

## DEPARTMENT OF ENVIRONMENTAL QUALITY

## AIR QUALITY DIVISION

## AIR POLLUTION CONTROL

Filed with the Secretary of State on June 20, 2008.

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of environmental quality by sections 5503, 5505, 5506, and 5512 of 1994 PA 451, MCL 324.5503, 324.5505, 324.5506, and 324.5512, and Executive Reorganization Order No. 1995-18, MCL 324.99903)

R 336.1201, R 336.1202, R 336.1205, R 336.1207, R 336.1211, R 336.1213, R 336.1214, R 336.1214a, R 336.1219, R 336.1240, R 336.1241, R 336.1278, R 336.1281, R 336.1284, R 336.1285, R 336.1288, and R 336.1299 of the Michigan Administrative Code are amended; R 336.1277 is added; and R 336.1220 is rescinded as follows:

## PART 2. AIR USE APPROVAL

R 336.1201 Permits to install.

Rule 201. (1) Except as allowed in R 336.1202, R 336.1277 to R 336.1290, or R 336.2823(15) a person shall not install, construct, reconstruct, relocate, or modify any process or process equipment, including control equipment pertaining thereto, which may emit any of the following, unless a permit to install which authorizes such action is issued by the department:

(a) Any air pollutant regulated by title I of the clean air act and its associated rules, including 40 C.F.R. §§51.165 and 51.166, adopted by reference in R 336.1299.

(b) Any air contaminant.

A person who plans to install, construct, reconstruct, relocate, or modify any such process or process equipment shall apply to the department for a permit to install on an application form approved by the department and shall provide the information required in R 336.1203.

(2) The department may issue a permit to install for any of the following reasons:

(a) To authorize a person to install, construct, reconstruct, relocate, or modify a process or process equipment pursuant to subrule (1)(a) of this rule.

(b) To establish limits on potential to emit. The limits shall comply with the provisions of R 336.1205(1)(a).

(c) To consolidate terms and conditions from existing permits to install within a renewable operating permit pursuant to R 336.1214a.

(d) To authorize a person to install, construct, reconstruct, relocate, or modify process or process equipment solely pursuant to subrule (1)(b) of this rule or to consolidate state-only enforceable conditions within a renewable operating permit when the renewable operating permit is issued pursuant to R 336.1214. This permit may establish terms and conditions that are legally enforceable solely pursuant to R 336.1224 to R 336.1232, R 336.1901, or other regulations that are not federally enforceable. Each condition in a permit issued pursuant to this subrule shall be identified as state-only enforceable.

(3) A permit to install may be approved subject to any condition, specified in writing, that is reasonably necessary to assure compliance with all applicable requirements.

(4) If a person decides not to install, construct, reconstruct, relocate, or modify the process or process equipment as authorized by a permit to install, then the person, or the authorized agent pursuant to R 336.1204, shall notify the department, in writing, and upon receipt of the notification by the department, the permit to install shall become void. If the installation, reconstruction, or relocation of the equipment, for which a permit has been issued, has not commenced within, or has been interrupted for, 18 months, then the permit to install shall become void, unless otherwise authorized by the department as a condition of the permit to install.

(5) Upon issuance of a permit to install, the emissions from the process or process equipment allowed by the permit to install shall be included in the potential to emit of the stationary source. Upon the physical removal of the process or process equipment, or upon a determination by the department that the process or process equipment has been permanently shut down, the permit to install shall become void and the emissions allowed by the permit to install shall no longer be included in the potential to emit of the stationary source.

(6) Except as provided in subrule (8) of this rule and R 336.1216, operation of the process or process equipment is allowed by the permit to install. The department may void a permit to install upon any of the following actions:

(a) A new permit to install authorizing the action is approved by the department in accordance with subrule (2)(a), (b), or (d) of this rule, and the new permit to install renders all portions of the old permit obsolete.

(b) All terms and conditions of the permit to install are incorporated into a renewable operating permit, in accordance with the provisions of R 336.1212(5) and R 336.1213, and a source-wide permit to install is issued pursuant to R 336.1214a.

(c) All of the emission units, processes, or process equipment covered by the permit to install are physically removed from the stationary source or the department makes a determination that the emission units, processes, or process equipment covered by the permit to install have been permanently shut down.

(7) The department may require 1 or both of the following notification requirements as a condition of a permit to install:

(a) Not more than 30 days after completion of the installation, construction, reconstruction, relocation, or modification authorized by the permit to install, unless a different period is specified in the permit to install, the person to whom the permit to install was issued, or the authorized agent pursuant to R 336.1204, shall notify the department, in writing, of the completion of the activity. Completion of the

installation, construction, reconstruction, relocation, or modification is considered to occur not later than commencement of trial operation of the process or process equipment.

(b) Within 12 months after completion of the installation, construction, reconstruction, relocation, or modification authorized by the permit to install, or 18 months after the effective date of this rule, whichever is later, unless a different period is specified in the permit to install, the person to whom the permit to install was issued, or the authorized agent pursuant to R 336.1204, shall notify the department, in writing, of the status of compliance of the process or process equipment with the terms and conditions of the permit to install. The notification shall include all of the following:

(i) The results of all testing, monitoring, and recordkeeping performed by the stationary source 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.

(ii) A schedule of compliance for the process or process equipment.

(iii) A statement, signed by the person owning or operating the process or process equipment, that, based on information and belief formed after reasonable inquiry, the statements and information in the notification are true, accurate, and complete.

(8) If evidence indicates that the process or process equipment is not performing in accordance with the terms and conditions of the permit to install, the department, after notice and opportunity for a hearing, may revoke the permit to install consistent with section 5510 of the act. Upon revocation of the permit to install, operation of the process or process equipment shall be terminated. Revocation of a permit to install is without prejudice and a person may file a new application for a permit to install that addresses the reasons for the revocation.

#### R 336.1202 Waivers of approval.

Rule 202. (1) If the requirement for approval of a permit to install before construction will create an undue hardship to the applicant, the applicant may request a waiver to proceed with construction from the department. The application for a waiver shall be in writing, shall explain the circumstances that will cause the undue hardship, and shall be signed by the owner or his or her authorized agent. The application shall be acted upon by the department within 30 days. If a waiver is granted, the applicant shall submit pertinent plans and specifications for approval as soon as is reasonably practical. The applicant, after a waiver is granted, shall proceed with the construction at his or her own risk; however, operation of the equipment shall not be authorized until the application for a permit to install has been approved by the department. After construction, modification, relocation, or installation has begun or been completed, if the plans, specifications, and completed installations do not meet department approval, then the application for a permit to install shall be denied, unless the alterations required to effect approval are made within a reasonable time as specified by the department.

(2) The provisions of subrule (1) of this rule shall not apply to any of the following:

(a) Any activity that is subject to R 336.2802, prevention of significant deterioration regulations, or R 336.2902, nonattainment new source review regulations.

(b) Construction or reconstruction of a major source of hazardous air pollutants as defined in and subject to, national emission standards for hazardous air pollutants for source categories.

(c) Construction or modification as defined in and subject to 40 C.F.R. part 61, national emission standards for hazardous air pollutants, adopted by reference in R 336.1299.

For the purpose of this subrule, "activity" means the concurrent and related installation, construction, reconstruction, relocation, or modification of any process or process equipment.

R 336.1205 Permit to install; approval.

Rule 205. (1) The department shall not approve a permit to install for a stationary source, process, or process equipment that meets the definition of a major stationary source or major modification under any part of these rules unless the requirements specified in subdivisions (a) and (b) of this subrule have been met. In addition, except as provided in subrule (3) of this rule, the department shall not approve a permit to install that includes limitations which restrict the potential to emit from a stationary source, process, or process equipment to a quantity below that which would constitute a major source or major modification under any part of these rules unless both of the following requirements have been met:

(a) The permit to install contains emission limits that are enforceable as a practical matter. An emission limit restricts the amount of an air contaminant that may be emitted over some time period. The time period shall be set in accordance with the applicable requirements and, unless a different time period is provided by the applicable requirement, should generally not be more than 1 month, unless a longer time period is approved by the department. A longer time period may be used if it is a rolling time period, but shall not be more than an annual time period rolled on a monthly basis. 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, then the permit shall contain 1 of the following:

(i) A production limit which restricts the amount of final product that 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.

