

**MICHIGAN DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT  
AIR QUALITY DIVISION**

**PROPOSED AMENDMENTS TO AIR POLLUTION CONTROL RULES  
SOAHR 2009-055 NE and 2010-022 NE  
SOAHR 2009-056 SR and 2010-005 SR**

**SUBJECT**

A public hearing will be held on August 11, 2010, on proposed amendments to R 336.2801, R 336.2816, R 336.2830, R 336.2901, and R 336.2910 of the Air Pollution Control Rules pursuant to Sections 5503 and 5512 of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

**PURPOSE FOR THE PROPOSED RULES AND BACKGROUND**

The U.S. Environmental Protection Agency (EPA) has revised the federal regulations pertaining to the Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) permitting programs by adding requirements for particulate matter less than 2.5 microns in size (PM 2.5), specifically, a significance threshold. The EPA has established a significance threshold in order to limit the applicability of the PSD and NSR regulations to sources with emissions above the significance level. To be consistent with the federal requirements, R 336.2801 and R 336.2901 need to be amended to add the significance threshold for PM 2.5.

The EPA has proposed to disapprove R 336.2816 from Michigan's State Implementation Plan (SIP) submittal. By amending this rule, Michigan would have full SIP approval of our state rules for PSD.

A recent court ruling has determined that the administrative appeal mechanisms found in R 336.2830 and R 336.2910 conflict with statutory provisions, which provide appeals exclusively through a court action. The only way to address this conflict is to rescind both R 336.2830 and R 336.2910.

**SUMMARY OF THE PROPOSED RULES**

These rule packages will address statutory conflicts by rescinding R 336.2830 and R 336.2910. Additionally, these rule packages will address a deficiency in our PSD SIP submittal to the EPA as R 336.2816 does not match the requirements in federal regulation 40 CFR 51.166(p) and 52.21(p). Finally, these rule packages will include revisions to match new federal requirements for PM 2.5 emissions; specifically, R 336.2801 and R 336.2901 will add the newly promulgated significance level of 10 tons per year for PM 2.5.

R 336.2801 and R 336.2816

R 336.2801 and R 336.2816 are being revised to be consistent with federal and state requirements for the PSD of air quality found in 40 CFR 51.166(p).

We propose to modify existing language in R 336.2801 to add a significance threshold for the PM 2.5 pollutant. The EPA has revised the regulations pertaining to the PSD program by adding requirements for PM 2.5, specifically, a significance threshold. The EPA has established a significance threshold to limit the applicability of the PSD regulations to sources with emissions above the significance level. The PM 2.5 is a new standard with a new significance level. R 336.2801 will be revised to add the new threshold of 10 tons per year.

We also propose to modify existing language in R 336.2816 to be consistent with the federal requirements for the PSD of Air Quality, 40 CFR 51.166(p) and 52.21(p). The EPA has proposed to disapprove R 336.2816 from Michigan's SIP submittal. With this change, Michigan would have full SIP approval of our state rules for the PSD program.

R 336.2901

We propose to modify existing language in R 336.2901 to add a significance threshold for PM 2.5. The EPA has revised the regulations pertaining to nonattainment NSR by adding requirements for PM 2.5, specifically, a significance threshold. The EPA has established a significance threshold to limit the applicability of nonattainment NSR regulations to sources with emissions above the significance level. The PM 2.5 is a new standard with a new significance level. R 336.2901 will be revised to add the new threshold of 10 tons per year.

R 336.2830 and R 336.2910

R 336.2830 and R 336.2910 provide an administrative appeal mechanism for the PSD or the NSR programs. These rules are being rescinded because of a recent court ruling that administrative appeals conflict with statutory provisions that instead provide a circuit court venue for appeals.

**ACTIONS FOLLOWING THE PUBLIC HEARING**

Following the public hearing, the Air Quality Division staff will review the comments received and make appropriate changes to the proposed rules. The proposed rules package will then be submitted to the State Office of Administrative Hearings and Rules, the Legislative Service Bureau, and the Joint Committee on Administrative Rules as prescribed by the Administrative Procedures Act, 1969 PA 306, as amended. Next, the rules will go into effect immediately after filing with the Secretary of State's office. The final rules will be submitted to the EPA as a revision to the SIP, as appropriate.

Prepared by: Jeff Rathbun  
June 7, 2010