program.

TABLE 1

<u>Air Pollutant</u> ¹	<u>Major Source Threshold</u> ²
Sulfur Dioxide (SO ₂)	100 tons per year
Nitrogen Oxides (NO _x)	100 tons per year
Particulates (PM-10) ³	100 tons per year
Volatile Organic Compounds (VOC) ³	100 tons per year
Carbon Monoxide (CO)	100 tons per year
Lead/Lead Compounds ⁴	(See footnote 4)
Class I & II CFCs ²	100 tons per year
NSPS Pollutants ^{2,3}	100 tons per year
HAPs (any single) ^{2,3}	10 tons per year
HAPs (all combined) ^{2,3}	25 tons per year
LQER ⁵	As EPA promulgates

¹ The definition of "major source" is based on a stationary source's "potential to emit" an air contaminant. Without enforceable restrictions to the contrary, a source's potential to emit is based on operation at maximum design capacity on a continuous schedule throughout the year.

² The document entitled "Renewable Operating Permit Program: Guidebook for Determining Applicability" contains a complete listing of Chlorofluorocarbons (CFCs), New Source Performance Standard (NSPS) pollutants and Hazardous Air Pollutants (HAPs). This document can be obtained from the Clean Air Assistance Program of the Environmental Assistance Division, Michigan Department of Environmental Quality. See Attachment A for further information.

³ If a pollutant is both an NSPS pollutant and a HAP (such as dioxins and furans), the HAP thresholds apply. If a pollutant is a particulate or a VOC and is also a HAP, both the particulate or VOC and the HAP thresholds apply.

⁴ Although elemental lead is a criteria pollutant with a major source threshold of 100 tons per year, "lead compounds" are listed in Section 112(b) of the Clean Air Act as HAPs, with the single and combined thresholds listed above. Lead emissions will generally be assumed to be "lead compounds" unless demonstrated otherwise.

⁵ Section 112(a)(1) authorizes EPA to promulgate a Lesser Quantity Emission Rate (LQER) to define a major source of a HAP based on potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors. As of the effective date of this Operational Memorandum, EPA has not promulgated any LQERs.

A permit to install application which only involves the acceptance of enforceable limits to reduce a source's potential to emit shall not be subject to any new source review requirements normally addressed for a new or modified source including, but not limited to, Rules 230 and 702.

It is the responsibility of the person owning or operating a source to calculate the source's potential to emit for the purpose of determining the applicability of the ROP program. Before applying for a permit to limit the source's potential to emit below a major source threshold, a person should complete an inventory of the potential to emit of each process at the source, including a review of source permits and applicable regulations. The procedure for determining a stationary source's potential to emit is covered in the Environmental Assistance Division (EAD) Renewable Operating Permit Program: Guidebook for Determining Applicability. It may prove to be the case that the source is not currently a major source due to existing process capacities and/or applicable emission limitations.

A complete application for a permit to install to limit a source's potential to emit to below applicable major source thresholds and avoid applicability of the ROP program must include all of the following information:

1. A cover letter with the application clearly stating the intent of the application is to reduce the source's potential to emit to below applicable major source thresholds and avoid applicability of the ROP program.
2. Current potential to emit calculations for all the process and process equipment located at the stationary source. Please refer to the procedure contained in the EAD Renewable Operating Permit Program: Guidebook for Determining Applicability.
3. A proposed plan, in narrative form, which outlines the actions to be taken and the dates such actions will be taken, to limit the stationary source's potential to emit.

4. Revised potential to emit calculations for the stationary source showing the intended effect of the proposed plan on the source's potential to emit.
5. Proposed enforceable limits, including monitoring and recordkeeping, consistent with the narrative plan, to be included in the permit to install which the person believes are sufficient to comply with the requirements of EPA guidance as incorporated in Rule 205. If possible, a limit should be proposed for each air contaminant emitted from the source, particularly those which are emitted near major source levels.

