



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2010-0566; FRL-9776-9]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Michigan;**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the State of Michigan's New Source Review (NSR) State Implementation Plan (SIP) including their revised Part 2 NSR permitting rules, and the addition of their Part 19 rules revising Michigan's NSR rules for major sources in nonattainment areas to include the Federal NSR reform rules, and other revisions that are affected by the Federal NSR rules. The Michigan Department of Environmental Quality (MDEQ) submitted these revisions to EPA on March 24, 2009.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2010-0566, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [damico.genevieve@epa.gov](mailto:damico.genevieve@epa.gov).
3. Fax: (312) 886-0968.

4. Mail: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2010-0566. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM,

Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental Engineer, at (312) 886-0671 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Environmental Engineer, Air Permits, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671, [Blathras.constantine@epa.gov](mailto:Blathras.constantine@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Action is EPA Taking?
- III. Statutory and Executive Order Reviews.

**I. What Should I Consider as I Prepare My Comments for EPA?**

When submitting comments, remember to:

- 1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- 2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- 3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

## **II. What Action is EPA Taking?**

EPA is proposing to approve the following Michigan air pollution control rules as a revision to its SIP. On March 24, 2009, Michigan submitted the following rule revision packages to EPA for approval: 1) Part 1, general provisions. Revisions include amendments to R336.1102 to R336.1105 (including R336.1103 and R.336.1104) (definitions; B, C, D, E), R336.1109 (definitions, I), R336.1112 to R336.1114 (including R226.1113) (definitions; L, M, N), and R336.1122 (definitions; V). These revisions were made to modify the definitions that impact the new NSR permitting rules in Part 19 as well as modify the definition of volatile organic compound. 2) Part 2, Air Use Approval. Revisions include amendments to R36.1201 (Permits to install),

R336.1202 (Waivers of approval), R336.1205 (Permit to install; approval), R336.1207 (Denial of permits to install), R336.1219 (Amendments for change of ownership or operational control), R336.1240 (Required air quality models), R336.1241 (Air quality modeling demonstration requirements), R336.1278 (Exclusion from exemption), R.336.1281 (Permit to install exemptions; cleaning, washing, and drying equipment), R336.1284 (Permit to install exemption; containers), R336.1285 (Permit to install exemptions; miscellaneous), R336.1288 (Permit to install exemptions; oil and gas processing equipment), and R336.1299 (Adoption of standards by reference). In addition, all relevant citations in the Part 2 rules have been changed to reflect Michigan's new permitting authority in the new Part 18 and 19 rules. 3) For Part 19, NSR for Major Sources Impacting Nonattainment Areas, these revisions include R336.2901 (Definitions), R336.2901a (Adoption by reference), R336.2902 (Applicability), R336.2903 (Additional permit requirements for sources impacting nonattainment areas), R336.2907 (Actuals plantwide applicability limits or PALs), and R336.2908 (Conditions for approval of a major new source review permit in a nonattainment area).

EPA has reviewed the rules MDEQ submitted on March 24, 2009, against the Federal nonattainment air quality permitting regulations found in 40 CFR 51.165(a) and (b). EPA has found that the rules as submitted by Michigan for revision into its SIP

are at least as stringent as these Federal rules. The Federal rules found at Part 51.165(a) and (b) specify the elements of an approvable State permit program for preconstruction review for nonattainment purposes under part D of the Clean Air Act. A major source or major modification that would be located in an area designated as nonattainment and subject to the nonattainment area permit must meet stringent conditions designed to ensure that the new source's emissions will be controlled to the greatest degree possible; that more than equivalent offsetting emission reductions will be obtained from existing sources; and that there will be progress toward achieving the National Ambient Air Quality Standards.

### **III. Statutory and Executive Order Reviews.**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those

requirements would be inconsistent with the Clean Air Act;  
and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 24, 2013.

Susan Hedman,  
Regional Administrator, Region 5.

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