

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## AIR QUALITY DIVISION

### PART 2. AIR USE APPROVAL

(By authority conferred on the director of environmental quality by Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 to 324.90106)

### PART 2. AIR USE APPROVAL

#### **R 336.1201 Permits to install.**

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

(a) Any air pollutant regulated by title I of the clean air act and its associated rules, including

40 C.F.R. §51.165 and §51.166, adopted by reference in R 336.1299.

(b) Any air contaminant.

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

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

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

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

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

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

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

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

(a) Otherwise authorized by the department as a condition of the permit to install.

(b) The installation permit is the subject of a formal appeal by a party other than the owner or operator of the process or process equipment that is the subject of the installation permit, in which case the date of termination of the permit is not later than 18 months after the effective date of the permit plus the number of days between the date on which the permit was appealed and the date on which all appeals concerning the permit have been resolved.

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

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

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

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

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

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

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

(b) Within 12 months after completion of the installation, construction, reconstruction, relocation, or modification authorized by the permit to install, or 18 months after the effective date of this rule, whichever is later, unless a different period is

specified in the permit to install, the person to whom the permit to install was issued, or the authorized agent pursuant to R 336.1204, shall notify the department, in writing, of the status of compliance of the process or process equipment with the terms and conditions of the permit to install. The notification shall include all of the following:

(i) The results of all testing, monitoring, and recordkeeping performed by the stationary source to determine the actual emissions from the process or process equipment and to demonstrate compliance with the terms and conditions of the permit to install.

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

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

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

History: 1980 AACCS; 1992 AACCS; 1995 AACCS; 1996 AACCS; 2003 AACCS; 2008 AACCS; 2013 AACCS.

### **R 336.1201a General permits to install.**

Rule 201a. (1) The department may, after notice and opportunity for public participation pursuant to section 5511(3) of the act, issue a general permit to install covering numerous similar stationary sources or emission units. A general permit to install shall include terms and conditions which are necessary to assure that the stationary source or emission unit will comply with all applicable requirements and shall be consistent with the permit content requirements of R 336.1205(1)(a). The general permit to install shall also identify criteria by which a stationary source or emission unit may qualify for the general permit to install. The department shall grant the terms and conditions of the general permit to install to stationary sources or emission units that qualify within 30 days of receipt by the department of a complete application. An applicant shall be subject to enforcement action if the department later determines that the stationary source or emission unit does not qualify for the general permit to install.

(2) A person who owns or operates a stationary source or emission unit that would qualify for a general permit to install issued by the department pursuant to subrule (1) of this rule shall apply to the department for coverage under the terms of the general permit to install or may apply for a permit to install consistent with R 336.1201. The department may require the use of application forms designed for use with a specific general permit to install issued by the department. The application forms shall include all information necessary to determine qualification for, and to assure compliance with, the general permit to install. Without repeating the public participation process pursuant to subrule (1) of this rule, the department may grant a request by a person for authorization to install and operate a stationary source or emission unit pursuant to a general permit to install.

(3) The department shall maintain, and make available to the public upon request, a list of the persons that have been authorized to install and operate a stationary source or emission unit pursuant to each general permit to install issued by the department.

History: 1996 AACS; 2003 AACS.

### **R 336.1202 Waivers of approval.**

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

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

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

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

(c) Construction or modification as defined in and subject to 40 C.F.R. part 61, national emission standards for hazardous air pollutants, adopted by reference in R 336.1299. For the purpose of this subrule, "activity" means the concurrent and related installation, construction, reconstruction, relocation, or modification of any process or process equipment.

History: 1980 AACS; 2003 AACS; 2008 AACS.

### **R 336.1203 Information required.**

Rule 203. (1) An application for a permit to install shall include information required by the department on the application form or by written notice. This information may include, as necessary, any of the following:

(a) A complete description, in appropriate detail, of each emission unit or process covered by the application. The description shall include the size and type along with the make and model, if known, of the proposed process equipment, including any air pollution control equipment. The description shall also specify the proposed operating

schedule of the equipment, provide details of the type and feed rate of material used in the process, and provide the capture and removal efficiency of any air pollution control devices. Applications for complex or multiple processes shall also include a block diagram showing the flow of materials and intermediate and final products.

(b) A description of any federal, state, or local air pollution control regulations which the applicant believes are applicable to the proposed process equipment, including a proposed method of complying with the regulations.

(c) A description in appropriate detail of the nature, concentration, particle size, pressure, temperature, and the uncontrolled and controlled quantity of all air contaminants that are reasonably anticipated due to the operation of the proposed process equipment.

(d) A description of how the air contaminant emissions from the proposed process equipment will be controlled or otherwise minimized.

(e) A description of each stack or vent related to the proposed process equipment, including the minimum anticipated height above ground, maximum anticipated internal dimensions, discharge orientation, exhaust volume flow rate, exhaust gas temperature, and rain protection device, if any.

(f) Scale drawings showing a plan view of the owner's property to the property lines and the location of the proposed equipment. The drawings shall include the height and outline of all structures within 150 feet of the proposed equipment and show any fence lines. All stacks or other emission points related to the proposed equipment shall also be shown on the drawings.

(g) Information, in a form prescribed by the department, that is necessary for the preparation of an environmental impact statement if, in the judgment of the department, the equipment for which a permit is sought may have a significant effect on the environment.

(h) Data demonstrating that the emissions from the process will not have an unacceptable air quality impact in relation to all federal, state, and local air quality standards.

(2) The department may require additional information necessary to evaluate or take action on the application. The applicant shall furnish all additional information, within 30 days of a written request by the department, except as provided by the following provisions:

(a) The applicant may request a longer period of time, in writing, specifying the reason why 30 days was not reasonable for submitting the information.

(b) The department may provide written notice to the applicant of an alternate time period for the submittal, either as part of the original request or upon the granting of an extension requested by the applicant.

(3) An applicant may reference a permit application previously submitted to the department for the purpose of supplying a portion of the information required by this rule. Any reference to a previously submitted permit application shall clearly identify the permit application number assigned to the previous application by the department. If acceptable to the department, an applicant may also reference other previously submitted information for the purpose of supplying a portion of the information required by this rule.

**R 336.1204 Authority of agents.**

Rule 204. When a person files an application for a permit to install as the agent of an applicant, the applicant shall furnish the department with written authorization for the filing of the application. The authorization shall indicate if the applicant intends that the department contact the agent directly with questions regarding the application and also indicate if the agent is authorized to negotiate the terms and conditions of the permit to install.

History: 1980 AACCS; 2003 AACCS.

**R 336.1205 Permit to install; approval.**

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

(a) The permit to install contains emission limits that are enforceable as a practical matter. An emission limit restricts the amount of an air contaminant that may be emitted over some time period. The time period shall be set in accordance with the applicable requirements and, unless a different time period is provided by the applicable requirement, should generally not be more than 1 month, unless a longer time period is approved by the department. A longer time period may be used if it is a rolling time period, but shall not be more than an annual time period rolled on a monthly basis. If the emission limit does not reflect the maximum emissions of the process or process equipment operating at full design capacity without air pollution control equipment, then the permit shall contain 1 of the following:

(i) A production limit which restricts the amount of final product that may be produced over the same time period used in the emission limit and which comports with the true design and intended operation of the process or process equipment.

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

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

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

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

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

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

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

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

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

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

History: 1995 AACS; 1996 AACS; 1998 AACS; 2003 AACS; 2008 AACS.

### **R 336.1206 Processing of applications for permits to install.**

Rule 206. (1) The department shall review an application for a permit to install for administrative completeness pursuant to R 336.1203(1) within 10 days of its receipt by the department. The department shall notify the applicant in writing regarding the receipt and completeness of the application.

(2) The department shall take final action to approve or deny a permit within 180 days of receipt of an application for a permit to install. The department shall take final action to approve or deny a permit to install subject to a public comment period pursuant to R 336.1205(1)(b) or section 5511(3) of the act within 240 days of receipt. If requested by the permit applicant, the department may extend the processing period beyond the applicable 180 or 240 day time limit. A processing period extension is effective after a formal agreement is signed by both the applicant and the department. However, a processing period shall not be extended under this subrule to a date later than 1 year after all information required pursuant to R 336.1203(1) and (2) has been received. Permit processing period extensions shall be reported as a separate category under section

5522(9)(b) of the act. The failure of the department to act on an application that includes all the information required pursuant to R 336.1203(1) and (2) within the time frames specified in this subrule may be considered a final permit action solely for the purpose of obtaining judicial review in a court of competent jurisdiction to require that action be taken by the department without additional delay.

History: 1980 AACS; 2003 AACS; 2013 AACS.

### **R 336.1207 Denial of permits to install.**

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

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

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

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

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

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

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

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

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

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

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

History: 1980 AACS; 2003 AACS; 2008 AACS.

### **R 336.1208 Rescinded.**

History: 1980 AACS; 1995 AACS.

### **R 336.1208a Limiting potential to emit by registration.**



Rule 208a. (1) A major source may limit potential to emit through a registration process if actual emission threshold levels established in this rule are not exceeded. The actual emissions shall be maintained below the threshold levels during every consecutive 12-month period, beginning with the 12-month period immediately preceding the stationary source's registration pursuant to this rule. The stationary source shall maintain actual emissions less than or equal to all of the following emission threshold levels:

(a) Consistent with the criteria in R 336.1211(1)(a)(i) as follows:

(i) Five tons for each consecutive 12-month period of any hazardous air pollutant that has been listed pursuant to section 112(b) of the clean air act.

(ii) Twelve and one-half tons for each consecutive 12-month period of any combination of hazardous air pollutants that have been listed pursuant to section 112(b) of the clean air act.

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

(b) Consistent with the criteria in R 336.1211(1)(a)(ii), 50 tons for each consecutive 12-month period of each of the following:

(i) Lead.

(ii) Sulfur dioxide.

(iii) Nitrogen oxides.

(iv) Carbon monoxide.

(v) PM-10.

(vi) PM 2.5.

(vii) Ozone.

(viii) Volatile organic compounds.

(ix) An air contaminant regulated pursuant to section 111 of title I of the clean air act.

(x) Class I and class II substances pursuant to title VI of the clean air act.

(2) The owner or operator shall certify that the emission threshold levels listed in subrule (1) of this rule are accepted as legally enforceable limits, that the stationary source was operated in compliance with the limits for the previous 12-month period and will continue to be operated in compliance during each rolling 12-month period in the future, and that the recordkeeping and reporting requirements specified in subrules (5) and (6) of this rule are being met and will continue to be met. The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the potential to emit of the stationary source if the equipment is registered pursuant to this subrule. By registering under this rule, the owner or operator accepts as a legally enforceable requirement that the control equipment shall be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions in accordance with R 336.1910 and in compliance with any malfunction abatement plan required under R 336.1911. Acceptance of the legally enforceable limits restricts the stationary source's potential to emit to the levels specified in the registration and supersedes any greater emission limits specified in permit terms and conditions. However, acceptance of the legally enforceable limits does not supersede or affect any

other requirements of rules, regulations, permit terms and conditions, or any requirements to obtain a permit to install pursuant to R 336.1201.

(3) The owner or operator shall notify the department of the owner's or operator's acceptance of the provisions of this rule as legally enforceable requirements by submitting a registration form required by the department. Within 30 days of receipt, the department shall notify the owner or operator of the stationary source that the department has received a complete registration form. The owner or operator of a stationary source shall be subject to enforcement action if the department later determines that the stationary source did not meet the criteria for limiting its potential to emit pursuant to this rule at the time the registration was submitted. The information specified in all of the following provisions shall be included in a complete registration form for initial certification:

(a) A description of the process or process equipment, including any control equipment pertaining to the process or process equipment and a list of all associated permits issued by the department or Wayne county.

(b) Documentation sufficient to demonstrate that the emissions from the stationary source are in compliance with the criteria in subrule (1) of this rule.

(c) A statement signed by the person owning or operating the process or process equipment certifying to all of the following:

(i) That, based on information and belief formed after reasonable inquiry, the information on the registration form is true, accurate, and complete.

(ii) That all threshold levels specified in subrule (1) of this rule were met during the preceding 12-month period and will continue to be complied with as legally enforceable conditions for the stationary source and that the recordkeeping and reporting requirements of subrules (5) and (6) of this rule are being met and will continue to be met.

(iii) That, during the preceding 12-month period, the air pollution control equipment was maintained and operated in a manner consistent with good air pollution control practice for minimizing emissions as specified in subrule (2) of this rule and shall continue to be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions as specified in subrule (2) of this rule.

(4) The certification shall be renewed annually by submittal of a registration form in conjunction with the annual report of emissions required under R 336.202. The registration form shall include a statement certifying compliance during each of the 12-month rolling average periods that ended during that calendar year.

(5) Both of the following recordkeeping requirements shall be met:

(a) The owner or operator of the stationary source shall maintain sufficient records to demonstrate that, after considering the effectiveness of registered control equipment, the actual emissions for the entire stationary source are maintained below each emission threshold level. The records shall include, at a minimum, all of the following:

(i) Information on the process and process equipment, including all of the following information:

(A) The equipment type.

(B) A description.

(C) The make and model.

(D) The maximum design process rate or throughput.

(E) The control device type and a description, if any.

(ii) A monthly log of operating hours, each raw material used and its amount, and each product produced and its production rate.

(iii) Purchase orders, invoices, and other documents to support information in the monthly log.

(iv) Calculations of the actual emission levels on a monthly basis for each pollutant or group of pollutants specified in subrule (1) of this rule. The calculations shall include any processes and emissions at the stationary source that must be included in determining the stationary source's potential to emit pursuant to R 336.1116(m). In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using methods acceptable to the department, including methods specified in part 10 of these rules.

(b) The records shall be kept on file for the most recent 5-year period and shall be readily available to the department upon request.

(6) Both of the following reporting requirements shall be met:

(a) The owner or operator of the stationary source shall report the actual annual emissions for the 12-month period that is the calendar year, pursuant to R 336.202. Any emissions data that cannot be provided through the annual report on emissions pursuant to R 336.202 shall be kept on file and shall be readily available to the department upon request.

(b) The owner or operator of the stationary source shall, within 30 days of a written request by the department, provide any additional records necessary to demonstrate that the emissions from the stationary source are not more than the applicable quantities set forth in subrule (1) of this rule. The department shall use the records and the data associated with actual emissions that are provided through the annual report on emissions required pursuant to R 336.202 to evaluate the compliance of the stationary source with the emission threshold limitations established in subrule (1) of this rule.

(7) Failure to comply with any provisions of this rule is a violation of this rule. The registration does not serve as a legally enforceable restriction on potential to emit if a violation of this rule occurs.

(8) A stationary source that has registered pursuant to this rule becomes subject to applicable renewable operating permit requirements for a major source pursuant to R 336.1210 if both of the following conditions are met:

(a) The actual emissions from the stationary source exceed the emission thresholds listed in subrule (1) of this rule that are accepted as emission limitations pursuant to subrule (2) of this rule.

(b) The potential to emit of the stationary source exceeds 100% of a major source emission threshold, pursuant to R 336.1211(1).

(9) Within 30 days of exceeding any emission threshold accepted as a limitation pursuant to subrule (2) of this rule, the person owning or operating the stationary source shall notify the department that he or she will take 1 of the following actions:

(a) Submit an application for a renewable operating permit pursuant to R 336.1210.

(b) Submit an application for a permit to install to otherwise obtain legally enforceable permit limits pursuant to R 336.1201.

(c) Demonstrate to the satisfaction of the department that the potential to emit of the stationary source does not exceed any major source emission threshold specified in R 336.1211(1)(a).

(10) A complete renewable operating permit application shall be received by the department or the permit action to otherwise obtain legally enforceable limits shall be completed within 12 months of the date of exceedance. However, the stationary source may be immediately subject to applicable federal requirements, including a standard promulgated under section 112 of the clean air act.

(11) Nothing in this rule shall prevent any stationary source that has had a renewable operating permit from qualifying to comply with this rule in the future instead of maintaining a renewable operating permit.

(12) Except for being a major source as defined in R 336.1211(1)(a), this rule shall not relieve any stationary source from the requirement of obtaining a renewable operating permit pursuant to R 336.1210. Additional reasons that a stationary source may be required to obtain a renewable operating permit include being defined as an "affected source" pursuant to R 336.1211(1)(b) or being defined as a "solid waste incineration unit" pursuant to R 336.1211(1)(c).

(13) The department shall maintain, and make available to the public upon request, a list of stationary sources registered pursuant to this rule.

History: 1996 AACCS; 2012 AACCS.

### **R 336.1209 Use of old permits to limit potential to emit.**

Rule 209. (1) A person may use a permit to install or a permit to operate issued before May 6, 1980, or a Wayne county permit issued before a delegation of authority to Wayne county pursuant to section 14f of the act, to limit the potential to emit of a stationary source to a quantity less than the amount which would cause the stationary source to be subject to the requirements of R 336.1210 by complying with the requirements of subrule (2) of this rule, if the permit meets both of the following requirements:

(a) The permit contains emission limits that are less than the maximum emissions of the process or process equipment operating at full design capacity without air pollution control equipment, and the permit contains a production or operational limit consistent with the requirements of R 336.1205(1)(a).

(b) The potential to emit of the stationary source, including the emissions authorized by the permit, is less than the quantity of emissions that would cause the stationary source to be considered a major source pursuant to R 336.1211(1)(a).