(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 may include conditions specifying any of the following:

(A) The installation, operation, and maintenance of air pollution control equipment.

(B) The hours of operation of the stationary source, process, or process equipment, if the hours are less than continuous.

(C) The amount or type of raw materials used by the stationary source, process, or process equipment.

(D) The amount or type of fuel combusted by the stationary source, process, or process equipment.

(E) The installation, operation, and maintenance of a continuous gas flow meter and a continuous emission monitor for the air contaminant for which an enforceable emission limit is required.

(iii) For volatile organic compound surface coating operations where an add-on control is not employed, an emission or usage limit coupled with a requirement to calculate or demonstrate daily compliance.

(b) A draft permit has been subjected to the public participation process specified in section 5511(3) of the act. The department shall provide a copy of the draft permit to the United States environmental protection agency for review and comment at or before the start of the public comment period. The department shall also provide a copy of each final permit to install issued pursuant to this rule to the United States environmental protection agency.

(2) The department shall not approve a permit to install to construct a major source or reconstruct a major source under any applicable requirement of section 112 of the clean air act unless the requirements of subrule (1)(a) and (b) of this rule have been met. In addition, except as provided in subrule (3) of this rule, the department shall not approve a permit to install that includes limitations which restrict the potential to emit of a stationary source, process, or process equipment to a quantity below that which would constitute a major source or modification under any applicable requirement of section 112 of the clean air act unless the requirements of subrule (1)(a) and (b) of this rule have been met.

(3) The department may approve a permit to install that includes limitations which restrict the potential to emit of a stationary source, process, or process equipment to a quantity below that which would constitute a major source or major modification under any part of these rules without meeting the requirement of subrule (1)(b) of this rule if the emission limitations restrict the potential to emit of the stationary source, process, or process equipment to less than 90% of the quantity referenced in the applicable requirement.

R 336.1207 Denial of permits to install.

Rule 207. (1) The department shall deny an application for a permit to install if, in the judgment of the department, any of the following conditions exist:

(a) The equipment for which the permit is sought will not operate in compliance with the rules of the department or state law.

(b) Operation of the equipment for which the permit is sought will interfere with the attainment or maintenance of the air quality standard for any air contaminant.

(c) The equipment for which the permit is sought will violate the applicable requirements of the clean air act, as amended, 42 U.S.C. §7401 et seq., including any of the following:

(i) The standards of performance for stationary sources, 40 C.F.R. part 60, adopted by reference in R 336.1299.

(ii) The national emission standards for hazardous air pollutants, 40 C.F.R. part 61, adopted by reference in R 336.1299.

(iii) The requirements of prevention of significant deterioration of air quality, R 336.2801 to R 336.2819 and R 336.2823.

(iv) The requirements of nonattainment new source review, R 336.2901 to R 336.2903, R 336.2907, and R 336.2908.

(v) The requirements for control technology determinations for major sources in accordance with 40 C.F.R. §63.40 to §63.44 and §63.50 to §63.56, adopted by reference in R 336.1299.

(d) Sufficient information has not been submitted by the applicant to enable the department to make reasonable judgments as required by subdivisions (a) to (c) of this subrule.

(2) When an application is denied, the applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the applicant's right to a hearing pursuant to section 5505(8) of the act or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

R 336.1211 Renewable operating permit applicability.

Rule 211. (1) All of the following stationary sources are subject to the requirements of R 336.1210 to obtain, and only operate in compliance with, a renewable operating permit:

(a) Major sources as defined by any of the following criteria:

(i) A major source under section 112 of the clean air act, which is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, in the aggregate, any of the following:

(A) Ten tons per year of any hazardous air pollutant that has been listed under section 112(b) of the clean air act.

(B) Twenty-five tons per year of any combination of hazardous air pollutants that have been listed under section 112(b) of the clean air act.

(C) A lesser quantity as the administrator of the United States environmental protection agency may establish by rule for any hazardous air pollutant listed under section 112(b) of the clean air act. The department shall maintain, and make available upon request, a list of the hazardous air pollutants for which a lesser quantity criteria has been established.

Emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources under this paragraph. For the purpose of this paragraph, the potential to emit of a stationary source for hazardous air pollutants includes fugitive emissions, regardless of the category of the stationary source.

(ii) A stationary source that directly emits, or has the potential to emit, 100 tons per year or more of any of the following:

(A) Lead.

(B) Sulfur dioxide.

(C) Nitrogen oxides.

(D) Carbon monoxide.

(E) PM-10.

(F) Ozone.

(G) Volatile organic compounds.

(H) Any air contaminant regulated under section 111 of title I of the clean air act.

(I) Any class I and class II substances under title VI of the clean air act.

For the purpose of this paragraph, the fugitive emissions of a stationary source shall not be considered in determining whether the stationary source is a major source, unless the stationary source belongs to 1 of the categories listed in the definition of potential to emit in R 336.1116.

(iii) A major stationary source, as defined in part d of title I of the clean air act and R 336.2901(t), including, for ozone nonattainment areas, stationary sources that have the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate.

(b) Any affected source as defined in section 402 of the clean air act.

(c) Any solid waste incineration unit, as defined in section 129(g) of the clean air act, that is required to obtain a renewable operating permit under section 129(e) of the clean air act.

(d) Any municipal solid waste landfill that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters.

(e) Any Portland cement plant subject to 40 C.F.R. part 63, subpart LLL, national emission standards for hazardous air pollutants from the Portland cement manufacturing industry, adopted by reference in R 336.1299, including both of the following:

(i) Each kiln and each in-line kiln/raw mill at any Portland cement plant, including alkali bypasses, except for kilns and in-line kiln/raw mills that burn hazardous waste and are subject to and regulated under 40 C.F.R. part 63, subpart EEE, national emission standards for hazardous air pollutants from hazardous waste combustors, adopted by reference in R 336.1299.

(ii) Each Greenfield raw material dryer.

(f) Any stationary source in a source category designated by the administrator of the United States environmental protection agency under 40 C.F.R. §70.3, adopted by reference in R 336.1299.

(2) For the purposes of determining the applicability of R 336.1210, the potential to emit of a stationary source shall be the sum of the potential to emit of all process and process equipment located at the stationary source.

(3) The following stationary sources are exempted from the obligation to obtain a renewable operating permit under R 336.1210:

(a) All stationary sources and source categories for which the person owning or operating the stationary source would be required to obtain a permit solely because the stationary source is subject to 40 C.F.R. part 60, subpart AAA, standards of performance for new residential wood heaters, adopted by reference in R 336.1299.

(b) All stationary sources and source categories for which the person owning or operating the stationary source would be required to obtain a permit solely because the stationary source is subject to 40 C.F.R. part 61, subpart M, national emission standard for hazardous air pollutants for asbestos, and §61.145, standard for demolition and renovation, adopted by reference in R 336.1299.

R 336.1213 Content of renewable operating permit.

Rule 213. (1) Each renewable operating permit shall include all of the following general provisions:

(a) A person shall comply with all conditions of the renewable operating permit. Any permit noncompliance constitutes a violation of the act and is grounds for enforcement action, for permit revocation or revision, or for denial of the renewal of a renewable operating permit. All terms and conditions of a renewable operating permit that are designated in the permit as federally enforceable pursuant to subrule (5) of this rule, are enforceable by the administrator of the United States environmental protection agency and by citizens under the provisions of the clean air act.

(b) It shall not be a defense for a person in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(c) The renewable operating permit may be modified, revised, or revoked for cause. The filing of a request by a person for a permit modification, revision, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. This does not supersede or affect the ability of a person to make changes, at the person's own risk, pursuant to R 336.1215 and R 336.1216.

(d) A person shall allow the department or an authorized representative of the department, upon presentation of credentials and other documents as may be required by law and upon stating the authority for and purpose of the investigation, to perform any of the following activities:

(i) Enter, at reasonable times, a stationary source or other premises where emissions-related activity is conducted or where records must be kept under the conditions of the permit.

