

§ 52.2120 Identification of plan

(c) \* \* \*

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AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
Regulation No. 62.96	NO <sub>x</sub> Budget Trading Program.	05/24/02	June 28, 2002	[Insert citation of publication]
Regulation No. 62.99	Nitrogen Oxides (NO <sub>x</sub> ) Budget Program Requirements for Stationary Sources Not in the Trading Program.	05/24/02	June 28, 2002	[Insert citation of publication]

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 [FR Doc. 02-16270 Filed 6-27-02; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MI78-01-7287a, FRL-7226-6]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving several rule revisions and rescissions for incorporation into Michigan's State Implementation Plan (SIP). The Michigan Department of Environmental Quality (MDEQ) submitted these revisions on July 7, 2000 and supplemented them with letters dated January 29, 2001, and February 6, 2002. They include revisions to definitions, open burning rules, general volatile organic compound (VOC) provisions, and administrative procedures, and the rescission of two obsolete rules.

**DATES:** This rule is effective on August 27, 2002, unless EPA receives adverse written comments by July 29, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You may inspect copies of the documents relevant to this action during normal business hours at the following location:

Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 office.

Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767.

**SUPPLEMENTARY INFORMATION:**

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**I. What Did Michigan Submit?**

On July 7, 2000, MDEQ submitted revisions to Michigan's SIP. This submittal was supplemented with letters dated January 29, 2001, and February 6, 2002. The state has requested that we act on the following Michigan Administrative Code rule revisions and rescissions:

*R 336.1104 Definitions; D*—Michigan added (d), (e), (f), and (g), which are definitions for "demolition waste material," "department," "difficult-to-monitor component," and "dry organic resin," respectively. The state also renumbered the definition for "dispensing facility" from (d) to (h).

*R 336.1310 Open burning*—Minor wording changes were made to this section that do not change the substance of the rule. For example, "commission" was changed to "department." The only substantive change removes the requirement that MDEQ give prior

approval to a source burning structures exclusively for fire prevention training.

*R 336.1320*—This rule required existing sources to submit, by January 18, 1981, a compliance program which would show compliance with the requirements of rule R 336.1331, emission of particulate matter. The state is rescinding this rule because it is obsolete. The dates for required action have passed and sources covered by the rule are already in compliance.

*R 336.1602*—General provisions for existing sources of volatile organic compound emissions—The state has revised this rule to add a renewable operating permit as one of the legal documents that can limit emissions.

*R 336.2701 and R 336.2702*—These rules referenced the "Air Pollution Act, Act 348 of the Public Acts of 1965, as amended." This act has been replaced by the "Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended." Part of the changes in these rules are to reference the proper act and remove conflicting dates between the rules and the Natural Resources and Environmental Protection Act. In addition, rule 336.2702 adds a definition for "authorized agent."

*R 336.2703*—This rule addresses some functions of the Air Pollution Control Commission and some provisions of Public Act 348 of 1965, as amended. The Public Act and the Commission referred to in this rule are not in existence or effect. The rule was rescinded because it is obsolete.

EPA is approving revisions to Michigan's regulations to definitions, open burning rules, general volatile organic compound provisions, and administrative procedures, and the rescission of two obsolete rules.

**II. What Action Is EPA Taking?**

All of these revisions and rescissions are consistent with the Clean Air Act and are approvable. Therefore, we are

approving the following rules for incorporation into Michigan's SIP: R 336.1104, R 336.1310, R 336.1602, R 336.2701, and R 336.2702. We are also approving the removal of the following rules from Michigan's SIP: R 336.1320 and R 336.2703.

### III. Is This Action Final, or May I Still Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision. Should EPA receive adverse written comments by July 29, 2002, we will withdraw this direct final and respond to any comments in a final action. If EPA does not receive adverse comments, this action will be effective without further notice. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on August 27, 2002.

### IV. What Administrative Requirements Did EPA Consider?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes,

as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing Michigan's rule in this notice, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order, and has determined that the rule's requirements do not constitute a taking. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: May 17, 2002.

**Robert Springer,**

*Acting Regional Administrator, Region 5.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

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

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

### Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(116) to read as follows:

#### § 52.1170 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(116) The Michigan Department of Environmental Quality submitted revisions to Michigan's State Implementation Plan (SIP) on July 7, 2000 and supplemented them with letters dated January 29, 2001, and February 6, 2002. They include revisions to definitions, open burning rules, general volatile organic compound provisions, and administrative procedures. The revision removed from the SIP rules R 336.1320 and R 336.2703, which the State rescinded effective April 10, 2000.

(i) Incorporation by reference. The following sections of the Michigan Administrative Code are incorporated by reference.

(A) R 336.1104 Definitions; D, effective April 10, 2000.

(B) R 336.1310, Open burning, effective February 3, 1999.

(C) R 336.1602 General provisions for existing sources of volatile organic compound emissions, effective April 10, 2000.

(D) R 336.2701 Petitions for review and for contested case hearings; hearing procedure; "duly authorized agent" defined, effective April 10, 2000.

(E) R 336.2702 Appearances, effective April 10, 2000.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

**Standards of Performance for New Stationary Sources; Monitoring Requirements**

*CFR Correction*

In Title 40 of the Code of Federal Regulations, Part 60 (60.1 to End), revised as of July 1, 2001, on page 53, in § 60.13, paragraph (d)(1) is corrected by revising the last two sentences to read as follows:

**§ 60.13 Monitoring requirements.**

\* \* \* \* \*

(d)(1) \* \* \* For a COMS, the optical surfaces, exposed to the effluent gases, must be cleaned before performing the zero and upscale drift adjustments, except for systems using automatic zero adjustments. The optical surfaces must be cleaned when the cumulative

automatic zero compensation exceeds 4 percent opacity.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

**Standards of Performance for New Stationary Sources; Monitoring Requirements**

*CFR Correction*

In Title 40 of the Code of Federal Regulations, Part 60 (60.1 to End), revised as of July 1, 2001, § 60.4 is corrected, on page 34, by removing the second table in paragraph (b)(DD)(1) and on page 28, by moving the second table in paragraph (b)(D)(1) to the end of paragraph (b)(DD)(1) and adding the following table to paragraph (b)(D)(1) in its place.

**§ 60.4 Address.**

\* \* \* \* \*  
(b) \* \* \*  
(D) \* \* \*  
(1) \* \* \*

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR ARIZONA											NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)					
AIR POLLUTION CONTROL AGENCY	Steel Plants: Electric Arc Furnaces	Kraft Pulp Mills	Glass Manufacturing Plants	Grain Elevators	Stationary Gas Turbines	Lime Manufacturing Plants	Lead - Acid Battery Manufacturing Plants	Automobile & Light Duty Surface Coating Operations	Phosphate Rock Plants	Ammonium Sulfate Manufacturing	General Provisions	Asbestos	Beryllium	Beryllium Rocket Motor Firing	Mercury	Vinyl Chloride
POLLUTANT CATEGORY	AA	BB	CC	DD	GG	HH	KK	MM	NN	PP	A	B	C	D	E	F
ARIZONA	*	*		*	*	*						*	*	*	*	*
Maricopa	*	*	*	*	*	*		*		*		*	*	*	*	*
Pima	*	*		*	*	*						*	*		*	*

\*indicates delegation