(2) Except as provided by subrule (3) of this rule, a person shall meet both of the following requirements to use a permit to install or permit to operate issued before May 6, 1980, or a Wayne county permit issued before a delegation of authority to Wayne county pursuant to section 14f of the act, to limit the potential to emit of a stationary source:

(a) Submit a written notice to the department, on a form provided by the department, of the intent that the terms and conditions of the permit to install, permit to operate, or the Wayne county permit be used to limit the potential to emit of the stationary source under the provisions of this rule. The written notice shall include a certification signed by the

person that the stationary source, process, or process equipment is in full compliance with the permit to install, permit to operate, or the Wayne county permit.

(b) Maintain records, conduct monitoring, and submit reports as required by the permit and as required pursuant to any applicable requirement to show that the stationary source, process, or process equipment is operating in compliance with the terms and conditions of the permit and any applicable requirements.

(3) A person need not notify the department pursuant to subrule (2)(a) of this rule if the potential to emit of the stationary source, including the emissions authorized by the permit to install or permit to operate issued before May 6, 1980, or the Wayne county permit issued before a delegation of authority to Wayne county pursuant to section 14f of the act, is less than 50% of the quantity that would cause the stationary source to be considered a major source pursuant to R 336.1211(1)(a).

History: 1995 AACCS.

### **R 336.1210 Renewable operating permits.**

Rule 210. (1) A person shall not operate any emission units located at a stationary source required to obtain a renewable operating permit under R 336.1211, except in compliance with all applicable terms and conditions of a renewable operating permit, unless a timely and administratively complete application for a renewable operating permit has been received by the department in accordance with the following provisions of this rule. The ability to operate the emission units at a stationary source while a timely and administratively complete application is being reviewed and acted upon by the department shall be referred to as the "application shield." The application shield provided by this subrule shall not apply if an application submittal is not timely under the applicable provision of subrules (4) to (9) of this rule or administratively complete under subrule (2) of this rule or an additional information submittal is not timely or complete under subrule (3) of this rule. The loss of the application shield after the applicable time specified in this rule for a person to have filed a timely and administratively complete application for a renewable operating permit is grounds for enforcement action under the act. Any enforcement action pursuant to loss of the application shield shall consider the time period between the applicable deadline and when a person actually submits the required administratively complete application or additional information.

(2) An application submittal, including an application submittal for renewal or modification of a renewable operating permit, shall be considered an administratively complete application if it contains reasonable responses to all requests for information in the permit application form required by the department and a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete. The application form required by the department shall be consistent with the requirements of section 5507 of the act, except as provided for general renewable operating permits under R 336.1218. The application form shall also require 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 clean air act. All of the following provisions apply to the administrative completeness of an application for a renewable operating permit:

(a) On and after November 1, 1995, the department shall notify the person who submitted the application for a renewable operating permit and the responsible official, in writing, regarding the administrative completeness of the application submittal. If the application submittal is considered not to be an administratively complete application by the department, then the notification shall specify the deficiency and all supplemental materials required for an administratively complete application. A person's response to a notification by the department of the incompleteness of an application shall include all of the supplemental materials requested by the department in the notification and a certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the response are true, accurate, and complete. All of the following provisions apply to department notification:

(i) If the department fails to notify a person that an application submittal, including the submittal of any supplemental materials requested by the department under this subdivision, is not administratively complete by the following deadlines, then the submittal shall be considered an administratively complete application as of the date the department received the submittal or the supplemental materials, whichever is later:

(A) By January 5, 1996, or within 60 days of the date the department receives the submittal, whichever is later, if the submittal is received on the paper forms specified by the department.

(B) By November 15, 1995, or within 15 days of the date the department receives the submittal, whichever is later, if the submittal is received in an electronic format specified by the department.

(ii) If a person submits all of the supplemental materials identified in a notification from the department under this subrule, then the application shall be considered administratively complete.

(iii) Except as provided in paragraph (i) of this subdivision, the date the department receives all information required for an administratively complete application, including all supplemental materials requested by the department under this subdivision, shall be the date of receipt of the administratively complete application.

(b) Any person who fails to submit any relevant facts or who has submitted incorrect information in an application for a renewable operating permit, including an application for renewal or modification of a renewable operating permit, shall, upon becoming aware of the failure or incorrect submittal, promptly submit all supplementary facts or corrected information. Each submittal of any relevant facts or corrected information shall include a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

(c) A person shall promptly provide any additional information necessary for an administratively complete application for any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation under R 336.1214(3). For administratively complete applications submitted under subrule (4)(e) or (f) of this rule, the information required by this subrule may be maintained by the person and submitted to the department in

accordance with the following schedule, unless the department specifically requests that information by an earlier date under subrule (3) of this rule:

(i) By January 1, 1998, for all applications for a renewable operating permit required to be submitted under subrule (4)(e) of this rule and for all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from October 16, 1996, to December 15, 1996.

(ii) By January 1, 1999, for all applications for a renewable operating permit required to be submitted under subrule (4)(f) of this rule and for all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from December 16, 1996, to February 28, 1997. Each submittal of any additional information shall include a certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

(3) After an application for a renewable operating permit has been determined by the department to be administratively complete, the department may require additional information, including information that was not requested on the application form. For the purpose of this subrule, additional information means information necessary to evaluate or take final action on the application, information needed to determine the applicability of any lawful requirement, information needed to enforce any lawful requirement, information needed to address any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation under R 336.1214(3), or information needed to evaluate the amount of the annual air quality fee for the stationary source. A person's response to a request for additional information by the department shall include all of the information requested by the department in the request and a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the response are true, accurate, and complete. The person who submitted the application for a renewable operating permit for a stationary source shall furnish, within 30 days of the date of the request, any additional information requested, in writing, by the department, except as follows:

(a) A 30-day extension for a response shall be granted if the person requests that extension, in writing, during the initial 30-day time period.

(b) The person may request a longer period of time, in writing, specifying the reasons why 60 days was not reasonable for submitting the requested information.

(c) The department shall provide written notice to the person of the date of expiration of any time period for submittal of all requested additional information as a part of any request for additional information or upon granting a request for an extension. Failure to submit additional information that has been requested in writing by the department by the expiration of the time period specified for response results in the loss of the application shield specified in subrule (1) of this rule.

(4) For a stationary source that is defined as a major source under R 336.1211(1)(a)(i) to (iii) on or before July 26, 1995, an administratively complete application for a renewable operating permit shall be considered timely if it is received by the department on or before the following deadlines:

(a) By February 29, 1996, for a major source, as defined by R 336.1211(1)(a)(i) to (iii), with a standard industrial classification (sic) code of 0600-0999 (agricultural services), 1500-1799 (construction), 1800-1999, 2000-2039 (food), 2100-2399 (tobacco and textiles), 2400-2499 (lumber and wood), 2950-2999 (asphalt), 3270-3289 (concrete, lime and gypsum products), 5000-5499 (services), or 5600-7499 (services). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(b) By May 15, 1996, for a major source, as defined by R 336.1211(1)(a)(i) to (iii), with a standard industrial classification (sic) code of 3000-3099 (rubber and miscellaneous plastic), 5500-5599 (auto dealers and gas service), or 7500-7599 (auto repair). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(c) By July 30, 1996, for a major source, as defined by R 336.1211(1)(a)(i) to (iii), with a standard industrial classification (sic) code of 3400-3599 (fabricated metal). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(d) By October 15, 1996, for a major source, as defined by R 336.1211(1)(a)(i) to (iii), with a standard industrial classification (sic) code of 1300-1399 (oil and gas), 2051-2099 (bakeries and food), 2500-2599 (furniture), 2650-2699 (paper products), 3600-3699 (electronic), 4000-4899 (transportation), 7600-7999 (services), 8100-9999 (services). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(e) By December 15, 1996, for a major source, as defined by R 336.1211(1)(a)(i) to (iii), with a standard industrial classification (sic) code of 1000-1299 (mining), 1400-1499 (nonmetallic mineral mining), 2040-2050 (grain mills and cereal), 2700-2799 (printing), 3100-3199 (leather), 3200-3269 (stone, clay, and glass), 3290-3299 (nonmetallic mineral products), 3700-3710 (transportation equipment), 3714-3799 (transportation equipment), 3800-3999 (miscellaneous manufacturing), 4900-4999 (gas, electric and sanitary services), 8000-8099 (medical). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(f) By February 28, 1997, for a major source, as defined by R 336.1211(1)(a)(i) to (iii), with a standard industrial classification (sic) code of 2600-2649 (paper mills), 2800-2899 (chemicals), 2900-2949 (petroleum refining), 3300-3399 (primary metal), 3711-3713 (automobile and truck assembly). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(g) Notwithstanding the deadlines specified in subdivisions (a) to (f) of this subrule, a person who owns or operates 2 or more stationary sources that are subject to the provisions of this rule may request, in writing, an alternate schedule for submittal of



timely and administratively complete applications for renewable operating permits for those stationary sources. The proposed schedule shall provide that administratively complete applications for the stationary sources shall be submitted between the dates specified in subdivisions (a) to (f) of this subrule. If agreed to in writing by the department, the alternate schedule shall be the basis for determining whether an administratively complete application is timely pursuant to this rule.

(5) For a stationary source that is defined on July 1, 2011 as a major source solely due to greenhouse gas emissions under R 336.1211(1)(a)(iv), an administratively complete application for a renewable operating permit shall be considered timely if it is received by the department on or before July 1, 2012.

(6) For a stationary source that becomes a major source, as defined by R 336.1211(1)(a)(i) to (iii), after July 26, 1995, an administratively complete application shall be considered timely if it is received by the department not more than 12 months after the stationary source commences operation as a major source. For a stationary source that becomes a major source, as defined by R 336.1211(1)(a)(iv) for greenhouse gas emissions, after July 1, 2011, an administratively complete application shall be considered timely if it is received by the department not more than 12 months after the stationary source commences operation as a major source. For the purposes of this subrule, commencing operation as a major source occurs upon commencement of trial operation of the new or modified emission unit that increased the potential to emit of the stationary source to more than or equal to the applicable major source definition specified in R 336.1211(1)(a).

(7) For a stationary source that is an affected source under title IV of the clean air act, a complete permit application for an initial phase II acid rain permit shall be considered timely if it is submitted by January 1, 1996, for sulfur dioxide and January 1, 1998, for nitrogen oxides.

(8) For renewal of a renewable operating permit, an administratively complete application shall be considered timely if it is received by the department not more than 18 months, but not less than 6 months, before the expiration date of the current renewable operating permit.

(9) For a stationary source that is not a major source under R 336.1211(1)(a), but is otherwise subject to the requirements of this rule under R 336.1211(1), a complete application is considered timely if it is received by the department in accordance with the following provisions, as applicable:

(a) For an affected source under R 336.1211(1)(b), on or before October 1, 1997.

(b) For a solid waste incineration unit under R 336.1211(1)(c), within 12 months of the date of the promulgation of an applicable requirement under section 129(a) of the clean air act.

(c) For a municipal solid waste landfill under R 336.1211(1)(d), by whichever is the later of the following dates:

(i) November 1, 1998.

(ii) Within 21 months of the effective date of R 336.1931 for implementing the provisions of 40 C.F.R. part 60, subpart Cc.

(iii) Within 15 months of the date the landfill becomes subject to any of the provisions of 40 C.F.R. part 60, subpart WWW.

(10) For modifications to a renewable operating permit, an administratively complete application shall be considered timely if it is received by the department in accordance with the time frames specified in R 336.1216.

(11) Failure to operate in compliance with all terms and conditions of an operating permit is grounds for enforcement action under the act, permit revocation or revision, or denial of a permit renewal application.

(12) Failure to halt or reduce an activity when necessary to comply with an operating permit is grounds for enforcement action.

(13) Submittal of a complete application for a renewable operating permit does not supersede or affect any requirements to obtain a permit to install under R 336.1201.

(14) A person who submits information to the department as a part of an application for a renewable operating permit under a claim of confidentiality, consistent with the requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, shall submit a copy of the information directly to the United States environmental protection agency.

(15) Except as provided in this subrule, the department shall take final action on each administratively complete application for a renewable operating permit, including an application for permit renewal, within 18 months after the date of receipt by the department of an administratively complete application. The department shall take final action on each timely and administratively complete application for first time issuance of a renewable operating permit for major sources, submitted under subrule (4)(a) to (f) of this rule, in accordance with the following schedule:

(a) By February 28, 1997, for all applications for a renewable operating permit required to be submitted under subrule (4)(a) and (b) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date on or before May 15, 1996.

(b) By February 28, 1998, for all applications for a renewable operating permit required to be submitted under subrule (4)(c) and (d) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from May 16, 1996, to October 15, 1996.

(c) By February 28, 1999, for all applications for a renewable operating permit required to be submitted under subrule (4)(e) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from October 16, 1996, to December 15, 1996.

(d) By February 28, 2000, for all applications for a renewable operating permit required to be submitted under subrule (4)(f) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from December 16, 1996, to February 28, 1997.

History: 1995 AACS; 1996 AACS; 1999 AACS; 2001 AACS; 2012 AACS.

Editor's Note: An obvious error in R 336.1210 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2012 MR 10. The memorandum requesting the correction was published in *Michigan Register*, 2012 MR 18.

**R 336.1211 Renewable operating permit applicability.**

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

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

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

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

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

(C) A lesser quantity as the administrator of the United States environmental protection agency may establish by rule for any hazardous air pollutant listed under section 112(b) of the clean air act. The department shall maintain, and make available upon request, a list of the hazardous air pollutants for which a lesser quantity criteria has been established. Emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources under this paragraph. For the purpose of this paragraph, the potential to emit of a stationary source for hazardous air pollutants includes fugitive emissions, regardless of the category of the stationary source.

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

(A) Lead.

(B) Sulfur dioxide.

(C) Nitrogen oxides.

(D) Carbon monoxide.

(E) PM-10.

(F) PM 2.5.

(G) Ozone.

(H) Volatile organic compounds.

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

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

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

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

(iv) A stationary source that directly emits, or has the potential to emit, greenhouse gas (GHG) emissions that equal or exceed both of the following:

(A) 100,000 tons per year carbon dioxide equivalent (CO<sub>2</sub>e) emissions on a global warming potential basis.

(B) 100 tons per year greenhouse gases on a mass basis. For the purpose of this paragraph, the following definitions apply:

(1) GHG is the air pollutant defined as the aggregate group of 6 greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(2) CO<sub>2</sub>e shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions in tons per year, for each of the 6 greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at 40 C.F.R. part 98, Table A-1 to subpart A - Global Warming Potentials, adopted by reference in R 336.1299, and summing the resultant value for each to compute a tons per year CO<sub>2</sub>e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry, and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

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

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

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

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

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

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

(ii) Each Greenfield raw material dryer.

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

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

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

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

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

History: 1995 AACS; 1996 AACS; 1998-2000 AACS; 2001 AACS; 2008 AACS; 2012 AACS.

**R 336.1212 Administratively complete applications; insignificant activities; streamlining applicable requirements; emissions reporting and fee calculations.**

Rule 212. (1) A timely and administratively complete application for a stationary source subject to the requirements of R 336.1210 shall meet the requirements of R 336.1210(2) and shall contain all information that is necessary to implement and enforce all applicable requirements that include a process-specific emission limitation or standard or to determine the applicability of those requirements.

(2) All of the following activities are considered to be insignificant activities at a stationary source and need not be included in an administratively complete application for a renewable operating permit:

(a) Repair and maintenance of grounds and structures.

(b) All activities and changes pursuant to R 336.1285(a) to (f); however, if any compliance monitoring requirements in the renewable operating permit would be affected by the change, then application shall be made to revise the permit pursuant to R 336.1216.

(c) All activities and changes pursuant to R 336.1287(f) to (h); however, if any compliance monitoring requirements in the renewable operating permit would be affected by the change, then application shall be made to revise the permit pursuant to R 336.1216.

(d) Use of office supplies.

(e) Use of housekeeping and janitorial supplies.

(f) Sanitary plumbing and associated stacks or vents.

(g) Temporary activities related to the construction or dismantlement of buildings, utility lines, pipelines, wells, earthworks, or other structures.

(h) Storage and handling of drums or other transportable containers that are sealed during storage and handling.

(i) Fire protection equipment, firefighting and training in preparation for fighting fires. Prior approval by the department for open burning associated with training in preparation for fighting fires is required pursuant to R 336.1310.

(j) Use, servicing, and maintenance of motor vehicles, including cars, trucks, lift trucks, locomotives, aircraft, or watercraft, except

where the activity is subject to an applicable requirement. The applicable requirement or the emissions of those air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements may include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii). For the purpose of this subdivision, the maintenance of motor vehicles does not include painting or refinishing.

(k) Construction, repair, and maintenance of roads or other paved or unpaved areas, except where the activities are subject to an applicable requirement. The applicable requirement or the emissions of the air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii).

(l) Piping and storage of sweet natural gas, including venting from pressure relief valves and purging of gas lines.

(3) The following process or process equipment need not be included in an administratively complete application for a renewable operating permit, unless the process or process equipment is subject to applicable requirements that include a process-specific emission limitation or standard:

- (a) All cooling and ventilation equipment listed in R 336.1280.
- (b) Cleaning, washing, and drying equipment listed in R 336.1281(a) to (f) and (i).
- (c) Electrically heated furnaces, ovens, and heaters listed in R 336.1282(a).
- (d) All other equipment listed in R 336.1283.
- (e) Containers listed in R 336.1284(a), (c), (d), (h), and (j) to (m).
- (f) Miscellaneous equipment listed in R 336.1285(h) to (p), (r) to (t), (v) to (ii), (kk), and (ll) except for externally vented equipment listed in R 336.1285(l)(vi).
- (g) All plastic processing equipment listed in R 336.1286.
- (h) Surface coating equipment listed in R 336.1287(b), (d), (e), (i), (j), and (k).
- (i) All oil and gas processing equipment listed in R 336.1288.
- (j) Asphalt and concrete production equipment listed in R 336.1289(a) to (c).

