



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

April 3, 2012

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

Dear Ms. Hedman:

SUBJECT: Michigan Infrastructure State Implementation Plan (SIP) Components Confirmation

Through this letter, the Michigan Department of Environmental Quality (MDEQ) is confirming that the State of Michigan retains the authorities necessary to evaluate ambient air quality, develop plans to attain and maintain the National Ambient Air Quality Standards (NAAQS), meet the requirements of the New Source Review Program, and effectively enforce all applicable requirements. Specifically, the resources and authority to implement and satisfactorily complete the requirements set forth in Sections 110(a)(1) and (2) of the federal Clean Air Act are provided for in the Michigan SIP.

The MDEQ has reviewed Michigan's air quality management program authorities as they pertain to the revised lead NAAQS, promulgated on October 15, 2008. The SIP elements required under Section 110 are addressed in the enclosed certification that describes the State authorities that constitute the infrastructure of Michigan's air program. As stated above, the MDEQ has determined that the existing Michigan SIP is adequate. Opportunity for public comment and hearing has been provided on this certification.

Questions on this submittal may be directed to Mr. G. Vinson Hellwig, Chief, Air Quality Division, at 517-373-7069; or MDEQ, P.O. Box 30260, Lansing, Michigan 48909-7760; or you may contact me.

Sincerely,

Dan Wyant
Director
517-373-7917

Enclosure

cc/enc: Mr. Andrew Chang, U.S. Environmental Protection Agency, Region 5
Mr. Jim Sygo, Deputy Director, MDEQ
Mr. G. Vinson Hellwig, MDEQ
Ms. Mary Maupin, MDEQ

STATE OF MICHIGAN



Certification of the Adequacy of the Michigan State Implementation Plan Infrastructure Applicable to the 2008 Lead National Ambient Air Quality Standard

**Prepared by the
Michigan Department of Environmental Quality
Air Quality Division**

April 3, 2012

Introduction

The Michigan Department of Environmental Quality (MDEQ) is confirming that the State of Michigan retains the authorities necessary to evaluate ambient air quality, develop plans to attain and maintain new and existing air quality standards, meet the requirements of the new source review (NSR) program, and effectively enforce all applicable requirements. Specifically, the resources and authority to implement and satisfactorily complete the requirements set forth in Section 110 of the federal Clean Air Act for the 2008 lead National Ambient Air Quality Standard (NAAQS) are provided for in the Michigan State Implementation Plan (SIP). This is commonly referred to as the "infrastructure SIP;" this document describes Michigan's infrastructure SIP for the 2008 lead NAAQS.

The SIP elements addressed in this document are required under Sections 110(a)(1) and (2). Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) specifies the basic elements and sub-elements that all SIPs must contain. The U.S. Environmental Protection Agency (EPA) guidance on the lead NAAQS Infrastructure SIP elements (October 14, 2011 – Stephen D. Page) addresses the following elements at the core of the overall ambient air quality management structure. An opportunity for public comment and hearing was provided for this certification of SIP authority, in accordance with Title 40 of the Code of Federal Regulations (CFR), Part 51, Appendix V 2.1(g), and 40 CFR, Section 51.102.

Required Section 110 SIP Elements

The SIP elements indented below are excerpted from the EPA guidance on infrastructure SIPs for the lead NAAQS. The MDEQ response follows each requirement.

Section 110(a)(2)(A): Emission limits and other control measures

"Each such plan shall [...] include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter."

Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), MCL 324.5503 and 324.5512, provides the MDEQ Director the authority to regulate the discharge of air pollutants and to promulgate rules to establish emissions standards for ambient air quality and for emissions. The MDEQ continues to monitor, update, and implement necessary and required revisions to the Michigan SIP in the form of emissions limits and other control measures to meet federal ambient air quality standards, including the 2008 lead NAAQS. Consistent with the EPA's guidance, this infrastructure SIP submittal does not identify nonattainment area emissions controls. Belding, Michigan, was designated as a nonattainment area in November of 2011. Limitations and other control measures for this area are on a different schedule and will be submitted to the EPA at the appropriate time.

Section 110(a)(2)(B): Ambient air quality monitoring/data system

"Each Plan shall [...] provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to

(i) monitor, compile, and analyze data on ambient air quality, and

(ii) upon request, make such data available to the Administrator."