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

(iii) Inspect, at reasonable times, any of the following:

(A) Any stationary source.

(B) Any emission unit.

(C) Any equipment, including monitoring and air pollution control equipment.

(D) Any work practices or operations regulated or required under the renewable operating permit.

(iv) As authorized by section 5526 of the act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(e) A person shall furnish to the department, within a reasonable time, any information that the department may request, in writing, to determine whether cause exists for modifying, revising, or revoking the permit or to determine compliance with the permit. Upon request, a person shall also furnish to the department copies of any records that are required to be kept as a term or condition of the renewable operating permit. For information which is claimed by the person to be confidential, consistent with the requirements of 1976 PA 442, MCL 15.231, and known as the freedom of information act, the person may also be required to furnish the records

directly to the United States environmental protection agency together with a claim of confidentiality.

(f) A challenge by any person, the administrator of the United States environmental protection agency, or the department to a particular condition or a part of a renewable operating permit shall not set aside, delay, stay, or in any way affect the applicability or enforceability of any other condition or part of the renewable operating permit.

(g) A person shall pay fees consistent with the fee schedule and requirements pursuant to section 5522 of the act.

(h) The renewable operating permit does not convey any property rights or any exclusive privilege.

(i) Federally enforceable permit to install terms and conditions incorporated into the renewable operating permit are identified within the renewable operating permit as being established pursuant to R 336.1201.

(2) Each renewable operating permit shall contain emission limits and standards, including operational requirements and limits that ensure compliance with all applicable requirements at the time of permit issuance. In addition, each renewable operating permit may contain additional limits agreeable to both the applicant and the department, provided that these limits are not contrary to R 336.1213 or the clean air act. The following provisions apply to emission limits and standards:

(a) The renewable operating permit shall specify and reference the underlying applicable requirement for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(b) The renewable operating permit shall state that, where an applicable requirement is more stringent than an applicable requirement of regulations promulgated for affected sources under title IV of the clean air act, both provisions shall be incorporated into the permit.

(c) If the state implementation plan allows for an alternative emission limit that is equivalent to the limit contained in the state implementation plan, any renewable operating permit containing the equivalent alternative emission limit shall contain terms and conditions to ensure that any such emission limit is quantifiable, accountable, enforceable, and based on replicable procedures.

(d) Any term or condition established as a limit on the potential to emit of the stationary source shall be consistent with the requirements of R 336.1205(1)(a). For each such limit on the potential to emit of the stationary source, the permit shall specify and reference any requirements that would otherwise be applicable to the source or emission unit.

(3) The renewable operating permit shall contain terms and conditions necessary to ensure that sufficient testing, monitoring, recordkeeping, reporting, and compliance evaluation activities will be conducted to determine the status of compliance of the stationary source with the emission limitations and standards contained in the renewable operating permit. The following provisions apply to testing, monitoring, recordkeeping, reporting, and compliance evaluation activities:

(a) With respect to testing and monitoring, each renewable operating permit shall contain terms and conditions necessary to ensure compliance with all of the following:

(i) The use of all emissions monitoring and analysis procedures or test methods required by the applicable requirements, including 40 C.F.R. part 64 and any other procedures and methods promulgated pursuant to sections 504(b) or 114(a)(3) of the clean air act. Title 40 C.F.R. part 64 is adopted by reference in R 336.1299. If more than 1 monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing requirements, provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that were not included in the permit as a result of such streamlining.

(ii) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, which may consist of recordkeeping designed to serve as monitoring, the use of periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the stationary source's compliance with the permit, as reported pursuant to subrule (3)(c) of this rule. The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions shall be sufficient to meet the requirements of subrule (3)(b) of this rule.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(b) With respect to recordkeeping, each renewable operating permit shall contain terms and conditions necessary to ensure compliance with the recordkeeping requirements specified in the applicable requirements. Each renewable operating permit shall also contain terms and conditions that require, where appropriate, both of the following:

(i) Records of any periodic emission or parametric monitoring that include all of the following information:

(A) The date, location, time, and method of sampling or measurements.

(B) The dates analyses of the samples were performed.

(C) The company or entity that performed the analyses of the samples.

(D) The analytical techniques or methods used.

(E) The results of the analyses.

(F) The related operating conditions or parameters that existed at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of not less than 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings, or other original data records, for continuous monitoring instrumentation and copies of all reports required by the renewable operating permit.

(c) With respect to reporting and the certification of reports, each renewable operating permit shall contain terms and conditions necessary to insure compliance with the reporting requirements specified in the applicable requirements. Except as

provided subdivision (iii)(B) of this subdivision, any document, including reports, required to be submitted to the department as a term or condition of a renewable operating permit shall include a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. Each renewable operating permit shall also contain terms and conditions for all of the following:

(i) The submittal of reports of any required monitoring at least once every 6 months. All instances of deviations from permit requirements during the reporting period shall be clearly identified in the reports. Each report submitted pursuant to this subdivision shall include a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(ii) The prompt reporting of deviations from permit requirements. Prompt reporting shall be defined as follows, unless otherwise provided in the renewable operating permit:

(A) For deviations that exceed the emissions allowed under the renewable operating permit, prompt reporting means reporting consistent with the requirements of R 336.1912. All reports submitted pursuant to this paragraph shall be promptly certified as specified in paragraph (iii) of this subdivision.

(B) For deviations which exceed the emissions allowed under the renewable operation permit and which are not reported pursuant to R 336.1912 due to the duration of the deviation, prompt reporting means the reporting of all deviations in the reports required by paragraph (i) of this subdivision. The report shall describe reasons for each deviation and the actions taken to minimize or correct each deviation.

(C) For deviations that do not exceed the emissions allowed under the renewable operating permit, prompt reporting means the reporting of all deviations in the reports required by paragraph (i) of this subdivision. The report shall describe the reasons for each deviation and the actions taken to minimize or correct each deviation.

(iii) For reports required pursuant to paragraph (ii) of this subdivision, prompt certification of the reports means either of the following:

(A) Submitting a certification by a responsible official with each report which states that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(B) Submitting, within 30 days following the end of a calendar month during which 1 or more prompt reports of deviations from the emissions allowed under the permit were submitted to the department pursuant to paragraph (ii) of this subdivision, a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information contained in each of the reports submitted during the previous month were true, accurate, and complete. The certification shall include a listing of the reports that are being certified. Any report submitted pursuant to paragraph (ii) of this subdivision that will be certified on a monthly basis pursuant to this paragraph shall include a statement that certification of the report will be provided within 30 days following the end of the calendar month.

(4) With respect to compliance, each renewable operating permit shall contain terms and conditions necessary to ensure each of the following:

(a) Incorporation into the renewable operating permit of a schedule of compliance.

(b) For a stationary source that is not in compliance with all applicable requirements at the time of issuance of a renewable operating permit, the submission of progress reports to the department, consistent with an applicable schedule of compliance, at least semiannually or more frequently if specified in an applicable requirement or by the department in the permit. Progress reports shall contain the information specified in both of the following provisions:

(i) The date or dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and the date or dates when the activities, milestones, or compliance were achieved.

(ii) An explanation of why any dates in the schedule of compliance were not or will not be met and a description of any preventive or corrective measures adopted.

(c) A requirement that, at least annually, or more frequently if specified in an applicable requirement or by the department in the renewable operating permit, the responsible official shall certify, in writing, to the department and to the United States environmental protection agency, that the stationary source is and has been in compliance with all terms and conditions contained in the renewable operating permit, except for any deviations from compliance that have been or are being reported to the department. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the certification are true, accurate, and complete. Each certification of compliance shall include all of the following information:

(i) The identification of each term or condition of the permit that is the basis of the certification.

(ii) The compliance status of the stationary source with respect to each identified term or condition.

(iii) Whether compliance was continuous or intermittent.

(iv) The methods used for determining the compliance status of the stationary source, currently and over the reporting period consistent with subrules (3)(a), (b), and (c) of this rule.

(v) Other facts as the department may require in the permit that are necessary to determine the compliance status of the stationary source.

