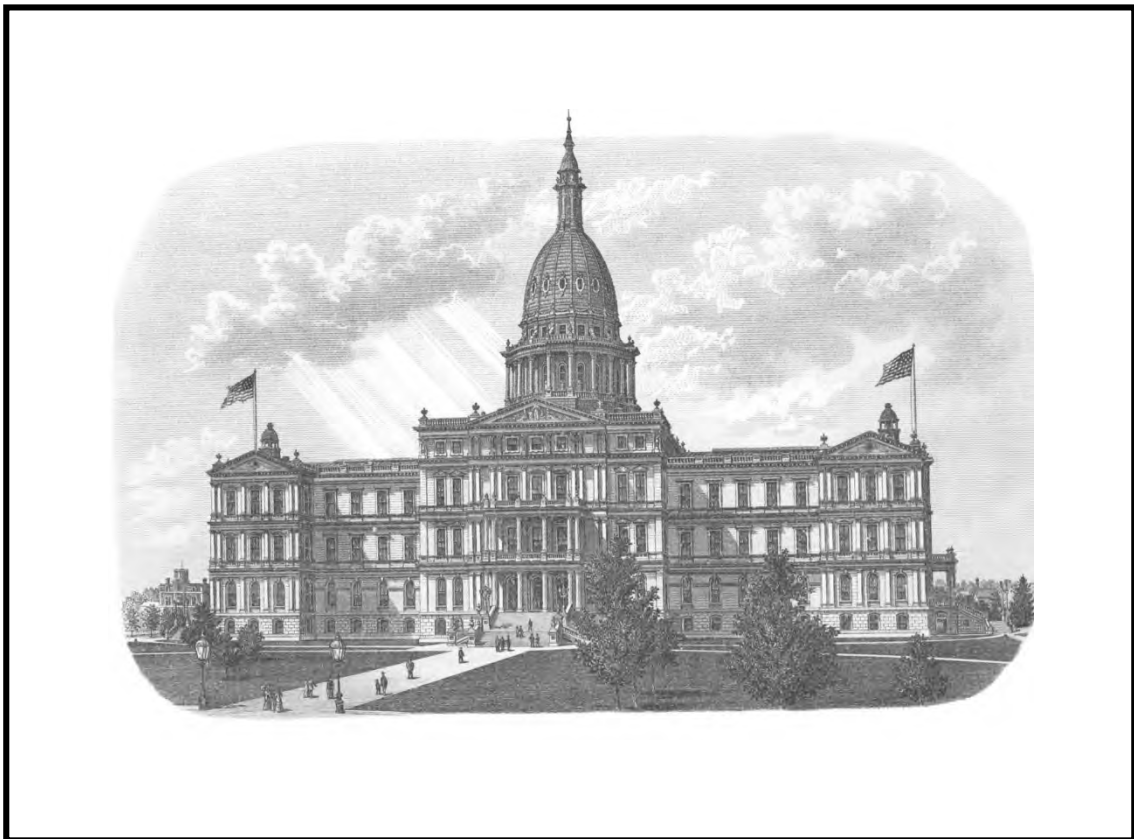


Michigan Register

Issue No. 7 – 2024 (Published May 1, 2024)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



Issue No. 7— 2024

(This issue, published May 1, 2024, contains
documents filed from March 15, 2023 to April 15, 2024)

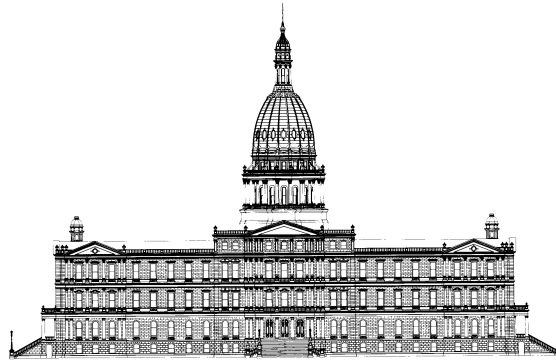
Compiled and Published by the
Michigan Office of Administrative Hearings and Rules

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Printed in the United States of America

Michigan Register (ISSN 0892-3124). Published twice per month, with a cumulative index, by the Michigan Office of Administrative Hearings and Rules, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$400.00 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48909.

Katie Wienczewski, Administrative Rules Division Director, Michigan Office of Administrative Hearings and Rules; Deidre O’Berry, Administrative Rules Specialist for Operations and Publications.

