

STATE OF MICHIGAN
RENEWABLE OPERATING PERMIT
PROGRAM SUBMITTAL

**Pursuant to Title V
of the Clean Air Act**

*Prepared by
Air Quality Division
Michigan Department of Natural Resources and Environment*

November 9, 2010

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I. REQUEST FOR PROGRAM APPROVAL

The Governor of the State of Michigan has delegated to the Director of the Michigan Department of Natural Resources and Environment (DNRE) the authority to make any submittal, request, or application under the federal Clean Air Act (CAA). A copy of that delegation is provided as Attachment A of this Title V Submittal (Submittal).

The DNRE is the agency responsible for implementing and administering the operating permit program required by Title V of the CAA and described in 40 CFR Part 70 for all geographical areas of Michigan. On October 8, 2009, Governor Jennifer M. Granholm issued an Executive Order creating the DNRE, effective January 17, 2010. This new department incorporates the former Michigan Department of Environmental Quality (MDEQ). Both departments will be referenced in this submittal, depending on the associated time period.

Michigan implements the federal requirements through the Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and rules promulgated pursuant to this authority. Specifically, the Air Quality Division (AQD) of the DNRE has the responsibility to implement and administer the federal program through Michigan's Renewable Operating Permit (ROP) program rules, which are incorporated into Part 2 of Michigan's Air Pollution Control Rules.

The AQD has staff located in the Lansing central office and assigned throughout the state in district offices. All air program staff, including those located in the district offices, report to the AQD Division Chief, who reports to the Director.

An organizational chart of the DNRE is provided as Attachment B1. An organizational chart of the AQD is provided as Attachment B2.

II. OVERVIEW ROP PROGRAM DESCRIPTION

The AQD carries out the air quality program in Michigan, with the ROP program primarily implemented through the AQD district offices. District staff handle all aspects of initial issuance, renewals and reopenings of the ROPs. As part of the responsibility for processing initial and renewal applications, district staff log, determine administrative completeness, and track all applications in the geographic area covered by the district. District staff perform the technical reviews of the applications, drawing on the technical expertise of other staff of the AQD as necessary. A map, which delineates the geographic boundaries of each district office, is provided as Attachment B3.

The AQD Permit Section staff in the central office has assumed responsibility for the processing of ROP revisions. However, due to inadequate fee funding, as of Fiscal Year (FY) 2009, the AQD is no longer processing these applications.

Further information on the agency staff who carry out the ROP program, including the number and description of job responsibilities of the employees, is provided in Section VII.

The ROP program is implemented in accordance with the "Implementation Agreement Between the Michigan Department of Environmental Quality and United States Environmental Protection Agency Region 5" (Implementation Agreement). This agreement defines policies, responsibilities, and procedures pursuant to 40 CFR Part 70 by which the ROP program will be administered by both the DNRE and the United States Environmental Protection Agency (EPA). The Implementation Agreement is included as Attachment C.

Article II: Pollution Control, Chapter 1: Point Source Pollution Control, Part 55 (Part 55) of Act 451 authorizes Michigan's ROP program. Section 5506(4) of Act 451 states:

The department shall promulgate rules to establish an operating permit program required under title V to be administered by the department. This permit program shall include all of the following and, at a minimum, shall be consistent with the requirements of title V...

This section ensures that the ROP program is implemented in accordance with Part 70. The ROP program requirements are described in detail in Section VI of this document. Implementation of Title IV, Section 112, Section 114(a)(3) and Section 110(a)(2)(D) of the CAA is integrated into the overall ROP program. Details are provided in Section IX of this document.

The following state statutes are relevant to the ROP program.

- Article I: General Provisions, Part 17, Act 451
- Article II: Pollution Control, Chapter 1: Point Source Pollution Control, Part 55, Act 451
- Administrative Procedures Act (APA), 1969 PA 306, as amended
- Section 631 of the Revised Judicature Act (RJA), 1961 PA 236, as amended
- Freedom of Information Act (FOIA), 1976 PA 442, as amended

Further detail about these statutes is provided in Section III. Copies of these statutes are provided in Attachment D).

There are no administrative rules that apply to administrative and judicial review. The state statutes covering these areas are listed above. The procedures for carrying out administrative and judicial reviews pursuant to these statutes are described in Section V.

Rules 210 to 218 comprise the fundamental ROP program. In addition, Rule 299(d) adopts by reference the federal acid rain, Section 112(g), and Compliance Assurance Monitoring (CAM) programs. Rules 420(3) and 821(2) require that Clean Air Interstate Rule (CAIR) Permits be issued in accordance with the ROP issuance steps established in Rule 214.

Rule 213(3)(c)(ii) specifies that Rule 912 reporting requirements serve to define "prompt" reporting of deviations for Michigan's ROP program. Various definitions contained in Rules 101 to 123 are referred to in Rules 210 to 218 and therefore are also relevant. See Sections III and VI for more information.

Agency forms and program implementation guidance are discussed in Section V.

III. STATUTE AND REGULATIONS THAT COMPRISE THE ROP PROGRAM

A summary of the provisions of Michigan's ROP statute and regulations is provided below. These provisions are discussed in further detail in Section VI.

A. Statute

Part 55 of Act 451 (Attachment D1) authorizes the ROP program and includes the following relevant sections:

- Section 5501 defines ROP program terms.
- Section 5504 requires medical waste incinerators to obtain an ROP.
- Section 5506 establishes the fundamental ROP program.
- Section 5507 establishes what is required in an ROP application and defines "compliance plan."
- Section 5511 specifies the public participation requirements.
- Section 5521 creates the emissions control fund and specifies that monies from the emissions control fund may only be expended on ROP-related activities.
- Section 5522 details the ROP fee requirements.
- Section 5523 establishes a process for delegating the ROP program to county agencies and the criteria to be met to obtain such delegation.

Related statutes are discussed in III.C.2 below and Section V.C.

B. Regulations

1. Program Regulations

The following regulations that comprise the ROP program are included in Part 2 of the Michigan Air Pollution Control Rules:

- Rule 210 – "Renewable operating permits" lays the foundation for the ROP program.
- Rule 211 – "Renewable operating permit applicability" identifies which sources are required to obtain an ROP.
- Rule 212 – "Administratively complete applications; insignificant activities; streamlining applicable requirements; emissions reporting and fee calculations" identifies what information is required to be included in ROP application submittals, emissions reporting, and fee calculations.
- Rule 213 – "Content of a renewable operating permit" lists the minimum requirements for an ROP.
- Rule 214 – "Approval of a renewable operating permit" details the process for approving an ROP.
- Rule 215 – "Operational flexibility, emissions trading activities between stationary sources, off-permit changes, and insignificant changes for a renewable operating permit" identifies the types of changes that may be made at a source covered by an ROP without revising the permit before renewal.
- Rule 216 – "Modifications to renewable operating permits" specifies four types of revisions to ROPs, including administrative amendments, minor modifications, significant modifications and state-only modifications.
- Rule 217 – "Renewals and reopenings of renewable operating permits" details the procedures for renewing and reopening ROPs.

- Rule 218 – "General renewable operating permits" provides that a general ROP may be developed for individual source categories.
- Rule 299 – "Adoption of standards by reference" adopts specific federal regulatory programs.
- Rule 912 – "Abnormal conditions, start-up, shutdown, and malfunction of a source, process, or process equipment, operating, notification, and reporting requirements" includes detailed increments of reporting based on the length and severity of deviations, which serve to define "prompt" reporting of certain deviations that exceed the emissions allowed under an ROP.

A copy of these rules is provided as Attachment E.

2. Evidence of Adoption

Prior Title V Submittals provided evidence of procedurally correct adoption of the administrative rules that comprised the ROP program up through the August 18, 2003, Submittal.

Since that time, only minor administrative changes to the ROP rules have been promulgated. A provision has been added to Rule 211 to require sources subject to 40 CFR Part 63, Subpart LLL, to obtain an ROP. Also, a citation was added to Rule 211 to reference Michigan Rule 1901(t), which provides a definition of major source for nonattainment area. A citation within Rule 214(1) was changed to correctly cite to Rule 213(2). Any 40 CFR Part 70 citations in Rules 211, 213, and 214 were changed to refer to Rule 299, where those portions of Part 70 were adopted by reference. Rule 299 was accordingly updated.

The following materials provided in Attachment F for rule package 2004-007EQ serve as evidence of procedurally correct adoption of these recent amendments to the administrative rules.

