STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

February 27, 2008

Ms. Mary A. Gade, Regional Administrator
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard (R-19J)
Chicago, Illinois 60604-3507

Dear Administrator Gade:

We are submitting two copies of the enclosed revision to Michigan's State Implementation Plan (SIP) and request your approval of the revised SIP. The submittal consists of amendments to Michigan's Air Pollution Control Rules, Part 4, Emission Limitations and Prohibitions—Sulfur-Bearing Compounds, R 336.1401, R 336.1401a, R 336.1402, R 336.1404 to R 336.1407, and R 336.1420 (Rules 401, 401a, 402, 404 to 407, and 420).

The Wayne County Department of Public Health, Air Quality Management Division (WCAQMD), adopted rules to control emissions of sulfur bearing compounds on March 23, 1972, that were more stringent than the state's rules for certain sources. These rules were subsequently made part of the SIP. In September 2001 Wayne County ended its air pollution control program and the WCAQMD. The modifications to Rules 401, 402, and 404 and the addition of Rules 405 to 407 are intended to incorporate the Wayne County sulfur limitations into the state's rules to make them consistent with the federally approved SIP.

Rule 420 provides opt-in provisions for the federal Clean Air Interstate Rule (CAIR), which reduces transported emissions of sulfur dioxide (SO_2) from electric generating units. Rule 420 adopts the opt-in provisions of Title 40 of the Code of Federal Regulations, Part 97, Federal NOx Budget Trading Program and CAIR NOx and SO_2 Trading Programs, to allow unaffected facilities to participate in the regional SO_2 trading program associated with the CAIR.

We appreciate your attention to this matter. If you have any questions regarding this submittal, please contact Mr. Robert Irvine, Air Quality Division, Michigan Department of Environmental Quality (MDEQ), at 517-373-7042.

Sincerely,

Steven E. Chester
Director
517-373-7917

Enclosures
cc: Ms. Cheryl Newton, EPA, Region 5
Mr. John Mooney, EPA, Region 5
Mr. G. Vinson Hellwig, MDEQ
Mr. Robert Irvine, MDEQ
Mr. Steve Kish, MDEQ
Ms. Teresa Walker, MDEQ

STEVEN E. CHESTER
DIRECTOR

REVISION TO

STATE OF MICHIGAN

STATE IMPLEMENTATION PLAN

for

Part 4. Emissions Limitations and Prohibitions – Sulfur-Bearing Compounds

R 336. 1401, R 336.1401a, R 336.1402, R 336.1404, R 336.1405, R 336.1406, R 336.1407, and R 336.1420

February 7, 2008

Prepared by:

Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, MI 48909
INTERNET: http://www.michigan.gov/deqair

JENNIFER M. GRANHOLM
GOVERNOR

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Letter from MDEQ Director Steven E. Chester to State Office of Administrative Hearings and Rules (SOAHR) forwarding Certificate of Adoption, dated December 10, 2007.

ATTACHMENT C Delegation of authority from Governor Jennifer M. Granholm, letter dated February 22, 2003.

ATTACHMENT D Certificate of approval from Legislative Service Bureau, dated November 26, 2007.

Letter of certification of legality and authority from SOAHR to MDEQ, dated November 30, 2007.

ATTACHMENT E Secretary of State's notice of filing Administrative Rules, dated January 31, 2008.

ATTACHMENT F Agency Report, dated October 15, 2007.

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ATTACHMENT H Newspaper affidavits dated June 11, 2007
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COMPLETENESS REVIEW

Administrative Materials

1. A formal letter of submittal from the governor or designee requesting EPA approval of the revision.

Cover letter from Steven E. Chester, Director of the Michigan Department of Environmental Quality (MDEQ) to Ms. Mary A. Gade, Regional Administrator, EPA Region 5, requesting approval of SIP revision.

2. Evidence that the state has adopted the revision in the state code or body of regulations; or issued the permit, order, or consent agreement (hereafter document) in final form. That evidence should include the date of adoption or final issuance as well as the effective date of the revision if different from the adoption/issuance date.

The final form of the adopted rule in Part 4, which went into effect on January 31, 2008, is included in Attachment A.

The Certificate of Adoption dated December 13, 2007, signed by MDEQ Director Steven E. Chester, is included in Attachment B.

A letter dated December 10, 2007, from MDEQ Director Steven E. Chester to the State Office of Administrative Hearings and Rules (SOAHR) is included in Attachment B.

3. Evidence that the state has the necessary legal authority under state law to adopt and implement the revision.

A letter dated February 22, 2003, from Governor Jennifer M. Granholm to EPA Region 5 delegates authority to the Director of MDEQ to make any submittal, request, or application under the Clean Air Act (Attachment C).

The letter dated November 30, 2007, from SOAHR to the MDEQ certifies that the rules are within the scope of the authority of the MDEQ (Attachment D).

4. A copy of the actual regulation or document submitted for approval and incorporation by reference into the SIP, including indication of the changes made to the existing approved SIP, where applicable. The submittal should be a copy of the official state regulation/document signed, stamped, and dated by the appropriate state official indicating that it is fully enforceable by the state. The effective date of the regulation/document should, whenever possible, be indicated in the document itself.

The Secretary of State's Notice of Filing Administrative Rules for Part 4, dated January 31, 2008, is included in Attachment E.

The final form of the adopted rules, Part 4, with the effective date of January 31, 2008, is included in Attachment A.

5. Evidence that the state followed all of the requirements of its administrative procedures act (or equivalent) in conducting and completing the adoption/issuance of the revision.

The SOAHR memo to the MDEQ, dated November 30, 2007, certifies that the rules are in conformity with the requirements of the Administrative Procedures Act, MCL 24.201 et seq. (Attachment D).

6. Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including date of publication of such notice.

The affidavits of publication from four newspapers that published the notice of public hearing on June 11, 2007, and the notice that was published in the Michigan Register on June 15, 2007, are included in Attachment H.

7. Certification that public hearings were held in accordance with the information provided in the public notice and the state's administrative procedures act (or equivalent), if applicable.

The November 30, 2007, memo from the SOAHR to the MDEQ certifies that the rules have been promulgated in conformity with the requirements of the Administrative Procedures Act (Attachment D).

The Opening Statement for the July19, 2007, public hearing includes information on the notice of public hearing and instructions on how the hearing was to be conducted (Attachment G).

8. Compilation of public comments and state's response thereto.

Summaries of the comments received and the MDEQ responses are in Section 11 of the Agency Report (Attachment F).

Technical support

1. Justification of rules revisions.

The "Purpose of the Proposed Rules and Background," Section 2, and "Summary of Proposed Rules," Section 3, of the Agency Report provides the purpose and justification of the proposed rules (Attachment F).

