

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH
ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

AIR POLLUTION CONTROL

Filed with the Secretary of State on

This rule becomes effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the executive director of the state office of administrative hearings and rules environmental quality by Executive Reorganization Order 2005-1, MCL 445.2021 sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-18, MCL 324.)

R 336.2910 of the Michigan Administrative Code is rescinded as follows:

1 PART 19. NEW SOURCE REVIEW FOR MAJOR SOURCES IMPACTING
2 NONATTAINMENT AREAS

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4 R 336.2910 **Rescinded.** Administrative hearings.

5 ~~—Rule 1910. A person aggrieved by an action or inaction of the department under~~
6 ~~prevention of significant deterioration of air quality regulations or new source review~~
7 ~~for major sources in nonattainment areas regulations may request a formal hearing,~~
8 ~~under 1969 PA 306, MCL 24.201. The following apply:~~

9 ~~—(a) The request shall be received by the department within 30 days after the~~
10 ~~person received notice of the decision to approve or deny the permit.~~

11 ~~—(b) The final decision in granting a contested case hearing lies with the~~
12 ~~department. To receive a contested case hearing, a person shall demonstrate 1 of~~
13 ~~the following:~~

14 ~~—(i) The person is the permit applicant.~~

15 ~~—(ii) The person participated in the permit review process, either by submitting~~
16 ~~written comments during the 30-day public notice period or by attending the public~~
17 ~~hearing and making comments for the official record, and the comments were not~~
18 ~~adequately addressed by the department in the permit review process.~~

19 ~~—(iii) The terms or conditions of the permit for which the person requests a hearing~~
20 ~~were added by the department after the 30-day notice period expired, and no~~
21 ~~additional opportunity for public input was offered by the department.~~

22 ~~—(c) When the department issues a permit pursuant to the requirements of the~~
23 ~~prevention of significant deterioration of air quality regulations or new source review~~
24 ~~for major sources in nonattainment areas regulations, the permit is valid upon~~

25 ~~issuance and it is not automatically stayed if a person requests a formal hearing~~
26 ~~pursuant to this rule. A permittee may immediately initiate construction after permit~~
27 ~~issuance. However, the permittee faces the risk that a subsequent hearing may~~
28 ~~alter the terms or conditions of the permit.~~

