



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



STEVEN E. CHESTER  
DIRECTOR

June 29, 2007

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

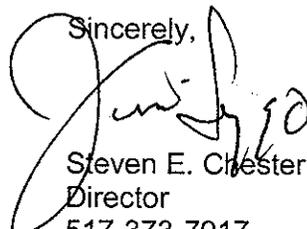
Dear Administrator Gade:

We are submitting the enclosed revision to Michigan's State Implementation Plan (SIP) and request your approval of the revised SIP. The submittal consists of one of Michigan's Air Pollution Control Rules, R 336.1912 (Rule 912), Abnormal conditions, start-up, shutdown, and malfunction of a source, process, or process equipment, operating, notification, and reporting requirements.

Rule 912 prohibits emissions violating applicable emission standards during malfunction, unless the emissions were caused by the malfunction and the owner or operator complies with all applicable requirements of the rule. The rule outlines standards of performance, emission standards and exceptions, and requirements for monitoring, recordkeeping, notification, and reporting. The rule was amended on July 26, 1995, and a correction was published in the *Michigan Register* on June 1, 2007.

Rule 912 was originally submitted, along with Rules 913 and 914 for start-ups and shutdowns, to the U.S. Environmental Protection Agency (EPA) for approval as a SIP revision on May 16, 1996. The EPA disapproved the SIP submittal of Rules 912-914 on February 20, 1998. On May 28, 2002, Rules 913 and 914 were rescinded and replaced with Rules 915 and 916. In April 2004 Ms. Kathleen D'Agostino requested that corrections be made to Rule 912 in order to make the rule approvable. The corrections requested by Ms. D'Agostino were made and published in the *Michigan Register* on June 1, 2007.

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

Acting

Enclosure

cc: Mr. Stephen Rothblatt, EPA, Region 5  
Mr. John Mooney, EPA, Region 5  
Ms. Kathleen D'Agostino, EPA, Region 5  
Mr. G. Vinson Hellwig, MDEQ  
Mr. Robert Irvine, MDEQ



STEVEN E. CHESTER  
DIRECTOR

**REVISION TO**  
**STATE OF MICHIGAN**  
**STATE IMPLEMENTATION PLAN**  
**for**  
**Abnormal Conditions**

**Part 9. Emission Limitations and Prohibitions—**  
**Miscellaneous**  
**R 336.1912**

**June 7, 2007**



JENNIFER M. GRANHOLM  
GOVERNOR

*Prepared by:*

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

## TABLE OF CONTENTS

**Item** **Page**

---

### **COMPLETENESS REVIEW**

COMPLETENESS REVIEW CHECKLIST.....1

### **ATTACHMENTS**

- ATTACHMENT A** Final form of adopted rule, R 336.1912, effective July 26, 1995.
- Michigan Register* notice published on June 1, 2007, correcting an obvious error.
- ATTACHMENT B** Certificate of adoption for R 336.1912 from the Director of the Michigan Department of Natural Resources (MDNR), Roland Harmes, dated June 29, 1995.
- ATTACHMENT C** Delegation of authority from Governor Jennifer M. Granholm, letter dated February 22, 2003.
- ATTACHMENT D** Certificate of approval from Legislative Service Bureau for R 336.1912 dated May 9, 1995.
- Certification of legality and authority from the Assistant Attorney General to MDNR for R 336.1912 dated May 9, 1995.
- ATTACHMENT E** Secretary of State's Notice of filing Administrative Rule, dated July 10, 1995.
- ATTACHMENT F** Summary of Comments Received and Staff Responses on Proposed Rules for Air Pollution Control (AQD21), dated August 12, 1994.
- ATTACHMENT G** Administrative Rules Report, dated March 7, 1995.
- ATTACHMENT H** Opening statement for June 6, 1994, public hearing.
- ATTACHMENT I** Newspaper affidavits published on May 2, 1994, and *Michigan Register* notice published on April 30, 1994.

## 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, U.S. Environmental Protection Agency (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, R 336.1912, which went into effect on July 26, 1995, and the *Michigan Register* notice published on June 1, 2007, correcting an obvious error, is included in Attachment A.

The Certificate of Adoption dated June 29, 1995, signed by MDNR Director Roland Harmes, 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 certificate dated May 9, 1995, from the Assistant Attorney General to the MDNR certifies that the rule is within the scope of the authority of the MDNR (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 Rule, R 336.1912, dated July 10, 1995, is included in Attachment E.

The final form of the adopted rule, R 336.1912, with the effective date of July 26, 1995, as corrected June 1, 2007, 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 Assistant Attorney General memo to the MDNR, dated May 9, 1995, certifies that the rule is in conformity with the requirements of the Administrative Procedures Act, MCL 24.201 et seq. (Attachment D).

