

State Office of Administrative Hearings and Rules
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REGULATORY IMPACT STATEMENT

The department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the State Office of Administrative Hearings and Rules no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions may be made to **soahr_rules@michigan.gov**. The SOAHR will review the regulatory impact statement and send its response to the agency (see last page).

A. GENERAL

1. SOAHR #, title, and rule numbers (or rule set range of numbers):

SOAHR 2009-055NE and SOAHR 2010-005SR; Air Pollution Control Rules; Part 18, Prevention of Significant Deterioration (PSD) of Air Quality, R 336.2801, R 336.2816 and R 336. 2830 (Rules 1801, 1816 and 1830).

2. Identify the relationship of the rule to state and federal statutes and regulations:

These rules have been developed as authorized by Sections 5503 and 5512 of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). R 336.2801 and R 336.2816 are being revised to be consistent with federal and state requirements for the PSD of air quality, Title 40 of the Code of Federal Regulations, Section 51.166(p). R 336.2830 is being rescinded because of a recent court ruling that provisions in the rule conflict with statutory provisions.

3. Identify how the rule compares to an industry standard set by a state or national licensing organization.

The rules do not follow an industry standard or licensing organization.

4. Is the rule more restrictive or less restrictive than the federal rule or industry standard?

R 336.2801 and R 336.2816 are being revised to meet federal requirements. R 336.2830 does not follow a federal rule or an industry standard.

5. What are the sanctions on the state if the rule is not adopted?

There are no sanctions associated with these rule modifications.

B. GOAL OF RULE:

6. Identify the conduct and its frequency of occurrence that the rule is designed to change:

The U.S. Environmental Protection Agency (EPA) has revised the regulations pertaining to the PSD by adding requirements for PM 2.5, specifically, a significance threshold. A significance threshold is established by the EPA to limit the applicability of the PSD regulations to larger sources, those above the significance level. PM 2.5 is a new standard with a new significance

level. R 336.2801 is being revised to add the new threshold. The EPA has proposed to disapprove R 336.2816 from Michigan's State Implementation Plan (SIP) submittal. With this change, Michigan would have full SIP approval of our state rules for the PSD. R 336.2830 provides an administrative appeal mechanism for the PSD program. It is being rescinded because of a recent court ruling that administrative appeals conflict with statutory provisions that instead provide a circuit court venue for appeals.

7. Identify the harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

If R 336.2801 and R 336.2816 are not revised, they will not meet new federal requirements. Michigan's PSD program will not be fully approved by the federal government if the change to R336.2816 is not made. R 336.2830 is being rescinded because of a recent court ruling that provisions in the rule conflict with statutory provisions. This conflict will continue if the rule is not rescinded.

8. Estimate the change in the frequency of the targeted conduct expected from the rule change:

If R 336.2801 and R 336.2816 are not revised, they will not meet new federal requirements. Michigan's PSD Program will not be fully approved by the federal government if the change to R 336.2816 is not made. Rescinding R 336.2830 will remove the conflict with statutory provisions.

9. Identify any alternatives to regulation by rule that would achieve the same or similar goals:

An approved PSD program may be done through legislation. The rule rescission is the only way to eliminate R 336.2830, removing the conflict with the statutory provisions.

10. Discuss the feasibility of establishing a regulatory scheme within the industry independent of state intervention:

A state rule or legislation is necessary for a state-approved PSD program. The rule rescission is the only way to eliminate R 336.2830, removing the conflict with the statutory provisions.

C. COSTS TO GOVERNMENT UNITS:

11. Estimate the cost of rule imposition on the department or agency promulgating the rule, including the costs of equipment, supplies, labor, and increased administrative costs for initial imposition of the rule and any ongoing monitoring:

There will be no cost associated with these rule modifications.

12. Estimate the cost of rule imposition on other state or local governmental agencies, including the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring:

There will be no cost associated with these rule modifications.

D. COSTS TO REGULATED INDIVIDUALS:

13. Estimate the actual statewide compliance costs of the rule to individuals, including the costs of education, training, application fees, examination fees, license fees, new equipment or increased labor, exclusive of those costs identified in section C above:

There will be no cost associated with these rule modifications.