C. Other Regulations and Statutes Impacting the ROP Program

1. Regulations

In addition to the regulations described above which comprise the ROP program, the following regulations directly affect the ROP program and are included as Attachment G:

- Various definitions contained in Rules 101 to 123 are referenced in Rules 210 to 218. (Attachment G1)
- Rules 280 through 290, which provide exemption from Permit to Install (PTI) requirements, are cited within Rule 212 to define which processes and process equipment are "insignificant activities" or subject to a minimal information requirement in the ROP application. (Attachment G2)

2. Statutes

As referenced in Sections II.A and III.A above, specific provisions of Part 17 and Part 55 of Act 451 affect implementation of the ROP program and are summarized as follows:

- Section 1701 of Part 17, Act 451
Provides for the commencement of action in circuit court by the Attorney General or any person for declaratory and equitable relief against any person in protection of the air, water, or other natural resources and the public trust in these resources from pollution, impairment, or destruction.
 - Section 1703 of Part 17, Act 451
Requires the plaintiff to make a prima facie showing that the conduct of the defendant has polluted, impaired, or destroyed or is likely to pollute, impair, or destroy the air, water or other natural resources or the public trust in these resources. This section of Act 451 also provides for the defendant to show, by way of affirmative defense, that there was no alternative to the defendant's conduct and that his or her conduct is consistent with the promotion of the public health, safety, and welfare.
 - Section 1704 of Part 17, Act 451
Provides for the court to grant temporary and permanent equitable relief or impose conditions on the defendant to protect the air, water, and other natural resources or the public trust in these resources from pollution, impairment, or destruction.
 - Section 5517 of Part 55, Act 451
Provides for the application for relief from a rule promulgated by the DNRE. The application shall be made by petition in the circuit court and made by one or more persons, jointly or severally, who are aggrieved by a rule promulgated by the DNRE.
 - Section 5535 of Part 55, Act 451
Gives the DNRE the discretionary authority to suspend enforcement of the whole or any part of any rule, unless such suspension would violate the federal CAA, as it applies to any person who shows that the enforcement of the rule would be inequitable or unreasonable, or would be an undue hardship upon such person. This suspension shall be in the form of a variance. Section 5536 describes the parameters associated with a variance granted by the DNRE.
 - Section 5538 of Part 55, Act 451
Limits the amount of time a variance is granted pursuant to Sections 5535, 5536, and 5537 of Part 55, Act 451, to up to one year.
 - Section 5539 of Part 55, Act 451
Provides the DNRE with the authority to revoke or modify any order permitting a variance after providing written notice and the opportunity for a public hearing held with at least ten days notice.
3. Status of Regulations
All identified statutes and regulations are lawfully adopted and fully effective at this time.

IV. LEGAL OPINION OF THE ATTORNEY GENERAL

With the exception of inadequate fee funding, the Attorney General's legal opinion that the DNRE has the necessary authority to carry out all required aspects of the ROP program is provided as Attachment H.

V. RELEVANT PROGRAM DOCUMENTATION AND PROCEDURES

A. Forms and Guidance

1. Agency Forms

The following sets of forms and templates are provided in Attachment I.

- A copy of the existing ROP application forms is Attachment I1.
- The "ROP Shell Document" and associated instructions to staff providing the standard ROP format and language is Attachment I2.
- The ROP Staff Report template providing the template format for documenting the "statement of basis" for terms and conditions within the ROP is Attachment I3.
- Michigan's compliance certification form (EQP5736), deviation reporting form (EQP5737), and associated instructions are included together as Attachment I4.
- Michigan's M-001 and C-001 forms, which are used to submit Rule 215 notifications and Rule 216 applications to revise an ROP, are included together as Attachment I5.

Note: Michigan's ROP program relies on the federal application forms for Acid Rain permit applications. For emission units subject to CAIR program requirements, AQD has created application forms which are consistent with the permit application requirements in 40 CFR Part 97.

2. Relevant Program Guidance Issued by the State

The following program guidance documents are provided in (Attachment J).

➤ Operational Memoranda (Attachment J1)

- No. 1 -- *Modification of a Permit to Install or an Equivalent Emission Limit in a Renewable Operating Permit*. Latest Revision Date: February 14, 1997
- No. 2 -- *Changes at a Stationary Source after Renewable Operating Permit Issuance*. Latest Revision Date: November 26, 2001
- No. 3 -- *Procedure for Limiting Potential to Emit below Major Source Thresholds under the Renewable Operating Permit Program*. Latest Revision Date: February 14, 1997
- No. 4 -- *Mechanisms for Limiting the Applicability of Michigan's Renewable Operating Permit Program*. Latest Revision Date: March 31, 1997
- No. 7 -- *Procedure for Implementation of the Renewable Operating Program Application Shield*. Latest Revision Date: February 14, 1997
- No. 10 -- *Procedures for Handling of Confidential Materials and Freedom of Information Requests for Confidential Materials*. Latest Revision Date: February 28, 1997
- No. 11 -- *Stationary Source Determinations*. Latest Revision Date: February 14, 1997

- No. 12 -- *Incorporating Changes to an Application for a Renewable Operating Permit*. Latest Revision Date: February 14, 1997
 - No. 14 -- *Use of Visible Emissions Limits Less Than 20% Opacity in Permits*. Effective Date: May 6, 1997
 - No. 18 -- *Averaging Times and Compliance Testing*. Effective Date: February 26, 2004
- "PASS-ROP Workbook, A Practical Guide to Completing an Electronic Renewable Operating Permit Application" (Attachment J2)
 - Rule 212 Guidance Memos and Support Tables (Attachment J3)
 - "Procedure to Identify Underlying Applicable Requirements for Conditions in Renewable Operating Permits" (Attachment J4)
 - "Procedures for Evaluating Periodic Monitoring" (Attachment J5)
 - "Life After ROP" Workbook for compliance certification, deviation reporting, and categories of change after ROP issuance (Attachment J6)
 - CAM guidance (Attachment J7)

Additionally, there are detailed in-house procedural instructions for staff to ensure that all steps of the ROP issuance process are completed consistent with 40 CFR 70.7 and Rules 214 and 216.

B. Resources to Develop, Administer, and Enforce the ROP Program

1. Organization and Staffing

An overview description of scope, coverage, etc., of the ROP program is provided in Section VI.

Currently, the DNRE's AQD includes 188 full-time equivalent (FTE) positions in the Air Program. In FY10, the ROP program revenue funded a total of 74 FTEs in the program, 72 in the AQD and 2 in the Clean Air Assistance Program of the DNRE's Office of Pollution Prevention and Compliance Assistance (OPPCA).

The general Position Descriptions of the positions of the staff carrying out the ROP program are provided as Attachment K.

2. Program Costs and Funding

Recent and projected program costs, including support activities from other agencies, are discussed in Section VII.

C. Administrative and Judicial Review Procedures

Certain state administrative and judicial rights and responsibilities that are contained in Michigan law impact the process of issuance, denial, modification, suspension or revocation of ROPs and the enforcement of such permits. (See Attachment D for copies of the referenced statutes.)

- Administrative Procedures Act (APA) (Attachment D2)
The APA is an Act to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters. While programmatic statutes (such as the Act 451) describe situations in which APA reviews are permissible, the APA describes the process for implementing

such due process as contested case proceedings. The APA provides the right to a judicial appeal after all administrative appeals have been exhausted.

- **Revised Judicature Act (RJA) (Attachment D3)**
The RJA is the mechanism for judicial appeals of agency decisions when no evidentiary hearing (contested case) is required by law. In cases where the APA applies, the underlying statute specifies the appeal route. In most places in Part 55, Act 451, the RJA is specified. Section 631 of the RJA allows for review of "the record" of the decision (i.e., an appeal, not a completely new review of the facts). The standard of review under the RJA is whether the agency's decision was authorized by law, and in cases where an evidentiary hearing was held, whether the decision was supported by competent, material, and substantial evidence on the whole record.

D. Opportunities for Review of Actions on ROPs

- Section 5506(14) of Act 451 provides the owner or operator of an existing source the opportunity for review of the denial of an application for an ROP, general permit, or a non-renewable permit to operate, the revision of any emissions limitation, standard, or condition, or a proposed revocation of any permit. Such review would be pursuant to the contested case and judicial review procedures of the APA. This section also provides for any person to appeal the issuance or denial of an ROP in accordance with the provisions of Section 631 of the RJA and allows for the filing of a petition for judicial review as the exclusive means of obtaining judicial review of a permit within 90 days after final permit action.
- Section 5506(15) of Act 451 provides that the DNRE's failure to act on a technically and administratively complete application for an ROP, within the time frame established pursuant to Section 5506(3) of Act 451, shall be considered a final permit action solely for the purpose of obtaining judicial review in a court of competent jurisdiction to compel the DNRE to take action on the application or renewal application.
- Rule 216 provides procedures applicable to the appeal of the DNRE's final action regarding the modification of ROPs. Rule 216(1)(d) specifies that upon denial of the request for an administrative permit amendment, the person applying for the amendment may appeal the DNRE's denial pursuant to Section 631 of the RJA.
- Rule 216(2)(c) specifies that upon denial of the application for a minor permit modification, the person applying for the modification may appeal the DNRE's decision pursuant to Section 631 of the RJA.
- Rule 216(3)(e) describes that upon denial of the application for a significant modification application, the person may appeal the DNRE's denial pursuant to Section 631 of the RJA.

E. Opportunities for Review of Other Program Actions

1. Fee Calculation and Payment

Section 5522(6) of Act 451 provides the opportunity for the owner or operator of a fee-subject facility to challenge its assessed fee. A formal challenge must be made in writing within 45 calendar days of the mailing date of the air quality fee notification. The DNRE shall make a decision regarding this challenge within 30 days of receipt. If an owner or operator of a fee-subject facility desires to further challenge the assessed fee, there is an opportunity for a contested case hearing as provided for under the APA. There is no deadline set for filing such an APA appeal.

Section 5522(8) of Act 451 provides the opportunity for the owner or operator of a fee-subject facility to provide corrections to the DNRE's calculation of the facility's emissions for the previous year. Corrections to the calculations must be submitted within 60 days. A final determination by the DNRE shall be made by December 15 of that year. If the owner or operator of a fee-subject facility disagrees with the determination of the DNRE, they may request a contested case hearing as provided for under the APA. There is no deadline set for filing such an APA appeal.