(4) Unless subject to a process-specific emission limitation or standard, all of the following process or process equipment need only be listed in an administratively complete application for a renewable operating permit. The list shall include a description of the process or process equipment, including any control equipment pertaining to the process or process equipment, the source classification code (SCC), and a reference to the subdivision of this subrule that identifies the process or process equipment:

- (a) Cleaning, washing, and drying equipment listed in R 336.1281(g), (h), and (j).
- (b) Fuel-burning furnaces, ovens, and heaters listed in R 336.1282.
- (c) Containers listed in R 336.1284(b), (e), (f), (g), and (i).
- (d) Miscellaneous process or process equipment listed in R 336.1285(g), (q), (u), and (jj) and externally vented process equipment listed in R 336.1285(l)(vi).
- (e) Surface-coating equipment listed in R 336.1287(a) and (c).
- (f) Concrete batch production equipment listed in R 336.1289(d).

(g) Process or process equipment which has limited emissions and which is listed in R 336.1290.

(5) As a part of an application for a renewable operating permit, a person may seek to establish that certain terms or conditions of a permit to install, permit to operate, or order entered pursuant to the act are not appropriate to be incorporated into the renewable operating permit or should be modified to provide for consolidation or clarification of the applicable requirements. An application for a renewable operating permit may include information necessary to demonstrate any of the following:

(a) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act is no longer an applicable requirement.

(b) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act should be modified to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the modification results in enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.

(c) That the equipment should be combined into emission units different from the emission units contained in a permit to install, permit to operate, or order entered pursuant to the act to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the realignment of the emission units results in enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.

(6) Beginning with the annual report of emissions required pursuant to R 336.202 and section 5503(k) of the act for calendar year 1995, or the first calendar year after a stationary source becomes a major source as defined by R 336.1211(1)(a), whichever is later, each stationary source subject to the requirements of this rule shall report the emissions, or the information necessary to determine the emissions, of each regulated air pollutant. The information shall be submitted utilizing the emissions inventory forms provided by the department. For the purpose of this subrule, "regulated air pollutant" means all of the following:

(a) Nitrogen oxides or any volatile organic compound.

(b) A pollutant for which a national ambient air quality standard has been promulgated under the clean air act.

(c) A pollutant that is subject to any standard promulgated under section 111 of the clean air act.

(d) A class I or II substance that is subject to a standard promulgated under or established by title VI of the clean air act.

(e) A pollutant that is subject to a standard promulgated under section 112 or other requirements established under section 112 of the clean air act, except for pollutants regulated solely pursuant to section 112(r) of the clean air act. Pollutants subject to a standard promulgated or other requirements established under section 112 of the clean air act include both of the following:

(i) A pollutant that is subject to requirements under section 112(j) of the clean air act. If the administrator of the United States environmental protection agency fails to promulgate a standard by the date established pursuant to section 112(e) of the clean air

act, any pollutant for which a stationary source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the clean air act.

(ii) A pollutant for which the requirements of section 112(g)(2) of the clean air act have been met, but only with respect to the specific stationary source that is subject to the section 112(g)(2) requirement.

(7) For the purpose of calculating the annual air quality fee pursuant to section 5522 of the act, the actual emissions of a fee-subject air pollutant from all process or process equipment shall be determined. However, the actual emissions of a fee-subject air pollutant from process or process equipment listed pursuant to subrules (2) to (4) of this rule need not be calculated unless either of the following provisions is met:

(a) The process or process equipment is subject to a process-specific emission limitation or standard for the specific fee-subject air pollutant.

(b) The actual emissions from the process or process equipment exceed 10% of significant, as defined in R 336.1119(e), for that air pollutant.

History: 1995 AACS; 1996 AACS; 2001 AACS; 2003 AACS.

### **R 336.1213 Content of renewable operating permit.**

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

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

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

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

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

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

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

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



- (A) Any stationary source.
- (B) Any emission unit.
- (C) Any equipment, including monitoring and air pollution control equipment.
- (D) Any work practices or operations regulated or required under the renewable operating permit.

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

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

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

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

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

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

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

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

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

(c) If the state implementation plan allows for an alternative emission limit that is equivalent to the limit contained in the state

implementation plan, any renewable operating permit containing the equivalent alternative emission limit shall contain terms and conditions to ensure that any such

emission limit is quantifiable, accountable, enforceable, and based on replicable procedures.

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

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

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

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

(ii) Where the applicable requirement does not require periodic testing or instrumental or no instrumental monitoring, which may consist of recordkeeping designed to serve as monitoring, the use of periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the stationary source's compliance with the permit, as reported pursuant to subrule (3)(c) of this rule. The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions shall be sufficient to meet the requirements of subrule (3)(b) of this rule.

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

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

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

- (A) The date, location, time, and method of sampling or measurements.
- (B) The dates analyses of the samples were performed.
- (C) The company or entity that performed the analyses of the samples.
- (D) The analytical techniques or methods used.

(E) The results of the analyses.

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

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

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

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

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

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

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

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

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

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

(B) Submitting, within 30 days following the end of a calendar month during which 1 or more prompt reports of deviations from the emissions

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

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

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

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

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

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

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

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

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

(iii) Whether compliance was continuous or intermittent.

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

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

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

(a) Each renewable operating permit shall specifically designate as not being enforceable under the clean air act any terms and conditions included in the permit that are not required under the clean air act or under any of its applicable requirements.

Terms and conditions so designated are not subject to the requirements for review by the United States environmental protection agency or affected states under R 336.1214.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) A renewable operating permit shall include terms and conditions for the trading of emissions increases and decreases among process emission units within the stationary

source solely for the purpose of complying with an emissions cap that is established in the permit independent of otherwise applicable requirements, if the terms and conditions have been requested by a person in an application for a renewable operating permit. If a person wishes to include the terms and conditions in a renewable operating permit, the permit application shall include proposed replicable procedures and permit terms that the person believes ensure the emissions trades are quantifiable and enforceable. The terms and conditions shall include those necessary to meet the requirements of subrules (2) to (4) of this rule. The department shall not be required to include in the emissions trading provisions any emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Both of the following provisions apply to the trading of emissions increases and decreases among emission units solely for the purpose of complying with an emissions cap:

(a) A written notification to the department and the United States environmental protection agency is required 7 days in advance of any emissions trade under this subrule. The notice shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

(b) The permit shield described in subrule (6) of this rule shall extend to terms and conditions that allow the increases and decreases in emissions.

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

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

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

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

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

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

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

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

(12) A renewable operating permit shall contain terms and conditions allowing for emission averaging and emission reduction credit trading pursuant to any applicable interstate or regional emissions trading program that has been approved by the

administrator of the United States environmental protection agency as a part of Michigan's state implementation plan.

History: 1995 AACS; 1996 AACS; 2001 AACS; 2008 AACS.

**R 336.1214 Approval of a renewable operating permit.**

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

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

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

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

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

(i) The name of the stationary source.

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

(iii) The mailing address of the department.

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

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

(vi) The name, address, and telephone number of a representative of the department from whom interested persons may obtain additional information, including copies of the draft permit, the report required under subrule (1) of this rule, and, to the extent provided by the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, the application and any other materials available to the department that are relevant to the permit decision.

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

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

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

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

(4) The department shall give notice of each draft permit to any affected state on or before the time that the department provides notice to the public pursuant to subrule (3) of this rule, unless R 336.1216(2) requires the timing of the notice to be different. The department shall notify the administrator of the United States environmental protection agency and any affected state, in writing, of any refusal by the department to accept all recommendations for the proposed permit that the affected state submitted during the public comment period specified in subrule (3)(c) of this rule. The notice shall include the department's reasons for not accepting any recommendation. The department is not required to accept recommendations that are not based on applicable requirements.

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

(6) Except as provided in 40 C.F.R. 70.8(a)(1) and (2), adopted by reference in R 336.1299, and as provided in R 336.1210(14), the department shall transmit a copy of each administratively complete application for a renewable operating permit, including any application for a significant modification to a renewable operating permit or for renewal of a renewable operating permit, all additional information submitted pursuant to R 336.1210(3), the report prepared pursuant to subrule (1) of this rule, and the proposed renewable operating permit to the United States environmental protection agency. The department shall not take a final action to issue a renewable operating permit until 45 days after the United States environmental protection agency has received all the



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

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

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

follow the procedure specified in 40 C.F.R. 70.7(g), adopted by reference in R 336.1299, to resolve the objection.

History: 1995 AACS; 1996 AACS; 2001 AACS; 2008 AACS; 2012 AACS.

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

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

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

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

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

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

336.1213(2)(a), shall be considered a term or condition of the source-wide permit to install issued pursuant to this rule:

(i) R 336.1201, R 336.1201a.

(ii) Title 40 C.F.R. §§63.40 to 63.44 and §§63.50 to 63.56, adopted by reference in R 336.1299.

(iii) R 336.1301(1)(c), R 336.1301(4), and R 336.1331(1)(c).

(iv) R 336.1401(1)(b) and R 336.1403(4).

(v) R 336.1702, R 336.1705, R 336.1706, R 336.1708, R 336.1709, and R 336.1710.

(vi) R 336.2415.

(vii) Title 40 C.F.R. §52.21, adopted by reference in R 336.1299.

(viii) R 336.2801 to R 336.2819 and R 336.2823.

(ix) R 336.2901 to R 336.2903, R 336.2907, and R 336.2908.

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

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

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

History: 2003 AACS; 2008 AACS.

**R 336.1215 Operational flexibility, emissions trading activities between stationary sources, off-permit changes, and insignificant changes for a renewable operating permit.**

Rule 215. (1) The following provisions apply to operational flexibility within a stationary source. As provided in 40 C.F.R. §70.4(B)(12), a person may make either of the following changes to process or process equipment within a stationary source covered by a renewable operating permit without a revision to that permit, if the changes are not a modification under any applicable provision of title I of the clean air act and the changes do not exceed the emissions allowable under the renewable operating permit, whether expressed therein as a rate of emissions or in the terms of total emissions, if the person provides written notification to the department and the United States environmental protection agency at least 7 days prior to the change. The permittee and the department shall attach each such notice to their copy of the relevant permit:

(a) As provided in 40 C.F.R. §70.2 and 40 C.F.R. §70.4(B)(12)(i), a person may make changes that contravene a specific permit condition, if the changes are not modifications under any provision of title I of the clean air act and the changes do not exceed the emissions allowable under the renewable operating permit, whether expressed therein as a rate of emissions or in terms of total emissions. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring, including test methods, recordkeeping, reporting, or compliance certification requirements. For each such change, the written notification required in this subrule shall include all of the following information:

- (i) A brief description of the change within the stationary source.
- (ii) The date on which the change will occur.
- (iii) Any change in emissions.
- (iv) Any permit term or condition that is no longer applicable as a result of the change.

(b) As provided in 40 C.F.R. §70.4(B)(12)(ii), a person may trade increases and decreases in emissions within the stationary source according to procedures specified by an applicable emissions trading program that has been approved by the administrator of the United States environmental protection agency as a part of Michigan's state implementation plan, if the person has provided written notification to the department and the United States environmental protection agency of the changes at least 7 days prior to the activity taking place.

(i) The written notification required in this subdivision shall include all information required by the approved state implementation plan, including at a minimum, all of the following information:

(A) When the proposed change will occur.

(B) A description of each such change.

(C) Any change in emissions.

(D) The permit requirements with which the stationary source will comply using the emissions trading provisions of the approved state implementation plan for trading within a stationary source.

(E) The pollutants emitted subject to the emissions trade.

(F) The provisions of the approved state implementation plan with which the stationary source will comply and which provide for the emissions trade within the stationary source.

(ii) Compliance with the permit requirements that the stationary source will meet using the emissions trade shall be determined according to the requirements of the approved state implementation plan authorizing the emissions trade within the stationary source.

(c) For the purposes of this subrule, the emissions allowable under the renewable operating permit include any emission limitation, standard, or condition, including a work practice standard, that is required by an applicable requirement or any emission limitation, standard, or condition, including a work practice standard, that establishes an emissions cap which the source has assumed to avoid an applicable requirement.

(2) The following provisions apply to emission reduction credits trading between stationary sources. As provided in 40 C.F.R. §70.6(A)(8), a person may make any changes without revision to the renewable operating permit where provided for in the renewable operating permit and allowed by an applicable interstate or regional emissions trading program that has been approved by the administrator of the United States environmental protection agency.

(3) The following provisions apply to off-permit changes. as provided in 40 C.F.R. §70.4(B)(14) and (15), a person may make a change at a stationary source covered by a renewable operating permit that is not addressed or prohibited by the renewable operating permit without a revision to the renewable operating permit, if all of the following provisions are met:

(a) The change complies with all applicable requirements and is not a modification under any applicable provision of title I of the clean air act.

(b) If the stationary source is an affected source under title IV of the clean air act, the change is not contrary to any applicable requirement of title IV of the clean air act.

(c) The person shall provide contemporaneous written notification to the department and the United States environmental protection agency of each change. The written notice shall describe the change, including all of the following information:

- (i) The date of the change.
- (ii) Any change in emissions.
- (iii) Any pollutants emitted.
- (iv) Any applicable requirement that would apply as a result of the change.
- (v) A statement that the notification is being provided pursuant to this subrule.

(d) The person shall keep a record describing changes made at the stationary source that result in emissions of an air contaminant which are subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from the changes.

(4) The following provisions apply to insignificant changes. A person may make a change at a stationary source covered by a renewable operating permit that involves the insignificant activities listed pursuant to R 336.1212(2) or that involves the installation, construction, reconstruction, relocation, alteration, or modification of any process or process equipment listed pursuant to R 336.1212 (3) and (4) without a revision to the renewable operating permit, if none of the following provisions apply to the change:

- (a) The change would result in a violation of any applicable requirement.
- (b) The change would require or modify any of the following:
  - (i) A case-by-case determination of an emission limitation or other standard.
  - (ii) For temporary sources, a source-specific determination of ambient air impacts.
  - (iii) A visibility or increment analysis.
- (c) The change would seek to establish or modify an emission limit, standard, or other condition of the renewable operating permit that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject.

(d) The change is a major offset modification or a modification under any applicable requirement of section 111, section 112, or part C of title I of the clean air act.

(5) Changes made pursuant to this rule do not qualify for the permit shield provided by R 336.1213(6).

History: 1995 AACS; 1996 AACS; 2001 AACS.

### **R 336.1216 Modifications to renewable operating permits.**

Rule 216. (1) All of the following provisions apply to administrative permit amendments:

(a) An administrative permit amendment is a modification to a renewable operating permit that involves any of the following:

- (i) A change that corrects typographical errors.
- (ii) A change in the name, address, or phone number of the responsible official or other contact person identified in the application for the renewable operating permit or a similar minor administrative change at the stationary source.
- (iii) A change that provides for more frequent monitoring or reporting.
- (iv) A change in the ownership or operational control of a stationary source where the department determines that no other change in the permit is necessary, if a written

the department determines that no other change in the permit is necessary, if a written

agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new persons owning or operating the stationary source has been submitted to the department. The new person owning or operating the stationary source shall also notify the department of any change in the responsible official or contact person regarding the renewable operating permit.

(v) A change that incorporates into the renewable operating permit the terms and conditions of a permit to install issued pursuant to R 336.1201, if the permit to install includes terms and conditions that comply with the permit content requirements contained in R 336.1213, the procedure used to issue the permit to install was substantially equivalent to the requirements of R 336.1214(3) and (4) regarding public participation and review by affected states, the process or process equipment is in compliance with, and no changes are required to, the terms and conditions of the permit to install that are to be incorporated into the renewable operating permit, and both of the following have occurred:

(A) A person has notified the department, in writing, within 30 days after completion of the installation, construction, reconstruction, relocation, or modification of the process or process equipment covered by the permit to install, unless a different time frame is specified by an applicable requirement and required by the permit to install.

(B) Upon completion of all testing, monitoring, and recordkeeping required by the terms and conditions of the permit to install, but not later than 12 months after the date of completion reported in subparagraph (A) of this paragraph unless a different time frame is specified in the permit to install, a person has requested that the contents of the permit to install be incorporated into the renewable operating permit as an administrative permit amendment. The request shall include all of the following:

(1) The results of all testing, monitoring, and recordkeeping performed by the person to determine the actual emissions from the process or process equipment and to demonstrate compliance with the terms and conditions of the permit to install.

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

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

(b) An administrative permit amendment, for changes identified in subdivision (a)(i) to (iv) of this subrule, shall be reviewed and final action taken according to the following procedure:

(i) The department shall take final action to approve or deny the request for an administrative permit amendment within 60 days of the receipt of the request, unless the department requests additional information to clarify the request. If the department requests additional information, the department shall take final action within 60 days of the receipt of the additional information. Upon approval of the request, the change shall be incorporated into the renewable operating permit without providing notice to the public or affected states. The change shall be clearly designated as an administrative permit amendment.

(ii) Upon approval, the department shall transmit a copy of the administrative permit amendment to the person that requested the amendment and the United States environmental protection agency.

(iii) A person may implement the changes identified in the request for an administrative permit amendment, at the person's own risk, immediately upon submittal of the request to the department. After the change has been made, and until the department takes final action as specified in paragraph

(i) of this subdivision, a person shall comply with both of the applicable requirements governing the change and the permit terms and conditions proposed in the application for the administrative amendment. If a person fails to comply with the permit terms and conditions proposed in the application for the administrative amendment during this time period, the terms and conditions contained in the renewable operating permit are enforceable.

