

Section Break

Other Comments – mixed in support and opposition:

1. May 22, 2024
Michigan Manufacturers Association
Caroline Liethen

EGLE-AQD-RULES

From: McDonald, Tracey (EGLE)
Sent: Wednesday, May 22, 2024 5:30 PM
To: EGLE-AQD-RULES
Subject: FW: MMA Part 1/8/9 Comments
Attachments: MMA Part 1, 8, 9 Rule Comments.pdf

From: Caroline Liethen <liethen@mimfg.org>
Sent: Wednesday, May 22, 2024 4:47 PM
To: McDonald, Tracey (EGLE) <MCDONALDT@michigan.gov>
Cc: Vaerten, Marissa (EGLE) <VaertenM@michigan.gov>; Lillian Woolley <lwoolley@fishbeck.com>; Cindy Grostick <grostick@mimfg.org>
Subject: MMA Part 1/8/9 Comments

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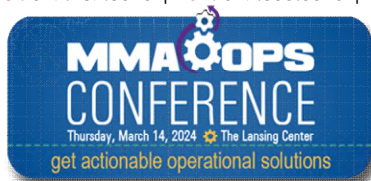
Good afternoon,

I'm writing to submit the attached comments on behalf of the Michigan Manufacturers Association. We appreciate the work you put into the drafts and your consideration of our recommendations. Please contact me if you have questions or would like to discuss any recommendations further.

Sincerely,

Caroline

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May 22, 2024

Michigan Department of Environment, Great Lakes, and Energy
Attention: Trace McDonald
P.O. Box 30260
Lansing, MI 48909-7760

Re: MMA Comments on the Combined Part 1, 8, and 9 Rules

Dear Mr. McDonald:

I am writing on behalf of the Michigan Manufacturers Association to provide comments on the combined draft Parts 1 (definitions), 8 (NO_x RACT & NO_x SIP call revisions), and 9 (adoption by reference) rulesets.

MMA has served manufacturers and related industries for nearly 120 years. Our membership represents approximately 1,700 manufacturers located in every corner of the state including small, medium, and large manufacturers. Manufacturing represents Michigan's largest economic sector generating nearly 20 percent of the state gross domestic product. It drives Michigan's economy and provides livelihoods for more than 635,000 Michigan citizens and their families. Through our work, MMA and its members share a common goal to be good neighbors to the communities we support and where we work.

MMA appreciates your work on these rules and the consideration of member feedback. We continue to appreciate your and Marissa Vaerten's efforts to write fair and coherent rules. We also continue our support for the Department of Environment, Great Lakes, and Energy's Air Quality Division (EGLE-AQD) to increase resources devoted to developing Reasonably Available Control Technology (RACT) rules in comparison to programs unrelated to Clean Air Act requirements. Further, we appreciate our ability to participate in the EGLE-AQD RACT Workgroup. In the future, the process would be improved by being more collaborative in nature, including sharing draft versions of the rules as they are developed. Members have been unable to anticipate and plan for requirements as they were not provided access to updated versions of the rules for over a calendar year.

The following comments are in reference to the Part 1 ruleset:

MMA supports the proposed revisions to the definition of "Carcinogen" in Part 1 of the Michigan Air Pollution Control Rules, specifically 336.1103(c)(i). The proposed revision in Rule 103(c)(i) promotes consistency and clarifies a facility's compliance status under state and federal laws by aligning the definition of "Carcinogen" with the United States Environmental Protection Agency's (USEPA) Guidelines for Carcinogen Risk Assessment. We commend EGLE on this important rulemaking, and respectfully offer the following comments to ensure that EGLE accomplishes its stated goal of improving clarity through definitions.

MMA recommends that EGLE delete revised Section (c)(ii) of Rule 103, which states that a "Carcinogen means either of the following... (ii) Any chemical that has been determined to be a carcinogen using another generally accepted guideline for carcinogen risk assessment based on sound scientific and defensible evidence." Unlike Section (c)(i) that provides clarity, Section (c)(ii) introduces uncertainty by defining "carcinogen" through reference to unspecified guidelines. This is problematic for several reasons. First, a facility will not know whether it has consulted all relevant guidelines in determining whether a chemical is a

carcinogen. Second, the proposed definition under Section 103(c)(ii) does not define what constitutes “sound science” or “defensible evidence” thereby inviting debate and ambiguity. Finally, EGLE has already harmonized the federal and state definition of carcinogen through its revised Section (c)(i) such that revised Section (c)(ii) does not provide any additional protection of the health, safety, and welfare of Michigan citizens nor does it add any clarity for a facility in making its determination.