ATTACHMENT A

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

Filed with the Secretary of State on January 31, 2008
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 director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order No. 1995-18, MCL 324.99903)

R 336.1401, R 336.1402, and R 336.1404 of the Michigan Administrative Code are amended, and R 336.1401a, R 336.1405, R 336.1406, R 336.1407, and R 336.1420 are added to the Code as follows:

PART 4. EMISSION LIMITATIONS AND PROHIBITIONS – SULFUR-BEARING COMPOUNDS

R 336.1401 Emission of sulfur dioxide from power plants.
Rule 401. (1) In a power plant, it is unlawful for a person to burn fuel that does not comply with the sulfur content limitation of table 41 or which, when burned, results in sulfur dioxide emissions exceeding an equivalent emission rate as shown in table 41. In a power plant located in Wayne county, it is unlawful for a person to burn fuel that does not comply with the sulfur content limitation of table 42 and unlawful to cause or permit a discharge into the atmosphere from fuel-burning equipment sulfur dioxide in excess of the sulfur dioxide concentration limit shown in table 42.
(2) Tables 41 and 42 read as follows:

TABLE 41
Fuel and sulfur dioxide emission limitations for fuel burning equipment

Plant Capacity[a]	Maximum average sulfur content in fuel[b] Percent by weight	Equivalent emission rates			
		Parts per million by volume (ppmv) corrected to 50% excess air		Pounds of sulfur dioxide per million Btu of heat input	
		Solid fuel[c] (12,000 Btu/lb)	Liquid fuel[d] (18,000 Btu/lb)	Solid fuel[c] (12,000 Btu/lb)	Liquid fuel[d] (18,000 Btu/lb)
0-500,000 lbs steam per hour plant capacity	1.5	890	630	2.5	1.67

Greater than 500,000 lbs steam per hour plant capacity	1.0	590	420	1.67	1.11
(a) The total steam production capacity of all coal- and oil-burning equipment in a power plant as of August 17, 1971.					
(b) "Maximum average sulfur content in fuel" means the average sulfur content in all fuels burned at any 1 time in a power plant. The sulfur content shall be calculated on the basis of 12,000 Btu per pound for solid fuels and 18,000 Btu per pound for liquid fuels. The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department.					
(c) Solid fuels include both pulverized coal and all other coal.					
(d) Liquid fuels include distillate oil (No. 1 and No. 2), heavy oil (No. 4, No. 5, and No. 6), and crude oil.					

TABLE 42
Fuel and sulfur dioxide concentration limitations for fuel burning equipment located in Wayne county

Fuel type	Maximum weight percent sulfur content in fuel[(a)] limitations for fuel-burning equipment	SO_2 ppmv emission rates corrected to 50% excess air[(b)]
Pulverized coal	1.00	550
Other coal	0.75	420
Distillate oil Nos. 1 & 2	0.30	120
Waste and used oil	1.0	300[(c)]
Crude and heavy oil Nos. 4, 5, & 6	1.00	400
(a) The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department. (b) Recordkeeping necessary to demonstrate compliance with the requirements of this rule and compliance testing must be conducted with a frequency and in a manner acceptable to the department. (c) A certain degree of control would be required to meet this limit if 1.0% sulfur fuel is used in lieu of 0.75% sulfur fuel which must be documented and demonstrated in a manner acceptable to the department.		

(3) The use of fuels having sulfur contents as set forth in table 41 and table 42 shall not allow degradation in the mass rate of particulate emissions, unless otherwise authorized by the department. The department may require source emission tests which may be performed by, or under the supervision of, the department at the expense of the owners and may require the submission of reports to the department both before and after changes are made in the sulfur content in fuel.

(4) The following provisions apply to persons in Wayne county:

(a) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 42 of this rule shall not apply to any person who uses

a combination of fuels in such ratios as to meet the sulfur dioxide concentration limitations specified in table 42 and has obtained written approval from the department for this exemption. The allowable concentration limit will be based on the value in the table for the fuel having the higher allowable concentration limit.

(b) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 42 of this rule shall not apply to any person who has received an installation permit from the department on a control device to desulfurize the stack gases and the control device is installed and operating properly.

R 336.1401a Definitions.

Rule 401a. As used in this part:

(a) "Power plant" means a single structure devoted to steam or electric generation, or both, and may contain multiple boilers.

(b) “Sulfur recovery plant” means any plant that recovers elemental sulfur from any gas stream.

R 336.1402 Emission of sulfur dioxide from fuel-burning sources other than power plants.

Rule 402. (1) At a fuel burning source other than a power plant it is unlawful for a person to cause or allow the emission of sulfur dioxide from the combustion of any coal or oil fuel in excess of 1.7 pounds per million Btu of heat input for oil fuel or in excess of 2.4 pounds per million Btu of heat input for coal fuel.

(2) The provisions of subrule (1) of this rule do not apply to a fuel-burning source that is unable to comply with the specified emission limits because of sulfur dioxide emissions caused by the presence of sulfur in other raw materials charged to the fuel-burning source. This exception shall apply if at any time the actual sulfur dioxide emission rate exceeds the expected theoretical sulfur dioxide emission rate from fuel burning. The expected theoretical sulfur dioxide emission rate shall be based on the quantity of fuel burned and the average sulfur content of the fuel.

(3) At a fuel burning source located in Wayne county other than a power plant, it is unlawful for a person to burn fuel that does not comply with the sulfur content limitation of table 43 and unlawful to cause or allow a discharge into the atmosphere from a fuel burning source of sulfur dioxide in excess of the sulfur dioxide concentration limit shown in table 43.

(4) Table 43 reads as follows:

Table 43		
Fuel and sulfur dioxide concentration limitations for fuel burning sources located in Wayne county at a source other than power plants		
Fuel type	Maximum weight percent sulfur content in fuel[(a)] limitations for fuel-burning equipment	SO_2 ppmv emission rates corrected to 50% excess air[(b)]
Coal	0.75	420
Distillate oil Nos. 1 & 2	0.30	120
Waste and used oil	1.0	300[(c)]

Crude and heavy oil Nos. 4, 5, & 6	1.00	400
(a) The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department. (b) Recordkeeping necessary to demonstrate compliance with the requirements of this rule and compliance testing must be conducted with a frequency and in a manner acceptable to the department. (c) A certain degree of control would be required to meet this limit if 1.0% sulfur fuel is used in lieu of 0.75% sulfur fuel which must be documented and demonstrated in a manner acceptable to the department.		

(5) The use of fuels having sulfur contents as set forth in table 43 shall not allow degradation in the mass rate of particulate emissions, unless otherwise authorized by the department. The department may require source emission tests which may be performed by, or under the supervision of, the department at the expense of the owners and may require the submission of reports to the department both before and after changes are made in the sulfur content in fuel.

(6) The following provisions apply to persons in Wayne county:

(a) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 43 of this rule shall not apply to a person who uses a combination of fuels in such ratios as to meet the sulfur dioxide concentration limitations specified in table 43 and has obtained written approval from the department for this exemption. The allowable concentration limit will be based on the value in the table for the fuel having the higher allowable concentration limit.

(b) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 43 of this rule shall not apply to a person who has received an installation permit from the department for a control device to desulfurize the stack gases and the control device is installed and operating properly.

R 336.1404 Emission of sulfur dioxide and sulfuric acid mist from sulfuric acid plants.

Rule 404. (1) It is unlawful for a person to cause or allow the emission of sulfuric acid mist from any sulfuric acid plant in excess of 0.50 pounds per ton of acid produced, the production being expressed as 100% sulfuric acid.

(2) It is unlawful for a person in Wayne county to cause or allow sulfur dioxide emissions into the atmosphere from any sulfuric acid plant to exceed 6.5 pounds per ton of acid produced.

(3) Compliance with this rule shall be demonstrated using a procedure acceptable to the department.

R 336.1405 Emissions from sulfur recovery plants located within Wayne county.

Rule 405. At sulfur recovery plants located in Wayne county, a person shall not cause or allow the emission into the atmosphere of sulfur dioxide, sulfur trioxide, or sulfuric acid from any such sulfur recovery plant to exceed 0.01 pounds per pound of sulfur produced.

R 336.1406 Hydrogen sulfide emissions from facilities located within Wayne county.

Rule 406. (1) A person in Wayne county shall not cause or allow the combustion of any refinery process gas stream that contains hydrogen sulfide in a concentration of greater than 100 grains per 100 cubic feet of gas without removal of the hydrogen sulfide in excess of this concentration.

(2) When the odor of hydrogen sulfide is found to exist beyond the property line of a source, a person in Wayne county shall not cause or allow the concentration of hydrogen sulfide to exceed 0.005 parts per million by volume for a maximum period of 2 minutes.

R 336.1407. Sulfur compound emissions from sources located within Wayne county and not previously specified.

