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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



AARON B. KEATLEY
ACTING DIRECTOR

Variance
Suspension of Enforcement of Part 6 Reasonably Available Control Technology Rules
For
the Southeast Michigan 2015 Ozone Maintenance Area

1. Variance Statement

In accordance with the provisions of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), a variance is granted suspending specific requirements of various Part 6 rules only as described in subparagraphs I. and II. below. This variance is granted for a period of one year from the effective date of this document.

- I. For only Michigan Air Pollution Control Rules (MAPCR) R 336.1602(4); R 336.1606 – R 336.1608; R 336.1610a; R 336.1620a; R 336.1621a; R 336.1624a; and R 336.1633 – R 336.1644 the term “2015 ozone nonattainment area” as referenced in the rules and defined in R 336.1601(a), shall not include the following counties: Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne.
- II. For MAPCR R 336.1632 the exception within Rule 632(9)(a) does not apply to the following counties: Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties; instead, the exception in Rule 632(9)(b) and 632(9)(j) applies to those counties.

The purpose of this variance is to suspend the Reasonably Available Control Technology (RACT) requirements of the newly promulgated MAPCR Part 6 rules for the counties in the southeast Michigan 2015 ozone maintenance area (SEMI NAA), also known as the Detroit maintenance area. On May 19, 2023, the United States Environmental Protection Agency (USEPA) redesignated the seven-county southeast Michigan area from nonattainment to attainment / maintenance based on Michigan’s January 3, 2022, redesignation request, effectively nullifying the requirement for the RACT rules for the area. Enforcing these RACT rules in an area that had attained the ozone National Ambient Air Quality Standard in a timely fashion would be an unreasonable hardship upon the impacted persons.

2. Regulatory Background

Part 55 of the NREPA, along with rules promulgated pursuant to the NREPA, regulates emissions of air pollutants to the ambient air.

Section 5535 (MCL 324.5535 *Suspension of enforcement; reasons; variance*) of the NREPA allows the department to suspend enforcement of the whole or part of any rule that would be an unreasonable hardship upon the person, provided it is granted by variance, and it does not violate the federal Clean Air Act (CAA).

Section 5536 (MCL 324.5536 *Variance; considerations effecting*) specifies considerations the department shall give due recognition to in granting any variance, and conditions and

requirements that shall apply. It also specifies when variances may *not* be granted, and those circumstances do not apply here.

Section 5538 (MCL 324.5538 *Variance; period granted; report; conditions*) specifies that any variance granted pursuant to Section 5535 shall be for a period of time specified by the department at the time of granting but not to exceed one year. However, any variance may be continued from year to year.

3. Justification for the Department's Position

The department submitted the redesignation request for the seven-county SEMI NAA on January 3, 2022. The USEPA redesignated the area to attainment with a maintenance classification on May 19, 2023, based on the submitted redesignation request. The department is suspending the requirements of the newly revised RACT requirements of the MAPCR Part 6 rules for the seven counties in southeast Michigan because the area has been redesignated such that the implementation of the RACT rules for the area are not required at this time. Requiring existing sources in an attainment area to comply with these more stringent requirements would create an unreasonable hardship.

This variance will not cause violations of the CAA. While all of the sources that qualify for this variance are also regulated under the CAA, this variance does not exempt these sources from complying with all other aspects of the NREPA, the CAA, and those rules promulgated thereunder.

Final Approval

The Director of the Air Quality Division, having had opportunity to review the variance and having been delegated authority to grant variances by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 55 of the NREPA and otherwise being fully advised on the premises,

Hereby grants the variance, which shall be entered in the record of the department.



Annette Switzer, Director
Air Quality Division
Michigan Department of Environment, Great Lakes, and Energy

Effective Date: May 19, 2023

Continuation of Variance

The Director of the Air Quality Division, having had opportunity to review the above variance effective on May 19, 2023, and having been delegated authority to grant and continue variances by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 55 of the NREPA and otherwise being fully advised of the premises,

HEREBY continues the variance for a period of one year, which shall be entered in the record of the Department.



Annette Switzer, Director
Air Quality Division

Michigan Department of Environment, Great Lakes, and Energy

Effective Date: May 19, 2024