In accordance with the Michigan SIP, the MDEQ maintains a comprehensive network of air quality monitors throughout Michigan with a primary objective to determine compliance with the NAAQS. The MDEQ currently operates lead monitors at eight sites established to meet federal requirements for monitoring in population centers or in proximity to lead-emitting sources. The quality assured ambient monitoring data is submitted to the EPA Air Quality Subsystem (AQS) as required by 40 CFR Section 51.320. The MDEQ submits network reviews to the EPA annually to ensure that its air monitoring operations comply with applicable federal requirements. The MDEQ most recently submitted a network review to the EPA on June 27, 2011.

Section 110(a)(2)(C): Programs for enforcement, PSD, and NSR

"Each such plan shall [...] include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter."

MCL 324.5526-324.5532 provide authorities to enforce emission limitations and other control measures. The MDEQ continues to staff and implement an enforcement program to assure compliance with all requirements under state law and the Michigan SIP, consistent with the provisions of Act 451. This air quality enforcement unit provides support and technical assistance to Michigan's Attorney General on all air pollution enforcement issues referred by the MDEQ's Air Quality Division for escalated enforcement action. Lastly, the enforcement unit coordinates formal administrative actions such as contested case hearings, administrative complaints, and revocation of permits to install.

Michigan's prevention of significant deterioration (PSD) program regulations, authorized in MCL 324.5512, can be found at R 336.2801-R 336.2823. These regulations contain provisions that appropriately regulate construction of new or modified stationary sources consistent with Part C. Michigan has previously demonstrated that it retains both the authority and the personnel to permit greenhouse gas (GHG) emissions at thresholds established in the "Tailoring Rule." In a letter dated July 27, 2010, the MDEQ confirmed that these thresholds can be accommodated in Michigan's PSD Program rules. Finally, lead minor sources are subject to general permit to install regulations in R 336.1201-R 336.1209.

The EPA has noted in its guidance that no amendments to federal PSD regulations have been made with respect to the lead NAAQS, but that such revisions may be appropriate in light of the 2008 lead NAAQS. If and when such revisions are made, the MDEQ commits to work with the EPA to ensure that our PSD regulations are consistent with federal regulations within three years of the EPA's amendments.

Section 110(a)(2)(D)(i): Interstate transport provisions

"Each plan shall [...] contain adequate provisions:

(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will-

(I) contribute significantly to nonattainment in, or

(II) interfere with maintenance by, any other state with respect to any such national ambient primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility.”

The EPA's guidance recognizes that due to the physical properties of lead it does not experience the same travel or formation phenomenon as seen with particulate matter or ozone. A sharp decrease in lead concentrations is seen as the distance from a lead source increases, making it very unlikely for a source to emit such an amount that would contribute significantly to, or interfere with maintenance of, another State's inability to meet the 2008 lead NAAQS. The MDEQ's 2012 Ambient Air Monitoring Network Review describes the location of Michigan sources emitting more than 0.5 ton of lead per year as well as the impact screening of each of these sources. This analysis identified no adverse impacts above the 2008 lead NAAQS from existing sources to neighboring states, Class I areas, or Canada. The EPA's final nonattainment designation of the Belding area confirms that the elevated lead levels in that area are not expected to travel more than 0.65 mile away from the center of the source thought responsible for the emissions. Belding is located approximately 100 miles away from the nearest neighboring state, Indiana.

As detailed in the section addressing Section 110(a)(2)(C), Michigan has an approved PSD program under which permit applicants must demonstrate that emissions will not cause or contribute to NAAQS violations or exceed allowable increases over baseline concentrations, under R 336.2811. To clarify, the MDEQ's PSD regulations sufficiently address all applicable elements of this section, as well as those of Section 110(a)(2)(C). To address the visibility requirements of this section, Federal Land Managers are notified when the MDEQ receives applications for PSD permits that would impact air quality-related values of Class I lands, including visibility, as specified in R 336.2816.

Section 110(a)(2)(D)(ii): Interstate and international transport provisions

“Each state plan shall [...] contain adequate provisions insuring compliance with applicable requirements of section 115 or 126 (b) that involve Pb emissions (relating to interstate and international pollution abatement).”

Michigan's air management program contains adequate provisions to ensure compliance with Section 126 of the federal Clean Air Act relating to interstate pollution abatement. Neighboring states and tribes are notified regarding new or modified sources, as specified in R 336.2817. Additionally, Section 115 of the federal Clean Air Act relates to international pollution abatement. Michigan has no pending obligations under Section 115.

Section 110(a)(2)(E): Adequate personnel, funding, and authority

“Each plan shall [...] provide:

(i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as

appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof),

(ii) requirements that the state comply with the requirements respecting state boards under Section 128,

(iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.”