(5) Each renewable operating permit shall provide for the following:

(a) Each renewable operating permit shall specifically designate as not being enforceable under the clean air act any terms and conditions included in the permit that are not required under the clean air act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements for review by the United States environmental protection agency or affected states under R 336.1214.

(b) Each renewable operating permit shall specifically designate each federally enforceable applicable requirement previously established in a permit to install pursuant to R 336.1201.

(6) Both of the following provisions apply to permit shields:

(a) Except as provided in subdivision (b) of this subrule, each renewable operating permit shall include a permit shield provision stating that compliance with the conditions of the permit shall be considered compliance with any applicable requirements as of the date of permit issuance, if either of the following provisions is satisfied:

(i) The applicable requirements are included and are specifically identified in the permit.

(ii) The permit includes a determination or a concise summary of the determination by the department that other specifically identified requirements are not applicable to the stationary source.

(b) Nothing in this subrule or in any renewable operating permit shall alter or affect any of the following:

(i) The provisions of section 303 of the clean air act, emergency orders, including the authority of the administrator of the United States environmental protection agency under that section.

(ii) The liability of an owner or operator of a stationary source for any violation of applicable requirements before or at the time of permit issuance.

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the clean air act.

(iv) The ability of the United States environmental protection agency to obtain information from a stationary source pursuant to section 114 of the clean air act.

(7) Each renewable operating permit shall be issued for a fixed term of not more than 5 years. Renewable operating permits that have terms of less than 5 years may be issued with the agreement of the department and the permit applicant. The terms and conditions of a renewable operating permit for affected sources under title IV of the clean air act that address the requirements of title IV shall be issued for a term of 5 years. The date of expiration of the renewable operating permit shall be specified in the permit.

(8) A renewable operating permit shall include terms and conditions that allow a stationary source to switch its operation between reasonably anticipated operating scenarios if the scenarios have been identified by the stationary source in its application and found to be approvable by the department. The terms and conditions shall provide for all of the following:

(a) Require the stationary source, contemporaneously with making a change from one operating scenario to another, to record, in a log at the stationary source, a record of the scenario under which the source is operating.

(b) Extend the permit shield described in subrule (6) of this rule to all terms and conditions under each approved operating scenario.

(c) Ensure that the terms and conditions of each approved alternative scenario meet all applicable requirements.

(9) A renewable operating permit shall include terms and conditions for the trading of emissions increases and decreases among process emission units 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 emission 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. Both of the following provisions apply to the trading of emissions increases and decreases among emission units 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.

(10) In addition to the other requirements of this rule, each renewable operating permit for an affected source under title iv of the clean air act shall include a permit condition prohibiting emissions exceeding any allowances that an affected source lawfully holds as of the allowance transfer deadline pursuant to the federal acid rain program, adopted by reference in R 336.1299. All of the following apply to allowances:

(a) A permit revision shall not be required for increases in emissions that are authorized by allowances acquired pursuant to title IV of the clean air act if the increases do not require a permit revision under any other applicable requirement.

(b) A limit shall not be placed on the number of allowances held by the affected source. The affected source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(c) Any allowance shall be accounted for according to the procedures established in regulations promulgated under title IV of the clean air act.

(11) A renewable operating permit for a temporary source may authorize emissions from a stationary source at multiple temporary locations. An affected source under title IV of the clean air act shall not be permitted as a temporary source. In addition to the other requirements of this rule, permits for temporary sources shall include all of the following provisions:

(a) Conditions that will assure compliance with all applicable requirements at all authorized locations.

(b) Requirements that the owner or operator notify the department not less than 10 days in advance of each change in location.

(c) Conditions that assure compliance with all other provisions of this rule.

(12) A renewable operating permit shall contain terms and conditions allowing for emission averaging and emission reduction credit trading pursuant to any applicable interstate or regional 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.

R 336.1214 Approval of a renewable operating permit.

Rule 214. (1) After the department has received an administratively complete application and all additional information requested by the department pursuant to R 336.1210(3) for a renewable operating permit, significant modification to a renewable operating permit, or the renewal of a renewable operating permit, the department shall prepare a draft permit and a report that sets forth the applicable requirements and factual basis for the draft permit terms and conditions. The report shall include citations of the applicable requirements, an explanation of any equivalent requirements or other changes included in the draft permit pursuant to R 336.1213(2), and any determination made pursuant to R 336.1213(6)(a)(ii) regarding requirements that are not applicable to the stationary source where the draft permit contains only a summary of the determination.

(2) The person who applied for the renewable operating permit shall be provided with a reasonable period of time, but not less than 7 days nor more than 30 days, to review and comment on the draft renewable operating permit, draft renewable operating permit significant modification, or draft renewable operating permit renewal before the start of the public participation procedure specified in subrule (3) of this rule. If the person and the department cannot agree on the terms and conditions of the draft renewable operating permit, the terms and conditions that the department believes are necessary to comply with the requirements of R 336.1213 shall be incorporated into the draft renewable operating permit and the report required by subrule (1) of this rule shall include a discussion of the person's objections.

(3) Except for modifications qualifying for administrative permit amendment procedures pursuant to R 336.1216(1) or minor permit modification procedures pursuant to R 336.1216(2), the draft renewable operating permit, draft renewable operating permit modification, or the draft renewable operating permit renewal shall be subjected to the following public participation procedure before the department submits a proposed renewable operating permit to the United States environmental protection agency for review pursuant to subrule (6) of this rule:

(a) The department shall provide public notice by publication in a newspaper of general circulation in the area where the stationary source is located or in a state publication designed to give general public notice. Notice shall also be provided to persons on a mailing list maintained by the department, including persons who request, in writing, to be on that list, and to any person who requests, in writing, to be notified of a permit action involving a specific stationary source.

(b) The notice shall set forth all of the following information:

(i) The name of the stationary source.

(ii) The name and mailing address of the responsible official.

(iii) The mailing address of the department.

(iv) The activity or activities involved in the proposed permit action.

(v) The emissions change involved in any permit modification.

(vi) The name, address, and telephone number of a representative of the department from whom interested persons may obtain additional information, including copies of the draft permit, the report required under subrule (1) of this rule, and, to the extent provided by 1976 PA 442, MCL 15.231, and known as the

freedom of information act, the application and any other materials available to the department that are relevant to the permit decision.

(vii) A brief description of the procedures to submit comments.

(viii) The time and place of any hearing that may be held, including a statement of the procedures to request a hearing, unless a hearing has already been scheduled.

(c) The department shall provide not less than 30 days for public comment and shall give notice of any public hearing not less than 30 days in advance of the hearing.

(d) The department shall keep a record of the commenters and the issues raised during the public participation process and the records shall be available to the public.

(4) The department shall give notice of each draft permit to any affected state on or before the time that the department provides notice to the public pursuant to subrule (3) of this rule, unless R 336.1216(2) requires the timing of the notice to be different. The department shall notify the administrator of the United States environmental protection agency and any affected state, in writing, of any refusal by the department to accept all recommendations for the proposed permit that the affected state submitted during the public comment period specified in subrule (3)(c) of this rule. 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.

(5) After the completion of the public participation procedure specified in subrule (3) of this rule and the review by affected states specified in subrule (4) of this rule, the department shall prepare a proposed renewable operating permit, proposed renewable operating permit significant modification, or proposed renewable operating permit renewal. If the proposed renewable operating permit differs from the draft renewable operating permit in response to substantial and relevant comments from the public or affected states, the person who applied for the renewable operating permit shall be provided with a reasonable period of time, but not less than 7 days nor more than 30 days, to review and comment on the changes before the transmittal of the proposed renewable operating permit to the United States environmental protection agency for review. If the person and the department cannot agree on the changes to the proposed renewable operating permit, the changes that the department believes are necessary to comply with the requirements of R 336.1213 shall be incorporated into the proposed renewable operating permit and the person's objections shall be included in the information transmitted to the United States environmental protection agency for review.