Gretchen Whitmer, Governor



Garlin Gilchrist, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Michigan Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2024 MR 1 refers to the year of issue (2024) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Michigan Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Michigan Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Michigan Office of Administrative Hearings and Rules, Ottawa Building –Second Floor, 611 W. Ottawa Street, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Michigan Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the website of the Michigan Office of Administrative Hearings and Rules – Administrative Rules Division: www.michigan.gov/ard.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Michigan Office of Administrative Hearings and Rules website. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Executive Director,
Michigan Office of Administrative Hearings and Rules

2024 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 1	February 1
2	January 15	February 15
3	February 1	March 1
4	February 15	March 15
5	March 1	April 1
6	March 15	April 15
7	April 1	May 1
8	April 15	May 15
9	May 1	June 1
10	May 15	June 15
11	June 1	July 1
12	June 15	July 15
13	July 1	August 1
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15	August 1	September 1
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17	September 1	October 1
18	September 15	October 15
19	October 1	November 1
20	October 15	November 15
21	November 1	December 1
22	November 15	December 15
23	December 1	January 1
24	December 15	January 15

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**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF ENVIRONMENTAL QUALITY, GREAT LAKES, AND ENERGY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

Filed with the secretary of state on

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. 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 environment, Great Lakes, and energy environmental quality** by sections 5503 and 5512 of **the natural resources and environmental protection act**, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, ~~and~~ 2011-1, **and 2019-1**, MCL 324.99903, 324.99919, ~~and~~ 324.99921, **and 324.99923**)

R 336.1103, R 336.1104, R 336.1113, R 336.1116, R 336.1119, R 336.1120, and R 336.1122 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 336.1103 Definitions; C.

Rule 103. As used in these rules:

(a) "Calendar day" means a 24-hour time period, which normally is midnight to midnight, but ~~which~~ may, upon written notification to the department, cover a different, consecutive 24-hour time period for a specific process.

(b) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(c) "Carcinogen" means ~~any~~ **either** of the following:

(i) ~~Group A—Any substance for which there is sufficient evidence from human epidemiological studies to support a causal association between exposure to the agent and cancer.~~ **Belonging to a category of “carcinogenic to humans,” “likely to be carcinogenic to humans,” or “suggestive evidence of carcinogenic potential” using the weight of evidence narrative approach as described in United States Environmental Protection Agency’s “Guidelines for Carcinogen Risk Assessment” as adopted by reference in R 336.1902.**

(ii) ~~Group B—Any substance for which the weight of evidence of human carcinogenicity based on epidemiological studies is limited evidence or for which the weight of evidence of carcinogenicity based on animal studies is sufficient evidence.~~ **Any chemical that has been determined to be a carcinogen using another generally accepted guideline for carcinogen risk assessment based on sound scientific and defensible evidence.**

~~(iii) Group C — Any substance for which there is limited evidence of carcinogenicity in animals in the absence of human data and which causes a significant increased incidence of benign or malignant tumors in a single, well-conducted animal bioassay.~~

(d) "Charging period," with respect to coke ovens utilizing larry car charging methodology, means the total time taken between the point at which the coal starts flowing into the oven and the point at which the leveling door and the charging holes are closed with their respective lids after the coal from the larry car hoppers is emptied into the oven being charged through the respective charging holes and the coal has been leveled in the oven. "Charging period," with respect to coke ovens utilizing pipeline charging methodology, means the total time taken from the time at which the coal starts flowing into an oven by opening the preheated coal inlet valve to the time at which the coal flow ends when the inlet valve is closed.

(e) "Class II **finishes on hardboard paneling finish**" means a finish that meets the specifications of voluntary product standard PS-59-73, as approved by the American National Standards Institute.

(f) "Clean air act" means chapter 360, 69 stat. 322, 42 ~~USCU.S.C. §§ 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q~~ and regulations promulgated under the clean air act.

(g) "Clean charge" means furnace charge materials, including molten metal; t-bar; sow; ingot; billet; pig; alloying elements; uncoated/ **or** unpainted thermally dried metal chips; metal scrap dried at 343 degrees Celsius, (650 degrees Fahrenheit), or higher; metal scrap delacquered/ **or** decoated at 482 degrees Celsius, (900 degrees Fahrenheit), or higher; other oil and lubricant-free unpainted **or** /uncoated gates and risers; oil and lubricant-free unpainted/ **or** uncoated scrap, shapes, or products, (**pistons** for example, ~~pistons,~~) that have not undergone any process, (for example, machining, coating, painting,) that would cause contamination of the metal (with oils, lubricants, coatings, or paints;) and on-site runaround.

(h) "Clear coating" means a coating ~~which that~~ lacks color and opacity or is transparent and ~~which~~ uses the undercoat as a reflectant base or undertone color.