(iv) The permit shield provided under R 336.1213(6) does not extend to administrative amendments made pursuant to subdivision (a)(i) to (iv) of this subrule.

(c) An administrative permit amendment, for changes identified in subdivision (a)(v) of this subrule, shall be reviewed and final action taken according to the following procedure:

(i) Within 60 days after receipt by the department of all the information required pursuant to subdivision (a)(v)(B) of this subrule, the department shall determine whether the information provides an acceptable demonstration of compliance with the terms and conditions of the permit to install and shall transmit a copy of the information together with the determination and a proposed amended renewable operating permit to the United States environmental protection agency for a 45-day review period pursuant to 40 C.F.R. §70.8(c).

(ii) The department shall not take a final action to approve the administrative permit amendment if the administrator of the United States environmental protection agency objects to its approval, in writing, within 45 days of receipt by the United States environmental protection agency, of the information required in paragraph (i) of this subdivision. The department shall follow the procedure specified in 40 C.F.R. §70.8(c) in response to an objection by the administrator of the United States environmental protection agency.

(iii) A person may make the change authorized by the permit to install immediately after the permit to install has been approved by the department. After the change has been made, and until the department takes final action on the administrative permit amendment as specified in paragraph (ii) of this subdivision, the person shall comply with both the applicable requirements governing the change and the terms and conditions approved as a part of the permit to install. During this time period, the person may choose to not comply with the existing terms and conditions of the renewable operating permit that are modified by the permit to install. However, if the person fails to comply with the terms and conditions of the permit to install during this time period, the terms and conditions contained in the renewable operating permit are enforceable. The permit shield provided under R 336.1213(6) does not apply to the changes until the administrative permit amendment has been approved by the department.

(d) If the department denies the request for an administrative permit amendment, the department shall notify the person requesting the administrative permit amendment, in writing, that the request has been denied and the reasons for the denial. Any appeal of a denial by the department of an administrative permit amendment shall be pursuant to section 631 of 1961 PA 236, MCL 600.631. The denial of an administrative permit

amendment pursuant to subrule (1)(c) of this rule is not a revocation of the permit to install.

(2) All of the following provisions apply to minor permit modifications:

(a) A minor permit modification is a change to a renewable operating permit for which none of the following provisions apply:

(i) The change would violate any applicable requirement.

(ii) The change would significantly affect any existing monitoring, reporting, or recordkeeping requirements contained in the renewable operating permit.

(iii) The change would require or affect any of the following:

(A) A case-by-case determination of a federally enforceable emission limitation or other standard.

(B) For temporary sources, a source-specific determination of ambient impacts.

(C) A visibility or increment analysis.

(iv) The change would seek to establish or affect a federally enforceable term or condition in the renewable operating permit for which there is no corresponding underlying applicable requirement and that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. Following are examples of the terms and conditions described in this paragraph:

(A) An emissions cap assumed to avoid classification as a modification under any applicable provision of title I of the clean air act.

(B) An alternative emissions limit adopted by the stationary source as part of an early reduction program pursuant to section 112(i)(5) of the clean air act.

(v) The change is defined as a major offset modification or a modification under any applicable requirement of section 111, section 112, or part C of title I of the clean air act. A minor permit modification includes a change authorized by a permit to install issued pursuant to R 336.1201, if the permit to install includes terms and conditions that comply with the permit content requirement of R 336.1213 and none of the provisions of this subrule apply.

(b) An application requesting a minor permit modification shall contain reasonable responses to all requests for information in the minor permit modification application forms required by the department, including all of the following information:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

(ii) The proposed changes to the terms and conditions of the renewable operating permit that the person applying for the minor permit modification believes are adequate to address the change and any new applicable requirements.

(iii) A certification by the responsible official which states that the proposed modification meets the criteria for use of minor permit modification procedures and that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete.

(iv) Completed forms, supplied by the department, for the department to use to notify the United States environmental protection agency and any affected states.

(c) A minor permit modification shall be reviewed and final action taken according to the following procedure:

(i) Within 5 working days of receipt by the department of an application for a minor permit modification that meets the requirements of subdivision (b) of this subrule, the



department shall notify the United States environmental protection agency and any affected states of the requested minor permit modification.

(ii) The department shall notify the administrator of the United States environmental protection agency and the affected state, in writing, of any refusal by the department to accept any recommendations for the minor permit modification that the affected state submitted to the department during the time period for review specified in paragraph (iii) of this subdivision and before final action has been taken on the minor permit modification. The notice shall include the department's reasons for not accepting any recommendation. The department is not required to accept recommendations that are not based on applicable requirements.

(iii) The department shall not issue a final minor permit modification until after the United States environmental protection agency's 45-day review period or until the United States environmental protection agency has notified the department that the agency will not object to issuance of the minor permit modification. Within 90 days of the department's receipt of an application for a minor permit modification, or 15 days after the end of the United States environmental protection agency's 45-day review period, whichever is later, the department shall take 1 of the following actions and notify, in writing, the person applying for the minor permit modification of that action:

(A) Approve the permit modification as proposed.

(B) Revise the draft minor permit modification, with the consent of the person applying for the minor permit modification, and transmit the revised draft minor permit modification to the United States environmental protection agency. Transmittal of a revised draft minor permit modification to the United States environmental protection agency restarts the 45-day review period specified in this paragraph.

(C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures. The notification by the department shall specify why the request does not meet the criteria for a minor permit modification.

(D) Deny the permit modification application for cause. The notification by the department shall specify the reasons for the denial. The appeal of a denial by the department of a minor permit modification shall be pursuant to section 631 of 1961 PA 236, MCL 600.631.

(d) A person may make the change proposed in the application for a minor permit modification, at the person's own risk, immediately after the department has received the application. After the change has been made, and until the department takes final action as specified in subdivision (c)(iii)(A) to (C) of this subrule, a person shall comply with both of the applicable requirements governing the change and the permit terms and conditions proposed in the application for the minor permit modification. During this time period, a person may choose to not comply with the existing permit terms and conditions that the application for a minor permit modification seeks to modify. However, if the person fails to comply with the permit terms and conditions proposed in the application for the minor permit modification during this time period, the terms and conditions contained in the renewable operating permit are enforceable.

(e) Notwithstanding the restrictions of subdivision (a) of this subrule, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar

approaches, to the extent that the approaches have been approved by the administrator of the United States environmental protection agency as a part of Michigan's state implementation plan. The approaches shall identify the specific modifications that can be made using the minor permit modification procedures.

(f) The permit shield under R 336.1213(6) shall not extend to minor permit modifications.

(3) All of the following provisions apply to significant modifications:

(a) A significant modification is a modification to a renewable operating permit which is not an administrative permit amendment pursuant to subrule (1) of this rule, or is not a minor permit modification pursuant to subrule (2) of this rule, and which involves any of the following changes, unless the change is allowed under the terms and conditions of a permit to install that has been approved by the department pursuant to the requirements of subrule (1)(a)(v) of this rule:

(i) A modification under any applicable provision of title I of the clean air act.

(ii) Except as provided pursuant to subrule (1)(c)(iii) of this rule, any change that would result in emissions that exceed the emissions allowed under the renewable operating permit. The emissions allowed under the permit include any emission limitation, production limit, or operational limit, including a work practice standard, required by an applicable requirement, or any emission limitation, production limit, or operational limit, including a work practice standard, that establishes an emissions cap that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject.

(iii) The change would significantly affect an existing monitoring, recordkeeping, or reporting requirement included in the renewable operating permit.

(iv) The change would require or modify a case-by-case determination of an emission limitation or other standard, a source-specific determination of ambient air impacts for temporary sources, or a visibility or increment analysis.

(v) The change would seek to establish or modify an emission limitation, standard, or other condition of the renewable operating permit that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject.

(b) An administratively complete application for a significant permit modification shall be limited to address only the process and process equipment that will be affected by the change.

(c) The terms and conditions of a significant permit modification shall meet all the permit content requirements of R 336.1213 for the process and process equipment affected by the change.

(d) The procedure for taking final action on significant permit modification shall follow the requirements of R 336.1214, except that final actions on significant permit modifications shall be taken within 9 months of the receipt by the department of an administratively complete application.

(e) If a significant permit modification is denied, the department shall notify, in writing, the person applying for the modification. The notification of denial shall specify the reasons for the denial. Any appeal of a denial by the department of a significant permit modification shall be pursuant to section 631 of 1961 PA 236, MCL 600.631.

(4) All of the following provisions apply to state-only modifications:

(a) A state-only modification to a renewable operating permit involves changes to terms and conditions in the renewable operating permit that are designated as not enforceable under the clean air act pursuant to R 336.1213(5). If the change results in new applicable requirements that must be enforceable under the clean air act, then the change shall not be a state-only modification.

(b) An application requesting a state-only modification shall contain reasonable responses to all requests for information in the application forms required by the department, including all of the following information:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

(ii) The proposed changes to the terms and conditions of the renewable operating permit that the person applying for the state-only modification believes are adequate to address the change and any new applicable requirements.

(iii) A certification by the responsible official which states that the proposed modification meets the criteria for use of the state-only modification procedures and that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete.

(c) A state-only modification shall be reviewed and final action taken within 90 days of the department's receipt of an application for the state-only modification. The department shall take 1 of the following actions and notify, in writing, the person applying for the state-only modification of that action:

(i) Approve the state-only modification as proposed.

(ii) Revise the draft state-only modification, with the consent of the person applying for the modification, and approve the revised modification.

(iii) Determine that the requested modification does not meet the criteria for a state-only modification and should be reviewed pursuant to subrule (1), (2), or (3) of this rule. The notification by the department shall specify why the request does not meet the criteria for a state-only modification.

(iv) Deny the state-only modification application for cause. The notification by the department shall specify the reasons for the denial. The appeal of a denial by the department of a state-only modification shall be pursuant to section 631 of 1961 PA 236, MCL 600.631.

(d) A person may make the change proposed in the application for a state-only modification, at the person's own risk, immediately after the application has been received by the department. After the change has been made, and until the department takes final action as specified in subdivision (c)(i) to (iv) of this subrule, the person shall comply with both the applicable requirements governing the change and the permit terms and conditions proposed in the application for the minor permit modification. During this time period, the person may choose, at the person's own risk, to not comply with the existing permit terms and conditions that the application for a state-only modification seeks to modify. However, if the person fails to comply with the permit terms and conditions proposed in the application for the state-only modification during this time period, or if the state-only modification is denied by the department, the terms and conditions contained in the renewable operating permit are enforceable.

(e) The permit shield provided under R 336.1213(6) does not apply to the state-only modification until the changes have been approved by the department.

History: 1995 AACCS; 1996 AACCS; 2003 AACCS.

**R 336.1217 Renewals and reopenings of renewable operating permits.**

Rule 217. (1) All of the following provisions apply to renewals of renewable operating permits:

(a) If a timely and administratively complete application for the renewal of a renewable operating permit is submitted, consistent with R 336.1210(8), and timely and complete additional information is submitted, consistent with R 336.1210(3), but the department has failed to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the existing renewable operating permit shall not expire until the renewal permit has been issued or denied and any permit shield that may be granted pursuant to R 336.1213(6) shall extend beyond the original permit term until the department takes final action on the renewal permit.

(b) Renewable operating permits that are being renewed are subject to the same procedural requirements, including the requirements for public participation and for review by affected states and the United States environmental protection agency, and the same provisions for appeal that apply to initial issuance of renewable operating permits pursuant to R 336.1214.

(c) Expiration of a renewable operating permit results in the loss of the permit shield provided in R 336.1213(6).

(2) All of the following provisions apply to the reopening for cause of renewable operating permits:

(a) Each renewable operating permit shall include provisions specifying the conditions under which the department shall reopen the renewable operating permit before the expiration of the permit. A permit shall be reopened and revised by the department under any of the following circumstances:

(i) To incorporate new applicable requirements issued or promulgated after the issuance of the renewable operating permit, if 3 or more years remain in the term of the permit. The revision shall occur as expeditiously as practicable, but not later than 18 months after promulgation of the applicable requirement. A revision is not required if the effective date of the new applicable requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended beyond the effective date of the new applicable requirement pursuant to subrule (1)(a) of this rule.

(ii) To incorporate new applicable standards and requirements for affected sources pursuant to title IV of the clean air act.

(iii) If the department determines that the permit contains a material mistake, that information required by any applicable requirement was omitted, or that inaccurate statements were made in establishing the emission limitations or standards or the terms and conditions of the permit.

(iv) If the department determines that the permit must be revised to ensure compliance with the applicable requirements.

(b) Proceedings to reopen and issue a revised renewable operating permit shall follow the same procedures, including the procedures for public participation and for review by affected states and the United States environmental protection agency, and the

same provisions for appeal that apply to the initial issuance of a renewable operating permit pursuant to R 336.1214. Any proceeding to reopen and issue a revised renewable operating permit shall affect only those parts of the permit for which cause to reopen exists. The department shall reopen a renewable operating permit as expeditiously as possible after it discovers that cause exists to reopen.

(c) The department shall not initiate a reopening of a renewable operating permit pursuant to subrule (2)(a) of this rule before providing a notice of intent to reopen the renewable operating permit to the person owning or operating the stationary source. The notice shall be provided not less than 30 days in advance of the date that the renewable operating permit is to be reopened and shall specify the reasons for the reopening.

History: 1995 AACCS; 2012 AACCS.

### **R 336.1218 General renewable operating permits.**

Rule 218. (1) The department may, after notice and opportunity for public participation and review by affected states and the United States environmental protection agency consistent with R 336.1214(3), (4), and (6), issue a general renewable operating permit covering numerous similar stationary sources. Any general renewable operating permit shall comply with all requirements applicable to other renewable operating permits and shall identify criteria by which stationary sources may qualify for the general renewable operating permit. The department shall grant the terms and conditions of the general renewable operating permit to stationary sources that qualify. Notwithstanding the permit shield provisions of R 336.1213(6), a person who owns or operates a stationary source shall be subject to enforcement action for operation without a renewable operating permit if the department later determines that the stationary source does not qualify for the general renewable operating permit. The department shall not authorize general renewable operating permits for affected sources under the acid rain program, unless otherwise provided in regulations promulgated under title IV of the clean air act.

(2) A person who owns or operates a stationary source that meets the criteria specified in R 336.1211 and who would qualify for a general renewable operating permit issued by the department pursuant to subrule (1) of this rule, shall apply to the department for coverage under the terms of the general renewable operating permit or shall apply for a renewable operating permit consistent with R 336.1210. The department may, in the general renewable operating permit, provide for applications that deviate from the administrative completeness requirements of section 5d of the act, if the applications meet the requirements of title V of the clean air act and include all information necessary to determine qualification for, and to assure compliance with, the general renewable operating permit. Without repeating the public participation and review by affected states and the United States environmental protection agency required under R 336.1214(3), (4), and (6), the department may grant a request by a person for authorization to operate under a general renewable operating permit, but the granting shall not be a final permit action for purposes of judicial review.

History: 1995 AACCS.

**R 336.1219 Amendments for change of ownership or operational control.**

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

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

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

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

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

History: 1995 AACS; 2003 AACS; 2008 AACS.

**R 336.1220 Rescinded.**

History: 1980 AACS; 1981 AACS; 1988 AACS; 1990 AACS; 1993 AACS; 2003 AACS; rescinded 2008 AACS.

**R 336.1221 Rescinded.**

History: 1980 AACS; 1990 AACS.

**R 336.1224 T-BACT requirement for new and modified source of air toxics; exemptions.**

Rule 224. (1) A person who is responsible for any proposed new or modified emission unit or units for which an application for a permit to install is required by part 2 of these rules and which emits a toxic air contaminant shall not cause or allow the emission of the toxic air contaminant from the proposed new or modified emission unit or units in excess of the maximum allowable emission rate based on the application of best available control technology for toxics (T-BACT), except as provided in subrule (2) of this rule.

(2) The requirement for T-BACT in subrule (1) of this rule shall not apply to any of the following:

(a) An emission unit or units for which standards have been promulgated under section 112(d) of the clean air act or for which a control technology determination has been made under section 112(g) or 112(j) of the clean air act for any of the following:

(i) The hazardous pollutants listed in section 112(b) of the clean air act.

(ii) Other toxic air contaminants that are volatile organic compounds, if the standard promulgated under section 112(d) of the clean air act or the determination made under section 112(g) or 112(j) of the clean air act controls similar compounds that are also volatile organic compounds.

(iii) Other toxic air contaminants that are particulate matter, if the standard promulgated under section 112(d) of the clean air act or the determination made under section 112(g) or 112(j) of the clean air act controls similar compounds that are also particulate matter.

(b) An emission unit or units that is in compliance with all of the following:

(i) The maximum allowable emissions of each toxic air contaminant from the proposed new or modified emission unit or units is 0.1 pound per hour or less for a carcinogen or 1.0 pound per hour or less for any other toxic air contaminant.

(ii) The applicable initial threshold screening level for the toxic air contaminant is more than 200 micrograms per cubic meter.

(iii) The applicable initial risk screening level is more than 0.1 micrograms per cubic meter.

(c) An emission unit or units which only emits toxic air contaminants that are particulates or VOCs and which is in compliance with BACT or LAER requirements for particulates and VOCs.

History: 1998-2000 AACS.