The MDEQ air program is adequately funded through Title V fees, Section 105 and 103 grants, and matching funds via the State’s General Fund. Act 451 provides the legal authority under state law to carry out the Michigan SIP. As specified in the section addressing Section 110(a)(2)(C), the MDEQ also retains both the legal authority and adequate personnel to permit GHG emitting sources at the appropriate federal tailoring threshold.

Michigan does not have authorized boards or commissions to approve air permits or enforcement orders. This authority rests with the MDEQ Director and his designee. MCL 15.301-15.310, of the Conflict of Interest Act, 1968 PA 318, as amended, and MCL 15.346, of the State Ethics Act, 1973 PA 196 as amended, define standards of conduct for employees and public officers appointed by the Governor and other executive department officials of the Executive Branch of state government. These Acts prohibit an employee from the issuance of permits or other regulation or supervision relating to a business entity in which the employee has a financial or personal interest.

Michigan does not rely on local agencies to implement the SIP, issue permits, or conduct enforcement activities. These activities are fully within the purview of the MDEQ.

Section 110(a)(2)(F): Stationary source monitoring and reporting

“Each such plan shall [...] require, as may be prescribed by the Administrator:

(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source,

(iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at all reasonable times for public inspection.”

R 336.2001-336.2199 provide requirements for stationary source performance testing and sampling. R 336.2101-336.2199 provide requirements for continuous emissions monitoring (CEMs), and R 336.201-336.202 require annual reporting of emissions. The emissions data is compiled and submitted to the EPA AQS system in accordance with EPA regulations at 40 CFR, Part 51, Subpart A and Subpart Q. Compliance personnel provide follow up on stack tests and CEMs indicating violations. State air permits and reported emissions are available to the public.

Section 110(a)(2)(G): Emergency episodes

"Each such plan shall provide for authority comparable to that in section 303 of this Title and adequate contingency plans to implement such authority."

MCL 324.5518 of Part 55 provides authority for the MDEQ Director to require the immediate discontinuation of air contaminant discharges that constitute an imminent and substantial endangerment to the public health, safety, or welfare, or to the environment. MCL 324.5530 of Part 55 provides for civil action by the Michigan Attorney General for a violation as described in MCL 324.5518. Where excess emissions have been identified, the MDEQ has taken immediate steps to curtail emissions, notify the public, involve public health officials, and plan for remediation. Enforcement actions have also been pursued. The MDEQ has adequate authority and resources to immediately address any lead emergency episodes. Ambient lead monitors have been installed adjacent to large lead sources to assess their impact on nearby communities.

Section 110(a)(2)(H): Future SIP revisions

"Each such plan shall [...] provide for revision of such plan —

(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA)."

Promulgation of rules to establish standards for ambient air quality and emissions is one of the powers of the MDEQ enumerated in MCL 324.5503. MCL 324.5512 provides authority to the MDEQ to promulgate rules for controlling or prohibiting air pollution, complying with the federal Clean Air Act, and establishing suitable emission standards consistent with ambient air quality standards established by the federal government. The MDEQ has authority to respond to the EPA findings regarding the Michigan SIP and the air quality program.

Section 110(a)(2)(I): Nonattainment area plan or plan revision under Part D

"Each such plan shall [...] in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of Part D of this subchapter (relating to nonattainment areas)."

The MDEQ will submit Michigan's lead nonattainment SIP plans on the schedule set out in Part D of the federal Clean Air Act.

Section 110(a)(2)(J): Consultation with government officials, public notification, PSD and visibility protection

"Each such plan shall [...] meet the applicable requirements of section 121 of this Title (relating to consultation), section 127 of this Title (relating to public notification), and part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection)."

The MDEQ includes stakeholders from local governments, the business community, and community groups in processes involving rule development and SIP planning. Federal land managers and tribal groups have been involved in Michigan SIP development through the Midwest Regional Planning Organization. The MDEQ is also an active member of the Lake Michigan Air Directors Consortium.

Federal Land Managers are provided with notification of permit applications that may impact air quality and visibility in Class I areas, as required by R 336.2816. Draft permits are subjected to the public participation process specified in MCL 324.5511(3). Proposed PSD permit notices of public comment required by R 336.2817 include other state or local air pollution control agencies, chief executives of cities and counties, regional land use planning agencies, Federal Land Managers, and Indian governing bodies whose land may be affected.

Formal Memorandums of Understanding have been developed for processes involving transportation conformity and regional planning. MCL 324.5503 confers authority upon the MDEQ to cooperate with appropriate agencies of the federal government or other states or any interstate and international agencies on air pollution control activities.