(i) "Clinical testing of pharmaceuticals" means human or animal health studies **that are** conducted consistent with applicable government regulations, guidelines, or directions for approval of a pharmaceutical product, such as those monitored by the United States ~~f~~Food and ~~d~~Drug ~~a~~Administration for the purpose of determining any of the following with respect to a drug:

- (i) Pharmacological action.
- (ii) Preferred route of administration.
- (iii) Safe dosage range.
- (iv) Optimum dosage schedule.
- (v) Safety and effectiveness.
- (vi) Product label indications.

(j) "Coating category" means a type of surface coating for which there is a separate emission limit specified in these rules.

(k) "Coating line" means an operation ~~which that~~ is a single series in a coating process and ~~which~~ is comprised of 1 or more coating applicators and any associated flash-off areas, drying areas, and ovens wherein 1 or more surface coatings are applied and subsequently dried or cured.

(l) "Coating of automobiles and light-duty trucks" means the application of prime, primer surfacer, topcoat, and final repair to sheet metal and metallic body components during assembly of a vehicle. Examples of these sheet metal and metallic body components include all of the following:

- (i) Bodies.
- (ii) Fenders.
- (iii) Cargo boxes.

(iv) Doors.

(v) Grill openings.

(m) "Coating of cans" means exterior coating and interior spray coating in 2-piece can lines; interior and exterior coating in sheet coating lines for 3-piece cans; side seam spray coating and interior spray coating in can fabricating lines for 3-piece cans; and sealing compound application and sheet coating in end coating lines.

(n) "Coating of coils" means the coating of any flat metal sheet or strip that comes in rolls or coils.

(o) "Coating of fabric" means the application of any type of coating to flat sheets of a textile substrate, including the application of coatings by saturation or impregnation.

~~(p) "Coating of flat wood paneling" means the factory finished coating of flat products which are constructed of wood and which are intended for use as interior paneling. This definition does not apply to the coating of flat wood products intended for use as exterior siding, tileboard, cabinets, or furniture components.~~

(~~pp~~) "Coating of large appliances" means the coating of the component metal parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other associated products. Examples of these component metal parts include all of the following:

(i) Doors.

(ii) Cases.

(iii) Lids.

(iv) Panels.

(v) Interior support parts.

(~~rq~~) "Coating of metal furniture" means the coating of any furniture made of metal and includes the coating of any metal part that is or ~~shall~~**must** be assembled with other metal, wood, fabric, plastic, or glass parts to form a furniture piece.

(~~sr~~) "Coating of paper" means the application of any decorative, functional, or saturation coating applied across the entire width of any flat sheet or pressure-sensitive tape, regardless of substrate, or applied across a partial width of any flat sheet or pressure-sensitive tape, regardless of substrate, if this partial coverage is not considered to be an operation or series of operations that is included in the definition of graphic arts line in R 336.1107(e). These applications and substrates include paper, fabric, or plastic film; related wet-coating processes on plastic film, including typewriter ribbons, photographic film, and magnetic tape; and decorative coatings on metal foil, including gift wrapping and packaging; **paperboard; and pressure sensitive tapes or labels. Coating of paper does not include coatings used in substrate formation within a papermaking system or coatings applied within all printing lines including, but not limited to, those that comply with requirements contained in R 336.1624, R 336.1624a, and R 336.1635.**

(~~ts~~) "Coating of plastic parts of automobiles and trucks" means the coating of any plastic part that is or ~~that~~ **can** be assembled with other parts to form an automobile or truck.

(~~tt~~) "Coating of plastic parts of business machines" means the coating of any plastic part that is or ~~that~~ **can** be assembled with other parts to form a business machine.

(~~vu~~) "Coating of vinyl" means any printing, decorative coating, or protective topcoat applied over vinyl-coated fabric or vinyl rolls or sheets. Coating of vinyl does not include the application ~~of~~ **of** plastisols.

(~~wv~~) "Coke battery" means a series of coke ovens arranged side by side with an integral heating system.

(~~xw~~) "Coke oven" means a chamber in which coal is destructively distilled to yield coke.

(~~yx~~) "Cokeside," with respect to a coke oven, means that side of the coke oven through which coke is discharged.

(zy) "Coking cycle" means the time during which coal undergoes destructive distillation in a coke oven. The coking cycle commences at the end of the charging period and ends at the beginning of the pushing operation, but does not include any decarbonization periods.

(aaz) "Cold cleaner" means a tank containing organic solvent with a volatile organic compound content of 5 % or more, by weight, and at a temperature below its boiling point that is used to spray, brush, flush, or immerse metallic **or plastic, or both metallic and** ~~and/or~~ plastic objects, for the purpose of cleaning or degreasing.