**R 336.1225 Health-based screening level requirement for new or modified sources of air toxics.**

Rule 225. (1) A person who is responsible for any proposed new or modified emission unit or units for which an application for a permit to install is required by part 2 of these rules and which emits a toxic air contaminant (TAC) shall not cause or allow the emission of the toxic air contaminant from the proposed new or modified emission unit or units in excess of the maximum allowable emission rate which results in a predicted maximum ambient impact that is more than the initial threshold screening level or the initial risk screening level, or both, except as provided in subrules (2) and (3) of this rule and in R 336.1226.

(2) As an alternative to complying with the initial risk screening level in subrule (1) of this rule, a person may instead demonstrate compliance with the secondary risk screening level. For the purpose of complying with the secondary risk screening level, the total allowable emissions of the carcinogen from the proposed new or modified emission unit or units and all existing emission units at the stationary source shall not result in a maximum ambient impact that is more than the secondary risk screening level.

(3) If the ambient impacts of a carcinogen occur on industrial property or public roadways, as an alternative to complying with the initial risk screening level or secondary risk screening level in subrule (1) or (2) of this rule, a person may instead demonstrate compliance with either of the following provisions:

(a) The maximum allowable emission rate of the carcinogen from the proposed new or modified emission unit or units results in ambient impacts that meet both of the following requirements:

(i) The maximum ambient impact on industrial property or public roadways is less than or equal to the initial risk screening level multiplied by a factor of 10.

(ii) The maximum ambient impact on all property that is not industrial or a public roadway is less than or equal to the initial risk screening level.

(b) The total allowable emissions of the carcinogen from the proposed new or modified emission unit or units and all existing emission units at the stationary source result in ambient impacts that meet both of the following requirements:

(i) The maximum ambient impact on industrial property or public roadways is less than or equal to the secondary risk screening level multiplied by a factor of 10.

(ii) The maximum ambient impact on all property that is not industrial or a public roadway is less than or equal to the secondary risk screening level.

(4) Any owner or operator who utilizes the alternative criteria provided in subrule (3) of this rule shall notify the department if a change in land use occurs for property determined to be industrial or a public roadway. The notification shall be submitted to the department within 30 days of the actual land use change. Within 60 days of the land use change, the owner or operator shall submit to the department a plan for complying with the requirements of subrule (1) of this rule. The plan shall require compliance with subrule (1) of this rule not later than 1 year after the due date of the plan submittal.

(5) For the purposes of this rule, industrial property includes only property where the activities are industrial in nature, for example, manufacturing, utilities, industrial research and development, or petroleum bulk storage. The term industrial property does not include farms or commercial establishments.

(6) For the purpose of subrules (1), (2), and (3) of this rule, both of the following provisions apply:

(a) All polychlorinated dibenzodioxins and dibenzofurans shall be considered as 1 toxic air contaminant, expressed as an equivalent concentration of 2,3,7,8-tetrachlorodibenzo-p-dioxin, based upon the relative potency of the isomers emitted from the emission unit or units.

(b) If 2 or more toxic air contaminants are present and known to result in toxicological interaction, then the interactive effects shall be considered in establishing initial threshold screening levels, initial risk screening levels, and secondary risk screening levels.

History: 1998-2000 AACCS.

### **R 336.1226 Exemptions from the health-based screening level requirement.**

Rule 226. The health-based screening level requirement provided in R 336.1225(1) shall not apply to any of the following:

(a) Emissions of a toxic air contaminant that meet both of the following requirements:

(i) The emission rate is less than 10 pounds per month and 0.14 pound per hour.



(ii) The toxic air contaminant is not a carcinogen or a high concern toxic air contaminant listed in table 20.

**Table 20. List of High Concern Toxic Air Contaminants**

CHEMICAL NAME	CAS NUMBER
2,4,6-trinitrotoluene (TNT)	118-96-7
2-diethylaminoethanol	100-37-8
acrolein	107-02-8
allyl chloride	107-05-1
alpha chloroacetophenone	532-27-4
alpha-amylase	9000-90-2
antimony compounds <sup>1</sup>	
arsine	7784-42-1
barium compounds <sup>1</sup>	
biphenyl	92-52-4
bromine	7726-95-6
chlorine dioxide	10049-04-4
chlormadinone acetate	302-22-7
chlorpyrifos	2921-88-2
cobalt compounds <sup>1</sup>	
colophony	8050-09-7
dibromochloropropane	96-12-8
dibutyltin oxide	818-08-6
dichlorvos	62-73-7
diisocyanate compounds <sup>1,2</sup>	
dimethyl sulfate	77-78-1
glutaraldehyde	111-30-8
halogenated dimethylhydantoin compounds <sup>3</sup>	
isocyanate compounds <sup>1,4</sup>	
maleic anhydride	108-31-6
manganese compounds <sup>1</sup>	
melengesterol acetate	2919-66-6
mercury compounds <sup>1</sup>	
octachlorostyrene	29082-74-7
osmium tetroxide	20816-12-0
pentachlorobenzene	608-93-5
platinum soluble salt	7440-06-4
selenium compounds <sup>1</sup>	
subtilisins (proteolytic enzymes) <sup>5</sup>	
sulfuric acid (including sulfur trioxide and oleum)	7664-93-9
tetrachlorobenzene compounds <sup>6</sup>	
thallium compounds <sup>1</sup>	
vanadium pentaoxide	1314-62-1

<sup>1</sup>These listings include any unique chemical substance that contains the named chemical (for example, antimony, barium, cobalt, diisocyanate, isocyanate, manganese, mercury, selenium, and thallium) as part of the chemical structure.

<sup>2</sup>Diisocyanate compounds include compounds with 2 of the isocyanate functional groups (-CNCO).

<sup>3</sup>Halogenated dimethylhydantoin compounds includes those compounds with a hydantoin infrastructure (NHCONHCOCH<sub>2</sub>) substituted by 2 methyl groups at the 5 position on the ringed structure and halogens at the 1 or 3 position or the 1 and 3 position.

<sup>4</sup>Isocyanate compounds includes compounds with 1 or more of the isocyanate functional groups (-CNCO).

<sup>5</sup>Subtilisins (proteolytic enzymes) includes any members of the group of proteolytic enzymes derived from *Bacillus subtilis* or closely related organisms.

<sup>6</sup>Tetrachlorobenzenes includes compounds that consist of a benzene ring substituted with 4 chlorine atoms.

(b) An emission unit or units for which standards have been promulgated under section 112(f) of the clean air act for hazardous air pollutants listed under section 112(b) of the clean air act.

(c) Air contaminants and emission units that are regulated by the following national emission standards for hazardous air pollutants promulgated on or before November 14, 1990, under section 112 of the clean air act, as amended, 42 U.S.C. §7401 et seq.:

(i) Subpart B - National emission standard for radon-222 emissions from underground uranium mines.

(ii) Subpart C - National emission standards for beryllium.

(iii) Subpart D - National emission standard for beryllium rocket motor firing.

(iv) Subpart E - National emission standard for mercury.

(v) Subpart F - National emission standard for vinyl chloride.

(vi) Subpart H - National emission standard for radionuclide emissions from department of energy facilities. (vii) Subpart I - National emission standard for radionuclide emissions from facilities licensed by the nuclear regulatory commission and federal facilities not covered by subpart H.

(viii) Subpart J - National emission standard for equipment leaks (fugitive emission sources) of benzene.

(ix) Subpart K - National emission standard for radionuclide emissions from elemental phosphorus plants. (x) Subpart L - National emission standard for benzene emissions from coke-by-product recovery plants. (xi) Subpart M - National emission standard for asbestos.

(xii) Subpart N - National emission standard for inorganic arsenic emissions from glass manufacturing plants.

(xiii) Subpart O - National emission standard for inorganic arsenic emissions from primary copper smelters.

(xiv) Subpart P - National emission standard for inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities.

(xv) Subpart V - National emission standard for equipment leaks (fugitive emission sources).

(xvi) Subpart W - National emission standard for radon-222 emissions from licensed uranium mill tailings.

(xvii) Subpart Y - National emission standard for benzene emissions from benzene storage vessels.

(xviii) Subpart BB - National emission standards for benzene emissions from benzene transfer operations.

(xix) Subpart FF - National emission standards for benzene waste operations.

(d) Emissions of a toxic air contaminant if it is demonstrated, on a case-by-case basis, to the satisfaction of the department, that the proposed new or modified emission unit or units will not cause or contribute to a violation of the provisions of R 336.1901. The demonstration shall include all relevant scientific information such as the following:

(i) All available information on the health effects of the toxic air contaminant.

(ii) The levels at which adverse health or environmental effects have occurred.

(iii) Net air quality benefits that would occur as a result of replacing an existing facility.

(iv) Actual exposure levels and duration of exposure.

(v) The uncertainty in data or analysis.

(vi) Other supporting information requested by the department.

History: 1998-2000 AACCS.

### **R 336.1227 Demonstration of compliance with health-based screening level.**

Rule 227. (1) Compliance with the health-based screening level provisions of R 336.1225 shall be determined by any of the following:

(a) The emission rate of each toxic air contaminant is not greater than the rates determined from the algorithms in table 21. If table 21 provides 2 allowable emission rates for a screening level specific averaging time, then compliance with both emission rates is required.

Table 21. Algorithms for determining allowable emission rates (AER)

Screening Level (SL) Averaging Time	Monthly Emission Rate (pounds per month) <sup>1,2</sup>	24 Hour Emission Rate (pounds per 24 hours) <sup>1,3</sup>	8 Hour Emission Rate (pounds per 8 hours) <sup>1,4</sup>	1 Hour Maximum Emission Rate (pounds per hour) <sup>1,5</sup>
Annual	SL X 40 = AER			SL X 0.54 = AER
24 hours		SL X 0.12 = AER		SL X 0.05 = AER
8 hours			SL X 0.02 = AER	SL X 0.02 = AER
1 hour				SL X 0.001 = AER

<sup>1</sup> All screening levels (SL) are in units of  $\mu\text{g}/\text{m}^3$ .

<sup>2</sup> The constant value of 40 is in units of  $\frac{\text{lbs} / \text{month}}{\mu\text{g} / \text{m}^3}$ .

<sup>3</sup> The constant value of 0.12 is in units of  $\frac{\text{lbs} / 24\text{hours}}{\mu\text{g} / \text{m}^3}$ .

<sup>4</sup> The constant value of 0.02 is in units of  $\frac{\text{lbs} / 8\text{hours}}{\mu\text{g} / \text{m}^3}$ .

<sup>5</sup> The constant values of 0.54, 0.05, 0.02, and 0.001 are in units of  $\frac{\text{lbs} / \text{hour}}{\mu\text{g} / \text{m}^3}$ .

(b) The emission rate of each toxic air contaminant is not greater than the rate determined from the AIR matrix screening methodology in table 22 or determined by any other screening method approved by the department.

(c) The maximum ambient impact of each toxic air contaminant is less than the applicable screening level (initial threshold screening level, initial risk screening level, or secondary risk screening level) determined using the maximum hourly emission rate in accordance with the provisions of R 336.1240 or R 336.1241, or both.

(2) For intermittent emissions, the average emission rate may be used to determine the allowable emission rate in subrule(1)(b) of this rule or the maximum ambient impact in subrule (1)(c) of this rule, if the average rate is not less than 10% of the maximum hourly rate. An average rate that is less than 10% of the maximum rate may only be used if the applicant can demonstrate, to the satisfaction of the department, that the proposed new or modified emission unit or units will not cause or contribute to peak exposures that may result in a violation of the provisions of R 336.1901. Intermittent emissions are emissions that are not allowed to be emitted continuously for the entire length of the time specified in the averaging time for the appropriate screening level.

(3) Table 22 reads as follows:

**Table 22**  
**Ambient Impact Ratio (AIR) Matrix**

Description

The ambient impact ratio (AIR) matrix enables the determination of an emission rate of a toxic air contaminant (TAC) that would cause a maximum predicted ambient air impact equal to a screening level. This emission rate is derived by multiplying the screening level by the appropriate AIR value. Emission rates which do not exceed that rate are determined to be in compliance with the health-based screening level under R 336.1225.

Use of the AIR matrix requires information pertinent to the dispersion characteristics of the emission source, namely, the distance to the nearest secured property line and the height of the stack and the influential building. The AIR matrix shall not be used if any of the following provisions apply:

- (a) the stack height is less than 10 feet.
- (b) if the influential building height is more than 100 feet.
- (c) if there are terrain elevations that are more than 25% of the discharging stack height within a distance of 500 feet from the stack.
- (d) for the analysis of elevated receptors, for example, hospital air intakes.

Instructions for the use of the AIR matrix are as follows:

Instructions

1. Determine the height of the discharging stack from ground level in feet ( $H_s$ ).
2. Determine the height of the influential building in feet ( $H_b$ ). This is done by first identifying all buildings, including buildings on-site and off-site, located within a distance of 5 times their height from the discharging stack. Then, determine which building is the highest. This is the influential building, with height ( $H_b$ ) in feet. If the stack is not attached to a building, then a building height 2.5 times lower than the stack height must be assumed.
3. Determine the ratio of the stack height to the influential building height by dividing the stack height, in feet, by the influential building height, in feet, for example,  $H_s/H_b$ .
4. Determine the minimum distance, in feet, from the discharging stack to the secured property line. If there is no secured property line, then a distance of 25 feet is used.
5. Determine the appropriate value from the AIR matrix. This is done by selecting the column with the appropriate influential building height and  $H_s/H_b$  ratio, and selecting the row with the appropriate minimum distance to the secured property line. If the influential building height is between values in the column headings, then use the lower value or interpolate between values in the column headings. If  $H_s$  is less than  $H_b$ , then set the influential building height equal to the stack height and use the  $1.25 H_s/H_b$  column. If

$H_s/H_b$  is between 1 and 1.25, then select the 1.25 column. If  $H_s/H_b$  is between 1.25 and 1.75, then use the 1.25 column or interpolate between the 1.25 and 1.75 columns. If  $H_s/H_b$  is between 1.75 and 2.5, then use the 1.75 column or interpolate between the 1.75 and 2.5 columns. If  $H_s/H_b$  is greater than or equal to 2.5, then use the 2.5 column. If the minimum distance to the secured property line is between 2 distances in the row headings, then use the lower value, for example, if the distance is 250 feet, then use the 200 foot distance row in the matrix.

The value thus derived from the body of the matrix is the ratio of the annual average hourly emission rate divided by the maximum annual ambient impact, in units of (lbs./hr.)/(ug/m<sup>3</sup>). This value is referred to as the annual AIR.

6. The annual averaged hourly emission rate ratio (annual AIR) is adjusted as necessary for shorter averaging times, consistent with the averaging times for the screening levels. This adjustment is done as follows:

$$24\text{-hr AIR (lbs./hr.)/(ug/m}^3) = \text{annual AIR} \times 0.091.$$

$$8\text{-hr AIR (lbs./hr.)/(ug/m}^3) = \text{annual AIR} \times 0.046.$$

$$1\text{-hr AIR (lbs./hr.)/(ug/m}^3) = \text{annual AIR} \times 0.02.$$

7. Determine the maximum emission rate that would comply with the health-based screening level and averaging time. This is done by multiplying the screening level, in ug/m<sup>3</sup>, by the AIR value for the appropriate averaging time. The result is the highest emission rate, averaged over the averaging time period, that would be in compliance with the screening level. If a source's maximum hourly emission rate does not exceed this, then the screening level would not be exceeded. If the emission is intermittent, then the emission rate can be averaged over the applicable averaging time as long as the averaged emission rate is not less than 10% of the maximum hourly emission rate, as specified in R 336.1227(2).

8. In the special case of TAC emissions from multiple stacks, determine the AIR value for each stack and select the lowest value among them. Then proceed as in step number 7.