2. Enforcement Action

Section 5518(1) of Act 451 provides for the DNRE to order any person to discontinue polluting the air if the DNRE finds that such discharge is occurring and the discharge is an imminent and substantial endangerment to the public health, safety, or welfare or the environment. The DNRE shall provide the person the opportunity to be heard and to present any proof that the discharge does not constitute an imminent and substantial endangerment to the public health, safety, welfare, or to the environment. Subsection (3) provides for an order issued by the DNRE under Subsection (1) to be effective upon issuance but not longer than 7 days unless the Attorney General brings a civil action against the person under Subsection (2) or Section 5530 of Part 55, Act 451.

Section 5515 of Act 451 requires the DNRE to attempt to enter into a voluntary agreement with a person or persons after an investigation by the DNRE has determined that the person has violated Part 55, a rule promulgated under Part 55, a permit issued under Part 55, or an order issued under Part 55. Subsection (3) of this section provides that in the event a voluntary agreement is not entered, the DNRE may issue an order requiring a person to comply. Subsection (4) of this section provides the opportunity for any person aggrieved by the issuance of an order under Subsection (3) to appeal the decision pursuant to the contested case proceedings of the APA within 30 days of the effective date of the order. The DNRE shall then schedule a hearing on the matter within 30 days of receipt of the request for a contested case hearing. The final order or determination of the DNRE, following the contested case hearing, is final unless reviewed in accordance with the judicial review proceedings under the APA.

Section 5529(1) of Act 451 provides the DNRE with the authority to assess administrative fines of up to \$10,000 for each instance of violation and for each day of non-compliance, if the violation continues, limited to matters where the administrative fines do not exceed \$100,000 and the first day of the violation is within 12 months prior to initiation of the administrative action. Section (3) allows a

person to file a petition with the DNRE to review the fine within 28 days of its assessment, pursuant to the contested case proceedings of the APA.

F. Michigan's Permit Issuance Information

As specified in Rule 210(5), a stationary source that becomes subject to the ROP program must submit an ROP application within 12 months of the date of becoming subject to the program. Rule 210(14) states that final action is required on each administratively complete application within 18 months after receipt of that application.

All facilities existing at the beginning of the ROP program in Michigan have obtained their initial ROP. Currently, approximately 380 sources are required to obtain an ROP. As of December 30, 2009, there were 376 ROPs issued and 4 new initial ROP applications received. ROP renewals were pending for 58 ROPs that had terms extended past 5 years from the initial issuance date, with 32 of those applications having been received less than 18 months before.

G. Data Management System and Information Availability

The AQD keeps all ROP records for at least 5 years and will submit to the EPA whatever is necessary for the EPA to ascertain program compliance with Part 70. See Attachment L for Michigan's protocols and procedures for document retention.

Michigan provides an electronic application system called "PASS-ROP" for use by ROP applicants. Applicants are required to provide a hard copy of the complete ROP application submittal, printed out from the electronic system if it is utilized. If an ROP application is submitted as a print copy only, the AQD staff enter the data into the "ROP Toolkit" electronic database. The electronic version of the ROP application is placed on the AQD Internet ftp site for the EPA staff to access and a hardcopy is provided upon request. AQD is currently working with stakeholders to develop a streamlined application process for renewals that would no longer rely on the PASS-ROP software.

Upon receipt of an application for an ROP in the district office, basic information about the application is logged into the permit tracking component of the ROP Toolkit, including the applicant's name and address and the date the application was received. If the application includes the completeness check using the software provided by the DNRE, that software is also used by the DNRE to determine the administrative completeness of the application. If that software is not included, DNRE staff manually enters the required information into the completeness checking software.

As an ROP progresses through the steps of issuance, electronic copies of the associated documentation are made available to the EPA and any other interested parties through the AQD Internet site at http://www.deq.state.mi.us/aqd/rop/pub_ntce.html. When the public comment period begins for a draft ROP, the Public Notice and the Staff Report are placed on the Internet site. After the public comment period has ended and any appropriate changes have been made, a Proposed Permit and a Staff Report are made available through the Internet for the EPA's 45-day review. At this point, the Draft Permit and Public Notice are removed from this site because the public comment period has ended. After the EPA review period, a Final Permit is prepared. When the Final Permit is

issued, it is placed on the Internet and the proposed version is removed. The Final Permit and the associated Staff Report remain permanently available at this Internet location. Printed copies of all ROP documentation are kept in the AQD files and archives in accordance with the DNRE policy.

The ROP Toolkit is used to log and track the key events in ROP development. Status reports are extracted from this database for the weekly reports to the EPA. Details regarding the information reported to the EPA are provided in the Implementation Agreement (See Attachment C).

Enhancements to the Michigan Air Compliance and Enforcement Systems (MACES) are in progress to be used in the future to log applications and track development dates for each ROP. These enhancements are projected to be functional in October 2010. Queries will be developed to extract the data necessary to provide the required status reports to EPA.

Confidential Information

Section 5516 of Act 451 defines what information can and cannot be held confidential by the DNRE. Section 5516 specifies that, "This section does not render data on the quantity, composition, or quality of emissions from any source confidential. Data on the amount and nature of air contaminants emitted from a source shall be available to the public." This section refers to Section 5 of the FOIA. A copy of the FOIA is provided in Attachment D4.

To assure that a complete copy of each application for an ROP is transmitted to the EPA, Rule 210(13) requires a person that submits confidential information as a part of an application for an ROP to also submit a separate copy of that information directly to the EPA. Also, Rule 213(1)(e) requires that each ROP include a provision which requires that the person submit directly to the EPA any confidential information requested by the DNRE to determine whether cause exists to modify, revise, or revoke the ROP.

VI. PROVISIONS IN STATUTE, REGULATIONS, PROCEDURES, GUIDELINES OR POLICIES FOR IMPLEMENTING THE ROP PROGRAM

A. Sources Subject to the ROP Program

Section 5506(4)(a) of Act 451 requires the DNRE to promulgate rules defining the sources which are subject to the ROP program and restricts the DNRE to including only those sources required to obtain a permit under Section 502(a) of the CAA. Rule 211 describes the sources subject to the ROP program. These include sources defined as "major" under Title I of the CAA, any affected source under the CAA Title IV acid rain program, any solid waste incinerator unit subject to CAA Section 129(e), municipal solid waste landfills with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, any Portland cement plant subject to 40 CFR Part 63, Subpart LLL, and any source in a source category designated by the EPA Administrator as required to obtain a Title V permit.

It is anticipated that a future program revision will be required to expand the program to include any non-major sources that must be included pursuant to federal rule making as provided in 40 CFR 70.3(b)(1) and (2).

Each stationary source that meets the criteria in Rule 211 is required to apply for, obtain, and only operate in compliance with an ROP pursuant to Rule 210. Further details are provided in Section VII.

Specific Exemptions

Michigan's ROP program includes a short list of exempt source categories consistent with the provisions of 40 CFR 70.3(b)(4). Specifically, Rule 211(3) provides an exemption from the requirement to obtain an operating permit for any source which would have been required to obtain an ROP solely because the source is subject to the residential wood heater New Source Performance Standard (NSPS) (40 CFR 60, Subpart AAA), or to the asbestos demolition and renovation National Emission Standard for Hazardous Air Pollutants (NESHAPs) (40 CFR 61.145).

B. Permit Application Content and Submission Requirements

1. Application Submittal

Rule 210(5)-(8) requires subject sources to submit a complete ROP application within the time frames mandated by 40 CFR 70.5(a).

2. Application Content

Section 5507 of Act 451 specifies the content of administratively and technically complete applications for ROPs. The DNRE has developed permit application forms which sources are required to use. The DNRE also developed an electronic application format which sources are encouraged to use. A set of the existing application forms, including instructions, is provided as Attachment I1.

The statutory language was developed based on 40 CFR 70.5 and is consistent with the federal regulations with one exception. Michigan's program is designed to focus the application on the applicable requirements to which the source is subject. As a result, the only emission data required to be submitted in the application is that information necessary to show the source's status of compliance with the applicable requirements (as defined in Rule 101(o)). Complete information on emissions of all regulated air contaminants from all processes at the source is required to be submitted to the emission inventory system pursuant to Rule 212(7). As a result of this change, complete emission data is submitted to the DNRE every year instead of every five years during permit renewal under the requirements of 40 CFR 70.5. This approach is consistent with the EPA White Papers.

The DNRE's Office of Pollution Prevention and Compliance Assistance, Clean Air Assistance Program (CAAP) publishes a workbook for completing ROP application forms. The "Life After ROP" workbook has also been created to provide guidance and instruction on how to complete applications for ROP revisions. CAAP provides training sessions on completing an ROP application upon request across the state to subject sources and other interested parties.

The DNRE has created many additional guidance documents to assist companies in preparation of complete applications. See Attachment J for these guidance documents.

3. Insignificant Activities and Exempt Processes

Section 5507(2) of Act 451 requires the DNRE to promulgate rules defining the insignificant processes or activities that are exempt from the application content requirements of the ROP program.

Michigan's program defines both insignificant activities and processes that are exempt from having to be included in a major source's application for an ROP. In no case can a process that is subject to a specific applicable requirement be considered insignificant or exempt pursuant to Rule 212(3) or (4).