(bbaa) "Commercial location" means a publicly or privately owned place where persons are engaged in the exchange or sale of goods or services and multiple housing units designed for 3 or more families, except for elementary and secondary schools and facilities owned and operated by ~~the state government.~~**this state.** A separate building or group of buildings used for the exchange or sale of goods or services and having a single owner and manager constitutes a separate commercial location.

(eebb) "Completed organic resin" means organic resin solids, solvents, and additives as deliverable for sale or use, including a dry organic resin.

(~~decc~~) "Compliance plan" means a description of the compliance status of a source with respect to all applicable requirements for each process or process equipment as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements.

(ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis.

(iii) For applicable requirements for which the stationary source is not in compliance at the time of permit issuance, a narrative description of how the stationary source will achieve compliance with the requirements.

(eedd) "Component" means 1 of the following, **but does not include a valve that is not externally regulated, that is, a valve that has no external controls and thus does not have the potential to leak a volatile organic compound:**

(i) As it pertains to the provisions of R 336.1622, "component" means any piece of equipment that has the potential to leak a volatile organic compound and includes all of the following:

- (A) Pump seals.
- (B) Compressor seals.
- (C) Seal oil degassing vents.
- (D) Pipeline valves.
- (E) Flanges and other connections.
- (F) Pressure-relief devices.
- (G) Process drains.
- (H) Open ended pipes.

(ii) As it pertains to the provisions of R 336.1628, "component" means all of the following:

- (A) Compressor seals.
- (B) Process valves in light liquid or gaseous volatile organic compound service.
- (C) Pressure-relief valves in gaseous volatile organic compound service.
- (D) Seals of pumps in light liquid service.

(iii) As it pertains to the provisions of R 336.1629, "component" means all of the following:

- (A) Compressor seals.
- (B) Process valves.
- (C) Pressure-relief valves.
- (D) Pump seals.

~~This definition does not include a valve that is not externally regulated, that is, a valve that has no external controls and thus does not have the potential to leak a volatile organic compound.~~

(~~fee~~) "Component in field gas service" means a component that processes, transfers, or contains field gas.

(~~geff~~) "Component in gaseous volatile organic compound service" means a component that processes, transfers, or contains a volatile organic compound in the gaseous phase under actual conditions.

(~~hgg~~) "Component in heavy liquid service" means a component that processes, transfers, or contains heavy liquid.

(~~ihh~~) "Component in light liquid **volatile organic compound** service" means a component that contacts a light liquid containing more than 10% volatile organic compound by weight.

(~~jjii~~) "Component in liquid volatile organic compound service" means a component that processes, transfers, or contains a volatile organic compound in the liquid phase under actual conditions.

(~~kkjj~~) "Condenser" means a device that effects the removal of an air contaminant from an exhaust stream by a physical change of state from a vapor to a liquid or solid form.

(~~Hkk~~) "Control equipment" means air pollution control equipment.

(~~mmll~~) "Conventional air-atomizing spray equipment" means a device that is designed to atomize and direct fluid material solely through the use of compressed air and ~~that~~ is capable of operating at air pressures of more than 10 pounds per square inch.

(~~namm~~) "Conveyorized cold cleaner" means any continuous system that transports **metallic or plastic, or both metallic and plastic** objects through a bath containing organic solvent at a temperature below its boiling point for the purpose of cleaning or degreasing.

(~~oenn~~) "Conveyorized vapor degreaser" means any continuous system that transports metallic objects through or over, or through and over, a bath containing organic solvent that is heated to its boiling point for the purpose of cleaning or degreasing.

(~~pp~~) "~~Cutback paving asphalt" means asphalt cement that has been liquefied by blending with a volatile organic compound and that is used for the purpose of paving or repairing, or paving and repairing, a road surface.~~

(~~qqoo~~) "Cycle of operation," with respect to continuous emission monitoring systems, means the total time a monitoring system requires to sample, analyze, and record an emission measurement.

R 336.1104 Definitions; D.

Rule 104. As used in these rules:

(a) "Decarbonization period," with respect to coke ovens, means the time for combusting carbon formed at the oven roof and in the standpipe assembly. The decarbonization period commences when a charging hole lid or lids or a standpipe lid or lids are removed or opened near the end of the coking cycle and ends with the initiation of the next charging period.

(b) "Delivery vessel" means any tank truck, tank-equipped trailer, railroad tank car, or any similar vessel equipped with a storage tank used for the transport of a volatile organic compound from sources of supply to any stationary vessel.