The Certificate of Approval, dated May 9, 1995, certifies that, pursuant to the Administrative Procedures Act, the Legislative Service Bureau approves the rule as to form, classification, arrangement, and numbering (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.**

Attachment I includes the affidavits of publication from four newspapers that published the notice of public hearing on May 2, 1994, and the notice that was published in the *Michigan Register* on April 30, 1994.

**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 May 9, 1995, certificate from the Assistant Attorney General John C. Scherbarth to the MDNR certifies that the rule has been promulgated in conformity with the requirements of the Administrative Procedures Act (Attachment D).

The Opening Statement for the June 6, 1994, public hearing includes information on the notice of public hearing and instructions on how the hearing will be conducted (Attachment H).

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

Summaries of the comments received and the MDNR responses are in "Summary of Comments Received and Staff Responses on Proposed Rules for Air Pollution Control (AQD 21)" (Attachment F) and the "Administrative Rules Report" (Attachment G).

## **Technical support**

### **Justification of rule revisions.**

“Summary of Comments Received and Staff Responses on Proposed Rules for Air Pollution Control (AQD 21)” (Attachment F) and the “Administrative Rules Report” (Attachment G) provide the purpose and justification of the rule revision.

# ATTACHMENT A



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY DIVISION

As Amended July 26, 1995

**PART 9. EMISSION LIMITATIONS AND PROHIBITIONS--MISCELLANEOUS**

---

**R 336.1912 Abnormal conditions, start-up, shutdown, and malfunction of a source, process, or process equipment, operating, notification, and reporting requirements.**

Rule 912. (1) The owner or operator of a source, process, or process equipment shall, to the extent reasonably possible, operate a source, process, or process equipment in a manner consistent with good air pollution control practices for minimizing emissions during periods of abnormal conditions, start-up, shutdown, and malfunctions. A source, process, or process equipment that complies with all applicable emission standards and limitations during periods of abnormal conditions, start-up, shutdown, and malfunction shall be presumed to have been operated in a manner consistent with good air pollution control practices for minimizing emissions.

(2) The owner or operator of a source, process, or process equipment shall provide notice of an abnormal condition, start-up, shutdown, or a malfunction that results in emissions of a hazardous air pollutant which continue for more than 1 hour in excess of any applicable standard or limitation established by the clean air act or the emissions of a toxic air contaminant which continue for more than 1 hour in excess of an emission standard established by a rule promulgated under the air pollution act or an emission limitation specified in a permit issued or order entered under the air pollution act.

(3) The owner or operator of a source, process, or process equipment shall provide notice and a written report of an abnormal condition, start-up, shutdown, or a malfunction that results in emissions of any air contaminant continuing for more than 2 hours in excess of a standard or limitation established by any applicable requirement.

(4) The notices required by this rule shall be provided to the department as soon as reasonably possible, but not later than 2 business days after the start-up or shutdown or after discovery of the abnormal conditions or malfunction. Notice shall be by any reasonable means, including electronic, telephonic, or oral communication.

(5) The written reports required under this rule shall be submitted within 10 days after the start-up or shutdown occurred, within 10 days after the abnormal conditions or malfunction has been corrected, or within 30 days of discovery of the abnormal conditions or malfunction, whichever is first. The written reports shall include all of the following information:

(a) The time and date, the probable causes or reasons for, and the duration of the abnormal conditions, start-up, shutdown, or malfunction.

(b) An identification of the source, process, or process equipment which experienced abnormal conditions, was started up or shut down, or which malfunctioned and all other affected process or process equipment that have emissions in excess of an applicable requirement, including a description of the type and, where known or where it is reasonably possible to estimate, the quantity or magnitude of emissions in excess of applicable requirements.

(c) Information describing the measures taken and air pollution control practices followed to minimize emissions.

(d) For abnormal conditions and malfunctions, the report shall also include a summary of the actions taken to correct and to prevent a reoccurrence of the abnormal conditions or malfunction and the time taken to correct the malfunction.

(6) Actions taken to correct and to prevent a reoccurrence of an abnormal condition or a malfunction shall become a part of any preventative maintenance and malfunction abatement plan required by R 336.1911.