Accordingly, MMA recommends the following amendments with language in **bold**:

(c) "Carcinogen" means ~~either of the following~~:

~~—(i) **B**elonging to a category of “carcinogenic to humans,” “likely to be carcinogenic to humans,” or “suggestive evidence of carcinogenic potential” using the weight of evidence narrative approach as described in United States Environmental Protection Agency’s “Guidelines for Carcinogen Risk Assessment” as adopted by reference in R 336.1902.~~

~~—(ii) **Any chemical that has been determined to be a carcinogen using another generally accepted guideline for carcinogen risk assessment based on sound scientific and defensible evidence.**~~

The following comments are in reference to the Part 8 ruleset:

RULE 841

Under Rule 841(2), MMA recommends amendments to clarify sources subject to the rule with language in **bold**:

*(2) **Unless exempt pursuant to Subsection (3) or when complying with a Plan under Rule 845, a person is subject to this rule and shall not cause or allow the emission of NOx from the combustion of fuels in an engine or its replacement unit in excess of the requirements of this rule at facilities meeting either of the following criteria:***

(a) Located in the 2015 ozone nonattainment areas and either of the following:

(i) A stationary source with a potential to emit 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or upon the effective date of this rule, whichever is later.

*(ii) Any engine manufactured after the effective date of this rule at a facility **whose potential emissions exceed 100 tpy.***

Additional changes ~~include to include~~ for Section 3 include an addition to Section (3)(f):

*(f) Engines with a federally enforceable limit of 100 hours per 12-month rolling time period **except for actual emergencies.***

Under Rule 841(7)(5)(b)(3)(B), a monitoring plan is required, but no guidance is provided on the types of monitoring that would be approved. For engines, subject to Rule 841, periodic engine stack testing is allowed for demonstrating compliance with monitoring requirements. ~~Periodic stack testing should be allowed for engines subject to Rule 841.~~ For certified engines, simply maintaining the engine in a certified condition should be adequate to demonstrate compliance with monitoring requirements.

Under Rule 841(7), emission limits are reduced when the area is “bumped up”, though it’s unclear when specifically, the reduced emission limits would be effective are reduced. MMA recommends changing the language to the following:

(7) A person that generates NOx emissions from the use of an engine located in the 2015 ozone nonattainment area shall meet the following limits within table 841a 12 months after the effective date of a final determination by the USEPA, under section 182(c)(9) of the clean air act, 42 USC 7511a, for either of the following elements of the 2015 ozone National Ambient Air Quality Standard:

(a) The USEPA issues a determination that reasonable further progress as described in Michigan’s approved state implementation plan was not achieved.

(b) ~~The USEPA issues a finding of failure to attain the standard by the applicable attainment date.~~ redesignates the area as severe nonattainment area with respect to ozone.

RULE 842

Under Rule 842, sections of the rule are confusing. For example, under Rule 842(2)(b) it’s unclear when and whether exemptions can be used. MMA recommends the following addition:

(2) Unless exempt pursuant to Subsection 3 or when complying with a Plan under Rule 845, a person shall not cause or allow the emission of NOx from the combustion of fuels in boilers in excess of the requirements of this rule at facilities meeting either of the following criteria:

We would also recommend changing Rule 842(2)(a)(ii) to indicate that the rule only applies to facilities whose potential emissions exceed 100 tpy NOx:

(a) Located in the 2015 ozone nonattainment areas and ~~either of either of the following:~~

(i) A stationary source with a potential to emit 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or upon the effective date of this rule, whichever is later.

*(ii) A emission unit installed after the effective date of this rule at a facility **whose potential emissions exceed 100 tpy NOx.***

MMA further recommends similar changes to Rule 842(2)(b) as we are unsure which boilers this limit applied to:

(42)(b) A boiler installed after March 1, 2024, or the effective date of this rule, whichever is later, must utilize a low NOx burner, equivalent technology, or better technology, at facilities whose potential emissions exceed 100 tpy NOx.

Under Rule 842(7)(b), a monitoring plan is required. In most cases, periodic stack testing and fuel monitoring should be sufficient to demonstrate compliance with the NOx limit and should not require approval via a specific monitoring plan.

Under Rule 842(9)(b), emission limits are reduced when the area is “bumped up”, though it’s unclear when specifically, the reduced emission limits would be effective are reduced. MMA recommends changing the language to the following:

(9) A person that generates NOx emissions from the use of a boiler located in the 2015 ozone nonattainment area shall meet the following limits within table 841a 12 months after the effective date of a final determination by the USEPA, under section 182(c)(9) of the clean air act, 42 USC 7511a, for either of the following elements of the 2015 ozone National Ambient Air Quality Standard:

(a) The USEPA issues a determination that reasonable further progress as described in Michigan's approved state implementation plan was not achieved.

(b) ~~The USEPA issues a finding of failure to attain the standard by the applicable attainment date.~~
redesignates the area as severe nonattainment area with respect to ozone.

