

New Air Permit Rules Take Effect

Revisions to Michigan's air quality permit regulations took effect on July 1, 2003. The revisions, which have been in development since 1999, thoroughly revise the regulations for both permits to install (PTI) for new sources and renewable operating permits (ROP) for "major" sources of air emissions.

PTI requirements apply to any construction, installation or modification of a process or equipment that emits (or may emit) an air contaminant, unless an exemption in the Michigan Department of Environmental Quality (MDEQ) Air Quality Division (AQD) rules applies. ROP requirements apply to any source that has the potential to emit 100 tons per year or more of carbon monoxide, lead, nitrogen oxides, volatile organic compounds, particulate matter or sulfur dioxide and/or 10 tons per year or more of any hazardous air pollutant (HAP) listed by the United States Environmental Protection Agency (EPA). ROP requirements also apply to sources that have the potential to emit 25 tons per year or more of any combination of HAPs. EPA has listed over 180 individual chemicals and groups of chemicals as HAPs.

The first rule package, known as 2002-003 EQ, amends the definitions that are used throughout the AQD regulations. The second rule package, 2002-004 EQ, amends the regulations that deal directly with PTI and ROP requirements.

Revisions to AQD Rule 201 allow AQD to issue two types of PTIs: (1) a PTI for a source emitting an air pollutant regulated under the Clean Air Act; and (2) a PTI for a source emitting any air contaminant, including those that are not regulated under the Clean Air Act (e.g., certain air toxics that are regulated only under state rules). Under new Rule 201(2)(d), PTI conditions that regulate emissions of air contaminants that are not regulated under the Clean Air Act (e.g.,

air toxics) and that are based on state regulations that are not federally enforceable, may be designated as state-only enforceable in the PTI.

Other revisions allow AQD to issue a new “source-wide” PTI that consolidates all the terms and conditions of one or more previous PTIs when it issues an ROP to a source. The source-wide PTI will be contained in the same document as the ROP. That is, an ROP will include a PTI “permit within a permit.” The source-wide PTI will replace all existing PTIs for the source. Although the source-wide PTI will be contained in the ROP, the source-wide PTI will be enforceable independently of the ROP. That is, if the ROP expires or is terminated, the source-wide PTI (and all terms and conditions based on previous PTIs) will remain in effect.

The reason for creating a “source-wide” PTI is to address objections by EPA to Michigan’s ROP program. EPA objected to provisions in the state rules that allowed old PTIs to become void when an ROP was issued for a source. EPA was concerned that, if old PTIs were terminated by the issuance of an ROP, the original PTI requirements may not remain enforceable when the ROP expired, was terminated or was renewed. The “source-wide” PTI resolves this issue because, even if an ROP terminates or is allowed to expire, the source-wide PTI would continue to apply after the termination of the ROP. The source-wide PTI will expire only if it is replaced by a new PTI or the underlying equipment is permanently shut down.

MDEQ has also substantially re-written Rule 203, which prescribes the information that must be included in an application for a PTI. A PTI application should include the following information, as necessary:

- A description, in appropriate detail, of each emission unit or process covered by the application;
- A description of any federal state or local pollution control regulations that the applicant believes are applicable, including a proposed method of complying with the regulations;

- A description, in appropriate detail, of the nature, concentration, particle size, pressure, temperature and quantity of air contaminant emissions from the proposed equipment;
- A description of how the emissions from the proposed process will be controlled or otherwise minimized;
- A description of each stack or vent related to the proposed equipment;
- Scale drawings showing a plan view of the property and the location of the proposed equipment, including the height and outline of all structures within 150 feet of the proposed equipment;
- Information that is necessary for the preparation of an environmental impact statement, if, in the judgment of MDEQ, the equipment may have a significant effect on the environment; and
- Data demonstrating that the emissions from the process will not have an unacceptable air quality impact.

The deadline for MDEQ to take action on a PTI application has been clarified. Previously, Rule 206 required MDEQ to approve or deny a PTI within 60 days after receipt of a complete permit application. In the past, there sometimes was confusion as to precisely when MDEQ received all the information necessary for a complete application. New Rule 206 specifies that MDEQ shall review a PTI application for “administrative completeness” within 10 days after the application is received. If MDEQ does not request additional information to be submitted, MDEQ must approve or deny the PTI within 60 days after the application was submitted if the PTI is not required to undergo a public notice and comment period and within 120 days after the application was submitted for a PTI that is subject to public notice and comment. If MDEQ does request additional information, the time period from when MDEQ makes the request until the applicant provides the requested information to MDEQ is not included in the 60 or 120 day time frames for final action on the application. The failure of MDEQ to act on a PTI application within the 60 or 120 day time frames is final action solely for

purposes of obtaining judicial review to require that MDEQ take action on the permit without additional delay.

The revisions also affect the PTI exemption provisions found in Rules 278 – 290. In particular, Rule 278 has been clarified to state that the following activities are not exempt from PTI requirements:

- An activity that is subject to requirements for Prevention of Significant Deterioration under 40 C.F.R. § 52.21;
- An activity that results in an increase in actual emissions of any contaminant that is greater than the “significance” levels defined in Rule 119;
- The construction of a new major source of HAPs or reconstruction of a major source of HAPs; and
- The construction or modification of a facility subject to national emission standards for hazardous air pollutants in 40 C.F.R. Part 61.

New Rule 278a requires any person owning or operating exempt equipment to be able to provide information to MDEQ demonstrating the applicability of an exemption within 30 days after a request from MDEQ for such a demonstration.

Some new exemptions from the PTI requirements were promulgated, as well, including exemptions for:

- Portable blast-cleaning equipment used during construction to clean new water tanks or structures, subject to certain requirements;
- Electric resistance melting and holding furnaces that have a capacity of not more than 6,000 pounds per batch and 16,000 pounds per day and which melt only clean charge;
- Plasma coating equipment;
- Pad printers;
- Vacuum trucks used at a remediation site, if not used more than once per month;
- Air sparging systems;

- Air separation or fractionation equipment; and
- Concrete batch plants that produce 200,000 cubic yards per year or less, subject to certain additional requirements.

Numerous other revisions and clarifications were made in the two rule packages. To access the complete text of the new rules, visit www.michigan.gov/deq .

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