(6) Except as provided in 40 C.F.R. §70.8(a)(1) and (2), adopted by reference in R 336.1299, and as provided in R 336.1210(13), the department shall transmit a copy of each administratively complete application for a renewable operating permit, including any application for a significant modification to a renewable operating permit or for renewal of a renewable operating permit, all additional information submitted pursuant to R 336.1210(3), the report prepared pursuant to subrule (1) of this rule, and the proposed renewable operating permit to the United States environmental protection agency. The department shall not take a final action to issue a renewable operating permit until 45 days after the United States

environmental protection agency has received all the information specified in this subrule and subrule (4) of this rule. If the administrator of the United States environmental protection agency objects, in writing, to the renewable operating permit before the end of the 45-day review period specified in this subrule, the department shall not issue the renewable operating permit until the administrator's objection has been resolved. The department shall follow the procedure specified in 40 C.F.R. §70.8(c), adopted by reference in R 336.1299, to resolve the objection. The application shield provided by R 336.1210(1) shall continue to apply to the stationary source, consistent with the provisions of R 336.1210, until the department takes final action on the renewable operating permit.

(7) The department shall make a final decision to issue or deny a renewable operating permit, a significant modification to a renewable operating permit, or the renewal of a renewable operating permit after completion of the review by the United States environmental protection agency specified in subrule (6) of this rule. The final renewable operating permit shall contain all terms and conditions determined by the department to be necessary pursuant to R 336.1213, after consideration of all comments received during public participation pursuant to subrule (3) of this rule and affected state review pursuant to subrule (4) of this rule, including any terms and conditions necessary to resolve any objection by the administrator of the United States environmental protection agency pursuant to subrule (6) of this rule. The department shall transmit a copy of each final renewable operating permit to the United States environmental protection agency. A person aggrieved by the issuance, denial, modification, or renewal of a renewable operating permit may appeal the final decision as provided in section 5506(14) of the act.

(8) Any person may petition the administrator of the United States environmental protection agency to make an objection regarding a renewable operating permit pursuant to 40 C.F.R. §70.8(d), adopted by reference in R 336.1299. The petition shall be filed within 60 days after the expiration of the administrator's 45-day review period specified in subrule (6) of this rule and 40 C.F.R. §70.8(c), adopted by reference in R 336.1299. The petition shall be based only on an objection to the renewable operating permit that was raised with reasonable specificity during the public comment period provided for in subrule (3)(c) of this rule, unless the petitioner demonstrates that it was impracticable to raise the objection during the public comment period or unless the grounds for the objection arose after the public comment period. A petition for review does not stay the effectiveness of a renewable operating permit or its requirements if the renewable operating permit was issued after the end of the 45-day review period and before the department received an objection by the administrator. If the administrator of the United States environmental protection agency objects to the renewable operating permit as a result of a petition filed pursuant to 40 C.F.R. §70.8(d), adopted by reference in R 336.1299, before the department has issued the renewable operating permit, the department shall not issue the renewable operating permit until the administrator's objection has been resolved. The application shield provided by R 336.1210(1) shall continue to apply to the stationary source, consistent with the provisions of R 336.1210, until the department takes final action on the renewable operating permit. If the administrator of the United States environmental protection agency

objects to the renewable operating permit as a result of a petition filed pursuant to 40 C.F.R. §70.8(d) after the department has issued the renewable operating permit, the department shall follow the procedure specified in 40 C.F.R. §70.7(g), adopted by reference in R 336.1299, to resolve the objection.

R 336.1214a Consolidation of permits to install within renewable operating permit.

Rule 214a. (1) The department shall issue a source-wide permit to install concurrent with each issuance and renewal of a renewable operating permit pursuant to R 336.1214 and each reissuance of a renewable operating permit pursuant to R 336.1217(2)(b). The source-wide permit to install shall be contained in the same document as the renewable operating permit. The source-wide permit to install shall specifically identify, consolidate, and incorporate all federally enforceable terms and conditions of existing permits to install into the renewable operating permit in accordance with the provisions of R 336.1212(5) and the permit content requirements of R 336.1213.

(2) The source-wide permit to install is updated whenever a new process-specific permit to install is incorporated into the renewable operating permit in accordance with the provisions of R 336.1216.

(3) Both of the following provisions apply to the incorporation of terms and conditions of a permit to install into a renewable operating permit:

(a) Within the renewable operating permit, each federally enforceable term or condition that originated in a permit to install shall be specifically identified with an applicable requirement citation of R 336.1201(1)(a). This citation is in addition to the R 336.1213(2)(a) underlying applicable requirement citation. Each term or condition of the renewable operating permit with an applicable requirement citation of R 336.1201(1)(a) shall be considered a term or condition of the source-wide permit to install issued pursuant to this rule.

(b) A federally enforceable term or condition of a renewable operating permit shall be considered a term or condition of the source-wide permit to install issued pursuant to this rule, if it can be reasonably demonstrated that the federally enforceable term or condition originated in a permit to install issued pursuant to R 336.1201. Each term or condition in a renewable operating permit issued before the effective date of this rule with any of the following underlying applicable requirements, identified pursuant to R 336.1213(2)(a), shall be considered a term or condition of the source-wide permit to install issued pursuant to this rule:

- (i) R 336.1201, R 336.1201a.
- (ii) Title 40 C.F.R. §§63.40 to 63.44 and §§63.50 to 63.56, adopted by reference in R 336.1299.
- (iii) R 336.1301(1)(c), R 336.1301(4), and R 336.1331(1)(c).
- (iv) R 336.1401(1)(b) and R 336.1403(4).
- (v) R 336.1702, R 336.1705, R 336.1706, R 336.1708, R 336.1709, and R 336.1710.
- (vi) R 336.2415.
- (vii) Title 40 C.F.R. §52.21, adopted by reference in R 336.1299.
- (viii) R 336.2801 to R 336.2819 and R 336.2823.
- (ix) R 336.2901 to R 336.2903, R 336.2907, and R 336.2908.

(4) The source-wide permit to install replaces all existing permits to install, in accordance with R 336.1201(6)(b). Although the source-wide permit to install and the renewable operating permit are contained in the same document, the source-wide permit to install maintains its own authority under section 5505 of the act. If the renewable operating permit expires or is voided, the source-wide permit to install remains in effect, unless the criteria of R 336.1201(6)(a) or (6)(c) are met.

(5) State-only enforceable terms and conditions from a permit to install that have been incorporated into a renewable operating permit shall be considered terms and conditions of a state-only enforceable permit to install established pursuant to R 336.1201(2)(d). If the renewable operating permit later expires or is voided, the state-only enforceable permit to install does not expire, nor is it voided, unless the criteria of R 336.1201(6)(a) or (c) are met.

(6) Nothing in this rule shall relieve the requirement to obtain a permit to install pursuant to R 336.1201(1) for newly constructed, modified, reconstructed, or relocated process or process equipment that emits an air contaminant.

R 336.1219 Amendments for change of ownership or operational control.

Rule 219. (1) A person may notify the department, in writing, of a change in ownership or operational control of a stationary source or emission unit authorized by a permit to install or a permit to operate. The notification shall include all of the following information:

(a) A description of the stationary source or emission unit affected by the change and a listing of the permits involved in the request.

(b) An identification of the new owner or operator and a specific date for the transfer of responsibility, coverage, and liability.

(c) A written statement by the new person owning or operating the stationary source or emission unit that the terms and conditions of the permit to install or permit to operate are understood and accepted. Acceptance of the terms and conditions of a permit does not affect the person's ability to subsequently request a modification to the permit to install or permit to operate pursuant to R 336.1201. The new person owning or operating the stationary source shall also notify the department of any change in the contact person regarding the permit.

(2) A change in ownership or operational control of a stationary source or emission unit covered by a renewable operating permit shall be made pursuant to R 336.1216(1).

R 336.1220 Rescinded

R 336.1240 Required air quality models.

Rule 240. All air quality modeling demonstrations required by prevention of significant deterioration of air quality regulations and new source review for major sources in nonattainment areas regulations, or used to support or amend the state implementation plan shall be made in accordance with the models and procedures in 40 C.F.R. §51.160(f) and appendix W adopted by reference in R 336.1299.

R 336.1241 Air quality modeling demonstration requirements.