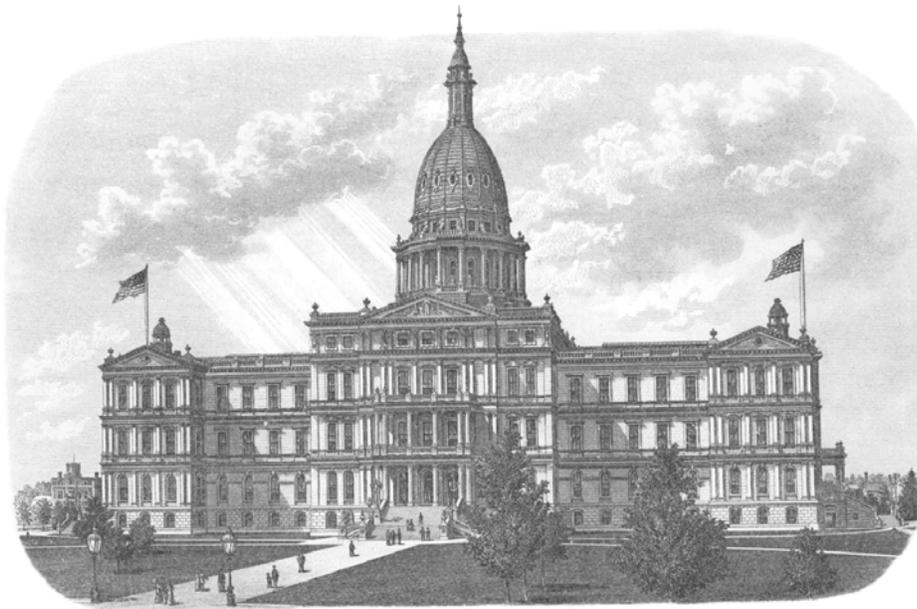
(7) The truth, accuracy, and completeness of the written reports required under this rule for a stationary source subject to the requirements of R 336.1210 Shall be certified by a responsible official in a manner consistent with the clean air act.

*History: 1979 ACS 1, Eff. Jan. 19, 1980; 1995 MR 7, Eff. July 26, 1995.*

Editor's Note: An obvious error was corrected, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Michigan Register, 1995 MR 7. The memorandum requesting the correction was published in Michigan Register, 2007 MR 9.

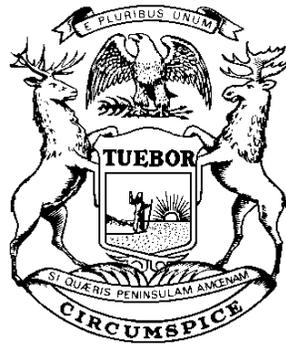
# Michigan Register

Issue No. 9– 2007 (Published June 1, 2007)



# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 9— 2007  
(This issue, published June 1, 2007, contains  
documents filed from May 1, 2007 to May 15, 2007)

Compiled and Published by the  
State Office of Administrative Hearings and Rules

# CONTENTS

---

## ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

---

### Department of Labor and Economic Growth

Office of Financial and Insurance Services (SOAHR # 2006-028)	
Insurance Policy Forms – Shortened Limitation of Action Clauses.....	2-3

### Department of Labor and Economic Growth

Liquor Control Commission (SOAHR # 2006-035)	
Beer Rules.....	4-4

### Department of Agriculture

Office of Racing Commissioner (SOAHR # 2006-041)	
General Rules.....	5-8

---

## PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

---

### Department of Community Health

Public Health Administration (SOAHR # 2005-039)	
Determination of Deaths of Children.....	10-12

### Department of Community Health

Mental Health and Substance Abuse Services (SOAHR # 2006-080)	
Rights of Recipients.....	13-21

### Department of State Police

Traffic Safety Division (SOAHR # 2007-011)	
Test for Breath Alcohol .....	22-24

### Department of Education

Superintendent of Public Instruction (SOAHR # 2007-015)	
Special Education Programs and Services.....	25-41

### Department of Education

Superintendent of Public Instruction (SOAHR # 2007-016)	
Teachers' Tenure .....	42-44

---

**CORRECTION OF OBVIOUS  
ERRORS IN PUBLICATION**

---

**Department of Environmental Quality**

Air Quality Division (SOAHR # 2003-049)

Part 9. Emission Limitations and Prohibitions - Miscellaneous.....46-46

**Department of Labor and Economic Growth**

Workers' Compensation Agency (SOAHR # 2006-045)