PROCEDURE

RESPONSIBILITIES OF THE OWNER OR OPERATOR

1. A person that owns or operates a source that wishes to accept additional enforceable limits on its potential to emit shall submit a complete permit to install application, including 2 copies of all information specified in the policy statement above, to the Permit Section of the AQD for review. These applications will be processed by the AQD in chronological order of receipt as with all other incoming permit applications. Applications for installation of new processes or for modifications other than limiting the source's potential to emit must be submitted as separate applications. It is the responsibility of the applicant to notify both Permit Section and District staff of any situation where applications for new or modified processes and limiting potential to emit have been submitted and are being reviewed simultaneously.
2. In keeping with current application form instructions and AQD procedures, all permit to install application submittals should be sent to the Air Quality Division - Permit Section, Michigan Department of Environmental Quality, P. O. Box 30260, Lansing , MI 48909 -7760.

RESPONSIBILITIES OF AQD PERMIT SECTION STAFF

1. The Permit Section will screen all permit to install application submittals for administrative completeness and log all applications into the AQD's permit to install database. This process will follow the Permit Section's "Procedure for Screening Permit to Install Application Submittals for Administrative Completeness". An administratively complete application for limiting a source's potential to emit below major source thresholds includes information which addresses each of items 1 to 5 in the Policy section of this Operational Memorandum.
2. Upon receipt of an administratively complete application Permit Section staff will forward the application file to the appropriate District office.
3. Permit Section staff will be available to consult with District staff regarding these permit reviews. The initial contact by District staff should be made to the appropriate Permit Unit Supervisor based on the type of source or process for which new limits are being requested. As a part of this consultation, Permit Section staff will assist District staff in determining if any other existing permits issued to the source could be affected by the application to limit the potential to emit. A Permit Section secretary will copy and forward to District staff any information contained in other permit files identified by District staff as necessary to complete their review.
4. Whenever a permit to install application for a new or modified process at a stationary source is being processed simultaneously with an application to limit the source's potential to emit, Permit Section staff will coordinate the review of the new or modified process with the District

staff reviewing the application to limit the potential to emit as necessary to assure consistency between the permits.

5. Upon completion of final action on the permit by District staff, a copy of the complete permit file should be returned to the Permit Section for logging the final action in the permit to install database. The Permit Section staff will contact the District office regarding any questions raised during quality assurance of the database information.

RESPONSIBILITIES OF AQD DISTRICT STAFF

1. District staff will be responsible for reviewing and acting on the source's application for reducing its potential to emit. The review includes confirming that all of the information required for a complete application as stated in this policy is technically complete and accurate, entering the relevant application information into the permit to install (Evalform) database, reviewing and negotiating proposed permit conditions with the applicant, providing for any required public notices and hearings, and producing and distributing the final permit document.
2. District staff shall coordinate all formal written communications with the applicant regarding the application in accordance with existing procedures.
3. Whenever a permit to install application to limit the stationary source's potential to emit is being processed simultaneously with an application for a new or modified process at the source, District staff will coordinate the review of the application to limit the potential to emit with the Permit Section staff reviewing the application for the new or modified process as necessary to assure consistency between the permits.
4. Upon the determination that the information submitted with the application is technically complete and accurate, District staff will review and modify as required the permit conditions proposed by the applicant which are necessary to assure the reduction in potential to emit is enforceable by both the MDEQ and the EPA. The terms and conditions of the permit to install shall meet the following criteria:
 - (a) The proposed permit includes emission limits, as well as monitoring, recordkeeping, and reporting requirements, necessary to assure that the emission limits are enforceable as a practical matter. An emission limit restricts the amount of an air contaminant which may be emitted over some time period. The time period should be as short as possible and should take into consideration whether the type and quantity of monitoring and recordkeeping which will be necessary to demonstrate compliance with the emission limit is reasonable and appropriate. The time period must be consistent with time periods set by emission limits contained applicable requirements under the State Implementation Plan (SIP) or applicable federal regulations. When setting time periods for pollutants which have a National Ambient Air Quality Standard (NAAQS), the time period should be compatible with the time period specified in the NAAQS. The time period should usually should not exceed one month; however, a longer time period may be used if it is a rolling time period, but shall not exceed one year on a monthly rolling basis.
 - (b) If the emission limit does not reflect the maximum emissions of the process or process equipment operating at full design capacity without air pollution control equipment, the permit must contain either of the following:

(i) A production limit which restricts the amount of final product which may be produced over the same time period used in the emission limit and which comports with the true design and intended operation of the process or process equipment; *[For example: The widget process shall not exceed a maximum production rate of _____ widgets per day.]*
or

(ii) An operational limit which restricts the way the process or process equipment is operated and which comports with the true design and intended operation of the process or process equipment. An operational limit includes any of the following:

(A) a requirement that a stationary source, process or process equipment not be operated without the installation, operation, and maintenance of air pollution control equipment; *[For example: A person shall not operate the concrete batch plant unless a fabric filter collector is installed and operating properly or a person shall not operate a painting process unless a thermal oxidizer is installed and operating properly on the paint flash-off area.]*

(B) a limitation on the hours of operation of the stationary source, process, or process equipment if the hours are less than continuous; *[For example: The process shall not operate more than 40 hours per calendar week or the grain dryer shall not operate for more than an average of 200 hours per month, based on a 12-month rolling average.]*

(C) a limitation on the amount or type of raw material(s) used by the stationary source, process, or process equipment; *[For example: The screening process shall not exceed a maximum of _____ tons of material throughput per day or the volatile organic compound emissions from the paint line shall not exceed _____ pounds of VOC per gallon of coating, minus water, as applied.]*

(D) a limitation on the amount or type of fuel combusted by the stationary source, process, or process equipment; *[For example: The fuel input to the boiler shall not exceed _____ gallons per month, based on a 12-month rolling average or the boiler shall not be fired with any fuel other than sweet natural gas.]*

(E) a requirement for the installation, operation, and maintenance of a continuous gas flow meter and a continuous emission monitor for the air contaminant being limited.

5. Upon agreement with the applicant on the permit terms and conditions, District staff shall provide for the necessary public notice and public comment period, including an opportunity for a public hearing, if requested, consistent with the provisions of Rule 205(1)(b). Except as provided in Rule 205(3), Rule 205(1)(b) requires that the MDEQ will not approve a permit to install which includes limits which restrict a source's potential to emit to below major source thresholds unless a draft permit has completed a public participation process as specified in Section 5511(3) of Act 451, including: (1) a 30 day public notice; (2) a copy of the draft permit has been provided to the EPA for review and comment; and (3) a copy of each final permit to install is provided to the EPA after it is issued.
6. After completion step 5., District staff will prepare and distribute the final permit approval letter utilizing the standard form letter and condition templates developed by the Permit Section. This letter should also identify any existing permit to install which is being voided because it is being replaced by the new permit. A copy of this letter will be sent to the Permit Section along with the complete permit file for final logging in the permit to install database.

This memorandum is intended to provide guidance to Air Quality Division staff to foster consistent application of Part 55 of the Michigan Environmental Protection and Natural Resources Act, Act 451 of the Public Acts of 1994, as amended, and the administrative rules promulgated thereunder. This document is not intended to convey any rights to any parties nor create any duties or responsibilities under law. This document and matters addressed herein are subject to revision.

Questions regarding this memorandum should be directed to David Yanochko at 517-373-7035.

Attachment
RSJ:DMY:amh

ATTACHMENT A

The Michigan Department of Environmental Quality CLEAN AIR ASSISTANCE PROGRAM (CAAP)

The Michigan Clean Air Assistance Program (CAAP) is one of three components of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program (the Program) created by the federal Clean Air Act Amendments of 1990. The Michigan Clean Air Ombudsman, which represents the interests of small businesses to appropriate government agencies, and the Compliance Advisory Panel, which provides oversight of both the assistance and ombudsman programs, are the other two components of the Program.

The purpose of the CAAP is to provide technical assistance to small and medium-sized businesses in Michigan, with a primary focus on the ongoing compliance requirements of the federal Clean Air Act Amendments of 1990 and subsequent state air quality rules. Technical assistance is provided in the form of: publication development and distribution, industry conference or meeting attendance, site visits and phone consultations. The CAAP is located in the Environmental Assistance Division of the Michigan Department of Environmental Quality, and can be reached at **1-800-662-9278**.