Rule 241. (1) All air quality modeling demonstrations required by the department which are not subject to R 336.1240 shall follow the procedures and methods referenced in R 336.1240, except for the demonstration may be based on the maximum ambient predicted concentration using the most recent calendar year of meteorological data from a representative national weather service, federal aviation administration station, or site specific measurement station.

R 336.1277 New emission units at facilities with plantwide applicability limits; exemption.

Rule 277. The owner or operator of a facility complying with an actuals PAL, established pursuant to R 336.2823 or R 336.2907, may install a new emissions unit without first obtaining a permit to install under R 336.1201, if all of the following requirements are met:

(a) The new emissions unit will not cause a meaningful change in the nature or quantity of toxic air contaminants emitted from the stationary source unless the new emission unit is otherwise exempt under R 336.1278 to R 336.1290. In determining whether the new emissions unit will cause a meaningful change in the nature or quantity of toxic air contaminants, the following shall apply:

(i) The owner or operator shall demonstrate to the department that a meaningful change in the nature or quantity of toxic air contaminants has not occurred. The owner or operator may devise its own method to perform this demonstration subject to approval by the department. However, if the applicant demonstrates that all toxic air contaminants from a new emissions unit are within the levels specified in R 336.1226 or R 336.1227, then a meaningful change in air contaminants has not occurred.

(ii) If, using the methods described in paragraph (a) of this subdivision, the owner or operator determines that the installation of new emission units will cause a meaningful change in the nature or quantity of toxic air contaminant emissions, then the owner or operator shall obtain a state-only enforceable permit to install under R 336.1201(1)(b).

(iii) A copy of the demonstration required by subparagraph (a) of this paragraph shall be kept on site for the life of the new emissions unit and made available to the department upon request.

(b) The new emissions unit will only emit regulated new source review pollutants, as defined in R 336.2801(nn) and R 336.2901(ee), that are subject to a PAL, unless the new emission unit is otherwise exempt under R 336.1278 to R 336.1290.

(c) The new emissions unit will not be a newly constructed or reconstructed major source of hazardous air pollutants as defined in and subject to 40 C.F.R. §63.2 and §63.5(b)(3), national emission standard for hazardous air pollutants, adopted by reference in R 336.1299.

(d) The installation of the new emissions unit will not cause the violation of any other applicable requirement.

(e) The owner or operator shall notify the department of the installation of a new emissions unit using the procedure in R 336.1215(3)(c).

R 336.1278 Exclusion from exemption.

Rule 278. (1) The exemptions specified in R 336.1280 to R 336.1290 do not apply to either of the following:

(a) Any activity that is subject to prevention of significant deterioration of air quality regulations or new source review for major sources in nonattainment areas regulations.

(b) Any activity that results in an increase in actual emissions greater than the significance levels defined in R 336.1119.

For the purpose of this rule, "activity" means the concurrent and related installation, construction, reconstruction, relocation, or modification of any process or process equipment.

(2) The exemptions specified in R 336.1280 to R 336.1290 do not apply to the construction of a new major source of hazardous air pollutants or reconstruction of a major source of hazardous air pollutants, as defined in and subject to 40 C.F.R. §63.2 and §63.5(b)(3), national emission standards for hazardous air pollutants, adopted by reference in R 336.1299.

(3) The exemptions specified in R 336.1280 to R 336.1290 do not apply to a construction or modification as defined in and subject to 40 C.F.R. part 61, national emission standards for hazardous air pollutants, adopted by reference in R 336.1299.

(4) The exemptions in R 336.1280 to R 336.1290 apply to the requirement to obtain a permit to install only and do not exempt any source from complying with any other applicable requirement or existing permit limitation.

R 336.1281 Permit to install exemptions; cleaning, washing, and drying equipment.

Rule 281. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

(a) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes.

(b) Equipment used for portable steam cleaning.

(c) Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.

(d) Portable blast-cleaning equipment equipped with appropriately designed and operated enclosure and control equipment.

(e) Equipment used for washing or drying materials, where the material itself cannot become an air contaminant, if no volatile organic compounds that have a vapor pressure greater than 0.1 millimeter of mercury at standard conditions are used in the process and no oil or solid fuel is burned.

(f) Laundry dryers, extractors, or tumblers for fabrics cleaned with only water solutions of bleach or detergents.

(g) Dry-cleaning equipment that has a capacity of 100 or less pounds of clothes.

(h) Cold cleaners that have an air/vapor interface of not more than 10 square feet.

(i) Sterilization equipment at medical and pharmaceutical facilities using steam, hydrogen peroxide, peracetic acid, or a combination thereof.

(j) Portable blast-cleaning equipment used during construction to clean new water tanks or other new structures if the tank or structure is not located closer than the

lesser of 750 feet or 5 times the height of the structure to the nearest residential, commercial, or public facility and the abrasive media is a low dusting material that does not contain more than 5% crystalline silica.

R 336.1284 Permit to install exemptions; containers.

Rule 284. Except as specified in R 336.1278, the requirement of R 336.1201(1) to obtain a permit to install does not apply to containers, reservoirs, or tanks used exclusively for any of the following:

- (a) Dipping or storage operations for coating objects with oils, waxes, greases, or natural or synthetic resins containing no organic solvents.
- (b) Storage of butane, propane, or liquefied petroleum gas in a vessel that has a capacity of less than 40,000 gallons.
- (c) Storage and surge capacity of lubricating, hydraulic, and thermal oils and indirect heat transfer fluids.
- (d) Storage of no. 1 to no. 6 fuel oil as specified in ASTM-D-396, gas turbine fuel oils nos. 2-GT to 4-GT as specified in ASTM-D-2880, or diesel fuel oils nos. 2-D and 4-D as specified in ASTM-D-975. The ASTM methods are adopted by reference in R 336.1299.
- (e) Storage of sweet crude or sweet condensate in a vessel that has a capacity of less than 40,000 gallons.
- (f) Storage of sour crude or sour condensate in a vessel that has a capacity of less than 40,000 gallons if vapor recovery or its equivalent is used to prevent the emission of vapors to the atmosphere.
- (g) Gasoline or natural gas storage and handling equipment, as follows:
  - (i) Gasoline storage and handling equipment at loading facilities handling less than 20,000 gallons per day or at dispensing facilities.
  - (ii) Natural gas storage and handling equipment at dispensing facilities.
- (h) Storage of water solutions of inorganic salts and bases and of water solutions of the following acids:
  - (i) Sulfuric acid that is not more than 99% by weight.
  - (ii) Phosphoric acid that is not more than 99% by weight.
  - (iii) Nitric acid that is not more than 20% by weight.
  - (iv) Hydrochloric acid that is not more than 11% by weight.
- (i) Storage or transfer operations of volatile organic compounds or noncarcinogenic liquids in a vessel that has a capacity of not more than 40,000 gallons where the contents have a true vapor pressure of not more than 1.5 psia at the actual storage conditions.
- (j) Pressurized storage of acetylene, hydrogen, oxygen, nitrogen, helium, and other substances, excluding chlorine and anhydrous ammonia in a quantity of more than 500 gallons, that have a boiling point of 0 degrees Celsius or lower.
- (k) Storage containers of noncarcinogenic solid material, including silos, which only emit particulate matter and which are controlled with an appropriately designed and operated fabric filter collector system or an equivalent control system.
- (l) Filling of noncarcinogenic liquids in shipping or storage containers that have emissions which are released only into the general in-plant environment.
- (m) Storage of wood and wood residues.

(n) Storage of methanol in a vessel that has a capacity of not more than 30,000 gallons.

R 336.1285 Permit to install exemptions; miscellaneous.

Rule 285. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

(a) Routine maintenance, parts replacement, or other repairs that are considered by the department to be minor, or relocation of process equipment within the same geographical site not involving any appreciable change in the quality, nature, quantity, or impact of the emission of an air contaminant therefrom. Examples of parts replacement or repairs considered by the department to be minor include the following:

(i) Replacing bags in a baghouse.

(ii) Replacing wires, plates, rappers, controls, or electric circuitry in an electrostatic precipitator which does not measurably decrease the design efficiency of the unit.