Rule 407. Both of the following apply to process and fuel burning sources located within Wayne county to which the provisions of R 336.1401 to R 336.1406 do not apply.

(a) A person shall not cause or allow the emission into the atmosphere gases with a concentration of sulfur dioxide greater than 300 parts per million by volume, which shall be corrected to 50% excess air.

(b) A person shall not cause or allow the emission into the atmosphere gases with a concentration of sulfuric acid or sulfur trioxide or a combination thereof greater than 15 milligrams per cubic meter, which shall be corrected to 50% excess air.

R 336.1420. Applicability determinations, definitions, and permitting requirements under CAIR sulfur dioxide trading program.

Rule 420. (1) As used in this rule, “CAIR” means clean air interstate rule.

(2) The provisions of 40 C.F.R. §97.202, §97.220 to §97.224 and the appropriate opt-in provisions of 40 C.F.R. §97.280 to §97.288 (2006) are adopted by reference in this rule and are applicable to these rules. Copies of 40 C.F.R. §97.202, §97.220 to §97.224, and §97.280 to §97.288 are available for inspection and purchase at the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of this rule of $70.00. Copies may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of this rule of $60.00; or on the United States government printing office internet web site at www.access.gpo.gov.

(3) Each CAIR sulfur dioxide source, as defined in 40 C.F.R. §97.202 is required to apply for a CAIR permit in accordance with 40 C.F.R. §97.220 to §97.224. This permit shall be administered in accordance with the procedural requirements of R 336.1214 and shall be incorporated into the facility's renewable operating permit as an attachment.

ATTACHMENT B

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

December 10, 2007

Ms. Norene Lind, Administrative Rules Manager
State Office of Administrative Hearings and Rules
Department of Labor and Economic Growth
Ottawa Building - Fourth Floor
611 West Ottawa
Lansing, Michigan 48933-1070

Dear Ms. Lind:

SUBJECT: Certificate of Adoption for Administrative Rules Promulgated Pursuant to Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended (Act 451), SOAHR 2005-036EQ

The Certificate of Adoption for the administrative rules promulgated pursuant to Part 55 of Act 451 is being forwarded to you, along with a reference copy of the administrative rules, in accordance with the provisions of Executive Order 2005-1 and the January 5, 1996, memorandum from the former Office of Regulatory Reform. This rules package contains revisions to Rules 401, 402, and 404, and new proposed Rules 401a, and 405 through 407 addressing sulfur bearing compounds emitted in Wayne County. This rule package also adds Rule 420 as part of the U.S. Environmental Protection Agency's Clean Air Interstate Rule sulfur dioxide requirements.

The rules were certified by the Legislative Service Bureau on November 26, 2007, and were formally approved by your office on November 30, 2007. The rules were delivered to the Joint Committee on Administrative Rules on December 3, 2007.

If you have questions or comments regarding the rule changes, please contact Ms. Susan Maul, Acting Regulatory Reform Officer, at 517-241-1552, or you may contact me.

Sincerely,

Steven E. Chester
Director
517-373-7917

Enclosures

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

CERTIFICATE OF ADOPTION

I, Steven E. Chester, Director of the Department of Environmental Quality, do formally adopt the attached administrative rules by amending R 336.1401, R 336.1402, and R 336.1404 and adding R 336.1401a, R 336.1405, R 336.1406, R 336.1407, and R 336.1420 of the Michigan Administrative Code.

These rules are adopted 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, and Executive Order 1995-18.

12-13-07
Date

Steven E. Chester, Director

SOAHR 2005-036EQ

CONSTITUTION HALL • 525 WEST ALLEGAN STREET • P.O. BOX 30473 • LANSING, MICHIGAN 48909-7973
www.michigan.gov • (800) 662-9278

ATTACHMENT C

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR

JENNIFER M. GRANHOLM
GOVERNOR

February 22, 2003

Mr. Thomas V. Skinner, Regional Administrator
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard (R-19J)
Chicago, Illinois 60604-3507

Dear Mr. Skinner:

The federal Clean Air Act (CAA) requires Michigan to submit revisions to the State Implementation Plan. It also provides an opportunity for the state to request delegations and make grant applications to fund air quality programs.

I hereby delegate my authority to make any submittal, request, or application under the CAA to Director Steven E. Chester of the Michigan Department of Environmental Quality (MDEQ). This delegation was effective on January 1, 2003.

Sincerely,

Jennifer M. Granholm
Governor

cc: Mr. Steven E. Chester, Director, MDEQ
Mr. Stanley F. Pruss, Deputy Director, MDEQ

PRINTED ON RECYCLED PAPER

ATTACHMENT D

THIS COPY TO BE FILED
WITH
SECRETARY OF STATE

LEGISLATIVE
SERVICE
BUREAU
Since 1941

Legal Division

John C. Bollman, Director

CERTIFICATE OF APPROVAL

I hereby certify that the Legislative Service Bureau has examined the attached proposed rules of the Department of Environmental Quality, dated October 15, 2007, amending R 336.1401, R 336.1402, and R 336.1404, and adding R 336.1401a, R 336.1405, R 336.1406, R 336.1407, and R 336.1420 to the Department's rules entitled "Air Pollution Control," and further certify that, pursuant to section 45 of 1969 PA 306, MCL 24.245, the Legislative Service Bureau approves the rules as to form, classification, and arrangement.

Dated: November 26, 2007

LEGISLATIVE SERVICE BUREAU

By _____
Elliott Smith, Director

Michigan Legislature
124 W. Allegan Street, 3rd Floor • P.O. Box 30036 • Lansing, MI 48909-7536 • (517) 373-9425 • Fax: (517) 373-5642

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

JENNIFER M. GRANHOLM
GOVERNOR

PETER L. PLUMMER
EXECUTIVE DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated October 15, 2007, in which the Department of Environmental Quality proposes to modify a portion of the Michigan Administrative Code entitled, "**Air Pollution Control – Part 4. Emission Limitations and Prohibitions – Sulfur-Bearing Compounds,**" by:

- Amending R 336.1401, R 336.1402, and R 336.1404.
- Adding R 336.1401a, R 336.1405, R 336.1406, R 336.1407, and R 336.1420.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2005-1. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: 11/30/07

State Office of Administrative Hearings and Rules

By: _____
Peter L. Plummer, Executive Director

2005-036 EQ

ATTACHMENT E

STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

January 31, 2008

NOTICE OF FILING
ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
State Office of Administrative Hearings and Rules (Rule# 2005-036 EQ)
Legislative Service Bureau (08-01-01)
✓ Department of Environmental Quality

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6 this is to advise you that the Michigan Department of Labor & Economic Growth, State Office of Administrative Hearings and Rules filed at 4:35 P.M. this date, administrative rule (08-01-01) for the Department of Environmental Quality, *"Part 4. Emissions Limitations and Prohibitions – Sulfur-Bearing Compounds"*. These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Terri Lynn Land
Secretary of State

Robin Houston/cnh

Robin Houston, Office Supervisor
Office of the Great Seal

RECEIVED
FEB 12 2008
AIR QUALITY DIV.

Enclosure

ATTACHMENT F

Agency Report to the
JOINT COMMITTEE ON ADMINISTRATIVE RULES

This form must be completed by the department/agency that has the statutory authority for promulgating the rules. Please send an electronic copy of this form to the State Office of Administrative Hearings and Rules (SOAHR) at **soahr_rules@michigan.gov**. The SOAHR will review the document, the newspaper advertisements, and the corresponding rules prior to completing the legal certification of the rules. Please be sure to send to the SOAHR proofs of publication for the three newspaper advertisements required by MCL 24.242(1). You may mail them or send them as a scanned attachment.