Insignificant activities are defined pursuant to Rule 212(2). These activities as a group are consistent with the federal definition of "secondary emissions" or are clearly outside of the definition of a "stationary source" (see 40 CFR 51.165 and 51.166). The Rule 212(2) list is largely consistent with the list of "trivial activities" included in the EPA White Paper No. 2.

Exempt processes are defined pursuant to Rule 212(3) and (4). The general approach was to be consistent with the existing State Implementation Plan (SIP) by providing that any process which is exempt from NSR is also exempt from the application content requirements of the ROP program, unless an applicable requirement applies specifically to that process. For the purpose of meeting the requirements of 40 CFR 70.5(c), exempt processes have been divided into two distinct categories. Processes listed in Rule 212(3) generally do not include size or production rate restrictions and therefore do not need to be listed in the application. Processes listed in Rule 212(4) generally include size or production rate restrictions and must be listed in a complete application.

Also, Rule 212(7) provides for an exemption from the need to calculate actual emissions from a process where the only applicable requirement that would require such calculation is the requirement to pay fees. Once again, this exemption does not apply to a process that must have the emissions calculated for an air contaminant in order to demonstrate compliance with a process-specific applicable requirement.

4. Complete Applications

Rule 210(2) requires that an "administratively complete" ROP application contain reasonable responses to all requests for information contained in the application forms supplied by the DNRE. The rule also requires that the application forms be designed to be consistent with the requirements of Section 5507 of Act 451. Section 5506(17) defines a technically complete application as all the information requested on the application forms and any other information requested by the DNRE and necessary to implement and enforce or to determine the applicability of any applicable requirement. Rule 210(2) also requires that the application contain a certification of compliance with all applicable requirements; a statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and test methods; and a statement indicating the stationary source's compliance status with any applicable enhanced

monitoring and compliance certification requirements of the CAA. As discussed above, Rule 212 further describes what information must be included in an ROP application.

For emission units subject to Title IV Acid Rain Program requirements, information must be provided on the EPA forms in accordance with the federal acid rain program, which is adopted by reference in Rule 299(d). For emission units subject to CAIR program requirements, the AQD has created application forms which are consistent with the permit application requirements in 40 CFR Part 97. Sources are required to submit renewal applications in the same time frame as an ROP renewal application to coordinate the issuance and integration of the Acid Rain and/or CAIR Permits into the ROP.

Rule 210(2)(b) and (c) require the submittal of additional information if the applicant becomes aware of an error in the permit application or if the source becomes subject to additional applicable requirements before the permit is issued. Rules 210(2)(c) and 210(3) provide DNRE the authority to request additional information as needed during the course of the review.

5. Permit Application Shield

Pursuant to Section 5506(2) of Act 451 Michigan's program applies the concept of a permit application shield to both the initial and renewal applications for an ROP.

Rule 210(1) states that continued operation of the process and process equipment located at the major source while the application is being reviewed by the DNRE is not a violation if the owner or operator of a major source submits a timely and administratively complete application. The rule further states that the application shield does not apply if the application is not timely in accordance to Rule 210(4) to (7) or administratively complete in accordance with Rule 210(2). A person will lose the application shield if, during the review, the DNRE requests additional information necessary for a technically complete application and a timely and complete response to that request is not provided to the DNRE within the deadlines specified in Rule 210(3).

Michigan's program does not include a specific time frame for a person to respond to notification from the DNRE that an application submittal is administratively incomplete. Instead the deadlines set in Rule 210(4) to (7) represent clear requirements for when any application must be deemed administratively complete to be considered timely in order for the application shield to apply. If a person is unsure of the administrative completeness of an application, that application would need to be submitted far enough in advance of the appropriate submittal deadline to allow for submittal of any information requested by the DNRE within the time frames provided for the completeness review.

Rule 210(12) fulfills the 40 CFR 70.7(a)(6) requirement to ensure that submittal of a complete ROP application is independent of any NSR permit requirements.

C. Permit Content

1. Incorporation of All Applicable Requirements

Section 5503(b) of Act 451 provides the DNRE with the authority to issue permits for the construction and operation of sources, processes, and process equipment, subject to enforceable limitations and standards and other conditions reasonably necessary to assure compliance with all applicable requirements of the Act 451, rules promulgated under Act 451, and the CAA.

Rule 101(o) defines applicable requirement as follows:

'Applicable requirement' means any of the following as they apply to process or process equipment, including requirements that have been approved as administrative rules under the act pursuant to 1969 PA 306, MCL 24.201 et seq. or promulgated by the United States environmental protection agency through final rulemaking at the time of issuance of a permit under the act and which will become effective during the permit term:

- (i) A standard or other requirement provided for in the Michigan state implementation plan, as approved or promulgated by the United States environmental protection agency through rulemaking under title I of the clean air act, that implements the relevant requirements of the clean air act, including any revisions to that plan promulgated in 40 CFR part 52.
- (ii) A standard or requirement enacted as a part of the act or promulgated in administrative rules pursuant to the act.
- (iii) A term or condition of any permit issued pursuant to the act or regulations approved or promulgated through rulemaking under title I, including parts c or d, of the clean air act.
- (iv) A term or condition of an order entered pursuant to the act that is necessary to ensure or demonstrate compliance with any other applicable requirement.
- (v) A term or condition of a permit issued by the United States environmental protection agency pursuant to title I, subpart c, of the clean air act.
- (vi) A term or condition of any permit issued pursuant to the Wayne county air pollution control ordinance, adopted pursuant to the home rule charter for Wayne county, resolution no. 85-305, as amended by resolution no. 89-213.
- (vii) A term or condition of an order entered pursuant to the Wayne county air pollution control ordinance, adopted pursuant to the home rule charter for Wayne county, resolution no. 85-305, as amended by resolution no. 89-213, that is necessary to ensure or demonstrate compliance with any other applicable requirement.
- (viii) A standard or other requirement under the clean air act, including any of the following:
 - (A) A standard for the performance of new stationary sources or other requirement under section 111 of the clean air act, including section 111(d).
 - (B) A standard for hazardous air pollutants or other requirement under section 112 of the clean air act, including any requirement concerning accident prevention under section 112(r)(7) of the clean air act.

- (C) A standard or other requirement of the acid rain program under title IV of the clean air act or the regulations promulgated thereunder.
- (D) A requirement for enhanced monitoring established pursuant to sections 114(a)(3) or 504(b) of the clean air act.
- (E) A standard or other requirement governing solid waste incineration under section 129 of the clean air act.
- (F) A standard or other requirement for consumer and commercial products under section 183(e) of the clean air act.
- (G) A standard or other requirement for tank vessels under section 183(f) of the clean air act.
- (H) A standard or other requirement of the regulations promulgated to protect stratospheric ozone under title VI of the clean air act, unless the administrator of the United States environmental protection agency has determined that the standard or requirement need not be contained in a renewable operating permit required under title V of the clean air act.
- (I) A national ambient air quality standard or increment or visibility requirement under part C of title I of the clean air act, but only as it would apply to temporary sources.

Section 5506(6) of Act 451 also addresses specific requirements for the content of ROPs. Rule 213 provides the specific requirements for the content of each ROP. The provisions of this rule are consistent with the requirements contained in 40 CFR 70.6.

Rule 213(1) addresses general conditions that are included in each ROP. Provisions for including emission limits and standards that ensure compliance with all applicable requirements are included in Rule 213(2). Provisions for including sufficient testing, monitoring, recordkeeping, reporting and compliance evaluation activities are included in Rule 213(3). Rule 213(3) also defines "prompt reporting of deviations." Provisions for including a schedule of compliance in an ROP and to require compliance certifications at least annually are included in Rule 213(4).

Michigan utilizes an "ROP Shell" template and associated detailed instructions to staff to provide a standard ROP format. Special templates have also been created to establish consistency in identifying key terms and conditions for the following federal standards:

- 40 CFR Part 63, Subparts F, G, H & I - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry
- 40 CFR Part 63, Subpart N - National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
- 40 CFR Part 63, Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
- 40 CFR Part 63, Subpart T - National Emission Standards for Halogenated Solvent Cleaning
- 40 CFR Part 63, Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations

- 40 CFR Part 63, Subpart KK - National Emission Standards for the Printing and Publishing Industry
- 40 CFR Part 63, Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
- 40 CFR Part 63, Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks
- 40 CFR Part 63, Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
- 40 CFR Part 63, Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products
- 40 CFR Part 63, Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products
- 40 CFR Part 63, Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture
- 40 CFR Part 63, Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters (3 separate templates based on fuel type and capacity)
- 40 CFR Part 63, Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries
- 40 CFR Part 63, Subpart HHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
- 40 CFR Part 63, Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards
- 40 CFR Part 60, Subpart Cc and WWW and 40 CFR Part 63, Subpart AAAA – Municipal Solid Waste Landfill (3 separate templates based on capacity)

In the future, additional templates will be developed. The existing templates will be revised as appropriate, e.g. when federal standards are changed.

Michigan's definition of "applicable requirement" includes requirements that are not a result of the requirements of the CAA; therefore, they are not required to be enforceable under that Act. Rule 213(5) requires that the DNRE specify any conditions of an ROP which are not required by provisions of the CAA to be specifically designated as such. Conditions so designated would not be subject to affected state and the EPA review pursuant to Rule 214.

