

April 9, 2001

(AR-18J)

Dennis Drake, Chief  
Air Quality Division  
Michigan Department of Environmental Quality  
P.O. Box 30260  
Lansing, Michigan 48909

Dear Mr. Drake:

The United States Environmental Protection Agency (USEPA) has reviewed the Michigan Department of Environmental Quality's (MDEQ's) proposed regulations, package 1998-036EQ, dated March 1, 2001. This package includes rule revisions that address some of MDEQ's outstanding title V operating permit program interim approval issues. Enclosed are our comments on the proposed rules. We understand that the public comment period on these regulations ends April 9, 2001.

We appreciate the effort your staff have put forth to correct MDEQ's interim program approval issues. Please be aware that the June 1, 2001 operating permit program submittal deadline is rapidly approaching. Please let us know if there is anything we can do to assist you as you prepare Michigan's operating permit program submittal package.

Thank you for this opportunity to review MDEQ's proposed revisions to its operating permit regulations. If you have any questions regarding either these comments or the operating permit program submittal requirements, please contact Beth Valenziano at (312) 886-2703.

Sincerely yours,

/s/

Robert Miller, Chief  
Permits and Grants Section

Enclosure

cc: Paul Collins  
MaryAnn Halbeisen

**ENCLOSURE**  
**USEPA COMMENTS ON MICHIGAN DRAFT RULE 1998-036EQ**  
**March 9, 2001**

1. Rule 210(2) includes new language regarding compliance certification provisions as a requirement for an administratively complete application. This change addresses an interim approval issue. We are concerned that the proposed rule language neither provides explicit authority for MDEQ to require compliance certifications in applications, nor specifically requires sources to submit the certification in their applications. We are concerned that the placement of the compliance certification language in the responsible official certification provision of the rule may not be broad enough to confer the authority to require compliance certifications, and to require the sources to submit them. Therefore, USEPA recommends that the rule specifically establish the compliance certification authority and requirement. Alternatively, if MDEQ believes that the new language in Rule 210(2), in concert with other statutory and regulatory requirements, does create adequate authority and require source submission of the compliance certification, then MDEQ must provide an Attorney General's opinion in the State's interim approval corrective submittal, which verifies that MDEQ 1) has the authority to require the compliance certifications in permit applications, and 2) requires sources to submit the compliance certifications, in accordance with 40 CFR 70.5(c)(9)(i), (ii), and (iv).

In addition, USEPA is concerned that the draft language is more general than the corresponding Federal rule. We recommend that MDEQ either consider expanding the proposed language to define the term "statements of the methods used", in accordance with 40 CFR 70.5(c)(9)(ii), or otherwise demonstrate in the interim approval corrective submittal that the requirement for a statement of the methods used includes a description of monitoring, recordkeeping, and reporting requirements and test methods.

2. Rule 213(1)(i) includes general permit language addressing the interface between New Source Review (NSR) permits and title V permits. Although MDEQ must make additional changes to its NSR program to establish this interface authority and further define the mechanisms, the Rule 213(1)(i) provision should more clearly delineate the interface provisions. USEPA's suggested language follows:

Once the appropriate authorities and procedures are in place in Rule 201, the permit to install terms and

conditions within this renewable operating permit, identified by [define marker], constitute a federally enforceable permit to install, established pursuant to the department's authority under Rule 201. Notwithstanding the expiration date of the renewable operating permit, the permit to install terms and conditions are permanent.

In addition, Rule 213(5)(b) should be revised accordingly to include the designation marker that will be used for identifying permit to install terms and conditions.

3. MDEQ added provisions to Rule 213(2) to ensure that it may establish additional limits in its title V permits. USEPA recommends the following changes to clarify that MDEQ has the authority to create such limits, and to clarify that such limits may not be contrary to any other permit condition:

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. The department may include additional limits agreeable to the department and the source, provided that these limits are not contrary to Rule 213 or the Clean Air Act. The following provisions apply to emission limits and standards:

4. MDEQ has proposed moving the definition of "emissions allowable under the permit" to Rule 215(1)(a)(iv). This term applies to both Rule 215(1)(a) and (b); therefore, the definition should be placed in Rule 215(1).
5. MDEQ's proposed revisions to Rule 215(1)(b) do not meet the corresponding Federal requirements in 40 CFR 70.4(b)(12)(ii). Specifically, MDEQ's Part 12 trading program does not meet the requirements for this operational flexibility provision, because it is not a State Implementation Plan (SIP) approved trading program. In addition, it is not clear that Michigan's trading program meets the requirements for 40 CFR 70.4(b)(12)(ii) regarding the development of emission quantification protocols. For additional information, please see USEPA's proposed SIP approval of New Jersey's trading program, 66 FR 1801, published January 9, 2001.