14. Identify any compliance costs requiring reports and the estimated cost of their preparation by individuals who would be required to comply with the rule:

There will be no cost associated with these rule modifications.

15. Estimate the cost of any legal, consulting, and accounting services and any other administrative expenses individuals will incur in complying with the rule:

There will be no cost associated with these rule modifications.

16. Estimate the number of individuals the rule affects:

The rule modifications will not affect any individuals because the PSD program is already in place in state rules.

17. Will the rule have a disproportionate impact on individuals based on their geographic location?

The rule modifications will not affect any individuals because the PSD program is already in place in state rules.

E. COSTS TO BUSINESSES:

18. Estimate the actual statewide compliance costs of the rule to specifically include small businesses, including the costs of equipment, supplies, labor, training, application fees, permit fees, supervisory costs, exclusive of those identified in sections C and D above:

There will be no cost associated with these rule modifications.

19. Identify any reports the rule requires and the estimated cost of their preparation by businesses; specifically include small businesses:

There are no reports as a result of these rule modifications.

20. Estimate the cost of any legal, consulting, and accounting services and any other administrative expenses businesses will incur in complying with the rule; specifically include small businesses:

There will be no cost associated with these rule modifications.

21. Estimate the number of businesses the rule affects:

The rule modifications will not affect any businesses because the PSD program is already in place in state rules.

22. Identify any disproportionate impact the rule may have on small businesses because of their size or geographic location:

The rule modifications will not affect any businesses because the rule provisions are already addressed in state rules.

23. Discuss the ability of small businesses to absorb the costs estimated above without suffering economic harm and without adversely affecting competition in the marketplace:

There will be no cost associated with these rule modifications.

24. Estimate the cost of the agency enforcing or administering the rule to exempt or set lesser standards for small businesses:

There will be no cost associated with these rule modifications.

25. Determine the impact on the public interest of exempting or setting lesser standards for small businesses:

The rule modifications will not affect any businesses because the PSD program is already addressed in state rules.

26. Explain how the agency reduced the economic impact of the rule on small businesses, as MCL 24.240 requires, or discuss why such a reduction was not feasible:

There will be no cost associated with these rule modifications.

27. Discuss whether and how the agency has involved both industry and small business in the development of the rule:

The rule modifications did not involve any industry or business. The revisions to R 336.2801 and R 336.2816 are minor in nature and did not warrant outside input. The rule rescission was deemed necessary because of a recent court ruling that the provisions in the rule conflict with statutory provisions.

F. BENEFITS OF RULE:

28. Estimate the primary and direct benefits of the rule, including but not limited to the rule's impact on business competitiveness, the environment, worker safety, and consumer protection.

The rule modifications will be a benefit because they will meet federal requirements and because revisions to R 336.2816 are necessary for federal approval of Michigan's PSD program. The rescission of R 336.2830 eliminates provisions that are already addressed in statute.

29. Estimate the secondary or indirect benefits of the rule, including spin-off benefits to business, the environment, workers, and consumers:

The rule modifications will be a benefit because they will meet federal requirements and because revisions to R 336.2816 are necessary for federal approval of Michigan's PSD program. The rescission of R 336.2830 eliminates provisions that are already addressed in statute.

30. Are the direct and indirect benefits of the rule likely to justify the cost?

There will be no cost associated with these rule modifications.

31. Estimate the cost reductions to government, individuals, and businesses as a result of the rule:

There will be no cost associated with these rule modifications.

32. Estimate the increased revenues to state or local government units as a result of the rule:

There will be no cost associated with these rule modifications.

33. Identify the sources you relied upon in calculating your cost and benefit responses:

There will be no cost associated with these rule modifications because they merely eliminate provisions that are already addressed in statute and make other minor changes.

Reviewed by Department Regulatory Affairs Officer:

Sue Maul

Reviewed by SOAHR Representative:

Norene Lind, Administrative Rules Manager

SOAHR Response:

Date received: 5-25-10		
Approval	<input checked="" type="checkbox"/>	
Disapproval	<input type="checkbox"/>	Explain:
More information needed	<input type="checkbox"/>	Explain:
Date approved: 5-25-10		SOAHR #: 2009-055 NE and 2010-005 SR

(SOAHR-RIS July 2006)