Section 5506(11) of Act 451 and Rule 213(6) provide for a permit shield to be included in each ROP consistent with 40 CFR Part 70.6(f). Temporary sources are addressed in Rule 213(11) consistent with 40 CFR 70.6(e).

2. Emergency Provisions

Section 5527 of Act 451 provides an affirmative defense for emergencies consistent with the provisions of 40 CFR 70.6(e).

3. General ROPs

Section 5506(16) of Act 451 provides the DNRE with the authority to issue general ROPs. Rule 218(1) requires these permits to comply with all the same content requirements and the EPA and affected state review requirements as any other ROP. The general ROP must also identify the criteria needed to qualify for the permit. In addition, Rule 218(1) gives authority for the DNRE to take enforcement

action against any person that applies for a general permit if the DNRE later determines that the source does not meet the qualifications for that permit.

Rule 218(2) requires a source to apply to the DNRE for coverage under a general permit. It also authorizes the DNRE to deviate from the application content requirements of Section 5507 of Act 451 provided that the application complies with the requirements of Title V of the CAA. This paragraph also provides that the granting of a general permit to an individual stationary source is not a final action for the purposes of judicial review.

D. Permit Issuance/Revision Procedures

1. Permit Issuance Process

Section 5506(4)(g) of Act 451 requires the DNRE to promulgate rules defining the procedures for issuing ROPs. The permit issuance procedures under Michigan's program parallel the requirements of 40 CFR 70.7 and can be found in Rule 214.

2. Administrative Completeness Check

Rule 210(2)(a) requires that the DNRE notify an applicant regarding the administrative completeness of an application within 60 days of receipt of a paper form application or within 15 days of receipt of an electronic form application. In order to provide for a 15-day completeness check, the DNRE developed software called PASS-ROP to allow the applicant to submit an electronic version of the ROP application. This software includes an electronic completeness check that the applicant can run prior to submitting the application to ensure that all required forms have been included with the application. If any forms or information are determined to be missing, a letter is generated to the applicant requesting all missing information. If the applicant submits an electronic application using the PASS-ROP software, the DNRE provides that applicant with the 15-day completeness review. If the DNRE does not notify the applicant that an application is not administratively complete within the appropriate time frame specified in Rule 210(2)(a)(i)(A) and (B), the application shall be considered administratively complete.

3. Technical Review of Applications and Public, Affected State and EPA Review Authority to approve draft, proposed, and final permits is decentralized to the district offices. Applications for ROPs are reviewed by the environmental quality analysts and environmental engineers assigned to those offices. Assistance from central office staff, including the Field Operations Manager, Technical Support Unit, and the Permit Section, is provided on an as-needed basis.

With regard to air quality modeling, Michigan's program does not include provisions for evaluating a major source's impacts on any ambient air quality standard or ambient air increment as a part of the review of an application for an ROP. In the July 21, 1992 Preamble to the 40 CFR 70 regulations, the EPA stated that it does not consider air quality standards and increments to be an applicable requirement for individual stationary sources; instead, they are considered to be requirements which are the responsibility of the regulatory agency as addressed by the SIP.

Rule 214 establishes the requirements and procedures for review of a draft ROP by the applicant, public, affected states, and the EPA for initial issuance, significant

modifications, and renewals. Rule 214(1) requires the DNRE to prepare a draft permit and a report that sets forth the applicable requirements and the factual basis for the terms and conditions contained in the draft permit. Rule 214(2) requires that the applicant be provided a reasonable period of time to review these documents prior to the start of the public participation process. Specific procedures for the public participation process, including the requirement for a 30-day public comment period and an opportunity for a public hearing, if requested, are contained in Rule 214(3). In addition to the 30-day public comment period provided for each draft ROP, Section 5511 of Act 451 requires that the DNRE to provide lists of all permit applications to the Board of Commissioners of each county and any other person that requests such information. These lists are required to include the status of each application and be updated on a monthly basis.

Any affected states are also provided a 30-day opportunity to comment on any draft permit pursuant to Rule 214(4). This 30-day period will normally run simultaneously with the 30-day public comment period. This rule also requires the DNRE to notify the EPA and the affected state, in writing, of any refusal to accept recommendations made by the affected state during the 30-day review period, except for recommendations that are not based on applicable requirements.

After completion of the public participation process and affected state review, the DNRE prepares a proposed ROP. If the proposed permit differs from the draft permit in response to the comments received, then the applicant is provided additional time to review the changes prior to submittal to the EPA. Rule 214(6) requires that the proposed permit be transmitted to the EPA for a 45-day review period, except as provided under 40 CFR 70.8(a)(1) and (2). Pursuant to Section 5506(10) of Part 55, Act 451, and Rule 214(6), the DNRE cannot issue any ROP if the Administrator of the EPA objects to its issuance before the end of the 45-day review period. Such a permit would not be issued until the Administrator's objections are resolved.

4. Final Permit Issuance

Rule 214(7) requires that the DNRE make a final decision to issue or deny the ROP after completion of the EPA review period. Specific reasons for denial of a permit by the DNRE are contained in Section 5510 of Act 451. Also pursuant to Rule 214(7), the DNRE provides a copy of each final ROP to the EPA. An electronic copy is made available through the Internet, with a hard copy available upon request.

E. Permit Modifications/Revision

Section 5506(4) of Act 451 requires that the DNRE promulgate rules to provide for amendments, modifications, and revisions of operating permits for cause. Provisions for amendments and modifications are contained in Rule 216 and provisions for revisions for cause (reopenings) are contained in Rule 217. The AQD has developed the M-001 (*Rule 215 Change Notification or Rule 216 Amendment/Modification Application*) form specifically to be used for all revision submittals. (See Attachment 15.) The form and instructions, in conjunction with the "Life After ROP" Workbook, lead permittees through the steps of evaluating a potential change to be made after ROP issuance to determine which of the following categories apply.

1. Administrative Permit Amendments

Section 5506(4)(k) of Act 451 and Rule 216(1)(a) define the types of changes that qualify as administrative permit amendments. This definition includes all changes included under 40 CFR 70.7(d)(1). Rule 216(1)(a)(v) includes in the definition of an administrative permit amendment a change that incorporates the terms and conditions of a PTI issued pursuant to Rule 201, provided the PTI includes terms and conditions which meet the ROP content requirements of Rule 213 and the procedure for issuing the PTI included a public participation process and affected state review substantially equivalent to the requirements for issuance of ROPs pursuant to Rule 214. Terms and conditions from a PTI cannot be incorporated into an ROP as an administrative permit amendment if the permittee is not in compliance with those terms and conditions or if the permittee is requesting changes to those terms and conditions. Once a PTI has been issued, the permittee is required to notify the DNRE within 30 days of commencing operation of the change authorized by the PTI unless a different time frame is authorized in the permit. Upon completion of all testing, monitoring, and recordkeeping required by the PTI, but not more than 12 months after the date of completion of the change unless a different time frame is specified, the permittee is required to report the results to the DNRE. This report must also request that the terms and conditions of the PTI be incorporated into their ROP as an administrative permit amendment. Besides the results of the testing, monitoring, and recordkeeping, this report must include a schedule of compliance and a certification by a responsible official. This report combined with the information in the M-001 application form results in a complete application for a modification to the ROP consistent with the requirements of 40 CFR 70.5.

The process for making administrative permit amendments, except for those changes which incorporate the terms and conditions of a PTI, is consistent with the requirements found in 40 CFR 70.7(d)(3) and is found in Rule 216(1)(b). The process for incorporating the terms and conditions of a PTI as an administrative permit amendment is found in Rule 216(1)(c). This process requires the DNRE to determine whether the information included in the report provides an acceptable demonstration of compliance with the PTI and to transmit a copy of the report and the proposed amended ROP to the EPA for a 45-day review period. Rule 216(1)(c)(ii) specifies that the DNRE will not approve incorporation of the terms and conditions of the PTI into the ROP as an administrative permit amendment if the Administrator of the EPA objects during the 45-day review period.

To provide for clarity during the 12-month period when the stationary source is operating under both the ROP and the PTI before the conditions of the PTI are incorporated into the ROP, Rule 216(1)(c)(iii) provides that the permittee may choose to comply only with the modified terms and conditions of the PTI. However, if the permittee does not comply with the terms and conditions of the PTI, the existing terms and conditions contained in the ROP are enforceable. This requirement is similar to the flexibility provided to a permittee under the minor permit modification procedures contained in 40 CFR 70.7(e)(2)(v).

The permit shield does not apply to any administrative permit amendment until the DNRE has approved the amendment. Rule 216(1)(d) provides for the appeal process if the DNRE should deny any administrative permit amendment.

2. Minor Permit Modifications

Provisions for minor permit modifications, which are consistent with the requirements of 40 CFR 70.7(e)(2), are included in the program. Just as in the federal requirements, Michigan's program does not define what a minor permit modification is but rather what it is not. Gatekeepers consistent with the federal requirements have been provided in Rule 216(2)(a). The requirements for an application for a minor permit modification are provided in Rule 216(2)(b) and the process for reviewing the application is provided in Rule 216(2)(c). The minor permit modification process is most often used to incorporate the terms and conditions of PTIs in instances where the process for approval of that permit did not include public participation and affected state review substantially equivalent to the requirements of Rule 214. Consistent with the federal requirements, Rule 216(2)(f) states that the permit shield does not apply to minor permit modifications. Rule 216(2)(c)(iii)(D) provides for the appeal process if the DNRE should deny any minor permit modification.