(c) "Demolition waste material" means waste building materials that result from demolition operations on houses and commercial and industrial buildings.

(d) "Department" means the director of the department of **environment, Great Lakes, and energy** ~~environmental quality or his or her~~ **the director's** designee.

(e) "Difficult-to-monitor component" means a component that can only be monitored by elevating the monitoring personnel more than 6 feet above a support surface.

(f) "**Dispensing facility" means a location where gasoline is transferred to a motor vehicle tank from a stationary vessel.**"~~Dry organic resin" means the organic resin solids from which all liquids have been removed, as deliverable for sale or use.~~

(g) **"Dry organic resin" means the organic resin solids from which all liquids have been removed, as deliverable for sale or use.** ~~"Dispensing facility" means a location where gasoline is transferred to a motor vehicle tank from a stationary vessel.~~

R 336.1113 Definitions; M.

Rule 113. As used in these rules:

(a) "Malfunction" means any sudden, infrequent and not reasonably preventable failure of a source, process, process equipment, or air pollution control equipment to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(b) "Market testing ~~and~~ market development" means the limited or general distribution of a product to the consumer to gather information concerning the demand for the product.

(c) "Material handling equipment," as referenced in table 31 of R 336.1331, means a device, contrivance, or equipment used to bag, blend, convey, crush, grind, load, mill, mix, shed, store, transfer, or unload a physical substance.

(d) "Material recovery equipment" means any equipment utilized in the transport and recovery of styrene monomer and other impurities from other products and by-products in the manufacture of polystyrene resin by continuous process, including the styrene devolatilizer unit and styrene recovery unit.

(e) **"Minus water" means subtraction of water and compounds that are used as organic solvents and excluded from the definition of volatile organic compound.**

(f) "Modify" means making a physical change in, or change in the method of operation of, existing process or process equipment ~~which that~~ increases the amount of any air contaminant emitted into the outer air ~~which that~~ is not already allowed to be emitted under the conditions of a permit or order or ~~which~~ results in the emission of any toxic air contaminant into the outer air not previously emitted. An increase in the hours of operation or an increase in the production rate up to the maximum capacity of the process or process equipment ~~is shall~~ not be considered to be a change in the method of operation unless the process or process equipment is subject to enforceable permit conditions or enforceable orders ~~which that~~ limit the production rate or the hours of operation, or both, to a level below the proposed increase.

(fg) "Motor vehicle" means any self-propelled vehicle registered for, or requiring registration for, use on the highway.

(h) **"Motor vehicle material" means coatings applied to motor vehicles or motor vehicle components at facilities that are not automobile or light-duty truck assembly coating facilities.**

R 336.1116 Definitions; P.

Rule 116. As used in these rules:

(a) "Packaging rotogravure printing" means rotogravure printing ~~upon~~ on a substrate that, in subsequent operations, is formed into a packaging product or label, or both.

(b) "Paint manufacturing" means the grinding or mixing of a combination of pigments, resins, and liquids to produce a surface coating as listed in standard industrial classification code 2851.

(c) "Particulate matter" means any air contaminant existing as a finely divided liquid or solid, other than uncombined water, as measured by a reference test specified in R 336.2004(5) or by an equivalent or alternative method.

(d) "Perchloroethylene dry cleaning equipment" means equipment utilized in the cleaning of fabrics for which perchloroethylene (tetrachloroethylene) is the predominant cleaning medium.

(e) "Performance test" means the taking of a source sample at a stationary source, **by** employing department-approved methods; to determine either of the following:

(i) Compliance with the department's rules, orders, or emission limitations.

(ii) Compliance with the conditions of a permit to install or renewable operating permit.

(f) "Permit to install" means a permit issued by the department authorizing the construction, installation, relocation, or alteration of any process, fuel-burning, refuse-burning, or control equipment in accordance with approved plans and specifications.

(g) "Permit to operate" means a permit issued by the department authorizing the use of any process, fuel-burning, refuse-burning, or control equipment for the period indicated after it has been demonstrated that it can be operated in compliance with these rules. The requirement to obtain a permit to operate was removed from these rules effective July 26, 1995. Permits to operate issued before that date remain ~~in effect~~ **effective** and legally enforceable unless they are voided pursuant to R 336.1201(6).

(h) "Person" means any of the following:

(i) An individual person.

(ii) Trustee.

(iii) Court-appointed representative.

(iv) Syndicate.

(v) Association.

(vi) Partnership.

(vii) Firm.

(viii) Club.

(ix) Company.

(x) Corporation.

(xi) Business trust.