Workers' Compensation Health Care Services Rules .....47-47

---

**NOTICE OF PROPOSED AND  
ADOPTED AGENCY GUIDELINES**

---

**Department of Labor and Economic Growth**

Office of Financial and Insurance Services

Guidelines for the Acquisition of Capital Stock upon Conversion

Of a Domestic Mutual Insurer to a Domestic Stock Insurer.....49-53

---

**EXECUTIVE ORDERS  
AND  
EXECUTIVE REORGANIZATION ORDERS**

---

Executive Order No. 2007-4

Administrative Oversight Of Career And Technical Education.....55-59

Executive Order No. 2007-5

Abolishing the Ronald Wilson Reagan Memorial Monument

Fund Commission .....60-62

Executive Order No. 2007-6

Abolishing The Temporary Reimbursement Program Advisory Board.....63-64

Executive Order No. 2007-7

Abolishing The Michigan Underground Storage Tank Financial Assurance

Policy Board .....65-66

Executive Order No. 2007-8

Abolishing The Groundwater Advisory Council And The Groundwater Conservation Advisory

Council.....67-69

Executive Order No. 2007-9

Abolishing The Water Quality Monitoring Advisory Board.....70-70

Executive Order No. 2007-10

Abolishing The Laboratory Data Quality Assurance Advisory Council.....71-72

---

**CORRECTION OF OBVIOUS  
ERRORS IN PUBLICATION**

---

April 30, 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: Correction to 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 336.1912

The Department of Environmental Quality (DEQ) requests a correction of an obvious error be made to Part 9, Emission Limitations and Prohibitions—Miscellaneous, R 336.1912(5), pursuant to Section 56(1) of the Michigan Administrative Procedures Act, 1969 PA 306, as amended, as follows:

(a) The time and date, ~~of~~ the probable causes or reasons for, and the duration of, the abnormal conditions, start-up, shutdown, or malfunction.

The U.S. Environmental Protection Agency, Region 5, requested this correction when this rule was submitted to them as a State Implementation Plan revision. R 336.1912 was amended on July 26, 1995. A copy of the rule with the correction is enclosed.

If you have any questions, please contact me.

Sincerely,

Susan S. Maul  
Acting Regulatory Reform Officer  
517-241-1552

Enclosure

cc: Mr. Steven E. Chester, Director, DEQ  
Mr. Jim Sygo, Deputy Director, DEQ  
Mr. G. Vinson Hellwig, DEQ  
Ms. Mary Ann Halbeisen, DEQ  
Ms. Teresa Walker, DEQ

# ATTACHMENT B

STATE OF MICHIGAN



NATURAL RESOURCES  
COMMISSION

JERRY C. BARTNIK  
KEITH J. CHARTERS  
LARRY DEVLVYST  
PAUL EISELE  
JAMES P. HILL  
DAVID HULL  
JOEY M. SPANO

JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

STEVENS T MASON BUILDING, PO BOX 30028, LANSING MI 48909-7528

ROLAND HARMES, Director

June 29, 1995

To: Roland Harmes, Director

Subject: Administrative Rules--Air Pollution Control  
Rules - AQD 21, Title V Operating Permit Program,  
Parts 1, 2 and 9

Authority:

By authority conferred on the Director of the Department of Natural Resources by sections 5503 and 5512 of Act No. 451 of 1994, as amended, being sections 324.5503 and 324.5512.

Discussion:

These rules were developed to implement the federal Operating Permit Program requirements of 40 CFR Part 70. These rules, dated February 7, 1995, amend R 336.1101, R 336.1103, R 336.1116, R 336.1118 to R 336.1120, R 336.1123, R 336.2201, R 336.1278 to R 336.1290 and R 336.1299 of the Michigan Administrative Code, appearing on pages 119 and 156 of the 1980 Annual Supplement to the Code, pages 511, 514 to 517, 529 and 532 of the 1992 Annual Supplement to the Code, pages 631 to 636, 638 to 646, and 653 to 659 of the 1993 Annual Supplement to the Code area amended, and R 336.1205, R 336.1209 to R 336.1219 and R 336.1912 to R 336.1914 are added. R 336.1208 of the Michigan Administrative Code, appearing on page 119 of the 1980 Annual Supplement to the 1979 Michigan Administrative Code, is rescinded. The Joint Committee on Administrative Rules approved these rules on June 14, 1995.

Recommendation:

Recommend that these rules be adopted and submitted to the Office of Regulatory Reform for promulgation by submittal to the Secretary of State.

Dennis M. Drake Acting Chief, AQD	Russell Harding Deputy Director	David E. Freed Chief of Staff

I approve the staff recommendation.