(iii) Replacement of fans, pumps, or motors which does not alter the operation of a source or performance of air pollution control equipment.

(iv) Boiler tubes.

(v) Piping, hoods, and ductwork.

(vi) Replacement of engines, compressors, or turbines as part of a normal maintenance program.

(b) Changes in a process or process equipment which do not involve installing, constructing, or reconstructing an emission unit and which do not involve any meaningful change in the quality and nature or any meaningful increase in the quantity of the emission of an air contaminant therefrom. Examples of such changes in a process or process equipment include the following:

(i) Change in the supplier or formulation of similar raw materials, fuels, or paints and other coatings.

(ii) Change in the sequence of the process.

(iii) Change in the method of raw material addition.

(iv) Change in the method of product packaging.

(v) Change in process operating parameters.

(vi) Installation of a floating roof on an open top petroleum storage tank.

(vii) Replacement of a fuel burner in a boiler with an equally or more thermally efficient burner.

(viii) Lengthening a paint drying oven to provide additional curing time.

(c) Changes in a process or process equipment which do not involve installing, constructing, or reconstructing an emission unit and which involve a meaningful change in the quality and nature, or a meaningful increase in the quantity, of the emission of an air contaminant resulting from any of the following:

(i) Changes in the supplier or supply of the same type of virgin fuel, such as coal, no. 2 fuel oil, no. 6 fuel oil, or natural gas.

(ii) Changes in the location, within the storage area, or configuration of a material storage pile or material handling equipment.

(iii) Changes in a process or process equipment to the extent that such changes do not alter the quality and nature, or increase the quantity, of the emission of the air

contaminant beyond the level which has been described in and allowed by an approved permit to install, permit to operate, or order of the department.

(d) Reconstruction or replacement of air pollution control equipment with equivalent or more efficient equipment.

(e) Installation, construction, or replacement of air pollution control equipment for an existing process or process equipment for the purpose of complying with the national emission standards of hazardous air pollutants regulated under section 112 of part A of title I of the clean air act, 84 Statutes 1685, 42 U.S.C. §7412.

(f) Installation or construction of air pollution control equipment for an existing process or process equipment if the control equipment itself does not actually generate a significant amount of criteria air contaminants as defined in R 336.1119(e) or a meaningful quantity of toxic air contaminants.

(g) Internal combustion engines that have less than 10,000,000 Btu/hour maximum heat input.

(h) Vacuum pumps in laboratory or pilot plant operations.

(i) Brazing, soldering, welding, or plasma coating equipment.

(j) Portable cutting torches.

(k) Grain, metal, or mineral extrusion presses.

(l) The following equipment and any exhaust system or collector exclusively serving the equipment:

(i) Equipment used exclusively for bending, forming, expanding, rolling, forging, pressing, drawing, stamping, spinning, or extruding either hot or cold metals.

(ii) Die casting machines.

(iii) Equipment for surface preparation of metals by use of aqueous solutions, except for acid solutions.

(iv) Atmosphere generators used in connection with metal heat treating processes.

(v) Equipment used exclusively for sintering of glass or metals, but not exempting equipment used for sintering metal-bearing ores, metal scale, clay, flyash, or metal compounds.

(vi) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals, graphite, plastics, concrete, rubber, paper stock, wood, or wood products which meets any of the following:

(A) Equipment used on a nonproduction basis.

(B) Equipment has emissions that are released only into the general in-plant environment.

(C) Equipment has externally vented emissions controlled by an appropriately designed and operated fabric filter collector that, for all specified operations with metal, is preceded by a mechanical precleaner.

(vii) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, including any of the following:

(A) Blueprint machines.

(B) Photocopiers.

(C) Mimeograph machines.

(D) Photographic developing processes.

(E) Microfiche copiers.

- (viii) Battery charging operations.
- (ix) Pad printers.
- (m) Lagoons, process water treatment equipment, wastewater treatment equipment, and sewage treatment equipment, except for any of the following:
  - (i) Lagoons and equipment primarily designed to treat volatile organic compounds in process water, wastewater, or groundwater, unless the emissions from the lagoons and equipment are only released into the general in-plant environment.
  - (ii) Sludge incinerators and dryers.
  - (iii) Heat treatment processes.
  - (iv) Odor control equipment.
- (n) Livestock and livestock handling systems from which the only potential air contaminant emission is odorous gas.
- (o) Equipment for handling and drying grain on a farm.
- (p) Commercial equipment used for grain unloading, handling, cleaning, storing, loading, or drying in a column dryer that has a column plate perforation of not more than 0.094 inch or a rack dryer in which exhaust gases pass through a screen filter no coarser than 50 mesh.
- (q) Portable steam deicers that have a heat input of less than 1,000,000 Btu's per hour.
- (r) Equipment used for any of the following metal treatment processes if the process emissions are only released into the general in-plant environment:
  - (i) Surface treatment.
  - (ii) Pickling.
  - (iii) Acid dipping.
  - (iv) Cleaning.
  - (v) Etching.
  - (vi) Electropolishing.
  - (vii) Electrolytic stripping or electrolytic plating.
- (s) Emissions or airborne radioactive materials specifically authorized pursuant to a United States nuclear regulatory commission license.
- (t) Equipment for the mining and screening of uncrushed sand, gravel, soil and other inorganic soil-like materials.
- (u) Solvent distillation equipment that has a rated batch capacity of not more than 55 gallons.
- (v) Any vapor vacuum extraction soil remediation process where vapor is treated in a control device and all of the vapor is reinjected into the soil such that there are no emissions to the atmosphere during normal operation.
- (w) Air strippers controlled by an appropriately designed and operated carbon adsorption or incineration system that is used exclusively for the cleanup of gasoline, fuel oil, natural gas condensate, and crude oil spills.
- (x) Any asbestos removal or stripping process or process equipment.
- (y) Ozonization process or process equipment.
- (z) Combustion of boiler cleaning solutions that were solely used for or intended for cleaning internal surfaces of boiler tubes and related steam and water cycle components if the solution burned is not designated, by listing or specified characteristic, as hazardous pursuant to federal regulations or state rules.

- (aa) Landfills and associated flares and leachate collection and handling equipment.
- (bb) A residential, municipal, commercial, or agricultural composting process or process equipment.
- (cc) Gun shooting ranges controlled by appropriately designed and operated high-efficiency particulate filters.
- (dd) Equipment for handling, conveying, cleaning, milling, mixing, cooking, drying, coating, and packaging grain-based food products and ingredients which meet any of the following:
  - (i) Equipment used on a nonproduction basis.
  - (ii) Equipment has emissions that are released only into the general in-plant environment.
  - (iii) Equipment has externally vented emissions controlled by an appropriately designed and operated particulate control system.
- (ee) Open burning.
- (ff) Fire extinguisher filling, testing, spraying, and repairing.
- (gg) Equipment used for chipping, flaking, or hogging wood or wood residues that are not demolition waste materials.
- (hh) A process that uses only hand-held aerosol spray cans, including the puncturing and disposing of the spray cans.
  - (ii) Fuel cells that use phosphoric acid, molten carbonate, proton exchange membrane, or solid oxide or equivalent technologies.
- (jj) Any vacuum truck used at a remediation site as a remedial action method, if it is not used more than once per month at a site and the usage is not more than 2 consecutive days.
- (kk) Air sparging systems where the sparged air is emitted back to the atmosphere only by natural diffusion through the contaminated medium and covering soil or other covering medium.
  - (ll) Air separation or fractionation equipment used to produce nitrogen, oxygen, or other atmospheric gases.
- (mm) Routine and emergency venting of natural gas from transmission and distribution systems or field gas from gathering lines which meet any of the following:
  - (i) Routine or emergency venting of natural gas or field gas in amounts less than or equal to 1,000,000 standard cubic feet per event. For purposes of this rule, an emergency is considered an unforeseen event that disrupts normal operating conditions and poses a threat to human life, health, property or the environment if not controlled immediately.
  - (ii) Venting of natural gas in amounts greater than 1,000,000 standard cubic feet for routine maintenance or relocation of transmission and distribution systems provided that both of the following requirements are met:
    - (A) The owner or operator notifies the department prior to a scheduled pipeline venting.
    - (B) The venting includes, at a minimum, measures to assure safety of employees and the public, minimize impacts to the environment, and provide necessary notification in accordance with the Michigan gas safety standards, the federal

pipeline and hazardous materials safety administration standards, and the federal energy regulatory commission standards, as applicable.

