



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0741; FRL-9990-42-Region 5]

Air Plan Approval; Michigan; Revisions to Part 1 General

Provisions Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Michigan Department of Environmental Quality (MDEQ) on December 12, 2017, and supplemented on August 9, 2018, as a revision to Michigan's state implementation plan (SIP). The SIP submission incorporates several revisions to Michigan's Air Pollution Control Rules entitled "Part 1 - General Provisions." The revisions include administrative changes to the existing rule.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0741. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or 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 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@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 are the State rule revisions?
- II. Public Comment
- III. What action is EPA taking?
- IV. Incorporation by Reference.
- V. Statutory and Executive Order Reviews.

I. What are the State rule revisions?

On December 12, 2017 and August 9, 2018, MDEQ submitted a request to EPA to incorporate revisions to Michigan's Air Pollution Control Rules entitled Part 1 - General Provisions (Part 1). Part 1 is a compilation of the definitions used in Michigan's rules. The submission revises the following Michigan's Air Pollution Control rules: R 336.1101 to 1103, R 336.1106 to 1109, R 336.1112 to 1116, and R 336.1118 to 1123. The revisions are primarily administrative changes. The revisions to Part 1 include a range of administrative changes, from grammatical corrections to language updates.

In the August 9, 2018, submission, MDEQ rescinded its request to modify Part 1 for the following definitions: R336.1101(a) "Act," R336.1101(h) "Air pollution," R336.1101(q) "Aqueous based parts washer," and R336.1103(aa) "Cold cleaner."

II. Public Comment

On December 13, 2018 (83 FR 64056), EPA published a notice of proposed rulemaking proposing approval of Michigan's Part 1 rule. The comment period closed on January 14, 2019. We received an anonymous comment that address subjects outside the scope of our proposed action, does not explain (or provide a legal basis for) how the proposed action should differ in any way, and makes no specific mention of the substantive aspects of

the proposed action. Consequently, this comment is not germane to this rulemaking and therefore, need not be addressed.

III. What action is EPA taking?

EPA is approving the revisions to Michigan's Part 1, as a revision to the Michigan SIP, specifically for the following rules: R 336.1101 Definitions; A (except for (a) Act, (h) Air pollution, and (q) Aqueous based parts washer), R 336.1102 Definitions; B, R 336.1103 Definitions C (except for (aa) Cold cleaner), R 336.1106 Definitions; F, R 336.1107 Definitions; G, R 336.1108 Definitions; H, R 336.1109 Definitions I, R 336.1112 Definitions; L, R 336.1113 Definitions; M, R 336.1114 Definitions; N, R 336.1115 Definitions; O (except for (d) "'Oral reference dose' or 'RfD'"), R 336.1116 Definitions; P, R 336.1118 Definitions; R, R 336.1119 Definitions; S (except for (c) Secondary risk screening level, and (q) State-only enforceable, and (x) Sufficient evidence), R 336.1120 Definitions; T (except for (f) "'Toxic air contaminant' or 'TAC'"), R 336.1121 Definitions; U, R 336.1122 Definitions; V, R 336.1123 Definitions; W (except for (c) Weight of evidence). We are also approving a revision removing the following definitions from Part 1: "Allowed emissions," "Federal land manager," "Linearized multistage computer model," "Offset ratio," and "Very large precipitator."

EPA is not taking any action on R 336.1103(pp)
"Creditable," R 336.1115(d) "'Oral reference dose' or 'RfD',"
336.1119(c) "Secondary risk screening level," R 336.1119(q)
"State-only enforceable," R 336.1119(x) "Sufficient evidence," R
336.1120(f) "'Toxic air contaminant' or 'TAC'," and R
336.1123(c) "Weight of evidence."

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Michigan Regulations described in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act (CAA) as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP

compilation.¹

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- 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 CAA; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days**

after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 25, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1170, the table in paragraph (c) is amended by revising the entries under the heading “Part 1. General Provisions” to read as follows:

§ 52.1170 Identification of plan.

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(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
* * * * *				
Part 1. General Provisions				
R 336.1101	Definitions; A	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	All except for (a) Act, (h) Air pollution, and (q) Aqueous based parts washer.
R 336.1102	Definitions; B	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1103	Definitions; C	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	All except for (aa) Cold cleaner
R 336.1104	Definitions; D	3/28/2008	12/16/2013, 78 FR 76064	R 336.1104
R 336.1105	Definitions; E	3/28/2008	12/16/2013, 78 FR	R 336.1105

			76064	
R 336.1106	Definitions; F	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1107	Definitions; G	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1108	Definitions; H	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1109	Definitions; I	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1112	Definitions; L	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1113	Definitions; M	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1114	Definitions; N	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1115	Definitions; O	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	All except for (d) "'Oral reference dose' or RfD'"
R 336.1116	Definitions; P	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1118	Definitions; R	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal	

			Register citation]	
R 336.1119	Definitions; S	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	All except for (c) Secondary risk screening level, (q) State-only enforceable, and (x) Sufficient evidence.
R 336.1120	Definitions; T	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	All except for (f) "'Toxic air contaminant' or 'TAC'"
R 336.1121	Definitions; U	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1122	Definitions; V	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1123	Definitions; W	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	All except for (c) Weight of evidence.
R 336.1127	Terms defined in the act	1/19/1980	5/6/1980, 45 FR 29790	
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[FR Doc. 2019-04387 Filed: 3/11/2019 8:45 am; Publication Date: 3/12/2019]