Department

Environmental Quality (DEQ)

Division/agency/bureau:

Air Quality Division (AQD)

Rule set number (as assigned by SOAHR)

2005-036EQ

Title of rules:

Part 4. Emission Limitations and Prohibitions – Sulfur-Bearing Compounds

1. Name, address, FAX and phone numbers of agency contact person:

Mary Ann Halbeisen, Constitution Hall; Phone 517-373-7045; Fax 517-241-7499

2. Purpose for the proposed rules and background:

The Wayne County Department of Public Health, Air Quality Management Division (WCAMD), adopted rules to control emissions of sulfur bearing compounds on March 23, 1972, that were more stringent than the states rules for certain sources. These rules were subsequently made part of the Michigan State Implementation Plan (SIP). In September 2001 Wayne County ended its air pollution control program and the WCAMD. The modifications to R 336.1401, R 336.1402, and R 336.1404 (Rules 401, 402, and 404) and the addition of R 336.1405 to R 336.1407 (Rules 405 to 407) are intended to incorporate the Wayne County sulfur limitation into the state's rules to make them consistent with the federally approved SIP. In Rule 401, existing Tables 41 and 42 have been combined and a new Table 42 was added that contains limits applicable to Wayne County sources. Also in Rule 401, certain portions of the rule have been deleted that were originally included to allow companies additional time to come into compliance with the rule limits. These provisions are now obsolete because all the companies have since come into compliance.

R 336.1420 (Rule 420) provides opt-in provisions for the federal Clean Air Interstate Rule (CAIR) which reduces transported emissions of sulfur dioxide (SO_2) from electric generating

units. Rule 420 adopts the opt-in provisions of 40 C.F.R., Part 97, to allow unaffected facilities to participate in the regional SO_2 trading program associated with the CAIR. This was requested by the stakeholder workgroup.

3. Summary of proposed rules:

Rules 401 and 402 contain percent sulfur-in-fuel and SO_2 concentration limits for power plants and sources other than power plants, respectively.

Rule 401a contains certain definitions used in the Part 4 rules.

Rule 404 specifies SO_2 and sulfuric acid mist limitations for sulfuric acid plants.

Rule 405 specifies various sulfur compound limits applicable to sulfur recovery plants in Wayne County.

Rule 406 contains hydrogen sulfide emission restrictions for sources located within Wayne County.

Rule 407 contains sulfur compound limits that would apply to sources not specified in the previous Part 4 rules.

Rule 420 is adopting the opt-in provisions of 40 C.F.R., Part 97, to allow unaffected facilities to participate in the CAIR regional SO_2 trading program.

4. Name of newspapers and date of publication in newspapers (minimum 3 newspapers of general circulation, representing different parts of the state, one of which must be located in the Upper Peninsula):

The notice was published in the following newspapers on June 11, 2007:
Lansing State Journal
Oakland Press
Marquette Mining Journal

5. Time, date, location and duration of public hearing:

July 19, 2007, 10:00-10:50 a.m., Constitution Hall, 525 West Allegan Street, Lansing, Michigan

6.* Date of publication of rules and public hearing notice in *Michigan Register:

June 15, 2007

7. Agency representative(s) attending hearing (include agency name and title of representative[s]):

Mary Ann Dolehanty, Supervisor, Thermal Process Unit, AQD
Mary Ann Halbeisen, Administrative Rules Coordinator, AQD
Asadullah Khan, Environmental Engineer, AQD
Steve Kish, Environmental Engineer Specialist, AQD
Susan Maul, DEQ Regulatory Reform Officer
Mary Maupin, Environmental Quality Specialist, AQD
Jeffrey Rathbun, Environmental Engineer, AQD
Barbara Rosenbaum, Supervisor, Air Quality Evaluation Section, AQD
Teresa Walker, Environmental Quality Analyst, AQD

8. Names, organizations and (complete) addresses of persons attending the hearing:

- John Becsey, Executive Director, Asphalt Pavement Association of Michigan, 6639 Canturin Drive, Suite 120, Lansing, MI 48917
- David Yanochko, Senior Environmental Engineer, Asphalt Pavement Association of Michigan, 39255 Country Club Drive, B-25, Farmington Hills, MI 48331

9. Persons submitting letters, comments and testimony of support:

Douglas Aburano, Engineer, Criteria Pollutant Section, Region 5, U.S. Environmental Protection Agency (EPA), 77 West Jackson Boulevard, Chicago, IL 60604-3590

10. Persons submitting letters, comments and testimony of opposition:

John Becsey, Executive Director, Asphalt Pavement Association of Michigan, 6639 Canturin Drive, Suite 120, Lansing, MI 48917

11. Summary of suggestions to modify proposed rules:

a. John Becsey, Executive Director, Asphalt Pavement Association of Michigan (APAM).

Comment: "APAM has several concerns regarding the language in the rule and how it would affect APAM's members operating in Wayne County. It is our belief that, unless these issues are resolved, it will needlessly put members at a competitive disadvantage to members operating outside Wayne County."

Response: The AQD is willing to make changes to the rule to the greatest extent possible to remove any competitive disadvantages but is limited by the requirement that the changes need to be approved by the EPA to become part of the SIP.

Comment: "In general it appears that the rule was written to address boilers rather than a variety of fuel firing processes, including but not limited to aggregate dryers. This is most readily evident in proposed Rule 402, Table 43, and Rule 407 in which the SO_2 emission concentrations

are specified "as corrected to 50% excess air." While 50% excess air is an appropriate correction for a boiler, it is not appropriate for an aggregate dryer. "The amount of air required to operate an aggregate dryer is not dependent on the air required for proper combustion, but on the air required to properly dry and heat the product."

Response: The 50% excess air specification is not an operational requirement and is included to normalize the SO_2 concentration limits to the same basis when applied to various source types that operate under different sets of conditions.

Comment: "For air permitting purposes, SO_2 control efficiencies of 43% when running mixes containing recycled asphalt product and 72% when running virgin aggregate mixes have been established. However, during recent permit negotiations, the MDEQ-AQD staff were unwilling to consider the proven, inherent SO_2 control provided by HMA [hot mix asphalt] plants when considering the proposed exemption provided by Rule 402(6)(b), because "a control device was not installed. Revise the wording in Rule 402(6)(b) to allow for processes that inherently control SO_2 to take advantage of this exemption if they so choose. For the foreseeable future, APAM members will likely be able to operate economically with fuels at a maximum sulfur content of 1.0% and the exemption provided by subrule (6)(b) will be unnecessary for most members. However, as fuel costs increase, APAM members may wish to increase the flexibility in the fuels they are authorized to burn by applying for permits to move from Table 43 to a site-specific fuel limit, based on HMA plants' inherent SO_2 concentration."

Response: The original intent of Rule 402(6)(b) was to offer an exemption for sources that installed wet scrubbing or dry injection flue gas desulfurization (FGD) unit that typically achieves upwards of 95% control. The AQD is currently and will continue to have discussions with the EPA regarding some possible future rule changes which would allow a source to take advantage of any inherent control they might be achieving, but indications are that they are unwilling to approve such a change at this time.

Comment: "APAM has several suggestions our members believe would serve to clarify the proposed rules." "Include recycled used oil in Table 43, Rule 402, as part of the row for 'Crude and heavy oil Nos. 4, 5, & 6.' This would help clarify that the maximum sulfur content for RUO [recycled used oil] is consistent for that of oil Nos. 4, 5, & 6 at 1.0%."

Response: A category for "waste and used oil" was added to both Table 43 in Rule 402 and Table 42 in Rule 401, and the percent sulfur in fuel limit was set to 1.0% with a concentration limit of 300 parts per million by volume (ppmv). A footnote clarifies that meeting both limits assumes some level of control.