(xii) Institution.

(xiii) Agency.

(xiv) Government corporation.

(xv) Municipal corporation.

(xvi) City.

(xvii) County.

(xviii) Municipality.

(xix) District.

(xx) Other political subdivision, department, bureau, agency, or instrumentality of federal, state, or local government.

(xxi) Other entity recognized by law as the subject of rights and duties.

(i) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal gasification or liquefaction.

(j) "Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or the reforming of unfinished petroleum derivatives.

(k) "PM-10" means particulate matter that has an aerodynamic diameter less than or equal to a nominal 10 micrometers, as measured by a reference test specified in 40 ~~C.F.R.~~ **CFR** part 51, appendix M, adopted by reference in R 336.1902. PM-10 emissions ~~shall~~ **must** include gaseous emissions from a source or activity ~~which that~~ condense to form particulate matter at ambient temperatures. ~~Such~~ **The** condensable particulate matter ~~shall~~ **must** be accounted for in applicability determinations and in establishing emissions limitations for PM-10.

(l) "PM 2.5" means particulate matter that has an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, as measured by a reference test specified in 40 ~~C.F.R.~~ **CFR** part 51, appendix M, adopted by reference in R 336.1902. PM 2.5 emissions ~~shall~~ **must** include gaseous emissions from a source or activity that condense to form particulate matter at ambient temperatures. ~~Such~~ **The**

condensable particulate matter ~~shall~~**must** be accounted for in applicability determinations and in establishing emissions limitations for PM 2.5.

(m) "Potential emissions" means those emissions expected to occur without control equipment, unless this control equipment is, aside from air pollution control requirements, vital to production of the normal product of the source or to its normal operation. Annual potential emissions ~~shall~~**must** be based on the maximum annual-rated capacity of the source, unless the source is subject to enforceable permit conditions or enforceable orders that limit the operating rate or the hours of operation, or both. Enforceable agreements or permit conditions on the type or amount of materials combusted or processed ~~shall~~**must** be used in determining the potential emission rate of a source.

(n) "Potential to emit" means the maximum capacity of a stationary source to emit an air contaminant under its physical and operational design. Any physical or operational limit on the capacity of the stationary source to emit an air contaminant, including air pollution control equipment and restrictions on the hours of operation or the type or amount of material combusted, stored, or processed, ~~shall~~**must** be treated as part of its design only if the limit, or the effect it would have on emissions, is legally enforceable. Secondary emissions ~~shall~~**do not** count in determining the "potential to emit" of a stationary source. For hazardous air pollutants that have been listed pursuant to ~~S~~section 112(b) of the clean air act, **42 USC 7412**, quantifiable fugitive emissions ~~shall~~**must** be included in determining the potential to emit of any stationary source. For all other air contaminants, quantifiable fugitive emissions ~~shall~~**must** be included in determining the "potential to emit" of a stationary source only if the stationary source belongs to 1 of the following categories:

- (i) Coal cleaning plants that have thermal dryers.
- (ii) Kraft pulp mills.
- (iii) Portland cement plants.
- (iv) Primary zinc smelters.
- (v) Iron and steel mills.
- (vi) Primary aluminum ore reduction plants.
- (vii) Primary copper smelters.
- (viii) Municipal incinerators capable of charging more than 50 tons of refuse per day.
- (ix) Hydrofluoric, sulfuric, or nitric acid plants.
- (x) Petroleum refineries.
- (xi) Lime plants.
- (xii) Phosphate rock processing plants.
- (xiii) Coke oven batteries.
- (xiv) Sulfur recovery plants.
- (xv) Carbon black plants that have a furnace process.
- (xvi) Primary lead smelters.
- (xvii) Fuel conversion plants.
- (xviii) Sintering plants.
- (xix) Secondary metal production plants.
- (xx) Chemical process plants. The term chemical process plant does not include ethanol production facilities that produce ethanol by natural fermentation included in North American industrial classification system codes 325193 or 312140.
- (xxi) Fossil fuel boilers, (or combination thereof,) totaling more than 250,000,000 Btu per hour heat input.
- (xxii) Petroleum storage and transfer units that have a total storage capacity of more than 300,000 barrels or petroleum storage vessels that have a capacity of more than 40,000 gallons.
- (xxiii) Taconite ore processing plants.
- (xxiv) Glass-fiber processing plants.