The DNRE has promulgated specific rules for market-based emission trading provisions. Language has been included in Rule 216(2)(e) to provide for the use of minor permit modifications to implement market-based emission trading programs once they have been approved by the EPA as a part of the SIP. Any such program will identify the specific changes that could be made as minor permit modification.

Provisions for group processing of minor permit modifications have not been included in Michigan's program.

3. Significant Permit Modifications

Provisions for significant permit modifications, which are consistent with the requirements and definitions of 40 CFR 70.7(e)(4), are included in the program. Rule 216(3)(a) defines a significant permit modification as any revision which does not qualify as an administrative permit amendment or a minor permit modification. For significant modification applications, Michigan's program requires the use of the M-001 form along with the same application forms required for initial and renewal applications. Rule 216(3)(b) provides that the application need only address that process or process equipment which is being modified. The terms and conditions of a significant permit modification and the process for approving such a modification are addressed in Rule 216(3)(c) and (d), respectively, and refer to the content (Rule 213) and approval process (Rule 214) requirements used for initial issuance of an ROP. Because significant permit modifications refer to the permit content requirements of Rule 213, the permit shield would apply to such modifications once the DNRE has approved the modification. Rule 216(3)(e) provides for the appeal process if the DNRE should deny any significant permit modification.

4. State-Only Modifications

A separate procedure is provided in Rule 216(4) to make changes to those terms and conditions of the ROP which are designated as "state enforceable only" or are not enforceable under the federal CAA. This procedure is designed to be similar to the procedure provided for minor permit modifications.

5. Reopenings

Provisions for reopening ROPs, consistent with 40 CFR 70.7(f), are provided in Rule 217(2). The conditions under which the DNRE would reopen a permit are listed in Section 5506(7) of Act 451 and in Rule 217(2)(a). Rule 217(2)(b) requires that the process to issue a revised ROP after it has been reopened must be the same as required for initial issuance under Rule 214 and that the reopening shall affect only the portions of the permit which are being reopened. Rule 217(2)(c) requires the DNRE to notify a permittee at least 30 days prior to initiating any reopening procedure.

6. Renewal of ROPs

Section 5506(4)(g) of Act 451 requires the DNRE to promulgate rules for the renewal of ROPs. Michigan's program is based on the assumption that the permit renewal process is the same as the initial permit issuance process and that all the requirements that apply to renewal permit applications and associated content and issuance procedures are the same as for the initial ROP. Rule 210(2) requires applications for initial ROPs and renewal ROPs to contain the same types of information. As stated previously, Michigan is in the process of working with stakeholders to develop streamlined application forms for renewals to allow the applicant to cite information already included in an existing ROP. Rule 210(7) requires a person to apply for renewal of an ROP not less than 6 months or more than 18 months before the expiration of the existing ROP.

Rule 217(1)(a) provides that if a person makes a timely and complete application for a renewal permit, but the DNRE has failed to take action on that application before the end of the term of the existing permit, then the existing permit shall not expire until the DNRE takes final action on the renewal application. Rule 217(1)(b) requires that when issuing renewal ROPs, the DNRE must follow the same procedures as for initial permit issuance.

F. Changes Not Requiring ROP Revision Until Renewal

Subsections 5506(4)(h), (i), (j), (l), and (m) of Act 451 list the types of changes that are allowed in Michigan's program without requiring a revision to the ROP before renewal. These requirements encompass all of the opportunities for operational flexibility and off-permit changes provided under 40 CFR 70.4(b)(12) and (14), as well as the provision for emission trading between facilities allowed under 40 CFR 70.6(a)(8). These provisions are contained in Rules 213 and 215.

1. Operational Flexibility

- Equivalent Emission Limits Under the SIP - Michigan's program provides for inclusion of equivalent emission limits in the ROP for emission limits contained in the SIP whenever the use of such alternate limits is provided for under the SIP. This flexibility is provided pursuant to Rule 213(2)(c). Any ROP containing such equivalent emission limits must include terms and conditions necessary to assure that the limits are quantifiable, accountable, enforceable, and based on replicable procedures.
- Alternate Operating Scenarios - Michigan's program provides for alternate operating scenarios to be included in an ROP pursuant to Rule 213(8). This

rule requires the DNRE to include any scenarios that are requested by the permit applicant that the DNRE finds to be approvable. Because the terms and conditions addressing the alternate operating scenarios will be included in the ROP, the "permit shield" would extend to those scenarios.

- "Section 502(b)(10)" Changes - Rule 215(1)(a) provides for a person to make changes which would contravene a specific permit term or condition, provided that the change is not a modification under any applicable provision of Title I of the CAA and the emissions resulting from the change do not exceed the emissions allowable under the ROP. Such changes are referred to as
 - "Section 502(b)(10)" changes in 40 CFR 70 regulations and these provisions are consistent with the requirements of 40 CFR 70.4(b)(12)(i). Pursuant to Rule 215(5), the permit shield does not apply to any "Section 502(b)(10)" changes.
 - Emissions Trading Within a Stationary Source - In keeping with 40 CFR 70.4(B)(12)(ii), Michigan's Rule 215(1)(b) provides for the trading of emissions increases and decreases among the process and process equipment at a stationary source as allowed by procedures specified in a federally approved emissions trading program as part of Michigan's SIP. This provision requires a detailed written notification to be submitted to the DNRE at least 7 days before the activity would occur. Pursuant to Rule 215(5), the permit shield does not apply to any intra-facility trading activities.
2. Emission Trading Between Stationary Sources
Rule 215(2) includes a provision to allow for market-based emission trading program activities consistent with the provisions of 40 CFR 70.6(a)(8) after the trading program has been approved by the EPA as a part of Michigan's SIP. The emissions trading program will specifically identify the types of changes that could be considered under this provision. Pursuant to Rule 215(5), the permit shield does not apply to any inter-facility trading activities.
3. Off-Permit Changes
Rule 215(3) provides for sources to make changes that are not specifically addressed or prohibited by the ROP, provided the change complies with all applicable requirements and is not a modification under any applicable provision of Title I of the CAA. This provision is consistent with 40 CFR 70.4(b)(14) & (15). It is anticipated that this provision will be used primarily where the DNRE has approved a minor PTI for a new process that does not affect the terms and conditions of the ROP. In this case, the new process would continue to operate under the terms and conditions of the new PTI until the renewal of the ROP. Pursuant to Rule 215(5), the permit shield does not apply to any off-permit changes.
4. Insignificant Changes
Rule 215(4) provides for changes at stationary sources that involve the insignificant activities and exempt processes listed in Rule 212. This provision is a logical extension of the program flexibility provided by 40 CFR 70.5(c). This provision allows the DNRE to identify a list of insignificant activities that need not be included in a permit application. If such activities need not be reported in the application, it is not logical to require those activities to be reported under the permit. All

activities listed in Rule 212 are currently exempt from the PTI program. The DNRE views this provision as providing for consistency between these two permit programs. Pursuant to Rule 215(5), the permit shield does not apply to any changes involving insignificant activities or exempt equipment.

VII. PERMIT FEE DEMONSTRATION

A. Sources Subject to Fee Collection

Fee-subject facilities are defined in Section 5501 of Act 451. There are three categories of sources in Michigan's Title V fee program. Category I facilities are major sources as defined under Section 302 of the federal CAA. These major sources have the potential to emit 100 tons per year of any regulated air pollutant, including nitrogen oxides, particulate matter less than 10 microns, sulfur dioxide, volatile organic compounds, carbon monoxide, and lead.

There are two types of sources included in Category II. A source that has the potential to emit 10 tons per year of any single Hazardous Air Pollutant (HAP) or 25 tons per year of any combination of HAPs is defined as a major source under Section 112 of the CAA and is a Category II facility. A facility subject to the requirements of Section 111 of the CAA, Standards of Performance for New Stationary Sources, even if it is not a major source, is included in Category II as well. A Category II facility that also meets the definition of a Category I facility is classified as a Category I facility.

Category III facilities are those fee-subject facilities that are neither a Category I nor Category II facility. The OPPCA Small Business Assistance Program provides assistance to these Category III facilities, which are subject to area source Maximum Achievable Control Technology or Generally Achievable Control Technology standards.

Michigan currently has approximately 830 sources subject to the fee requirements. A list of these sources and the FY10 assessed fees is provided as Attachment M1.

B. Calculation of Emissions

All Category I and II facilities are required to report information necessary for calculating actual emissions to Michigan's Air Emissions Reporting System (MAERS). The actual rates of emissions in tons per year emitted during a calendar year are calculated based on actual operating hours, production rates, in-place control equipment, emission factors, and types of materials processed, stored or combusted during the period of calculation.

Actual emissions are calculated in MAERS for all criteria pollutants and pollutants that result in the formation of a criteria pollutant.

C. Fee Requirements and Schedule

The annual fee program, including the specific fee schedule, is completely contained in Section 5522 of Act 451 (Section 5522). See Attachment M2. Section 5522 provides authority to the DNRE to collect an annual air quality fee from the owner or operator of

each fee-subject facility in the state. This legislation provides for a facility fee and a baseline charge of dollars per ton of actual emissions for all regulated air pollutants (except for carbon monoxide). Fees are based on the reported emissions of the following: particulate matter less than 10 microns, sulfur dioxide, volatile organic compounds, nitrogen oxides, lead, non-methane organic compounds, and hydrochloric acid. Michigan fees are capped for each source at 1000 tons per pollutant and 4000 tons total. The current fee provisions will sunset on September 30, 2011.