**Table 22. Ambient Impact Ratio (AIR) Matrix Annual Averaged Hourly Emission Rate Ambient Impact Ratios (AIRs) in Units of (lbs./hr.)/(µg/m<sup>3</sup>)for Toxic Air Contaminants (TACs) with Annual Averaged Screening Levels**

BLDG HT (ft) H <sub>s</sub> / H <sub>b</sub> Stack Height->	10			20			30			40			50		
	1.25	1.75	2.50	1.25	1.75	2.50	1.25	1.75	2.50	1.25	1.75	2.50	1.25	1.75	2.50
	12.5	17.5	25.0	25.0	35.0	50.0	37.5	52.5	75.0	50.0	70.0	100.0	62.5	87.5	125.0
D 25	0.0085	0.022	0.159	0.032	0.084	0.679	0.075	0.220	1.603	0.152	0.421	2.941	0.263	0.736	4.630
I 50	0.0087	0.022	0.159	0.032	0.084	0.679	0.075	0.220	1.603	0.152	0.421	2.941	0.263	0.736	4.630
S 75	0.0096	0.022	0.159	0.032	0.084	0.679	0.075	0.220	1.603	0.152	0.421	2.941	0.263	0.736	4.630
T 100	0.011	0.023	0.159	0.033	0.084	0.679	0.075	0.220	1.603	0.152	0.421	2.941	0.263	0.736	4.630
A 200	0.020	0.040	0.159	0.042	0.084	0.679	0.082	0.220	1.603	0.157	0.421	2.941	0.266	0.736	4.630
N 300	0.030	0.053	0.178	0.059	0.113	0.679	0.099	0.221	1.603	0.174	0.421	2.941	0.282	0.736	4.630
C 400	0.040	0.065	0.171	0.077	0.140	0.679	0.126	0.268	1.603	0.200	0.421	2.941	0.312	0.736	4.630
E 500	0.051	0.077	0.189	0.094	0.164	0.679	0.153	0.318	1.603	0.243	0.505	2.941	0.351	0.743	4.630
600	0.063	0.091	0.222	0.112	0.188	0.746	0.181	0.368	1.603	0.287	0.588	2.941	0.409	0.838	4.630
F 700	0.075	0.104	0.241	0.130	0.211	0.812	0.208	0.413	1.603	0.328	0.664	2.941	0.468	0.951	4.717
T 800	0.089	0.119	0.257	0.148	0.235	0.768	0.235	0.459	1.608	0.370	0.740	2.941	0.528	1.064	4.803
900	0.103	0.134	0.264	0.167	0.258	0.770	0.261	0.502	1.672	0.411	0.812	2.941	0.585	1.168	4.854
1000	0.119	0.151	0.272	0.187	0.282	0.800	0.289	0.545	1.786	0.452	0.883	2.959	0.644	1.276	4.950
1500	0.209	0.245	0.318	0.290	0.406	1.080	0.428	0.756	1.953	0.654	1.214	3.521	0.924	1.761	5.376
2000	0.311	0.350	0.383	0.408	0.539	1.256	0.573	0.965	2.304	0.861	1.534	3.731	1.205	2.222	5.882

BLDG HT (ft) H <sub>s</sub> / H <sub>b</sub> Stack Height->	60			70			80			90			100		
	1.25	1.75	2.50	1.25	1.75	2.50	1.25	1.75	2.50	1.25	1.75	2.50	1.25	1.75	2.50
	75.0	105.0	150.0	87.5	122.5	175.0	100.0	140.0	200.0	112.5	157.5	225.0	125.0	175.0	250.0
D 25	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333	1.126	3.049	13.514	1.458	3.876	14.286
I 50	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333	1.126	3.049	13.514	1.458	3.876	14.286
S 75	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333	1.126	3.049	13.514	1.458	3.876	14.286
T 100	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333	1.126	3.049	13.514	1.458	3.876	14.286
A 200	0.413	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333	1.126	3.049	13.514	1.458	3.876	14.286
N 300	0.426	1.114	6.098	0.614	1.656	8.621	0.845	2.242	8.333	1.129	3.049	13.514	1.458	3.876	14.286
C 400	0.455	1.114	6.098	0.641	1.656	8.621	0.868	2.242	8.333	1.147	3.049	13.514	1.475	3.876	14.286
E 500	0.498	1.114	6.098	0.683	1.656	8.621	0.909	2.242	8.333	1.185	3.049	13.514	1.506	3.876	14.286
600	0.545	1.114	6.098	0.741	1.656	8.621	0.967	2.242	8.333	1.244	3.049	13.514	1.563	3.876	14.286
F 700	0.625	1.269	6.250	0.808	1.672	8.621	1.040	2.242	8.333	1.316	3.049	13.514	1.634	3.876	14.286
T 800	0.705	1.429	6.410	0.901	1.825	8.621	1.111	2.242	8.333	1.404	3.049	13.514	1.730	3.876	14.286
900	0.781	1.572	6.579	1.000	2.016	8.621	1.235	2.488	9.091	1.502	3.086	13.514	1.832	3.876	14.286
1000	0.861	1.724	6.849	1.101	2.203	9.091	1.359	2.732	10.000	1.634	3.289	13.514	1.931	3.876	14.286
1500	1.232	2.404	7.042	1.577	3.106	9.615	1.953	3.846	11.905	2.358	4.505	15.152	2.778	5.208	16.129
2000	1.603	3.049	7.353	2.041	3.968	9.615	2.525	4.808	12.821	3.049	5.618	16.129	3.597	6.494	18.519

History: 1998-2000 AACCS.

**R 336.1228 Requirement for lower emission rate than required by T-BACT and health-based screening levels.**

Rule 228. The department may determine, on a case-by-case basis, that the maximum allowable emission rate determined in R 36.1224(1), R 336.1225(1), R 336.1225(2), or R 336.1225(3) may not provide adequate protection of human health or the environment. In this case, the department shall establish a maximum allowable emission rate considering all relevant scientific information, such as exposure from routes of exposure other than direct inhalation, synergistic or additive effects from other toxic air contaminants, and effects on the environment.

History: 1998-2000 AACCS.

**R 336.1229 Methodology for determining health-based screening levels.**

Rule 229. (1) The initial and secondary risk screening levels for a carcinogen shall be determined by any of the following:

(a) The cancer risk assessment screening methodology contained in R 336.1231.

(b) The United States environmental protection agency guidelines for carcinogen risk assessment, United States environmental protection agency, 1986, as adopted by reference in R 336.1299.

(c) Any alternative cancer risk assessment methodology which can be demonstrated to the department to be more appropriate based on biological grounds and which is supported by the scientific data.

(2) The initial threshold screening level shall be determined by either of the following:

(a) The methodology for determining the initial threshold screening level contained in R 336.1232.

(b) Any alternative methodology to assess noncarcinogenic health effects that can be demonstrated to the department to be more appropriate based on toxicological grounds and that is supported by the scientific data.

History: 1998-2000 AACCS.

**R 336.1230 Informational list for health-based screening levels and T-BACT determinations.**

Rule 230. For information purposes, the department will maintain up-to-date lists of the following information and will provide the information upon request:

(a) Chemical abstract service numbers and the basis for determining each of the following screening levels:

(i) Initial threshold screening levels reviewed by the department.

(ii) Initial and secondary risk-based screening levels reviewed by the department.

(b) Ambient concentrations for toxic air contaminants reviewed by the department under R 336.1226(d) and R 336.1228, the applicable chemical abstract service number, and the basis for any alternative concentration approved under these rules.



(c) T-BACT determinations reviewed by the department.

History: 1992 AACS; 1994 AACS; 1998-2000 AACS.

**R 336.1231 Cancer risk assessment screening methodology.**

Rule 231. (1) The initial risk screening level (IRSL) and the secondary risk screening level (SRSL) shall be determined as follows:

$$IRSL = \frac{1 \times 10^{-6}}{\text{unit risk}}$$

$$SRSL = \frac{1 \times 10^{-5}}{\text{unit risk}}$$

Where:

Unit risk = Additional lifetime cancer risk occurring in a population in which all individuals are exposed continuously for life to a concentration of 1 microgram per cubic meter of the chemical in the air they breathe. The unit risk value shall be determined according to the methodology in subrule (2) of this rule.

$1 \times 10^{-6}$  = An upper bound lifetime cancer risk of 1 in 1,000,000.

$1 \times 10^{-5}$  = An upper bound lifetime cancer risk of 1 in 100,000.

(2) Both of the following provisions apply to derivation of unit risk:

(a) The unit risk value determined by the United States environmental protection agency according to the guidelines for carcinogen risk assessment, United States environmental protection agency, 1986, shall be used to estimate risk. This standard is adopted by reference in R 336.1299.

(b) If a unit risk value has not been determined by the United States environmental protection agency, then the unit risk value shall be determined as follows:

$$\text{Unit risk} = q_1^*$$

Where:

$q_1^*$  = Linear function or slope of the multistage model as derived in subrule (3) of this rule. This parameter is expressed in units of (microgram per cubic meter)<sup>-1</sup>.

(3) All of the following provisions apply to the derivation of  $q_1^*$ :

(a) This methodology, based upon animal bioassay data, shall be used when human epidemiology data are not available to estimate increased cancer risk.

(b) Carcinogenesis bioassay data are fit to the multistage model using a linearized multistage computer model. The upper 95% confidence limit on risk at the 1 in 1,000,000 risk level is divided by the maximum likelihood dose at the same level of risk that determines the slope,  $q_1^*$ . This is taken as an upper bound of the potency of the chemical in inducing cancer at low doses. When the multistage model does not fit

the data sufficiently, then data at the highest dose shall be deleted and the model refitted to the rest of the data. This procedure shall be continued until an acceptable fit to the data is obtained. To determine whether a fit is acceptable, the chi-square statistic:

$$X^2 = \sum_{i=1}^h \frac{(X_i - N_i P_i)^2}{N_i P_i (1 - P_i)}$$

is calculated, where  $N_i$  is the number of animals in the  $i^{\text{th}}$  dose group,  $X_i$  is the number of animals in the  $i^{\text{th}}$  dose group with a tumor response,  $P_i$  is the probability of a response in the  $i^{\text{th}}$  dose group estimated by fitting the multistage model to the data, and  $h$  is the number of remaining groups. The fit is determined to be unacceptable when chi-square is larger than the cumulative 99% point of the chi-square distribution with  $f$  degrees of freedom, where  $f$  equals the number of dose groups minus the number of nonzero multistate coefficients. If a single study in which a chemical induces more than 1 type of tumor is available, then the response for the tumor type predicting the highest estimate of  $q_1^*$  is used for the risk assessment. If 2 or more studies of equal quality are available, but vary in species, strain, sex, or tumor type, then the data set giving the highest estimate of  $q_1^*$  is used for the risk assessment. If 2 or more studies exist which are identical regarding species, strain, sex, and tumor type and are of equal quality, then the geometric mean of the  $q_1^*$  values from these data sets is used. However, where 2 or more significantly elevated tumor sites or types are observed in the same study, extrapolations may be conducted on selected sites or types. These selections shall be made on biological grounds. To obtain a total estimate of carcinogenic risk, animals with 1 or more tumor sites or types that show significantly elevated tumor incidence may be pooled and used for extrapolation. The pooled estimates shall generally be used in preference to risk estimates based on single sites or types. Quantitative risk extrapolations shall generally not be done on the basis of totals that include tumor sites without statistically significant elevations.

(c) To determine the equivalent human dose from animal data, it is assumed that milligram/surface area/day is an equivalent dose between species. To make this adjustment, the parameter  $q_1^*$ , in units of (milligram/kilogram/day)<sup>-1</sup>, is multiplied by factor (T), where:

$$T = (W_H / W_A)^{1/3}$$

$W_H$  = Average weight of an adult human and assumed to be 70 kilogram.

$W_A$  = Body weight of the animal test species in kilogram.

(d) All dose levels input to the model are adjusted to give a lifetime average daily dose. If dosing was only for a fraction of a lifetime, then the total dose is averaged over the entire lifespan.

(e) If the duration of the experiment ( $L_e$ ) is less than the natural lifespan of the test animal ( $L$ ), then the parameter  $q_1^*$ , is multiplied by the factor  $(L/L_e)^3$ .

(f) If the experimental route of exposure was by oral administration and inadequate pharmacokinetic and metabolism data are available to determine equivalent exposure levels via inhalation, then the following methodology is used:

(i) Oral bioassay data are used to estimate  $q_1^*$  as in subdivisions (a) to (e) of this subrule. The parameter  $q_1^*$  will be in units of (milligram/kilogram/day)<sup>-1</sup>.

(ii) To convert the parameter  $q_1^*$  based upon oral exposure in units of (milligram/kilogram/day)<sup>-1</sup> to  $q_1^*$  based upon inhalation exposure in units of (micrograms per cubic meter)<sup>-1</sup>, it is assumed that a 70-kilogram person inhales 20 cubic meters of air per day. Thus:

$$q_1^* (\text{ug} / \text{m}^3)^{-1} = q_1^* (\text{milligram} / \text{kilogram} / \text{day})^{-1} \frac{20 \text{ m}^3}{70 \text{ kg}} \times \frac{1 \text{ mg}}{1000 \text{ ug}} \times \frac{a}{b}$$

a = Absorption efficiency by the inhalation route of exposure.

b = Absorption efficiency by the oral route of exposure.

In the absence of data on absorption efficiencies it is assumed that a = b.

(g) If exposure was by inhalation and the carcinogenic agent is an aerosol, then it is assumed the aerosol is deposited proportionally to the volume of air inspired. In the absence of specific deposition data, the daily dose (d) to be used for modeling is determined as follows:

$$D = EEC \times \frac{I_A}{W_A}$$

Where:

EEC = Experimental exposure concentration in milligrams per cubic meter (mg/m<sup>3</sup>).

$I_A$  = Daily inhalation rate of the experimental animal in cubic meters per day (m<sup>3</sup>/day).

$W_A$  = Body weight of the experimental animal in kilograms (kg).

(h) If exposure was by inhalation and the carcinogenic agent is a gas, then the available data shall be evaluated to determine dose equivalency between humans and experimental animals. In the absence of adequate data, if the carcinogenic agent is a poorly water soluble gas that reaches equilibrium between air breathed and body compartments, then it is assumed that a certain concentration in parts per million (ppm) or micrograms per cubic meter (ug/m<sup>3</sup>) in experimental animals is equivalent to the same concentration in humans.

(4) An annual average time period shall be used for the IRSL and SRSL.

History: 1992 AACS; 1998-2000 AACS.

### **R 336.1232 Methodology for determining initial threshold screening level.**

Rule 232. (1) The initial threshold screening level (ITSL) for each toxic air contaminant shall be determined as follows:

(a) If an inhalation reference concentration (RfC) can be determined from best available information sources, then the initial threshold screening level equals the inhalation RfC.

(b) If an initial threshold screening level cannot be determined under the provisions of subdivision (a) of this subrule and an oral reference dose (RfD) can be determined through best available information and data are not available to indicate that oral route to inhalation route extrapolation is inappropriate, then the initial threshold screening level is determined as follows:

$$ITSL = Oral\ RfD \times \frac{70\ kg}{20\ m^3}$$

(c) If an initial threshold screening level cannot be determined under the provisions of subdivision (a) or (b) of this subrule and an occupational exposure level (OEL) exists for the toxic air contaminant, then the initial threshold screening level is determined as follows:

$$ITSL = OEL\ divided\ by\ 100$$

Where occupational exposure level is the lowest value of either the national institute of occupational safety and health (NIOSH) recommended exposure level listed in the NIOSH pocket guide to chemical hazards (June 1994) or the time-weighted average or ceiling TLV listed in the 1996 American conference of governmental and industrial hygienists threshold limit value (TLV) booklet. These standards are adopted by reference in R 336.1299.

(d) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), or (c) of this subrule, then the initial threshold screening level may be determined from a 7-day, inhalation, no observed adverse effect level (NOAEL) or lowest observable adverse effect level (LOAEL) as follows:

$$ITSL = \frac{NOAEL}{35 \times 100} \times \frac{hours\ exposed\ per\ day}{24\ hours\ per\ day}$$
$$ITSL = \frac{LOAEL}{35 \times 100 \times UF} \times \frac{hours\ exposed\ per\ day}{24\ hours\ per\ day}$$

Where:

UF = A value from 1 to 10 determined on a case-by-case basis, considering type and severity of effect.

The ITSL may be determined on a case-by-case basis using NOAELs or LOAELs from repeated dose studies other than 7-day studies.

(e) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), or (d) of this subrule, then the initial threshold screening level may be determined from a 7-day, oral, no observed adverse effect level or lowest observable effect level (LOAEL) as follows:

$$ITSL = \frac{NOAEL (mg / kg / day)}{35 \times 100} \times \frac{W_A}{I_A} \times \frac{b}{a}$$

$$ITSL = \frac{LOAEL}{35 \times 100 \times UF} \times \frac{W_A}{I_A} \times \frac{b}{a}$$

Where:

$W_A$  = Body weight of experimental animal in kilograms (kg).

$I_A$  = Daily inhalation rate of experimental animal in cubic meters/day.

$b$  = Absorption efficiency by the oral route of exposure.

$a$  = Absorption efficiency by the inhalation route of exposure.

UF = A value from 1 to 10 determined on a case-by-case basis, considering type and severity of effect.

The ITSL may be determined on a case-by-case basis using NOAELs or LOAELs from repeated dose studies other than 7-day studies.

(f) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), or (e) of this subrule, then the initial threshold screening level may be determined from an inhalation LC50 that is 4 or more hours in duration as follows:

$$ITSL = \frac{LC50}{500 \times 100}$$

(g) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), (e), or (f) of this subrule, then the initial threshold screening level may be determined from a 1-hour inhalation LC50 as follows:

$$ITSL = \frac{LC50}{500 \times 100 \times 40}$$

(h) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), (e), (f), or (g) of this subrule, then the initial threshold screening level may be determined from an animal oral LD50 as follows:

$$ITSL = \frac{1}{500} \times \frac{1}{40} \times \frac{1}{100} \times \frac{LD50 (mg / kg) \times W_A}{0.167 \times I_A}$$

Where:

$W_A$  = Body weight of experimental animal in kilograms (kg).

$I_A$  = Daily inhalation rate of experimental animal in cubic meters/day.

(i) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of this subrule, then the initial threshold screening level = 0.1 ug/m<sup>3</sup>.

(2) The averaging times to be used for initial threshold screening levels are as follows:

(a) If the initial threshold screening level is derived from an occupational exposure level as in subrule (1)(c) of this rule, then the averaging time is 8 hours for initial threshold screening levels based on time-weighted average threshold limit values or recommended exposure levels and 1 hour for initial threshold screening levels based on ceiling threshold limit values or recommended exposure levels.

(b) If the initial threshold screening level is derived as in subrule (1)(a) and (b) of this rule, then the averaging time is 24 hours.

(c) If the initial threshold screening level is derived as in subrule (1)(d), (e), (f), (g), (h), or (i) of this rule, then the averaging time is annual.

(d) The commission may require shorter averaging times if necessary to provide adequate protection from the acute effects of a toxic air contaminant.

History: 1992 AACCS; 1998-2000 AACCS.

#### **R 336.1240 Required air quality models.**

Rule 240. All air quality modeling demonstrations required by 40 C.F.R. §52.21, R 336.1220, or used to support or amend the state implementation plan shall be made in accordance with the models and procedures in 40 C.F.R. §51.160(f) and appendix W (2002). The department adopts by reference in these rules the provisions of 40 C.F.R. §51.160(f) and appendix W (2002). A copy of 40 C.F.R. §51.160(f) and appendix W (2002) may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of 40 C.F.R. §51.160(f) and appendix W (2002) may be obtained from the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$40.00; from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of \$40.00; or on the United States government printing office internet web site at <http://www.gpo.gov>.