- (xxv) Charcoal production plants.
- (xxvi) Fossil fuel-fired steam electric plants of more than 250,000,000 Btu per hour heat input.
- (xxvii) Asphalt concrete plants.
- (xxviii) Secondary lead smelters and refineries.
- (xxix) Sewage treatment plants.
- (xxx) Phosphate fertilizer plants.
- (xxxi) Ferroalloy production plants.
- (xxxii) Grain elevators.
- (xxxiii) Stationary gas turbines.
- (xxxiv) Stationary sources that are subject to the **Federal National Emission Standards for Hazardous Air Pollutants** ~~federal national emission standards for hazardous air pollutants~~ for the following materials:

- (A) Asbestos.
- (B) Beryllium.
- (C) Mercury.
- (D) Vinyl chloride.
- (o) "PPM" means parts per million, by volume.
- (p) "Printed interior panel" means a panel that has its grain or natural surface obscured by fillers and basecoats and ~~upon~~ **on** which a simulated grain or decorative pattern is printed.
- (q) "Process" means an action, operation, or a series of actions or operations at a source that emits or has the potential to emit an air contaminant. Examples of a "process" include any of the following:
 - (i) A physical change of a material.
 - (ii) A chemical change of a material.
 - (iii) The combustion of fuel, refuse, or waste material.
 - (iv) The storage of a material.
 - (v) The handling of a material.
- (r) "Process equipment" means all equipment, devices, and auxiliary components, including air pollution control equipment, stacks, and other emission points, used in a process.
- (s) "Process unit turnaround" means the scheduled shutdown of a refinery process unit for the purpose of inspection or maintenance of the unit.
- (t) "Production equipment exhaust system" means a device for collecting and removing, from the immediate area, fugitive air contaminants from any process equipment.
- (u) "Psia" means pounds per square inch absolute.
- (v) "Publication rotogravure printing" means rotogravure printing ~~upon~~ **on** a substrate that is subsequently formed into any of the following:
 - (i) Book.
 - (ii) Magazine.
 - (iii) Catalogue.
 - (iv) Brochure.
 - (v) Directory.
 - (vi) Newspaper.
 - (vii) Supplement.
 - (viii) Other type of printed material.
- (w) "Pushing operation," with respect to coke ovens, means the movement of the coke from a coke oven into the coke-receiving car.
- (x) "Pushside," with respect to a coke oven, means that side of the coke oven that is adjacent to the pushing machine.

R 336.1119 Definitions; S.

Rule 119. As used in these rules:

(a) "Schedule of compliance" means, for purposes of R 336.1201 to R 336.1218, all of the following:

(i) For a source not in compliance with all applicable requirements at the time of issuance of a renewable operating permit, a schedule of remedial measures, including an enforceable sequence of actions or operations that specifies milestones, leading to compliance with an applicable requirement, and a schedule for submission of certified progress reports, ~~at least~~ **not less than** every 6 months. The schedule ~~shall~~ **must** resemble, and be ~~at least~~ as stringent as, a schedule contained in a judicial consent decree or administrative order to which the source is subject. A schedule ~~shall~~ **must** be supplemental to, and ~~shall~~ not sanction noncompliance with, the applicable requirement on which it is based.

(ii) For a source in compliance with all applicable requirements at the time of issuance of a renewable operating permit, a statement that the source will continue to comply with the requirements.

(iii) With respect to any applicable requirement that has a future effective compliance date that is after the date of issuance and before the date of expiration of the renewable operating permit, the schedule of compliance ~~shall~~ **must** contain a statement that the source will meet the requirement on a timely basis, unless the underlying applicable requirement requires a more detailed schedule.

(b) "Secondary emissions" means emissions ~~which~~ **that** occur as a result of the construction or operation of a stationary source, but ~~which~~ do not come from the stationary source itself. Secondary emissions include only emissions that are specific, well-defined, quantifiable, and impact the same general area as the stationary source which causes the secondary emissions. Secondary emissions also include emissions from any off-site support facility ~~which~~ **that** would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the stationary source.

Examples of secondary emissions include the following:

(i) Emissions from ships or trains coming to or going from a stationary source.

(ii) Emissions from any off-site support facility that would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the stationary source.

(c) "Secondary risk screening level" means the concentration of a possible, probable, or known human carcinogen in ambient air ~~which has been~~ **that is** calculated, for regulatory purposes, according to the risk assessment procedures in R 336.1229(1), to produce an estimated upper-bound lifetime cancer risk of 1 in 100,000.

(d) "Shutdown" means the cessation of operation of a source for any purpose.

(e) "Significant" means a rate of emissions for the following air contaminants ~~which~~ **that** would equal or exceed any of the following:

(i) Carbon monoxide - 100 tons per year.

(ii) Oxides of nitrogen - 40 tons per year.

(iii) Sulfur dioxide - 40 tons per year.