The MDEQ prepares an annual *Air Quality Report*, participates in the *CleanAirAction!*, *AirNow*, and *EnviroFlash* programs and posts current air quality concentrations on the MDEQ Web pages, all serving to notify the public and to enhance awareness of air quality.

The MDEQ's satisfaction of the PSD and visibility requirements of this section have been previously addressed in the section addressing Section 110(a)(2)(C) and Section 110(a)(2)(D). Insofar as those provisions satisfy the applicable requirements of those sections, the MDEQ intends the same provisions to satisfy the applicable requirements of Section 110(a)(2)(J).

Section 110(a)(2)(K): Air quality modeling/data

"Each such plan shall [...] provide for —

(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator."

The MDEQ reviews the potential impact of major and some minor sources, consistent with 40 CFR, Parts 51 and 52, Appendix W, Guideline on Air Quality Models. The MDEQ also performs modeling to support SIP development and in coordination with other Lake Michigan states. Modeling data are available upon request by the EPA and other interested parties. The MDEQ has the capability to perform source-oriented dispersion modeling with *AERMOD* to assess lead impacts.

Section 110(a)(2)(L): Permitting Fees

"Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover—

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and;

(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under subchapter Title V of this chapter."

MCL 324.5522, as amended by 2011 PA 164, confers upon the MDEQ the authority to levy and collect an annual air quality fee from the owner or operator of each fee-subject facility in Michigan under R 336.1212.

Section 110(a)(2)(M): Consultation/participation by affected local entities

"Each such plan shall [...] provide for consultation and participation by local political subdivisions affected by the plan."

The MDEQ regularly involves local political subdivisions in attainment planning and decision-making. The MDEQ actively participates in planning forums with regional government planning organizations and establishes stakeholder workgroups in the development of rules addressing air pollution. Public comment periods, and hearings, if requested, are always held for proposed revisions to the Michigan SIP, as required in 40 CFR, Part 51. State administrative rules are also subject to the notice and hearing requirements of the Michigan Administrative Procedures Act, 1969 PA 306, as amended, and are authorized in MCL 324.5512.

The MDEQ has held several informational meetings for local officials and the public in Belding, Michigan, the state's sole nonattainment area for lead, in which representatives of the county and state health departments participated.

Notice of Public Comment and Hearing

A notice of a public comment period and possible hearing on this Section 110 certification of SIP adequacy for the newly revised lead NAAQS was posted in the January 30, 2012, edition of the MDEQ Environmental Calendar at <http://www.michigan.gov/deqcalendar>. Neither a request for a public hearing nor comments on this submittal were received.

Excerpt from DEQ ENVIRONMENTAL CALENDAR, January 30, 2012

FEBRUARY 29, 2012	DEADLINE FOR PUBLIC COMMENT REGARDING MICHIGAN STATE IMPLEMENTATION PLAN ELEMENTS TO ADDRESS THE LEAD NATIONAL AMBIENT AIR QUALITY STANDARD. Written comments are being accepted on a proposed certification that the Michigan State Implementation Plan (SIP) contains the necessary infrastructure elements to address the 2008 Lead National Ambient Air Quality Standard. The proposed certification can be viewed at www.michigan.gov/deqair . Submit written comments to Mary Maupin, Michigan Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909. Written comments will be accepted by e-mail and all statements must be received by February 29, 2012. If a request is received in writing by February 29, 2011, a public hearing will be held on March 6, 2012 (see March 6 listing in this calendar). Information Contact: <i>Mary Maupin</i> , Air Quality Division, maupinm@michigan.gov or 517-373-7039. Decision-maker: <i>G. Vinson Hellwig</i> , Air Quality Division Chief.
-------------------	--

MARCH 6, 2012 1:00 p.m.	TENTATIVELY SCHEDULED PUBLIC HEARING REGARDING THE MICHIGAN STATE IMPLEMENTATION PLAN (SIP), for the proposed certification that all elements required under Section 110(a)(1) and 110(a)(2) of the federal Clean Air Act for the 2008 Lead National Ambient Air Quality Standard are addressed in the Michigan SIP. If a public hearing is requested in writing by February 29, 2012, a public hearing will be held March 6, 2012, in the Lillian Hatcher Conference Room, Constitution Hall, 525 West Allegan Street, 3rd Floor, North Tower, Lansing, Michigan. The hearing will begin at 1:00 p.m. and will be closed after all participants have a chance to speak. Those interested may contact the Air Quality Division at 517-373-7039 on March 1, 2012, to determine if a hearing was requested and will be held. Information Contact: <i>Mary Maupin</i> , Air Quality Division, maupinm@michigan.gov or 517-373-7039.
----------------------------	---