D. Mechanism for Assuring that Fees are Used Solely for Funding the ROP Program

Section 5521 of Act 451 established the Emissions Control Fund within the State Treasury. Monies expended from this fund are only for activities that relate to implementing Michigan's Title V (ROP) program. Section 5522 requires a yearly report to the Governor and the Legislature for each Department to which funds are appropriated from the Emissions Control Fund. This report must detail the activities funded by the Emissions Control Fund. A copy of the "Air Quality Division Annual Program Report - Fiscal Year 2009" is provided as Attachment M3.

E. Use of Required Fee Revenue

Currently, the DNRE's AQD includes 188 full-time equivalent (FTE) positions in the air program. In FY10, the ROP program revenue funded 72 FTEs in the AQD and 2 positions in the Clean Air Assistance Program of the DNRE's OPPCA.

The ROP program resources are used in the following ways:

1. To fund salary, fringe benefits, supplies, computers, and services of FTE positions doing the work in the ROP area.
2. To fund contractual services for the ROP program.
3. To purchase equipment needed for the ROP program.
4. To fund support services (such as legal counsel) conducted by other Michigan agencies for the ROP program.
5. To cover indirect costs.

The indirect costs are set by the DNRE and are not based solely on direct costs of implementing the ROP program. Items included in the indirect costs are those overhead costs related to information technology and the overall administration of the DNRE.

The allocation of fees is provided on page 4 of the Annual Report in Attachment M3.

F. ROP Program Costs for Fiscal Year 2009 through 2011

Annual ROP program costs for FY 2009 through 2011 are provided as Attachment M4. The report itemizes the ROP fees received, the actual program costs, and the fund balance.

As part of Title V, the EPA sets a presumptive minimum for a state's fee collection. The federal presumptive minimum rate (\$/ton) is adjusted yearly based upon the Consumer Price Index. The federal fee formula does not include a facility-wide emission cap, but does set a cap of 4,000 tons for each pollutant. Attachment M5

provides an air quality fee comparison between the Michigan fee formula and the EPA presumptive minimum fee formula.

A quick comparison of Michigan's fees collected and the federal presumptive minimum for FY09 to FY10 is shown below, as well as the projections for FY11.

FISCAL YEAR	NUMBER OF FEE SUBJECT SOURCES	MICHIGAN FEES COLLECTED	FEDERAL PRESUMPTIVE MINIMUM
FY09	845	\$9,811,000	\$11,700,000
FY10	826	\$9,475,000	\$10,600,000
Projected FY11	829	\$8,850,000	\$ 9,900,000

There has been a decline in fee revenue collected and a corresponding reduction in staff over the years. The annual ROP fees required by Title V collected in FY09 and FY10 and the corresponding FTE positions in DNRE conducting ROP work is charted below. The projections for FY11 are also included.

FISCAL YEAR	FTEs	MICHIGAN FEES COLLECTED	NUMBER OF ROP SOURCES (mid-year)
FY09	84.0	\$9,811,000	386
FY10	74.0	\$9,475,000	385
Projected FY11	59.0	\$8,850,000	380

The decrease in fee revenue over the past several years is due to a loss of fee subject sources compounded by a decrease in emissions from the remaining sources. In addition, the current fee formula in Section 5522 has been in place since October 2001 with no inflationary increase.

Due to the reduction in ROP funding in FY10, the DNRE discontinued processing ROP modifications, eliminated funding for the Small Business Ombudsman, decreased 1 FTE in the OPPCA Clean Air Assistance program, reduced 2 FTEs in the Enforcement Unit, and did not fill staff vacancies in the ROP program.

The Michigan Legislature is not proposing a change in the fee formula for the FY11 budget. As a result, in FY11 approximately 15 FTEs will be eliminated from the ROP program. In order to address the further decline in ROP fees and corresponding staffing levels in FY11, the DNRE plans to:

1. Continue to not process ROP amendments or modifications;
2. Continue to identify high priority violations for major ROP (Title V) sources to the EPA;
3. Continue to not fund the ombudsman position;

4. Reduce the percentage of ROP (Title V) sources being inspected from 50 percent to 30 percent, contrary to EPA's Compliance Monitoring Strategy (CMS) policy which requires inspections be conducted at each Title V source every other year;
5. Further reduce funding to OPPCA's Small Business Assistance Program; and
6. Proceed with the development of Michigan's ROP (Title V) rules for greenhouse gas sources in accordance with the DNRE's Section 105 Grant commitments and funding. However, because there is insufficient funding to implement the program, the rules will not be implemented and Michigan sources that are subject to Title V only as a result of the federal greenhouse gas regulations will be required to submit and obtain a Part 71 Title V permit from EPA Region 5.

The DNRE has initiated a Lean Process Improvement project to address the ROP issuance process. Although ROP development utilizes less than 10 percent of the staff time spent on Title V activities, the DNRE has undertaken this project to improve efficiencies and timeliness of permit issuance. However, the projected FTE reductions will undermine any progress DNRE is making in the timely processing of ROP renewals.

Due to the decline in fee revenue, the reductions in staffing levels, the increased cost of implementing the program, and the required Title V work not being accomplished, the level of Title V fees being collected is not adequate to support DNRE's performing all of required minimum elements of the Title V permit program required in Section 502(b) of the CAA.

VIII. COMPLIANCE AND ENFORCEMENT ACTIVITIES

A. Description of the Compliance Monitoring Program

The primary objective of compliance monitoring activities is to assure that the operation of air pollution sources is conducted in compliance with air quality regulations, permit conditions, and other established requirements, i.e., consent orders or other violation settlement documents. Compliance monitoring is primarily performed through inspections, complaint response, and review of tests or other recordkeeping data and compliance reports, such as the ROP Semi-Annual Reports and annual ROP Compliance Certification Reports.

1. **Compliance Monitoring and Enforcement**
Compliance monitoring activities are the responsibility of district staff. These activities include inspections, review of company-submitted compliance reports (stack tests, CEM reports, annual Compliance Certification Reports, Semi-Annual Reports, and other measures of compliance), follow up on citizen complaints, identification of violations and notification to sources, technical review of proposed compliance plans and schedules of compliance, and participation in enforcement actions (as witnesses and technical consultants during negotiations). In addition, staff of the Technical Programs Unit conduct specialized inspections and/or other functions to supplement district resources. These include compliance monitoring for air impacts from contaminated groundwater/soil cleanups, technical review of stack sampling reports, and quality assurance activities for CEMs.

Enforcement actions are the responsibility of the Enforcement Unit, with technical support from the district staff. Enforcement staff prepare enforcement documents, lead negotiations with alleged violators, and coordinate activities with district and permit staff, the EPA, and the Michigan Department of Attorney General.

Tracking of compliance monitoring and enforcement activities is done through MACES. MACES is a web-based internal software system that is used by AQD district, technical support, and enforcement staff to enter, store and manage compliance, enforcement and testing information and to track this data over time.

The AQD is required to report compliance evaluation activities to the EPA electronically. Data required to be entered into the EPA's Air Facility Subsystem (AFS) is generated from the MACES database and reports are entered into the federal database using the AFS's Universal Interface.

No legal or regulatory impediments to using any monitoring data to determine compliance and using the data for direct enforcement exist.

2. Deviation Reporting

Rule 213(3)(c)(ii) defines "prompt reporting of deviations" for the ROP program.

Rule 213(3)(c)(ii)(A) relies on the existing requirements of Rule 912 for reporting of emission deviations that meet specified criteria, based on severity and duration of the exceedance. Rule 912 establishes operational, notification, and reporting requirements that apply to all sources. The rule requires that a notice be provided for any abnormal condition, start-up, shutdown, or malfunction that continues for more than one hour and results in emissions of a hazardous air pollutant in excess of any applicable standard or limitation under the CAA or which results in the emissions of a toxic air contaminant in excess of an emission standard of limitation established by a rule, permit, or order under Part 55 of Act 451. The notices must be provided as soon as reasonably possible, but not less than two business days after start-up or shutdown or discovery of the abnormal condition or malfunction.

Rule 912 requires a written report of all abnormal conditions, start-ups, shutdowns, and malfunctions continuing for more than 2 hours and that result in emissions of any air contaminant in excess of emission standards or limitations established by any applicable requirement. The written reports must be submitted within 10 days after the start-up or shutdown or within 10 days after the abnormal condition or malfunction has been corrected or within 30 days of discovery of an abnormal condition or malfunction whichever is first.

The written reports must include:

- a. The time, date, reasons, and duration of the event.
- b. Identification of the affected equipment and description of the type and, where known, quantity of excess emissions from the equipment.
- c. Information describing the measures taken and air pollution control practices followed to minimize emissions.
- d. Actions taken to correct and prevent reoccurrence of an abnormal condition or malfunction.
- e. Certification by a Responsible Official that the information in the reports is true, accurate, and complete for sources required to obtain an ROP.

Subrules (3)(c)(ii)(B) and (C) of Rule 213 specify that all other deviations from permit requirements must be included in the semi-annual reports required by paragraph (i) of this subdivision. The report must describe the reasons for each deviation and the actions taken to minimize or correct each deviation.