Comment: "APAM believes the concentration listed in Rule 407(a) should be raised to 400 ppmv consistent with the concentration listed for 'Crude and heavy oil Nos. 4, 5, & 6' listed in Table 43. The current concentration of 300 ppmv appears to be a remnant for the old Wayne County Ordinance in which the maximum sulfur contents in 'crude and heavy oil' was listed as 0.7%. As the fuel sulfur limit in Table 43 has been raised to 1.0%, the concentration limit in subrule (a) should also be increased. The concentrations for sulfuric acid and sulfur trioxide should also be adjusted consistently with the new SO_2 concentration."

Response: Since RUO was not specifically listed as a fuel type in the Wayne County Ordinance, sources using it have been subject to the 300 ppmv concentration limit that was in Section 6.3G of the ordinance. With the addition of a "waste and used oil" category to Rules 401 and 402, sources using it would be subject to these rules instead and the 300 ppmv was transferred to these rules as to not allow for a relaxation of an existing standard.

Comment: "APAM recommends provisions be added to Rule 407(a) to set a site-specific fuel sulfur limit as part of a permit review, rather than a stack gas concentration corrected to 50% excess air. This site-specific sulfur limit would be based on the SO_2 control inherent in the process and would result in a simpler compliance determination for both the MDEQ-AQD and APAM members."

Response: With the addition of the waste and used oil category and revising the term "fuel burning equipment" to "fuel burning sources," hot mix asphalt plants using this type of fuel would be subject to Rule 402 and not Rule 407. Rules typically serve as a baseline starting point for establishing permit limits.

b. Douglas Aburano, Environmental Engineer, EPA Region 5

Comment: Rule 420(1)(b) defines "CAIR sulfur dioxide permit." We believe this should be "CAIR permit" which is already defined in 40 CFR 97.202. Since you are adopting the provisions of 40 CFR 97.202, it is unnecessary for you to include this definition. We recommend you delete Rule 420(1)(b).

Response: DEQ agrees and has deleted the subrule.

Comment: Rule 420(1)(c) defines "Michigan EGUs." We believe this definition is also not necessary and should be deleted.

Response: DEQ removed the definition in the NOx portion of the CAIR rules (see 2005-36EQ) but the removal from this parallel rule was overlooked. DEQ agrees with the comment and the definition will be removed.

Comment: Rule 420(2) currently adopts the SO_2 opt-in provisions of 40 CFR 97.281-288. This should be expanded to include 40 CFR 97.280-288.

Response: DEQ agrees and has corrected the typographical error.

Comment: Rule 420(2) should also be expanded to include the permitting CAIR SO_2 permitting requirements found by adopting 40 CFR 97.220-224. This will be used in Rule 420(3).

Response: DEQ agrees and has added the suggested adoption to our rules.

Comment: Rule 420(3) reads, "Michigan EGUs are required to apply for and receive a CAIR

sulfur dioxide permit." This should be changed to "Each CAIR SO_2 source, as defined in 40 CFR 97.202, is required to apply for a CAIR permit in accordance with 40 CFR 97.220-224." This change will be consistent with comments 1, 2, 3, and 4.

Response: DEQ agrees and corrected the language to clarify the original intent.

Name of person completing this report:

Mary Ann Halbeisen

Date report completed:

October 15, 2007

ATTACHMENT G

Department of Environmental Quality

Opening Statement
By: Barbara Rosenbaum, Hearings Officer

July 19, 2007

Introduction

Good morning ladies and gentlemen. My name is Barbara Rosenbaum, and I am the Supervisor of the Air Quality Evaulation Section in the Air Quality Division of the Michigan Department of Environmental Quality. I will be serving as the Hearing Officer for this public hearing on the revision of Parts 4 and 6, the rescission of Part 12, and the addition of Part 19 of the Air Pollution Control Rules.

With me today are other DEQ staff who will be assisting with this hearing. Seated with me are Teresa Walker, Steve Kish, Asad Khan, and Jeffrey Rathbun, who prepared the rule revisions, and Vince Hellwig, Chief of the Air Quality Division, who is representing the Director of the Department of Environmental Quality, the decision-maker on administrative rules.

Hearing Agenda

To describe how this is going to work today, I will begin with some background information about why we are here today. I will then describe the purpose of the hearing and how your comments will be used. Following that, I will outline the procedures under which we will take your comments and then describe what will happen after today's hearing. It will then be your time to provide comments, and we will spend the majority of time today listening to those comments. At the end of the hearing, I will provide a short summary and closing.

Background Information

By way of background information, the Air Quality Division is responsible for protecting Michigan's air resources. The law governing those responsibilities is Sections 5503 and 5512 of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.. We are here today for a public hearing four rule packages on amendments to the administrative rules for Air Pollution Control:

- 2005-036EQ, Part 4, Emission Limitations and Prohibitions—Sulfur-bearing Compounds.
- 2007-005EQ, Part 12, Emission Averaging and Emission Reduction Credit Trading.
- 2007-006EQ, Part 6, Consumer Product Rules.
- 2004-054EQ, Part 19, New Source Review for Major Sources Impacting Nonattaiment Areas.

Teresa Walker will summarize the proposed revisions to Part 4 (2005-036EQ) and Part 12 (2007-005EQ).

Asad Khan will summarize the proposed revisions to Part 6 (2007-006EQ).

Jeff Rathbun will summarize the proposed new rules for Part 19 (2004-054EQ).

Purpose of Public Hearing

In order for rule promulgation to occur, the DEQ must follow the procedures set forth in the Administration Procedures Act of 1969 and the State Office of Administrative Hearings and Rule's procedures.

The purpose of today's hearing is to give anyone interested in the proposed rules an opportunity to provide information that the DEQ can use in making the decision. Please recognize that the DEQ can only use the information you provide if it relates to the criteria that the DEQ must use in making a decision. Some of you may want to simply express your support or opposition to the proposed action. We will be happy to make note of your position, but please understand that the DEQ is, by law, not allowed to base our decision on whether or not there is widespread support or opposition to the proposed action.

Procedures

In just a minute, I will outline the procedures we will use in taking your comments today. Before I do so, however, I need to mention that the notice of this hearing was published in the Oakland Press, Lansing State Journal, and Marquette Mining Journal on June 11, 2007. The notice and proposed rules were also published in the Michigan Register on June 15, 2007. Copies of the hearing notice, Regulatory Impact Statement, proposed rules, and summary of the proposed rules were made available to those interested and are available here today.

As you came today, you were given an opportunity to fill out a public comment card. We request that everybody fill out a card and indicate if you wish to make comments. We will use these cards to maintain a record of people interested in the proposed rules and to call upon those who want to make a statement today. To ensure that the hearing is conducted in a fair manner, we will follow these steps:

1. I will call on those who have indicated on the cards that they would like to speak in the general order in which the cards were turned in. When all the cards have been completed, I will ask if anyone else would like to make a statement.

2. When your name is called, please come to the microphone, face me, and make your statement. If you have written comments or materials you would like to

present, please hand them to me as you come to the microphone. As you begin your comments, please state your name and any group or association you may represent.

3. Each person will be given five minutes to make their comments. I will indicate to you when you have one minute left. Please begin wrapping up your comments and end within the allotted time. If need be, I will indicate when your time has ended.

I ask that we all be courteous and respectful to one another today. Only one person should be speaking at a time. Please do not interrupt a speaker and please also recognize that the DEQ staff are here today to provide a fair opportunity for you to express your comments on the proposed rules and to listen to those comments.

How the Information Will be Used

This hearing is being recorded and your comments will be a part of the information the DEQ will consider in making its decision on the proposed rules. The public comment period for the proposed rules ends today at 5:00 p.m.

