

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**310 CMR 7.00 AIR POLLUTION CONTROL REGULATIONS**

**310 CMR 7.02 PLAN APPROVAL AND EMISSION LIMITATIONS**

**7.02 Plan Approval and Emission Limitations**

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- (2) (b) 5 a major stationary source located in a non-attainment area for which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants; particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds, or carbon monoxide unless the stationary source complies with the requirements of 310 CMR 7.00, Appendix A, Emission Offsets and Non-Attainment Review.

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- (2) (b) 6 a proposed stationary source subject to 310 CMR 7.02(b)5 (a major stationary source or a major modification subject to the requirements of Appendix A) would have total allowable emissions which, when added to allowable emissions from;
- a. existing stationary source in the pertinent region, and
  - b. new or modified sources in the pertinent region, which are not major emitting stationary sources would, by the time that such proposed stationary source is to commence operation, exceed the total emissions from existing sources allowable under the applicable SIP (prior to the application for such permit to construct or modify) by such an amount as to be inconsistent with “reasonable further progress” as defined in the Massachusetts State Implementation Plan (SIP).

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(12) U Restricted Emission Status.

- (a) Any person who owns, leases, operates or controls a facility may apply to the Department for a restricted emission status in order to:

1. restrict potential emissions of regulated air contaminants to eliminate applicability of an otherwise applicable requirement, including but not limited to, restricting potential emissions to allow redesignation for purposes of annual compliance fee assessment (310 CMR 4.03); or
2. restrict potential emissions below the Reasonably Available Control Technology (RACT) applicability thresholds for halogenated organic compounds (HOC) (310 CMR 7.18); or,
3. restrict federal potential emissions below the Reasonably Available Control Technology (RACT) applicability thresholds for volatile organic compounds (310 CMR 7.18) and 310 CMR 7.00: Appendix C where applicable; or,
4. restrict federal potential emissions below the Reasonably Available Control Technology (RACT) applicability thresholds for oxides of nitrogen (NOx) (310 CMR 7.19) and 310 CMR 7.00: Appendix C where applicable; or,
5. restrict federal potential emissions of regulated pollutants for eliminating applicability to an otherwise applicable requirement, including but not limited to, 310 CMR 7.00: Appendix C.

(b) Any person who owns, leases, operates or controls a facility may apply for a restricted emission status as follows:

1. The application shall be made on form(s) obtained from the Department or by other means prescribed by the Department.
2. The application shall be submitted in duplicate and signed by a responsible official.
3. The application shall be accompanied by sufficient information to document the proposed restriction.
4. Applications for restricted emission status to lower potential emissions below the Reasonably Available Control Technology (RACT) applicability thresholds for volatile organic compounds (VOC) or oxides of Nitrogen (NOx) stated in 310 CMR 7.18 et seq. and 7.19 et seq., shall include the following information:
  - a. the actual amount of VOC, HOC and/or NOx (as required) emitted from each affected emitting equipment for the highest emitting calendar year beginning January 1, 1990.
  - b. a description of the design and operation of the affected VOC, HOC and/or

NOx emitting equipment, and

c. any other information deemed by the Department to be required to establish enforceable conditions to be contained in the permit restriction.

(c) Restricted emission status to avoid RACT requirements at either 310 CMR 7.18 et seq. or 310 CMR 7.19 et seq. will only be available if actual emissions from the facility have not exceeded a threshold contained in 310 CMR 7.18 et seq. or 7.19 et seq. on or after January 1, 1990. If the facility was subject to the RACT requirements of a section of 310 CMR 7.18 before 1990, it will continue to be subject to these requirements.

(d) Any restricted emission status the Department issues will be in writing.

(e) Restricted emission status issued by the Department shall include:

1. some combination of production and/or operational limitations to ensure that emissions are limited by quantifiable and enforceable means. Operational limitations may include control equipment; and

2. requirements to maintain records sufficient to demonstrate that the limitations in the permit are followed and that emissions have not exceeded those allowed by the restriction.

(f) Restricted emission status issued pursuant to 310 CMR 7.02(12) for the purpose of restricting federal potential emissions must be federally enforceable.

1. Federally enforceable permit restrictions shall contain per unit emission factors, production and/or operational limitations and controls, and monitoring, recordkeeping, and reporting requirements capable of assuring compliance with such limitations and controls.

2. All emissions limitations, controls, and other requirements imposed by such restricted emission status must be at least as stringent as all other applicable limitations and requirements contained in the Massachusetts SIP, enforceable under the Massachusetts SIP, or otherwise federally enforceable. All limitations, controls and other requirements imposed by such restricted emissions status must be permanent, quantifiable, and otherwise enforceable as a practical matter.

3. Federally enforceable restricted emission status shall go through the public review process at 310 CMR 7.02(12)(g).

(g) The following public review process shall apply to all proposed restricted

emission status if they are to be federally enforceable.

1. After notification of receipt of a technically complete application the Department shall issue either a disapproval of the application and notify the applicant and EPA of said disapproval; or, issue a proposal that the application be approved or approved with conditions.
2. If the Department proposes to approve the application or approve the application with conditions, it shall:
  - a. Make available, in at least one location in the region in which the facility is located, a copy of all nonconfidential materials the applicant submitted, a copy of the proposed restricted emission status, a copy of the proposed approval or approval with conditions, and a copy or summary of other materials, if any, considered in making the proposed decision.
  - b. Notify the public of the Department's proposed action and availability of all related materials, by advertisement in a newspaper having wide circulation in the area of the facility applying for a permit restriction and allow not less than 30 days for public comment.
  - c. Send a copy of the notice of public comment to the applicant, the EPA, and officials and agencies having jurisdiction over the community in which the facility is located, including local air pollution control agencies, chief executives of said community, and any regional land use planning agency.
  - d. Consider all public comments in making a final decision on the proposed restricted emission status. The Department shall make all comments received available for public inspection in the same location(s) as all materials related to the Department's proposed restricted emission status had been made available.
  - e. Make a final determination whether the restricted emission status application should be approved or approved with conditions.
  - f. Notify the applicant and EPA in writing of the final determination and send a copy of the final restricted emission status approval or approval with conditions.