History: 1980 AACCS; 1989 AACCS; 2003 AACCS; 2008 AACCS.

#### **R 336.1241 Air quality modeling demonstration requirements.**

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

History: 1980 AACCS; 1989 AACCS; 2003 AACCS; 2008 AACCS.

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

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

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

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

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

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

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

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

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

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

History: 2008 AACS.

**R 336.1278 Exclusion from exemption.**

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

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

(b) Any activity that results in an increase in actual emissions greater than the significance levels defined in R 336.1119. For the purpose of this rule, "activity" means

the concurrent and related installation, construction, reconstruction, relocation, or modification of any process or process equipment.

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

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

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

History: 1993 AACCS; 1994 AACCS; 1995 AACCS; 1996 AACCS; 1997 AACCS; 1998 AACCS; 2003 AACCS; 2008 AACCS.

#### **R 336.1278a Scope of permit exemptions.**

Rule 278a. (1) To be eligible for a specific exemption listed in R 336.1280 through R 336.1290, any person owning or operating an exempt process or exempt process equipment shall be able to provide information demonstrating the applicability of the exemption. The demonstration shall be provided within 30 days of a written request from the department. The demonstration may include the following information:

(a) A description of the exempt process or process equipment, including the date of installation.

(b) The specific exemption being used by the process or process equipment.

(c) An analysis demonstrating that R 336.1278 does not apply to the process or process equipment.

(2) The records required by this rule shall be provided in addition to any other records required within a specific exemption.

History: 2003 AACCS.

#### **R 336.1279 Rescinded.**

History: 1993 AACCS; 1995 AACCS; 2003 AACCS.

#### **R 336.1280 Permit to install exemptions; cooling and ventilating equipment.**

Rule 280. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

(a) Cold storage refrigeration equipment.

(b) Comfort air conditioning or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from, specific units of equipment.



(c) Natural draft hoods or natural draft ventilation not designed or used to remove air contaminants generated by, or released from, specific units of equipment.

(d) Water-cooling towers and water-cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water from barometric jets or from barometric condensers.

(e) Funeral home embalming processes and associated ventilation systems.

History: 1980 AACS; 1993 AACS; 1995 AACS.

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

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

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

(b) Equipment used for portable steam cleaning.

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

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

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

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

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

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

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

(j) Portable blast-cleaning equipment used during construction to clean new water tanks or other new structures if the tank or structure is not located closer than the lesser of 750 feet or 5 times the height of the structure to the nearest residential, commercial, or public facility and the abrasive media is a low dusting material that does not contain more than 5% crystalline silica.

History: 1980 AACS; 1992 AACS; 1993 AACS; 1995 AACS; 2003 AACS; 2008 AACS.

**R 336.1282 Permit to install exemptions; furnaces, ovens, and heaters.**

Rule 282. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

(a) Any of the following processes or process equipment which are electrically heated or which fire sweet gas fuel or no. 1 or no. 2 fuel oil at a maximum total heat input rate of not more than 10,000,000 Btu per hour:

(i) Furnaces for heat treating glass or metals, the use of which does not involve molten materials, oil-coated parts, or oil quenching.

(ii) Porcelain enameling furnaces or porcelain enameling drying ovens.

(iii) Kilns for firing ceramic ware.

(iv) Crucible furnaces, pot furnaces, or induction melting and holding furnaces that have a capacity of 1,000 pounds or less each, in which sweating or distilling is not conducted and in which fluxing is not conducted utilizing free chlorine, chloride or fluoride derivatives, or ammonium compounds.

(v) Bakery ovens and confection cookers where the products are edible and intended for human consumption.

(vi) 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, which melt only clean charge. Fluxing that results in the emission of any hazardous air pollutant shall not occur in the furnace.

(b) Fuel-burning equipment which is used for space heating, service water heating, electric power generation, oil and gas production or processing, or indirect heating and which burns only the following fuels:

(i) Sweet natural gas, synthetic gas, liquefied petroleum gas, or a combination thereof and the equipment has a rated heat input capacity of not more than 50,000,000 Btu per hour.

(ii) Number 1 fuel oil, number 2 fuel oil, distillate oil, the gaseous fuels specified in paragraph (i) of this subdivision, or a combination thereof which contains not more than 0.40% sulfur by weight and the equipment has a rated heat input capacity of not more than 20,000,000 Btu per hour.

(iii) Wood, wood residue, or wood waste which is not painted or treated with wood preservatives, which does not contain more than 25% plywood, chipboard, particleboard, and other types of manufactured wood boards, which is not contaminated with other waste materials, and the equipment has a rated heat input capacity of not more than 6,000,000 Btu per hour.

(iv) Waste oil or used oil fuels which are generated on the geographical site and the equipment has a rated heat input capacity of not more than 500,000 Btu per hour.

(c) Fuel-burning and refuse-burning equipment used in connection with a structure that is designed and used exclusively as a dwelling for not more than 3 families.

(d) All residential cooking equipment.

(e) Equipment, including smokehouses, at restaurants and other retail or institutional establishments that is used for preparing food for human consumption.

(f) Blacksmith forges.

(g) Sour gas-burning equipment, if the actual emission of sulfur dioxide does not exceed 1 pound per hour.

History: 1980 AACCS; 1992 AACCS; 1993 AACCS; 1995 AACCS; 2003 AACCS.

### **R 336.1283 Permit to install exemptions; testing and inspection equipment.**

Rule 283. (1) The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

(a) Pilot processes or process equipment utilizing T-BACT used for any of the following:

(i) Chemical analysis.

(ii) Physical analysis.

(iii) Empirical research.

(iv) Theoretical research.

(v) The development of process or process equipment design and operating parameters.

(vi) The production of a product for field testing.

(vii) The production of a product for clinical testing of pharmaceuticals.

(viii) The production of a product for use as a raw material in the research and development of a different product.

(b) Laboratory equipment.

(c) Equipment used for hydraulic or hydrostatic testing.

(d) Equipment for the inspection of metal, wood, or plastic products.

(e) Vacuum pumps for the leak-testing of metal products using helium or nitrogen gas.

(f) Process sample valves used to collect material exclusively for testing and inspection.

(2) The pilot processes and process equipment excluded from the requirement of R 336.1201(1) pursuant to the provisions of subrule (1)(a) of this rule do not include pilot processes or process equipment used for any of the following:

(a) The production of a product for sale, unless such sale is only incidental to the use of the pilot process or process equipment.

(b) The repetitive production of a product using the same process or process equipment design and operating parameters.

(c) The production of a product for market testing or market development.

(d) The treatment or disposal of waste which is designated, by listing or specified characteristic, as hazardous under federal regulations or state rules.

History: 1980 AACS; 1992 AACS; 1995 AACS; 1997 AACS.

### **R 336.1284 Permit to install exemptions; containers.**

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

(a) Dipping or storage operations for coating objects with oils, waxes, greases, or natural or synthetic resins containing no organic solvents.

(b) Storage of butane, propane, or liquefied petroleum gas in a vessel that has a capacity of less than 40,000 gallons.

(c) Storage and surge capacity of lubricating, hydraulic, and thermal oils and indirect heat transfer fluids.

(d) Storage of no. 1 to no. 6 fuel oil as specified in ASTM-D-396, gas turbine fuel oils nos. 2-GT to 4-GT as specified in ASTM-D-2880, or diesel fuel oils nos. 2-D and 4 D as specified in ASTM-D-975. The ASTM methods are adopted by reference in R 336.1299.

- (e) Storage of sweet crude or sweet condensate in a vessel that has a capacity of less than 40,000 gallons.
- (f) Storage of sour crude or sour condensate in a vessel that has a capacity of less than 40,000 gallons if vapor recovery or its equivalent is used to prevent the emission of vapors to the atmosphere.
- (g) Gasoline or natural gas storage and handling equipment, as follows:
  - (i) Gasoline storage and handling equipment at loading facilities handling less than 20,000 gallons per day or at dispensing facilities.
  - (ii) Natural gas storage and handling equipment at dispensing facilities.
- (h) Storage of water solutions of inorganic salts and bases and of water solutions of the following acids:
  - (i) Sulfuric acid that is not more than 99% by weight.
  - (ii) Phosphoric acid that is not more than 99% by weight.
  - (iii) Nitric acid that is not more than 20% by weight.
  - (iv) Hydrochloric acid that is not more than 11% by weight.
- (i) Storage or transfer operations of volatile organic compounds or noncarcinogenic liquids in a vessel that has a capacity of not more than 40,000 gallons where the contents have a true vapor pressure of not more than 1.5 psia at the actual storage conditions.
- (j) Pressurized storage of acetylene, hydrogen, oxygen, nitrogen, helium, and other substances, excluding chlorine and anhydrous ammonia in a quantity of more than 500 gallons, that have a boiling point of 0 degrees Celsius or lower.
- (k) Storage containers of noncarcinogenic solid material, including silos, which only emit particulate matter and which are controlled with an appropriately designed and operated fabric filter collector system or an equivalent control system.
- (l) Filling of noncarcinogenic liquids in shipping or storage containers that have emissions which are released only into the general in-plant environment.
- (m) Storage of wood and wood residues.
- (n) Storage of methanol in a vessel that has a capacity of not more than 30,000 gallons.

History: 1980 AACS; 1992 AACS; 1993 AACS; 1995 AACS; 1997 AACS; 2003 AACS; 2008 AACS.

**R 336.1285 Permit to install exemptions; miscellaneous.**

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

- (a) Routine maintenance, parts replacement, or other repairs that are considered by the department to be minor, or relocation of process equipment within the same geographical site not involving any appreciable change in the quality, nature, quantity, or impact of the emission of an air contaminant therefrom. Examples of parts replacement or repairs considered by the department to be minor include the following:
  - (i) Replacing bags in a baghouse.
  - (ii) Replacing wires, plates, rappers, controls, or electric circuitry in an electrostatic precipitator which does not measurably decrease the design efficiency of the unit.
  - (iii) Replacement of fans, pumps, or motors which does not alter the operation of a source or performance of air pollution control equipment.

- (iv) Boiler tubes.
  - (v) Piping, hoods, and ductwork.
  - (vi) Replacement of engines, compressors, or turbines as part of a normal maintenance program.
- (b) Changes in a process or process equipment which do not involve installing, constructing, or reconstructing an emission unit and which do not involve any meaningful change in the quality and nature or any meaningful increase in the quantity of the emission of an air contaminant therefrom. Examples of such changes in a process or process equipment include the following:
- (i) Change in the supplier or formulation of similar raw materials, fuels, or paints and other coatings.
  - (ii) Change in the sequence of the process.
  - (iii) Change in the method of raw material addition.
  - (iv) Change in the method of product packaging.
  - (v) Change in process operating parameters.
  - (vi) Installation of a floating roof on an open top petroleum storage tank.
  - (vii) Replacement of a fuel burner in a boiler with an equally or more thermally efficient burner.
  - (viii) Lengthening a paint drying oven to provide additional curing time.
- (c) Changes in a process or process equipment which do not involve installing, constructing, or reconstructing an emission unit and which involve a meaningful change in the quality and nature, or a meaningful increase in the quantity, of the emission of an air contaminant resulting from any of the following:
- (i) Changes in the supplier or supply of the same type of virgin fuel, such as coal, no. 2 fuel oil, no. 6 fuel oil, or natural gas.
  - (ii) Changes in the location, within the storage area, or configuration of a material storage pile or material handling equipment.
  - (iii) Changes in a process or process equipment to the extent that such changes do not alter the quality and nature, or increase the quantity, of the emission of the air contaminant beyond the level which has been described in and allowed by an approved permit to install, permit to operate, or order of the department.
- (d) Reconstruction or replacement of air pollution control equipment with equivalent or more efficient equipment.
- (e) Installation, construction, or replacement of air pollution control equipment for an existing process or process equipment for the purpose of complying with the national emission standards of hazardous air pollutants regulated under section 112 of part A of title I of the clean air act, 84 Statutes 1685, 42 U.S.C. §7412.
- (f) Installation or construction of air pollution control equipment for an existing process or process equipment if the control equipment itself does not actually generate a significant amount of criteria air contaminants as defined in R 336.1119(e) or a meaningful quantity of toxic air contaminants.
- (g) Internal combustion engines that have less than 10,000,000 Btu/hour maximum heat input.
- (h) Vacuum pumps in laboratory or pilot plant operations.
  - (i) Brazing, soldering, welding, or plasma coating equipment.
  - (j) Portable cutting torches.

- (k) Grain, metal, or mineral extrusion presses.
- (l) The following equipment and any exhaust system or collector exclusively serving the equipment:
  - (i) Equipment used exclusively for bending, forming, expanding, rolling, forging, pressing, drawing, stamping, spinning, or extruding either hot or cold metals.
  - (ii) Die casting machines.
  - (iii) Equipment for surface preparation of metals by use of aqueous solutions, except for acid solutions.
  - (iv) Atmosphere generators used in connection with metal heat treating processes.
  - (v) Equipment used exclusively for sintering of glass or metals, but not exempting equipment used for sintering metal-bearing ores, metal scale, clay, flyash, or metal compounds.
  - (vi) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals, graphite, plastics, concrete, rubber, paper stock, wood, or wood products which meets any of the following:
    - (A) Equipment used on a nonproduction basis.
    - (B) Equipment has emissions that are released only into the general in-plant environment.
    - (C) Equipment has externally vented emissions controlled by an appropriately designed and operated fabric filter collector that, for all specified operations with metal, is preceded by a mechanical precleaner.
  - (vii) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, including any of the following:
    - (A) Blueprint machines.
    - (B) Photocopiers.
    - (C) Mimeograph machines.
    - (D) Photographic developing processes.
    - (E) Microfiche copiers.
  - (viii) Battery charging operations.
  - (ix) Pad printers.
- (m) Lagoons, process water treatment equipment, wastewater treatment equipment, and sewage treatment equipment, except for any of the following:
  - (i) Lagoons and equipment primarily designed to treat volatile organic compounds in process water, wastewater, or groundwater, unless the emissions from the lagoons and equipment are only released into the general in-plant environment.
  - (ii) Sludge incinerators and dryers.
  - (iii) Heat treatment processes.
  - (iv) Odor control equipment.
- (n) Livestock and livestock handling systems from which the only potential air contaminant emission is odorous gas.
- (o) Equipment for handling and drying grain on a farm.
- (p) Commercial equipment used for grain unloading, handling, cleaning, storing, loading, or drying in a column dryer that has a column plate perforation of not more than 0.094 inch or a rack dryer in which exhaust gases pass through a screen filter no coarser than 50 mesh.

- (q) Portable steam deicers that have a heat input of less than 1,000,000 Btu's per hour.
- (r) Equipment used for any of the following metal treatment processes if the process emissions are only released into the general in-plant environment:
  - (i) Surface treatment.
  - (ii) Pickling.
  - (iii) Acid dipping.
  - (iv) Cleaning.
  - (v) Etching.
  - (vi) Electropolishing.
  - (vii) Electrolytic stripping or electrolytic plating.
- (s) Emissions or airborne radioactive materials specifically authorized pursuant to a United States nuclear regulatory commission license.
- (t) Equipment for the mining and screening of uncrushed sand, gravel, soil and other inorganic soil-like materials.
- (u) Solvent distillation equipment that has a rated batch capacity of not more than 55 gallons.
- (v) Any vapor vacuum extraction soil remediation process where vapor is treated in a control device and all of the vapor is reinjected into the soil such that there are no emissions to the atmosphere during normal operation.
- (w) Air strippers controlled by an appropriately designed and operated carbon adsorption or incineration system that is used exclusively for the cleanup of gasoline, fuel oil, natural gas condensate, and crude oil spills.
- (x) Any asbestos removal or stripping process or process equipment.
- (y) Ozonization process or process equipment.
- (z) Combustion of boiler cleaning solutions that were solely used for or intended for cleaning internal surfaces of boiler tubes and related steam and water cycle components if the solution burned is not designated, by listing or specified characteristic, as hazardous pursuant to federal regulations or state rules.
  - (aa) Landfills and associated flares and leachate collection and handling equipment.
  - (bb) A residential, municipal, commercial, or agricultural composting process or process equipment.
  - (cc) Gun shooting ranges controlled by appropriately designed and operated high-efficiency particulate filters.
  - (dd) Equipment for handling, conveying, cleaning, milling, mixing, cooking, drying, coating, and packaging grain-based food products and ingredients which meet any of the following:
    - (i) Equipment used on a nonproduction basis.
    - (ii) Equipment has emissions that are released only into the general in-plant environment.
    - (iii) Equipment has externally vented emissions controlled by an appropriately designed and operated particulate control system.
  - (ee) Open burning.
  - (ff) Fire extinguisher filling, testing, spraying, and repairing.
  - (gg) Equipment used for chipping, flaking, or hogging wood or wood residues that are not demolition waste materials.

(hh) A process that uses only hand-held aerosol spray cans, including the puncturing and disposing of the spray cans.

(ii) Fuel cells that use phosphoric acid, molten carbonate, proton exchange membrane, or solid oxide or equivalent technologies.

(jj) Any vacuum truck used at a remediation site as a remedial action method, if it is not used more than once per month at a site and the usage is not more than 2 consecutive days.

(kk) Air sparging systems where the sparged air is emitted back to the atmosphere only by natural diffusion through the contaminated medium and covering soil or other covering medium.