Following the public hearing, the DEQ staff will review all comments and prepare an Agency Report, which includes the response to comments. The Agency Report will be available on the DEQ website or by contacting the Air Quality Division office. The proposed rules and the Agency Report will be submitted to the State Office of Administrative Hearings and Rules and the Joint Committee on Administrative Rules. Following JCAR, the rules will be filed with the Secretary of State and become effective immediately. It is estimated this process will take approximately four to five months.

Thank you for your attention. I will now begin calling the names of those who have indicated they would like to make a statement.

Closing Statement

Thank you for your comments and cooperation today. We appreciate your interest in these proposed rules and that you took the time to be here today.

As indicated at the beginning of the hearing, the closing date of the public comment period is today at 5:00 p.m. and an Agency Report will be prepared.

The hearing is now closed. Thank you again.

ATTACHMENT H

MARQUETTE MINING JOURNAL

Legals

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NOTICE OF PUBLIC HEARING
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

The Michigan Department of Environmental Quality (DEQ), Air Quality Division, will conduct public hearings on proposed administrative rules promulgated pursuant to Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). The DEQ is proposing amendments in the following three rule packages:

2005-036EQ: Amend R 336.1401 to R 336.1407 addressing sulfur dioxide (SO_2) emitted in Wayne County. In addition, add Rule R 336.1420 to reduce transported emissions of SO_2 from electric generating units as part of the Clean Air Interstate Rule federal requirements.

2007-005EQ: Rescind Part 12, Emission Averaging and Emission Reduction Credit Trading, R 336.2201 to R 336.2218 due to the lack of participation by the regulated community and lack of sufficient resources to maintain the voluntary trading program.

2007-006EQ: Amend R 336.1660 and R 336.1661 to reduce volatile organic compound content from additional consumer and commercial products manufactured, sold, or used in the state of Michigan. The proposed rules will adopt by reference the amended Ozone Transport Commission model rule published September 13, 2006.

2004-054EQ: Add Part 19, New Source Review for Major Sources Impacting Nonattainment Areas, R 336.2901, R 336.2901a, R 336.2902, R 336.2903, R 336.2907, R 336.2908, and R 336.2910. This is the second public hearing to address the revisions to the definitions of "replacement unit" and "net emissions increase." This rulemaking will add the rules necessary to implement a complete, modern New Source Review program that meets federal requirements for permitting major sources in nonattainment areas.

The public hearings will be held on July 19, 2007, at 10:00 a.m., in the Brake Conference Room, Constitution Hall, Atrium South, 525 West Allegan Street, Lansing, Michigan.

Copies of the proposed rules can be downloaded from the Internet at: http://www.michigan.gov/deq air. These rules can also be downloaded from the Internet through the State Office of Administrative Hearings and Rules at http://www.michigan.gov/orr.

Copies of the rules may also be obtained by contacting the Lansing office at:

Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909-7760
Phone: 517-373-7045
Fax: 517-241-7499
E-Mail: halbeism@Michigan.gov

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by 5:00 p.m. on July 19, 2007.

Persons needing accommodations for effective participation in the meeting should contact the Air Quality Division at 517-373-7045 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director

Legals

of the DEQ by Sections 5503 and 5512 of Act 451, being Sections 324.5503 and 324.5512 of the Michigan Compiled Laws, and Executive Order 1995-18. These rules will become effective immediately after filing with the Secretary of State.

County of Oakland
STATE OF MICHIGAN, } ss.

Mary Taylor being duly sworn, deposes and says that I am the **Legal Rep** of THE OAKLAND PRESS, a newspaper printed and circulated daily in Oakland County, Michigan and that I held such position during the publication of the notice hereto annexed; that a notice of **Public Notice** of which the annexed notice is a true copy, was published in the said THE OAKLAND PRESS once immediately preceding the 12 of June that the annexed printed copy of said notice was taken from the said newspaper. That the dates of publication of said notice were June 11, 2007

and further deponent sayeth not Mary Taylor

Subscribed and sworn to before me this 12 day of June A.D. 2007

Tina M. Crown

NOTARY PUBLIC, OAKLAND COUNTY, MICHIGAN

TINA M. CROWN
NOTARY PUBLIC LAPEER CO., MI
MY COMMISSION EXPIRES Mar 20, 2008

acting in Oakland Cty

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G. Vinson Hellwig, Chief
Air Quality Division

Publish June 11, 2007

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ACTING IN THE COUNTY OF EATON

Carrie Savage

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LSJ- 6-8

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G. Vinson Hellwig, Chief
Air Quality Division

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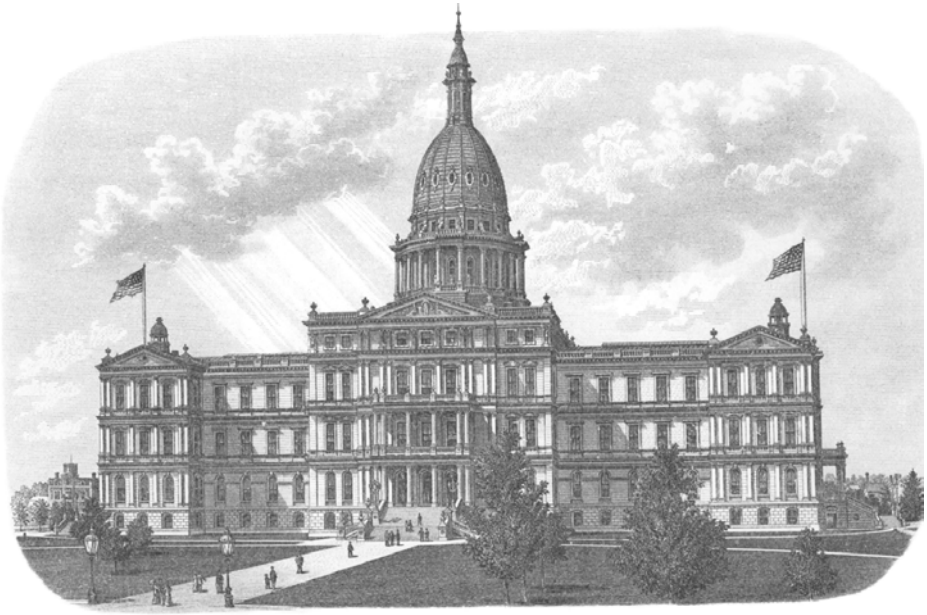

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SOAHR 2005-036

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

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 director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order No. 1995-18, MCL 324.99903)

Draft May 10, 2007

R 336.1401, R 336.1402, and R 336.1404 of the Michigan Administrative Code are amended, and R 336.1401a, R 336.1405, R 336.1406, R 336.1407, and R 336.1420 are added to the Code as follows:

PART 4. EMISSION LIMITATIONS AND PROHIBITIONS – SULFUR-BEARING COMPOUNDS

R 336.1401 Emission of sulfur dioxide from power plants.