RULE 843

Similar changes are being requested in Rules 843 (turbines) in Rule 843(2):

(2) **Unless exempt pursuant to Subrule 3 or when complying with a Plan under Rule 845**, a person is subject to this rule and shall not cause or allow the emission of NOx from the combustion of fuels in turbines in excess of the requirements of this rule at facilities meeting either of the following criteria:

(a) Located in the 2015 ozone nonattainment areas and either of the following:

- (i) A stationary source with a potential to emit of 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or upon the effective date of this rule, whichever is later.
- (ii) An emission unit installed after the effective date of this rule **at a facility whose potential emissions exceed 100 tpy NOx.**

Under Rule 843(56)(b), a monitoring plan is required. In most cases, periodic stack testing and fuel monitoring should be sufficient to demonstrate compliance with the NOx limit and should not require approval via a specific monitoring plan.

Under Rule 843(6)(b)(ii) and (iii), the term boiler, should be "turbine".

- (i) A parametric monitoring program that specifies operating parameters, and their ranges, that provides reasonable assurance each turbine's emissions are consistent with the requirements of this rule.
- (ii) A predictive emissions measurement system that relies on automated data collection from instruments. If a ~~boiler~~ turbine is equipped with a predictive emission monitoring system, compliance with the applicable emissions limit must be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.
- (iii) A continuous emission monitoring system that complies with 40 CFR part 60 or part 75, both adopted by reference in R 336.1902. If a ~~boiler~~ turbine is equipped with a continuous emission monitoring system, compliance with the applicable emissions limit must be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

RULE 844

Additional confusion comes from similar language in 844(b)(2):

(b)(2) Unless exempt under Subsection 3 or when complying with a Plan under Rule 845, a person is subject to this rule and shall not cause or allow the emission of NOx from the combustion of fuels in asphalt plants, process heaters, engine test cells and stands, lime kilns, or glass manufacturing units in excess of the allowable emissions, including the limitations of this rule at facilities meeting either of the following criteria:

(a) Located in the 2015 ozone nonattainment areas and either of the following:

- (i) A stationary source with a potential to emit 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or the effective date of this rule, whichever is later.*
- (ii) An emission unit installed after the effective date of this rule **at a facility whose potential emissions exceed 100 tpy NOx.***

Under Rule 844(5), we would like to suggest the following change to clarify which facilities must comply with the rule:

*(5) A process heater subject to an emission limit in Table 844 and installed **at a facility whose potential emissions of NOx exceed 100 tpy**, after March 1, 2024, or the effective date of the rule, whichever is later, must utilize a low-NOx burner, equivalent technology, or better.*

Under Rule 844(5), a monitoring plan is required. In most cases, periodic stack testing and fuel monitoring should be sufficient to demonstrate compliance with the NOx limit and should not require approval via a specific monitoring plan.

Under Rule 844(6)(c)(ii). (B) and (C), the term boiler, should be “emission unit”.

(A) A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance each emission unit’s emissions are consistent with the requirements of this rule.

(B) A predictive emissions measurement system that relies on automated data collection from instruments. If **an emission unit boiler** is equipped with a predictive emission monitoring system, compliance with the applicable emissions limit is determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(C) A continuous emission monitoring system that complies with 40 CFR part 60 or 40 CFR part 75, both adopted by reference in R 336.1902. If **an emission unit boiler** is equipped with a continuous emission monitoring system, compliance with the applicable emissions limit shall be determined based on the 30-day rolling average emissions rates.

Under Rule 844(8), it’s unclear exactly when the reduced emission limits would take effect be effective. MMA recommends the following change:

(8) A person that generates NOx emissions from the use of a process heater located in the 2015 ozone nonattainment area shall meet the following limits within table 844b 12 months after the effective date of a final determination by the USEPA, pursuant to section 182(c)(9) of the clean air act 42 USC 7511a, for either of the following elements of the 2015 ozone National Ambient Air Quality Standard:

(a) The USEPA issues a determination that reasonable further progress as described in Michigan’s approved state implementation plan was not achieved.

~~(b) The USEPA issues a finding of failure to attain the standard by the applicable attainment date. redesignates the area as severe nonattainment area with respect to ozone.~~

RULE 845

Rule 845(a)(iv) is confusing

- (i) A document containing quantitative or qualitative analyses demonstrating that the emission contributions from the applicable emission unit **shall not contribute to the overall achievement** of the ozone National Ambient Air Quality Standard in the nonattainment area. This may include, but is not limited to, modeling, calculations based on throughput and control efficiency, or other quantitative evaluations to similar insignificant units.

Finally, exempt emission sources within Rules 841-845 should not be pulled into Rule 846 for evaluation of miscellaneous large sources.

MMA has no comments in reference to the Part 9 ruleset.

Thank you for your consideration of our comments and the extensive economic impact these rules would have on the largest sector of Michigan's economy. These regulatory changes have significant economic implications for Michigan, and we will continue to provide information to assist the department in its decision-making. Please feel free to contact me should you need clarification or wish to discuss our input further.

Sincerely,



Caroline Liethen
Director of Environmental and Regulatory Policy