(iii) Venting of field gas in amounts greater than 1,000,000 standard cubic feet for routine maintenance or relocation of gathering pipelines provided that both of the following are met:

(A) The owner or operator notifies the department prior to a scheduled pipeline venting.

(B) The venting includes, at a minimum, measures to assure safety of employees and the public, minimize impacts to the environment, and provide necessary notification in accordance with the Michigan department of environmental quality, office of geological survey, and the Michigan public service commission standards, as applicable.

(iv) Emergency venting of natural gas or field gas in amounts greater than 1,000,000 standard cubic feet per event, provided that the owner or operator notifies the pollution emergency alert system or PEAS within 24 hours of an emergency pipeline venting. For purposes of this rule, an emergency is considered an unforeseen event that disrupts normal operating conditions and poses a threat to human life, health, property or the environment if not controlled immediately.

R 336.1288 Permit to install exemptions; oil and gas processing equipment.

Rule 288. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

(a) Gas odorizing equipment.

(b) A glycol dehydrator that meets either of the following conditions:

(i) It is located at an oil well site and is controlled by a condenser or by other control equipment of equivalent or better efficiency than the condenser.

(ii) It is located at a site or facility that only processes natural gas from the Antrim zone.

(c) A sweet gas flare.

(d) Equipment for the separation or fractionation of sweet natural gas, but not including natural gas sweetening equipment.

(e) Equipment that is used for oil and gas well drilling, testing, completion, rework, and plugging activities.

R 336.1299 Adoption of standards by reference.

Rule 299. (1) The following standards are adopted in these rules by reference and are available as noted:

(a) "1996 TLVs and BEIs. Threshold Limit Values for Chemical Substances and Physical Agents. Biological Exposure Indices," American conference of governmental industrial hygienists. For the purposes of R 336.1232, the chemical names and threshold limit values are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$11.00, or from the American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow

Drive, Cincinnati, Ohio 45240, at a cost as of the time of adoption of these rules of \$11.00. The American Conference of Governmental Industrial Hygienists can also be contacted on the internet at [www.acgih.org](http://www.acgih.org), by telephone at 513-742-2020, or by email at [mail@acgih.org](mailto:mail@acgih.org).

(b) "NIOSH Pocket Guide to Chemical Hazards," national institute for occupational safety and health, June 1994. For the purposes of R 336.1232, the chemical names and NIOSH-recommended exposure levels are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$14.00, or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, NTIS document PB95-100368, at a cost as of the time of adoption of these rules of \$14.00. The National Technical Information Service can also be contacted on the internet at [www.ntis.gov](http://www.ntis.gov) or by telephone at 888-584-8332.

(c) "Guidelines for Carcinogen Risk Assessment," 1986, United States environmental protection agency, 51 F.R. pp. 33992 to 34003. Copies may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at no cost, or from CERL, Office of Resource Information, United States Environmental Protection Agency, 26 Martin Luther King Drive, Cincinnati, Ohio 45268, EPA document no. EPA 600/8-87/045, at no cost.

(2) The following standards are adopted in these rules by reference and are available as noted. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules (AQD price). Copies may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at a cost as of the time of adoption of these rules (GPO price), or on the United States government printing office internet web site at <http://www.access.gpo.gov>:

(a) The federal acid rain program, 40 C.F.R. §§72.1 to 72.96 (2006), 40 C.F.R. §§74.1 to 74.61 (2006), and 40 C.F.R. §§76.1 to 76.15 (2006), AQD price \$72.00; GPO price \$62.00. When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the United States environmental protection agency. If the provisions or requirements of 40 C.F.R. §§72.1 to 72.96, 40 C.F.R. §§74.1 to 74.61, or 40 C.F.R. §§76.1 to 76.15 conflict with, or are not included in, R 336.1210 to R 336.1218, then the 40 C.F.R. §§72.1 to 72.96 and 40 C.F.R. §§76.1 to 76.15 provisions and requirements shall apply and take precedence.

(b) The federal hazardous air pollutant regulations governing constructed or reconstructed major sources, 40 C.F.R. §§63.40 to 63.44 (2006) and 63.50 to 63.56 (2006), AQD price \$68.00; GPO price \$58.00. When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the United States environmental protection agency.

(c) The federal compliance assurance monitoring regulations, 40 C.F.R. §§64.1 to 64.10 (2006), AQD price \$39.00; GPO price \$29.00. When used in these federal regulations, the term "permitting authority" shall mean the department, and the term "administrator" shall mean the administrator of the United States environmental protection agency.

(d) Title 40 C.F.R. §51.160(f), "Legally enforceable procedures," and appendix W, "Guideline on Air Quality Models" (2006); AQD price \$55.00; GPO price \$45.00.

(3) For the purpose of clarifying the definitions in these rules, the following documents are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules (AQD price). Copies of the documents may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at a cost as of the time of adoption of these rules (GPO price), or on the United States government printing office internet web site at <http://www.access.gpo.gov>:

(a) Title 40 C.F.R. §§51.165, "Permit requirements," and 51.166, "Prevention of significant deterioration of air quality" (2006), AQD price \$55.00/\$45.00 GPO price.

(b) Title 40 C.F.R., §52.21, "Prevention of Significant Deterioration of Air Quality" (2006), AQD price \$70.00/\$60.00 GPO price.

(c) Title 40 C.F.R., part 60, "Standards of Performance for New Stationary Sources," (2006), AQD price \$68.00/\$58.00 GPO price for 60.1-end and AQD price \$67.00/\$57.00 GPO price for the appendices.

(d) Title 40 C.F.R., part 61, "National Emission Standards for Hazardous Air Pollutants" (2006), AQD price \$55.00/\$45.00.

(e) Title 40 C.F.R. §63.2, "Definitions," and §63.5(b)(3), "Requirements for existing, newly constructed and reconstructed sources" (2006), AQD price \$68.00/\$58.00 GPO price for 63.1-63.599.

(f) Title 40 C.F.R. part 63, subpart EEE, "National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors" (2006), AQD price \$60.00/\$50.00 GPO price for 63.1200-63.1439.

(g) Title 40 C.F.R. part 63, subpart LLL, "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry" (2006), AQD price \$60.00/\$50.00 GPO price for 63.1200-63.1439.

(h) Title 40 C.F.R. §70.3 (2006), "Applicability," AQD price \$39.00/\$29.00 GPO price for Parts 64-71.

(i) Title 40 C.F.R. §70.7(g) (2006), "Reopenings for cause by EPA," AQD price \$39.00/\$29.00 GPO price for Parts 64-71.

(j) Title 40 C.F.R. §70.8(a)(1) and (2) (2006), "Transmission of information to the Administrator," AQD price \$39.00/\$29.00 GPO price for Parts 64-71.

(k) Title 40 C.F.R. §70.8(c) (2006), "EPA objection," AQD price \$39.00/\$29.00 GPO price for Parts 64-71.

(l) Title 40 C.F.R. §70.8(d) (2006), "Public petitions to the Administrator," AQD price \$39.00/\$29.00 GPO price for Parts 64-71.

(4) The ASTM methods are adopted in these rules by reference. Copies are available for inspection and purchase at the Air Quality Division, Department of

Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at the cost at the time of adoption of these rules. Copies may also be obtained from the ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; the ASTM website at [www.astm.org](http://www.astm.org); or contact ASTM customer service at [service@astm.org](mailto:service@astm.org); at a cost as of the time of adoption of these rules as follows:

- (a) ASTM-D-396-05, "Standard Specification for Fuel Oils," \$30.00.
- (b) ASTM-D-2880-03, "Standard Specification for Gas Turbine Fuel Oils," \$30.00.
- (c) ASTM-D-975-05, "Standard Specification for Diesel Fuel Oils," \$35.00.