Roland Harmes  
Director

6-29-95  
Date Approved

# ATTACHMENT C



STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR

JENNIFER M. GRANHOLM  
~~JOHN BOCKER~~  
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

# ATTACHMENT D

LEGISLATIVE SERVICE BUREAU • The Legislature • State of Michigan



124 W. Allegan, Fourth Floor  
P.O. Box 30036  
Lansing, Michigan 48909-7536  
Telephone (517) 373-0170

CERTIFICATE OF APPROVAL

I hereby certify that the Legislative Service Bureau has examined the attached proposed rules of the Department of Natural Resources, dated May 8, 1995, amending R 336.1101, R 336.1103, R 336.1113, R 336.1116, R 336.1118 to R 336.1120, R 336.1123, R 336.1201, R 336.1278 to R 336.1290, and R 336.1299 of, adding R 336.1205, R 336.1209 to R 336.1219, and R 336.1912 to R 336.1914 to, and rescinding R 336.1208 of, the Department's rules entitled "Air Pollution Control," and further certify that, pursuant to section 45 of Act No. 306 of the Public Acts of 1969, as amended, being §24.245 of the Michigan Compiled Laws, the Legislative Service Bureau approves the rules as to form, classification, arrangement, and numbering.

Dated: May 9, 1995

LEGISLATIVE SERVICE BUREAU

  
Elliott Smith, Director

STATE OF MICHIGAN  
CERTIFICATION OF DEPARTMENT OF ATTORNEY GENERAL

TO: Department of Natural Resources

I hereby certify that I have examined the attached proposed rules of the Department of Natural Resources, dated May 8, 1995, amending R 336.1101, R 336.1103, R 335.1113, R 336.1116, R 336.1118 to R 336.1120, R 336.1123, R 336.1201, R 336.1278 to R 336.1290, and R 366.1299 of, adding R 336.1205, R 336.1209 to R 336.1219, and R 336.1912 to R 366.1914 to, and rescinding R 366.1208 of, the Department's rules entitled "Air Pollution Control," which have been approved as to form by the Legislative Service Bureau, as indicated by the certificate attached to the rules.

The rules are hereby approved by me as to legality pursuant to the Administrative Procedures Act, as amended, MCL 24.201 et seq; MSA 3.560(101) et seq.

In certifying these rules as to the legality, I have determined that they are within the scope of authority of the agency, that they do not violate constitutional rights, and that they are in conformity with the requirements of the Administrative Procedures Act.

You are further advised that, upon receipt of this certification, you are required by MCL 24.245(2); MSA 3.560(145)(2) to submit the proposed rules to the Joint Committee on Administrative Rules so that the Committee may determine whether the rules conform to legislative intent.

FRANK J. KELLEY  
Attorney General

By   
John C. Scherbarth  
Assistant Attorney General  
Natural Resources Division  
- KNAPP'S OFFICE CENTRE -  
300 S. Washington, Suite 530  
Lansing, MI 48913  
Telephone: (517) 335-1488

Dated: May 9, 1995

ard/scherbarth/1995 CERT2



**THE LEGISLATURE  
LANSING, MICHIGAN**

**JOINT COMMITTEE ON ADMINISTRATIVE RULES**

115 WEST ALLEGAN, RM. 801, CAPITOL HALL  
P.O. BOX 30036 LANSING, MICHIGAN 48909-7536  
(517) 373-6476 - TELEPHONE (517) 373-5548 - FAX

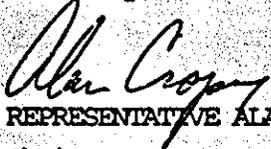
**CERTIFICATE OF APPROVAL**

**DATE:** June 14, 1995

**SUBJECT:** Trans. No. 95-36

I hereby certify that the Joint Committee on Administrative Rules approved the administrative rules from the Natural Resources Department, Air Quality Division, pertaining to Air Pollution Control, Title V Operating Permit Program Parts 1, 2, and 9, dated May 8, 1995.

Sincerely,



REPRESENTATIVE ALAN CROPSEY

Chairman

AC:csc

CC: Secretary of the Senate  
Clerk of the House

# ATTACHMENT E

STATE OF MICHIGAN



CANDICE S. MILLER, Secretary of State  
MICHIGAN DEPARTMENT OF STATE  
LANSING, MICHIGAN 48918-0001

RECEIVED

JUL 14 1995

AIR QUALITY DIVISION

July 10, 1995

NOTICE OF FILING  
ADMINISTRATIVE RULES

TO: Secretary of the Senate  
Clerk of the House of Representatives  
Joint Committee on Administrative Rules (95-36)  
Legislative Service Bureau (95-7-3)

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, this is to advise you that at 1:31 p.m. this date, administrative rules were filed by the Department of Natural Resources, Air quality Division, entitled *Air Pollution Control. Title V Operating Permit Program Parts 1, 2, and 3*, effective 15 days hereafter.

Sincerely,

  
Candice S. Miller  
SECRETARY OF STATE

Helen Kruger, Supervisor  
Office of the Great Seal

cc: Ellen Eaton, House of Representatives  
Filing Agency  
Office of Regulatory Reform