Rule 401. (1) In a power plant, it is unlawful for a person to burn fuel that does not comply with the sulfur content limitation of table 41 or which, when burned, results in sulfur dioxide emissions exceeding an equivalent emission rate as shown in table **41.** ~~42, unless all of the following conditions are met:~~ **In a power plant located in Wayne county, it is unlawful for a person to burn fuel that does not comply with the sulfur content limitation of table 42 and unlawful to cause or permit a discharge into the atmosphere from fuel-burning equipment sulfur dioxide in excess of the sulfur dioxide concentration limit shown in table 42.** ~~(a) The source of fuel burning is not subject to federal emission standards for new stationary sources.~~

~~(b) An installation permit, if required by part 2, was approved by the department before August 17, 1971.~~

~~(c) The user furnishes evidence that the fuel burning does not create, or contribute to, an ambient level of sulfur dioxide in excess of the applicable ambient air quality standards. The evidence shall consist of air quality data or stack dispersion calculations, or both, satisfactory to the department.~~

~~(d) The user is operating in compliance with a voluntary agreement, order, stipulation, or variance from the department.~~

~~(2) Notwithstanding the provisions of subrule (1) of this rule, an exception from the limitations of table 41 shall not be permitted after January 1, 1980, unless specific authorization is granted by the department.~~

~~(3) A person responsible for operation of a source that, on the effective date of the 1973 amendment to this rule or for any anticipated time in the future, is or will be using fuel with a sulfur content in excess of that allowed to be burned on July 1, 1978, as listed in table 41, or which, on such effective date or any anticipated time in the future, is or will be emitting sulfur dioxide in excess of the equivalent emission for that fuel, as shown in table 42, shall submit to the department a written program for compliance with this rule within 60 days after such effective date. This requirement does not apply to a source for which the department has approved an exception to table 41 under the provisions of subrule (1) of this rule.~~

~~(4) The program required by subrule (3) of this rule shall include the method by which compliance shall be achieved, a complete description of new equipment to be installed or modifications to existing equipment to be made, and a timetable which specifies, at a minimum, all of the following dates:~~

~~(a) The date equipment shall be ordered.~~

~~(b) The date construction or modification of equipment shall begin.~~

~~(c) The date initial startup of equipment shall begin.~~

~~(d) The date emissions shall be reduced to levels shown in tables 41 and 42.~~

~~(5) The department may allow any source that is required to submit a compliance program under subrule (3) of this rule an extension to the programmed compliance date, if all of the following conditions are met:~~

~~(a) The source of fuel burning is not subject to federal emission standards for new stationary sources.~~

~~(b) An installation permit, if required by part 2, was approved by the department before August 17, 1971.~~

~~(c) The user furnishes satisfactory evidence to the department that the fuel burning does not create or contribute to an ambient level of sulfur dioxide in excess of the applicable ambient air quality standards.~~

~~(6) A person shall not cause or permit the burning of fuel in any fuel-burning equipment that results in an average emission of sulfur dioxide for any calendar month at a rate greater than was emitted by that fuel-burning equipment for the corresponding calendar month of the year 1970, unless otherwise authorized by the department.~~

~~(7) The use of fuels having sulfur contents as set forth in this rule shall not allow degradation in the mass rate of particulate emission, unless otherwise authorized by the department. The department may require source emission tests which may be performed by, or under the supervision of, the department at the expense of the owners and may require the submission of reports to the department both before and after changes are made in the sulfur content in fuel.~~

~~(8)~~**(2)** Tables 41 and 42 read as follows:

~~TABLE 41~~

~~Sulfur in fuel limitations for fuel-burning equipment~~

~~Plant capacity[(a)] 1000 lbs. Steam per hour~~	~~Maximum sulfur content in fuel[(b)] Percent by weight~~	
	~~July 1,1975~~	~~July 1, 1978~~
~~0-500~~	~~2.0~~	~~1.5~~
~~Over 500~~	~~1.5~~	~~1.0~~

TABLE 41

Fuel and sulfur dioxide emission limitations for fuel burning equipment

Plant Capacity[a]	**Maximum average sulfur content in fuel[b] Percent by weight**	**Equivalent emission rates**			
		Parts per million by volume (ppmv) corrected to 50% excess air		**Pounds of sulfur dioxide per million Btu of heat input**	
		Solid fuel[c] (12,000 Btu/lb)	**Liquid fuel[d] (18,000 Btu/lb)**	**Solid fuel[c] (12,000 Btu/lb)**	**Liquid fuel[d] (18,000 Btu/lb)**
0-500,000 lbs steam per hour plant capacity	**1.5**	**890**	**630**	**2.5**	**1.67**
Greater than 500,000 lbs steam per hour plant capacity	**1.0**	**590**	**420**	**1.67**	**1.11**

(a) The total steam production capacity of all coal- and oil-burning equipment in a power plant as of August 17, 1971.

(b) "Maximum average sulfur content in fuel" means the average sulfur content in all fuels burned at any 1 time in a power plant. The sulfur content shall be calculated on the basis of 12,000 Btu per pound for solid fuels and 18,000 Btu per pound for liquid fuels. The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department.

(c) Solid fuels include both pulverized coal and all other coal.

(d) Liquid fuels include distillate oil (No. 1 and No. 2), heavy oil (No. 4, No. 5, and No. 6), and crude oil.

~~TABLE 42~~

~~Equivalent emission rates~~

~~% Sulfur in fuels[c]~~	~~Parts per million by volume corrected to 50% excess air~~		~~Pounds of sulfur dioxide per million Btu of heat input~~	
	~~Solid fuel[d] (12,000 Btu/lb)~~	~~Liquid fuel[e] (18,000 Btu/lb)~~	~~Solid fuel[d] (12,000 Btu/lb)~~	~~Liquid fuel[e] (18,000 Btu/lb)~~
~~1.0~~	~~590~~	~~420~~	~~1.67~~	~~1.11~~
~~1.5~~	~~890~~	~~630~~	~~2.50~~	~~1.67~~
~~2.0~~	~~1,180~~	~~840~~	~~3.33~~	~~2.22~~

~~(a) For the purpose of this rule, "plant capacity" is defined as the total steam production capacity of all coal- and oil-burning equipment in a power plant as of August 17, 1971. A "power plant" is defined as a single structure devoted to steam or electric generation, or both, and may contain multiple boilers.~~

~~(b) "Maximum sulfur content in fuel" is defined as the average sulfur content in all fuels burned at any one time in a power plant. The sulfur content shall be calculated on the basis of 12,000 Btu per pound for solid fuels and 18,000 Btu per pound for liquid fuels.~~

~~(c) The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department.~~

~~(d) Solid fuels include both pulverized coal and all other coal.~~
~~(e) Liquid fuels include distillate oil (No. 1 and No. 2), heavy oil (No. 4, No. 5, and No. 6), and crude oil.~~

TABLE 42
Fuel and sulfur dioxide concentration limitations for fuel burning equipment located in Wayne county

Fuel type	Maximum weight percent sulfur content in fuel[(a)] limitations for fuel-burning equipment	SO_2 ppmv emission rates corrected to 50% excess air
Pulverized coal	1.00	550
Other coal	0.75	420
Distillate oil Nos. 1 & 2	0.30	120
Crude and heavy oil Nos. 4, 5, & 6	1.00	400
(a) The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department.		

(3) The use of fuels having sulfur contents as set forth in table 41 and table 42 shall not allow degradation in the mass rate of particulate emissions, unless otherwise authorized by the department. The department may require source emission tests which may be performed by, or under the supervision of, the department at the expense of the owners and may require the submission of reports to the department both before and after changes are made in the sulfur content in fuel.

(4) The following provisions apply to persons in Wayne county:

(a) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 42 of this rule shall not apply to any person who uses a combination of fuels in such ratios as to meet the sulfur dioxide concentration limitations specified in table 42 and has obtained written approval from the department for this exemption. The allowable concentration limit will be based on the value in the table for the fuel having the higher allowable concentration limit.

(b) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 42 of this rule shall not apply to any person who has received an installation permit from the department on a control device to desulfurize the stack gases and the control device is installed and operating properly.

R 336.1401a Definitions.

Rule 401a. As used in this part:

(a) "Power plant" means a single structure devoted to steam or electric generation, or both, and may contain multiple boilers.

(b) "Sulfur recovery plant" means any plant that recovers elemental sulfur from any gas stream.

R 336.1402 Emission of sulfur dioxide from fuel-burning sources other than power plants.

Rule 402. (1) ~~Except as provided in rule 401 and subrule (2),~~ **At a fuel burning source other than a power plant** ~~after January 1, 1981,~~ it is unlawful for a person to cause or allow the emission of sulfur

dioxide from the combustion of any coal or oil fuel in excess of 1.7 pounds per million ~~Btu's~~ **Btu** of heat input for oil fuel or in excess of 2.4 pounds per million ~~Btu's~~ **Btu** of heat input for coal fuel.

