

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Environment, Great Lakes and Energy

2. Bureau:

Air Quality Division

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Part 10. Intermittent Testing and Sampling

5. Rule numbers or rule set range of numbers:

R 336.2001 - R 336.2060

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The general purpose of the proposed rules is to outline applicable intermittent testing and sampling procedures referenced throughout the Michigan Air Pollution Control Rules (MAPCR).

The proposed changes to Part 10 will:

1. Update referenced guidelines and publications to align with current versions used.
2. Remove adoption by reference information that has been transferred into R 336.1902.
3. Modify R 336.2001 to provide clarity and create a unified rule to house the authority of the department surrounding performance testing.
4. Add language to R 336.2001 and R 336.2003 to clarify the timing surrounding notifications to the department of a performance test and to define the start of a stack test by when a probe from the first sample enters the stack.
5. Add references to applicable tables and rules in R 336.2041(13) regarding the automobile protocol reference.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Section 5503(a) of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), gives the department the authority to promulgate rules. Section 5512(1) of Part 55 of the NREPA, states the department shall promulgate rules for a variety of purposes including controlling or prohibiting air pollution and complying with the federal Clean Air Act, 42 U.S.C. 7401 et seq (CAA).

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 324.5503(a) and MCL 324.5512(1).

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 324.5512 requires the department to promulgate rules for, among other things, the purpose of controlling or prohibiting air pollution, complying with the CAA, and establishing suitable emission standards. The proposed rules are necessary to maintain consistency across Michigan's rule parts and references to protocols and guidelines.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

These rules do not conflict with similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level. The proposed changes remove duplication of references contained within R 336.1902.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The subject matter of the rules is referenced in the following Air Quality Division - Emissions Measurements guidance for submitting test plans and reports:

"Format for Submittal of Source Emission Test Plans and Reports November 2019"

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes, the rules are listed in the department's annual regulatory plan as rules to be processed for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed rules do not exceed any regulations, compliance requirements, or other standards adopted by the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The proposed rule changes have been drafted with input from stakeholders and address their concerns as sufficiently as possible while still complying with the requirements outlined in the CAA. The draft rules have been shared with stakeholders consisting of environmental consultants, facility environmental staff, and environmental groups.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules being modified were last added/edited at different times ranging from March 19, 2002, through October 24, 2009. Since then, the federal regulations and guidance, upon which these rules were based, have been revised. The proposed changes will update Michigan's rules accordingly.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, there are not any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No