(ll) Air separation or fractionation equipment used to produce nitrogen, oxygen, or other atmospheric gases.

(mm) Routine and emergency venting of natural gas from transmission and distribution systems or field gas from gathering lines which meet any of the following:

(i) Routine or emergency venting of natural gas or field gas in amounts less than or equal to 1,000,000 standard cubic feet per event. For purposes of this rule, an emergency is considered an unforeseen event that disrupts normal operating conditions and poses a threat to human life, health, property or the environment if not controlled immediately.

(ii) Venting of natural gas in amounts greater than 1,000,000 standard cubic feet for routine maintenance or relocation of transmission and distribution systems provided that both of the following requirements are met:

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

(B) The venting includes, at a minimum, measures to assure safety of employees and the public, minimize impacts to the environment, and provide necessary notification in accordance with the Michigan gas safety standards, the federal pipeline and hazardous materials safety administration standards, and the federal energy regulatory commission standards, as applicable.

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

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

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

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

History: 1979 AC; 1992 AACS; 1993 AACS; 1995 AACS; 1997 AACS; 2003 AACS; 2008 AACS.



**R 336.1286 Permit to install exemptions; plastic processing equipment.**

Rule 286. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

- (a) Plastic extrusion, rotocasting, and pultrusion equipment and associated plastic resin handling, storage, and drying equipment.
- (b) Plastic injection, compression, and transfer molding equipment and associated plastic resin handling, storage, and drying equipment.
- (c) Plastic blow molding equipment and associated plastic resin handling, storage, and drying equipment if the blowing gas is 1 or more of the following gasses:
  - (i) Air.
  - (ii) Nitrogen.
  - (iii) Oxygen.
  - (iv) Carbon dioxide.
  - (v) Helium.
  - (vi) Neon.
  - (vii) Argon.
  - (viii) Krypton.
  - (ix) Xenon.
- (d) Plastic thermoforming equipment.
- (e) Reaction injection molding (open or closed mold) and slabstock/casting equipment.

History: 1993 AACS; 1995 AACS; 1997 AACS.

**R 336.1287 Permit to install exemptions; surface coating equipment.**

Rule 287. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

- (a) An adhesive coating line which has an application rate of less than 2 gallons per day and which has emissions that are released only into the general in-plant environment.
- (b) A surface coating process that uses only hand-held aerosol spray cans, including the puncturing and disposing of the spray cans.
- (c) A surface coating line if all of the following conditions are met:
  - (i) The coating use rate is not more than 200 gallons, as applied, minus water, per month.
  - (ii) Any exhaust system that serves only coating spray equipment is supplied with a properly installed and operating particulate control system.
  - (iii) Monthly coating use records are maintained on file for the most recent 2-year period and are made available to the air quality division upon request.
- (d) A powder coating booth that has an appropriately designed and operated particulate control system and associated ovens.
- (e) A silkscreen process.
- (f) Replacement of waterwash control in a paint spray booth with dry filter control.
- (g) Adding dry filters to paint spray booths.
- (h) Replacement of a coating applicator system with a coating applicator system that has an equivalent or higher design transfer efficiency, unless the change is specifically prohibited by a permit condition.

- (i) Equipment that is used for the application of a hot melt adhesive.
- (j) Portable equipment that is used for on-site nonproduction painting.
- (k) Mixing, blending, or metering operations associated with a surface coating line.

History: 1993 AACS; 1995 AACS; 1997 AACS; 2003 AACS.

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

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

- (a) Gas odorizing equipment.
- (b) A glycol dehydrator that meets either of the following conditions:
  - (i) It is located at an oil well site and is controlled by a condenser or by other control equipment of equivalent or better efficiency than the condenser.
  - (ii) It is located at a site or facility that only processes natural gas from the Antrim zone.
- (c) A sweet gas flare.
- (d) Equipment for the separation or fractionation of sweet natural gas, but not including natural gas sweetening equipment.
- (e) Equipment that is used for oil and gas well drilling, testing, completion, rework, and plugging activities.

History: 1993 AACS; 1995 AACS; 2008 AACS.

**R 336.1289 Permit to install exemptions; asphalt and concrete production equipment.**

Rule 289. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the following:

- (a) A cold feed aggregate bin for asphalt and concrete production equipment.
- (b) A liquid asphalt storage tank that is controlled by an appropriately designed and operated vapor condensation and recovery system or an equivalent control system.
- (c) An asphalt concrete storage silo that has all its emissions vented back into the burning zone of the kiln or that has an equivalent control system.
- (d) A concrete batch plant that meets all of the following requirements:
  - (i) The plant shall produce not more than 200,000 cubic yards per year.
  - (ii) The plant shall use either a fabric filter dust collector, a slurry mixer system, a drop chute, a mixer flap gate, or an enclosure for truck loading operations.
  - (iii) All cement handling operations, such as silo loading and cement weighing hoppers, shall either be enclosed by a building or equipped with a fabric filter dust control.
  - (iv) The owner or operator shall keep monthly records of the cubic yards of concrete produced.
  - (v) Before commencing operations, the owner or operator shall notify the appropriate air quality division district supervisor of the location where the concrete batch plant will be operating under this exemption.

(vi) The concrete batch plant shall be located not less than 250 feet from any residential or commercial establishment or place of public assembly unless all of the cement handling operations, excluding the cement silo storage and loading operations, are enclosed within at least a 3-sided structure.

(vii) The owner or operator shall implement the following fugitive dust plan:

(A) The drop distance at each transfer point shall be reduced to the minimum the equipment can achieve.

(B) On-site vehicles shall be loaded to prevent their contents from dropping, leaking, blowing, or otherwise escaping. This shall be accomplished by loading so that no part of the load shall come in contact within 6 inches of the top of any sideboard, side panel or tailgate. Otherwise, the truck shall be tarped.

(C) All of the following provisions apply for site roadways and the plant yard:

(1) The dust on the site roadways and the plant yard shall be controlled by applications of water, calcium chloride, or other acceptable and approved fugitive dust control compounds. Applications of dust suppressants shall be done as often as necessary to meet an opacity limit of 5%.

(2) All paved roadways and plant yards shall be swept as needed between applications.

(3) Any material spillage on roads shall be cleaned up immediately.

(4) A record of all applications of dust suppressants and roadway and plant yard sweepings shall be kept for the most recent 5-year period and be made available to the department upon request.

(D) All of the following provisions apply for storage piles:

(1) Stockpiling of all nonmetallic minerals shall be performed to minimize drop distance and control potential dust problems.

(2) Stockpiles shall be watered on an as needed basis in order to meet an opacity limit of 5%. Equipment to apply water or dust suppressant shall be available at the site or on call for use at the site within a given operating day.

(3) A record of all watering shall be kept on file for the most recent 5-year period and be made available to the department upon request.

(E) The provisions and procedures of this fugitive dust plan are subject to adjustment by written notification from the department if, following an inspection, the department determines the fugitive dust requirements or permitted opacity limits are not being met.

History: 1993 AACCS; 1995 AACCS; 2003 AACCS.

**R 336.1290 Permit to install exemptions; emission units with limited emissions.**

Rule 290. The requirement of R 336.1201(1) to obtain a permit to install does not apply to any of the emission units listed in (a) if the conditions listed in (b), (c), and (d) are met. Notwithstanding the definition in R 336.1121(a), for the purpose of this rule, uncontrolled emissions are the emissions from an emission unit based on actual operation, not taking into account any emission control equipment. Controlled emissions are the emissions from an emission unit based on actual operation, taking into account the control equipment.

(a) An emission unit which meets any of the following criteria:

(i) Any emission unit that emits only noncarcinogenic volatile organic compounds or noncarcinogenic materials which are listed in R 336.1122(f) as not contributing appreciably to the formation of ozone, if the uncontrolled or controlled emissions of air contaminants are not more than 1,000 or 500 pounds per month, respectively.

(ii) Any emission unit that the total uncontrolled or controlled emissions of air contaminants are not more than 1,000 or 500 pounds per month, respectively, and all of the following criteria are met:

(A) For noncarcinogenic air contaminants, excluding noncarcinogenic volatile organic compounds and noncarcinogenic materials which are listed in R 336.1122(f) as not contributing appreciably to the formation of ozone, with initial threshold screening levels greater than or equal to 2.0 micrograms per cubic meter, the uncontrolled or controlled emissions shall not exceed 1,000 or 500 pounds per month, respectively.

(B) For noncarcinogenic air contaminants, excluding noncarcinogenic volatile organic compounds and noncarcinogenic materials which are listed in R 336.1122(f) as not contributing appreciably to the formation of ozone, with initial threshold screening levels greater than or equal to 0.04 micrograms per cubic meter and less than 2.0 micrograms per cubic meter, the uncontrolled or controlled emissions shall not exceed 20 or 10 pounds per month, respectively.

(C) For carcinogenic air contaminants with initial risk screening levels greater than or equal to 0.04 micrograms per cubic meter, the uncontrolled or controlled emissions shall not exceed 20 or 10 pounds per month, respectively.

(D) The emission unit shall not emit any air contaminants, excluding noncarcinogenic volatile organic compounds and noncarcinogenic materials which are listed in R 336.1122(f) as not contributing appreciably to the formation of ozone, with an initial threshold screening level or initial risk screening level less than 0.04 micrograms per cubic meter.

(iii) Any emission unit that emits only noncarcinogenic particulate air contaminants and other air contaminants that are exempted under paragraphs (i) or (ii) of this subdivision if all of the following provisions are met:

(A) The particulate emissions are controlled by an appropriately designed and operated fabric filter collector or an equivalent control system which is designed to control particulate matter to a concentration of less than or equal to 0.01 pounds of particulate per 1,000 pounds of exhaust gases and which do not have an exhaust gas flow rate more than 30,000 actual cubic feet per minute.

(B) The visible emissions from the emission unit are not more than 5% opacity in accordance with the methods contained in R 336.1303.

(C) The initial threshold screening level for each particulate air contaminant, excluding nuisance particulate, is more than 2.0 micrograms per cubic meter.

(b) A description of the emission unit is maintained throughout the life of the unit.

(c) Records of material use and calculations identifying the quality, nature, and quantity of the air contaminant emissions are maintained in sufficient detail to demonstrate that the emissions meet the emission limits outlined in this rule.

(d) The records are maintained on file for the most recent 2-year period and are made available to the air quality division upon request.

History: 1993 AACS; 1995 AACS; 1997 AACS.

**R 336.1299 Adoption of standards by reference.**

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

(a) "2011 TLVs and BEIs. Threshold Limit Values for Chemical Substances and Physical Agents. Biological Exposure Indices," American conference of governmental industrial hygienists. For the purposes of R 336.1232, the chemical names and threshold limit values are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$59.95, or from the American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow Drive, Cincinnati, Ohio 45240, at a cost as of the time of adoption of these rules of \$49.95. The American Conference of Governmental Industrial Hygienists can also be contacted on the internet at [www.acgih.org](http://www.acgih.org), by telephone at 513-742-2020, or by email at [mail@acgih.org](mailto:mail@acgih.org).

(b) "NIOSH Pocket Guide to Chemical Hazards," national institute for occupational safety and health, 2005 edition – 3<sup>rd</sup> printing. For the purposes of R 336.1232, the chemical names and NIOSH-recommended exposure levels are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$40.00, or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, NTIS document PB2009103456, at a cost as of the time of adoption of these rules of \$30.00. The National Technical Information Service can also be contacted on the internet at [www.ntis.gov](http://www.ntis.gov) or by telephone at 1-800-553-6847.

(c) "Guidelines for Carcinogen Risk Assessment," EPA/630/P-03/001F, March 2005. Copies may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at no cost, or from the Integrated Risk Information System (IRIS) Hotline, c/o EPA Docket Center, Mail Code 28221T, EPA-West Building, 1301 Constitution Avenue NW, Washington, DC 20005; at no cost. The IRIS Hotline can also be contacted via email at [hotline.iris@epa.gov](mailto:hotline.iris@epa.gov) or by telephone at 202-566-1676.

(2) The following standards are adopted in these rules by reference and are available as noted. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules (AQD price). Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401, by calling 1-866-512-1800 or by accessing their online bookstore at <http://bookstore.gpo.gov> at a cost as of the time of adoption of these rules (GPO price). The standards can be viewed and/or printed free of charge at <http://ecfr.gpoaccess.gov>.

(a) The federal acid rain program, 40 C.F.R. 72.1 to 72.96 (2011), 40 C.F.R. 74.1 to 74.61 (2011), and 40 C.F.R. 76.1 to 76.15 (2011); AQD price \$78.00/\$68.00 GPO price

for parts 72-80. When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the U.S. environmental protection agency. If the provisions or requirements of 40 C.F.R. 72.1 to 72.96, 40 C.F.R. 74.1 to 74.61, or 40 C.F.R. 76.1 to 76.15 conflict with, or are not included in, R 336.1210 to R 336.1218, then the 40 C.F.R. 72.1 to 72.96 and 40 C.F.R. 76.1 to 76.15 provisions and requirements shall apply and take precedence.

(b) The federal hazardous air pollutant regulations governing constructed or reconstructed major sources, 40 C.F.R. 63.40 to 63.44 (2011) and 63.50 to 63.56 (2011); AQD price \$74.00/\$64.00 GPO price for part 63 (63.1-63.599). When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the U.S. environmental protection agency.

(c) The federal compliance assurance monitoring regulations, 40 C.F.R. 64.1 to 64.10 (2011); AQD price \$44.00/\$34.00 GPO price for parts 64-71. When used in these federal regulations, the term "permitting authority" shall mean the department, and the term "administrator" shall mean the administrator of the U.S. environmental protection agency.

(d) Title 40 C.F.R. 51.160(f), "Legally enforceable procedures," and appendix W, "Guideline on Air Quality Models" (2011); AQD price \$61.00/\$51.00 GPO price for parts 50-51.

(3) For the purpose of clarifying the definitions in these rules, the following documents are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules (AQD price). Copies of the documents may be obtained from the Superintendent of Documents, U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401, by calling 1-866-512-1800 or by accessing their online bookstore at <http://bookstore.gpo.gov> at a cost as of the time of adoption of these rules (GPO price). The documents can be viewed and/or printed free of charge at <http://ecfr.gpoaccess.gov>.

(a) Title 40 C.F.R. 51.165, "Permit requirements," and 51.166, "Prevention of significant deterioration of air quality" (2011); AQD price \$61.00/\$51.00 GPO price for parts 50-51.

(b) Title 40 C.F.R. 52.21, "Prevention of Significant Deterioration of Air Quality" (2011); AQD price \$74.00/\$64.00 GPO price for part 52 (52.1-52.1018).

(c) Title 40 C.F.R., part 60, "Standards of Performance for New Stationary Sources," (2011); AQD price \$74.00/\$64.00 GPO price for part 60 (60.1-end) and AQD price \$73.00/\$63.00 GPO price for the appendices (2011).

(d) Title 40 C.F.R., part 61, "National Emission Standards for Hazardous Air Pollutants" (2011); AQD price \$61.00/\$51.00 GPO price for parts 61-62.

(e) Title 40 C.F.R. 63.2, "Definitions," and 63.5(b)(3), "Requirements for existing, newly constructed, and reconstructed sources" (2011); AQD price \$74.00/\$64.00 GPO price for part 63 (63.1-63.599).

(f) Title 40 C.F.R. part 63, subpart EEE, "National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors" (2011); AQD price \$66.00/\$56.00 GPO price for part 63 (63.1200-63.1439).

(g) Title 40 C.F.R. part 63, subpart LLL, “National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry” (2011); AQD price \$66.00/\$56.00 GPO price for part 63 (63.1200-63.1439).

(h) Title 40 C.F.R. 70.3, “Applicability” (2011); AQD price \$44.00/\$34.00 GPO price for parts 64-71.

(i) Title 40 C.F.R. 70.7(g), “Re-openings for cause by EPA” (2011); AQD price \$44.00/\$34.00 GPO price for parts 64-71.

(j) Title 40 C.F.R. 70.8(a)(1) and (2), “Transmission of information to the Administrator” (2010); AQD price \$44.00/\$34.00 GPO price for parts 64-71.

(k) Title 40 C.F.R. 70.8(c), “EPA objection” (2010); AQD price \$44.00/\$34.00 GPO price for parts 64-71.

(l) Title 40 C.F.R. 70.8(d), “Public petitions to the Administrator” (2011); AQD price \$44.00/\$34.00 GPO price for parts 64-71.

(m) Title 40 C.F.R., part 98, subpart A, “Table A-1 – Global Warming Potentials” (2011); AQD Price \$76.00/\$66.00 GPO price for part 98 (96 – 99).

(4) The American Society for Testing and Materials (ASTM) methods are adopted in these rules by reference. Copies are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at the cost at the time of adoption of these rules (AQD price). Copies may also be obtained from ASTM International, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; the ASTM website at [www.astm.org](http://www.astm.org); or ASTM customer service at (610) 832-9585 or [service@astm.org](mailto:service@astm.org); at a cost as of the time of adoption of these rules (ASTM price) as follows:

(a) ASTM D396-010, “Standard Specification for Fuel Oils,” AQD price \$49.00/\$39.00 ASTM price.

(b) ASTM D2880-03 (2010), “Standard Specification for Gas Turbine Fuel Oils,” AQD price \$49.00/\$39.00 ASTM price.

(c) ASTM D975-11, “Standard Specification for Diesel Fuel Oils,” AQD price \$65.00/\$55.00 ASTM price.

History: 1992 AACS; 1995 AACS; 1998-2000 AACS; 2001 AACS; 2003 AACS; 2008 AACS; 2012 AACS.