(2) The provisions of ~~this rule~~ **subrule (1) of this rule** do not apply to a fuel-burning source that is unable to comply with the specified emission limits because of sulfur dioxide emissions caused by the presence of sulfur in other raw materials charged to the fuel-burning source. This exception shall apply if at any time the actual sulfur dioxide emission rate exceeds the expected theoretical sulfur dioxide emission rate from fuel burning. The expected theoretical sulfur dioxide emission rate shall be based on the quantity of fuel burned and the average sulfur content of the fuel.

(3) At a fuel burning source located in Wayne county other than a power plant, it is unlawful for a person to burn fuel that does not comply with the sulfur content limitation of table 43 and unlawful to cause or allow a discharge into the atmosphere from fuel burning equipment sulfur dioxide in excess of the sulfur dioxide concentration limit shown in table 43.

(4) Table 43 reads as follows:

Table 43		
Fuel and sulfur dioxide concentration limitations for fuel burning equipment located in Wayne county at a source other than a power plant		
Fuel type	**Maximum weight percent sulfur content in fuel[(a)] limitations for fuel-burning equipment**	**SO_2 ppmv emission rates corrected to 50% excess air**
Coal	**0.75**	**420**
Distillate oil Nos. 1 & 2	**0.30**	**120**
Crude and heavy oil Nos. 4, 5, & 6	**1.00**	**400**
(a) The determination of sulfur content (percent by weight) of fuel shall be carried out in accordance with a procedure acceptable to the department.		

(5) The use of fuels having sulfur contents as set forth in table 43 shall not allow degradation in the mass rate of particulate emissions, unless otherwise authorized by the department. The department may require source emission tests which may be performed by, or under the supervision of, the department at the expense of the owners and may require the submission of reports to the department both before and after changes are made in the sulfur content in fuel.

(6) The following provisions apply to persons in Wayne county:

(a) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 43 of this rule shall not apply to a person who uses a combination of fuels in such ratios as to meet the sulfur dioxide concentration limitations specified in table 43 and has obtained written approval from the department for this exemption. The allowable concentration limit will be based on the value in the table for the fuel having the higher allowable concentration limit.

(b) The maximum weight percent sulfur content in fuel limitations for fuel-burning equipment provisions of table 43 of this rule shall not apply to a person who has received an installation permit from the department for a control device to desulfurize the stack gases and the control device is installed and operating properly.

R 336.1404 Emission of **sulfur dioxide and** sulfuric acid mist from sulfuric acid plants.

Rule 404. **(1)** ~~After July 1, 1980,~~ It is unlawful for a person to cause or allow the emission of sulfuric acid mist from any sulfuric acid plant in excess of 0.50 pounds per ton of acid produced, the production being expressed as 100% ~~H_2SO_4~~ **sulfuric acid**.

(2) It is unlawful for a person in Wayne county to cause or allow sulfur dioxide emissions into the atmosphere from any sulfuric acid plant to exceed 6.5 pounds per ton of acid produced.

(3) Compliance with this ~~limit~~ **rule** shall be demonstrated using ~~reference test method 8~~ **a procedure acceptable to the department**.

R 336.1405 Emissions from sulfur recovery plants located within Wayne county.

Rule 405. At sulfur recovery plants located in Wayne county, a person shall not cause or allow the emission into the atmosphere of sulfur dioxide, sulfur trioxide, or sulfuric acid from any such sulfur recovery plant to exceed 0.01 pounds per pound of sulfur produced.

R 336.1406 Hydrogen sulfide emissions from facilities located within Wayne county.

Rule 406. (1) A person in Wayne county shall not cause or allow the combustion of any refinery process gas stream that contains hydrogen sulfide in a concentration of greater than 100 grains per 100 cubic feet of gas without removal of the hydrogen sulfide in excess of this concentration.

(2) When the odor of hydrogen sulfide is found to exist beyond the property line of a source, a person in Wayne county shall not cause or allow the concentration of hydrogen sulfide to exceed 0.005 parts per million by volume for a maximum period of 2 minutes.

R 336.1407. Sulfur compound emissions from sources located within Wayne county and not previously specified.

Rule 407. Both of the following apply to process and fuel burning equipment located within Wayne county to which the provisions of R 336.1401 to R 336.1406 do not apply.

(a) A person shall not cause or allow the emission into the atmosphere gases with a concentration of sulfur dioxide greater than 300 parts per million by volume, which shall be corrected to 50% excess air for fuel burning equipment.

(b) A person shall not cause or allow the emission into the atmosphere gases with a concentration of sulfuric acid or sulfur trioxide or a combination thereof greater than 15 milligrams per cubic meter, which shall be corrected to 50% excess air for fuel burning equipment.

R 336.1420. Applicability determinations, definitions, and permitting requirements under CAIR sulfur dioxide trading program.

Rule 420. (1) As used in this rule:

(a) "CAIR" means clean air interstate rule.

(b) "CAIR sulfur dioxide permit" means the permit required pursuant to 40 C.F.R. §97.202.

(c) "Michigan EGUs" means any stationary fossil fuel-fired boiler or stationary fossil fuel-fired combustion turbine serving, at any time since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 megawatts producing electricity for sale and geographically located in Michigan.

(2) The provisions of 40 C.F.R. §97.202 and the appropriate opt-in provisions of 40 C.F.R. §97.281 to §97.288 (2006) are adopted by reference in this rule and are applicable to these rules. Copies of 40 C.F.R. §§97.202 and 97.281 to §97.288 are available for inspection and purchase at the Department of Environmental Quality, Air Quality Division, 525 West Allegan Street, P.O.

Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of this rule of $70.00. Copies may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of this rule of $60.00; or on the United States government printing office internet web site at www.access.gpo.gov.

(3) Michigan EGUs are required to apply for and receive a CAIR sulfur dioxide permit. This permit shall be administered in accordance with the procedural requirements of R 336.1214 and shall be incorporated into the facility's renewable operating permit as an attachment.

NOTICE OF PUBLIC HEARING

SOAHR 2005-036
NOTICE OF PUBLIC HEARING
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

The Michigan Department of Environmental Quality (DEQ), Air Quality Division, will conduct a public hearing on proposed administrative rules promulgated pursuant to Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); R 336.1401, R 336.1401a, R 336.1402, R 336.1404 to R 336.1407, and R 336.1420 (Rules 401, 401a, 402, 404-407, and 420). This rulemaking will amend Rules 401 to 407 addressing sulfur dioxide (SO_2) emitted in Wayne County. In addition, the DEQ is proposing to add Rule 420 to reduce transported emissions of SO_2 from electric generating units as part of the Clean Air Interstate Rule federal requirements.

The public hearing will be held on July 19, 2007, at 10:00 a.m., in the Brake Conference Room, Constitution Hall, Atrium South, 525 West Allegan Street, Lansing, Michigan.

Copies of the proposed rules (SOAHR 2005-036EQ) can be downloaded from the Internet at: http://www.michigan.gov/deqair. These rules can also be downloaded from the Internet through the State Office of Administrative Hearings and Rules at http://www.michigan.gov/orr. Copies of the rules may also be obtained by contacting the Lansing office at:

Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909-7760
Phone: 517-373-7045
Fax: 517-241-7499
E-Mail: halbeism@Michigan.gov

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by 5:00 p.m. on July 19, 2007.

Persons needing accommodations for effective participation in the meeting should contact the Air Quality Division at 517-373-7045 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Sections 5503 and 5512 of Act 451, being Sections 324.5503 and 324.5512 of the Michigan Compiled Laws, and Executive Order 1995-18. These rules will become effective immediately after filing with the Secretary of State.