3. Inspections

The AQD district staff are responsible for conducting source inspections to verify compliance with Act 451, the administrative rules promulgated thereunder, and the provisions of the CAA. Sources are primarily targeted for inspections based on the Compliance Monitoring Strategy (CMS) system utilized in the AQD since 1986. The CMS is used to create annual inspection plans for the AQD district offices. All sources identified in the inspection plan receive on-site inspections based on the frequency, level, and complexity detailed in the inspection targeting data.

The plan also targets sources for follow-up inspections due to apparent non-compliance. This non-compliance may be indicated in a source report required by an ROP, observed during a regularly scheduled inspection, identified in a response to a public complaint, or witnessed by staff during compliance testing (e.g., stack testing).

Depending on the reason that resulted in the inspection, it may be scheduled in advance or unannounced. Section 5526(1) of Act 451 provides the DNRE with the authority to enter and inspect any property at reasonable times for the purpose of investigating either an actual or suspected source of air pollution or ascertaining compliance or noncompliance with Part 55, the rules, the CAA, or permits or consent orders issued under Part 55.

Following the inspection of a source, the staff person performing the inspection documents the findings on an Activity Report. This Activity Report describes the processes inspected, the compliance status, and any discussions that took place. Activity Reports are also used to document complaints and telephone discussions with the facility or the public regarding the source.

4. Complaint Response

Complaints are routinely received through the AQD district offices. Complaints may be received through the Pollution Emergency Alert System (PEAS), verbally over the telephone, or in writing. Follow-up to the complaints occurs based on AQD jurisdiction, air quality impact, previous violations, and urgency. Most complaints occur as a result of odors that the complainant finds offensive or deposition on property. If the situation warrants, an on-site investigation of the source may occur. During an on-site investigation of any complaint, the AQD will try to attempt to determine both the source and process responsible for the complaint, degree of severity of the situation, and any malfunction or unusual operating conditions that may have caused the complaint. Violations identified through a complaint response are handled in the same way as any other violation.

5. Testing, Monitoring, and Recordkeeping

Testing is currently performed to measure emissions from the source, the accuracy of continuous emission monitors, or parameter monitors. Testing is preceded by

the development of a testing protocol to describe the sampling and analysis procedures that will be used to conduct the testing. Staff in the AQD are responsible for reviewing the testing protocol to assess the test's acceptability. Staff may also be present during the testing to observe any visible emissions, the operating conditions, and the actual testing procedures. The test report is reviewed by staff to further assess the testing and analysis procedures and compare the test results with regulatory standards.

Existing state rules and permits and federal regulations (such as NSPS and NESHAP) require some monitoring, testing, recordkeeping and reporting to be conducted by certain sources in Michigan. Currently, AQD staff review these reports and perform follow-up on the violations identified through this review.

With the increase in monitoring and reporting as required by the ROP program through compliance certification and the enhanced monitoring requirements, the state relies heavily on this more complete and continuous picture of compliance status as a routine compliance monitoring tool.

B. Description of the Enforcement Program

Enforcement is a progressive series of events that give the source notification of a violation and the opportunity to voluntarily correct the violation. It is usually followed by an escalated series of actions to formally resolve the violation. As described below, state efforts include notification to the source of the violation through a Violation Notice (VN), internal meetings to assess compliance as a result of the VN, internal meetings to discuss strategy for returning the violators to compliance, and other escalated enforcement actions.

1. Violation Notice

Based on the result of the inspection conducted by AQD district staff, VNs are sent to the source regarding the findings of an inspection or a review of the records or reports where alleged violations of Part 55 and the administrative rules or a permit are discovered. Data from the VN is entered into the MACES computer database to track violations cited by staff and to ensure that proper follow up is done. Internal meetings are conducted quarterly to discuss the source's violation(s) and whether any follow up is warranted. Based on the response to the VN by the source, the AQD staff will determine if the concerns have been adequately addressed and the alleged violations resolved and whether enforcement action should be initiated.

2. Enforcement Process and Priorities

Enforcement action will be pursued consistent with grant commitments to the EPA.

The AQD notifies the EPA regularly of its enforcement activities with respect to significant violators, and may confer with the EPA regarding necessary measures to ensure a return to compliance and to determine which agency shall take the lead in any enforcement action. The AQD facilitates the communication with the EPA regarding enforcement cases involving significant violators through monthly telephone conferences where the AQD provides a status update of existing enforcement actions and the compliance status of alleged violators where requested by the EPA.

Enforcement activities are tracked through the MACES database. Data on sources referred for escalated enforcement is entered into MACES as a mechanism to track the activities of the Enforcement Unit of the AQD and ensure that appropriate follow-up action regarding enforcement is taken. The data in the system is updated on a monthly basis in preparation for quarterly internal meetings to discuss unresolved violations.

This internal procedure identifies the situations that would be considered a priority for escalated enforcement actions. A decision to pursue escalated enforcement of a violation described in the document is a function of the extent to which the environment or general public is impacted, the extent to which the violation impacts the AQD's ability to protect the environment, resource availability, the AQD's grant commitments to EPA with respect to enforcement, and input from the DNRE and the AQD management. Any violation that meets the EPA's definition of a High Priority Violation but will not be pursued as an escalated enforcement action by the AQD will be immediately referred to the EPA for appropriate enforcement action.

3. Criminal Enforcement

Criminal investigations are conducted by the DNRE's Office of Criminal Investigations (OCI) and its Environmental Conservation Officers who receive specialized training in conducting field investigations and criminal investigations. As of October 1, 2010, the OCI now receives ROP program fees. There are no OCI resources dedicated to the ROP program; however, the OCI is solicited to provide support on investigations of air quality sources that have the potential to become criminal in nature.

C. Enforcement Tracking Information

The DNRE commits to submitting to the EPA, within 60 days following the end of each fiscal year, a list of the criminal and civil, judicial and administrative enforcement actions either commenced or concluded; the penalties, fines, and sentences obtained in those actions; and a list of the administrative orders issued.

IX. PROVISIONS IMPLEMENTING OTHER TITLES OF THE FEDERAL CLEAN AIR ACT

Section 5503(b) of Act 451 provides authority to the DNRE to issue permits for the construction and the operation of sources, processes, and process equipment, subject to enforceable limitations and standards and other conditions reasonably necessary to assure compliance with all applicable requirements of Act 451 and the CAA.

A. Implementation of Title IV - Acid Rain Program

The authority of Section 5503(b) of Act 451 allows AQD to incorporate into an ROP for an "affected source" any applicable requirement from the federal acid rain program. Michigan has also adopted by reference the entire federal acid rain program, being 40 CFR 72.1 to 72.96, 74.1 to 74.61 and 76.1 to 76.15, pursuant to Rule 299(d). The language used in Rule 299(d) is consistent with the Model State Acid Rain Rules developed by the EPA. The DNRE requires any permit applicant subject to the acid

rain program to use the nationally standardized forms for that portion of application for an ROP.

Several other specific references to “affected sources” subject to the federal acid rain program are found in Michigan’s ROP program regulations. Rule 211(1)(b) provides that any source defined as an affected source under Section 402 of the CAA is subject to the ROP program. Rule 213(10) sets out specific permit content requirements for affected sources. Rule 215(3)(b) prohibits an affected source from making off-permit changes, unless the change is not contrary to the applicable requirements under Title IV. Rule 218(1) prohibits the DNRE from creating a general permit for any affected source, unless such a permit is provided for under regulations promulgated pursuant to Title IV.

Renewals of Acid Rain Permits proceed concurrently with renewal of the associated ROP and are given the same issuance date. On that date, the renewed Acid Rain Permit is simultaneously incorporated as an Appendix within the renewed ROP.

B. Implementation of Section 112 - Hazardous Air Pollutants

The authority of Section 5503(b) of Act 451 allows AQD to incorporate into an ROP any applicable requirement for hazardous air pollutants pursuant to Section 112. CAA Section 112(g) requirements are implemented in Michigan through the PTI program. The federal requirements for CAA Section 112(g) have been adopted by reference in Rule 299.

C. Implementation of Section 114(a)(3) – Compliance Assurance Monitoring

The definition for the “clean air act” in Section 5501(g) of Act 451 includes 42 USC 7414, which includes the Section 114(a)(3) requirements. The authority of Section 5503(b) of Act 451 allows AQD to incorporate into an ROP any applicable requirement for enhanced monitoring pursuant to Section 114(a)(3). Michigan has adopted by reference the federal CAM requirements in Rule 299(f). Rule 213(3)(a)(i) specifically references 40 CFR Part 64 provisions in ROP content requirements.

D. Implementation of Section 110(a)(2)(D) - CAIR Program

Rule 420 and Rules 821 through 834 establish Michigan’s key program elements to implement the federal CAIR requirements of 40 CFR Part 97. Rules 420(3) and 821(2) require that CAIR Permits be issued and renewed in keeping with the ROP program requirements. In keeping with these regulations, CAIR Permits are independently issued permits that are incorporated into the source’s ROP as a discrete and segregable part of the ROP.

Procedurally, renewals of CAIR Permits proceed concurrently with renewal of the associated ROP and are given the same issuance date. On that date, the renewed CAIR Permit is simultaneously incorporated as an Appendix within the renewed ROP. Any initial CAIR Permits in the future will be issued concurrently with the source’s ROP.