(iv) Particulate matter - 25 tons per year.

(v) PM-10 - 15 tons per year.

(vi) PM 2.5 - 10 tons per year, 40 tons per year of sulfur dioxide, or 40 tons per year of oxides of nitrogen.

(vii) Volatile organic compounds - 40 tons per year.

(viii) Lead - 0.6 tons per year.

(ix) Fluorides - 3 tons per year.

(x) Sulfuric acid mist - 7 tons per year.

(xi) Hydrogen sulfide - 10 tons per year.

(xii) Total reduced sulfur, including hydrogen sulfide - 10 tons per year.

(xiii) Reduced sulfur compounds, including hydrogen sulfide - 10 tons per year.

(xiv) Municipal waste combustor organics, measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans - 3.2×10^{-6} megagrams per year or 3.2×10^{-6} tons per year.

(xv) Municipal waste combustor metals, measured as particulate matter – 14 megagrams per year or 15 tons per year.

(xvi) Municipal waste combustor acid gases, measured as sulfur dioxide and hydrogen chloride - 36 megagrams per year or 40 tons per year.

(xvii) Municipal solid waste landfill emissions, measured as nonmethane organic compounds - 45 megagrams per year or 50 tons per year.

(f) "Smoke" means small gas and airborne particles consisting essentially of carbonaceous material in sufficient numbers to be observable.

(g) "Sour condensate" means a condensate that emits sour gas at atmospheric pressure.

(h) "Sour crude" means a crude oil that emits sour gas at atmospheric pressure.

(i) "Sour gas" means any gas containing more than 1 grain of hydrogen sulfide or more than 10 grains of total sulfur per 100 standard cubic feet.

(j) "Source sample" means any raw material, fuel, product, by-product, waste material, exhaust gas, air contaminant, flora, soil, or other such material existing as a gas, liquid, or solid, which is captured, retained, or collected from a stationary source.

(k) ~~**Reserved.**"Specific plate collection area" means the ratio of the total collection area to the total gas volume flow rate in square feet per 1,000 actual cubic feet per minute.~~

(l) "Stack" or "chimney" means a flue, conduit, or duct arranged to conduct a gas stream to the outer air.

(m) "Standard conditions" means a gas temperature of 70 degrees Fahrenheit and a gas pressure of 29.92 inches of mercury absolute.

(n) "Standpipe assembly," with respect to coke ovens, means the riser, standpipe lid, and the gooseneck.

(o) "Standpipe assembly emission point," with respect to a coke oven battery equipped with a single collector main or a double collector main, means the flexible connection between the battery top and the base of the riser, the seating surface of the standpipe lid, and the second flexible connection wherever located, or another agreed upon connection that is located between the collector main and the gooseneck. With respect to a battery equipped with a charging main and a gas-offtake main in tandem, "standpipe assembly emission point" means the upper flange, the lower flange, the top lid, the bottom lid, the upper sand seal, the middle sand seal, and the lower base sand seal. With respect to a battery equipped with a jumper pipe ministandpipe, "standpipe assembly emission point" means the flexible connection between the battery top and the base of the riser, the seating surface of the standpipe lid, the flexible connection between the collector main and the gooseneck, the ministandpipe lid, and the flexible connection between the battery top and the jumper pipe ministandpipe.

(p) "Start-up" means the setting in operation of a process or process equipment for any purpose.

(q) "State-only enforceable" means that the limitation or condition is derived solely from the act and the air pollution control rules and is not federally enforceable. State-only enforceable requirements include R 336.1224, R 336.1225, R 336.1901, any permit requirement established solely pursuant to R 366.1201(1)(b), or ~~any other~~ **another** regulation that is enforceable solely under the act and is not federally enforceable.

(r) "Stationary source" means all buildings, structures, facilities, or installations that emit or have the potential to emit 1 or more air contaminants, ~~which~~ are located at 1 or more contiguous or adjacent properties, ~~which~~ are under the control of the same person, and ~~which~~ have the same 2-digit major group code associated with their primary activity. In addition, a stationary source includes ~~any other~~ buildings, structures, facilities, or installations ~~which~~ **that** emit or have the potential to emit 1 or more air contaminants, ~~which~~ are located at 1 or more contiguous or adjacent properties, ~~which~~ are under the

control of the same person, and ~~which~~ have a different 2-digit major group code, but ~~which~~ support the primary activity. Buildings, structures, facilities, or installations, are considered to support the primary activity if 50% or more of their output is dedicated to the primary activity. Major group codes and primary activities are described in the standard industrial classification manual. Notwithstanding the provisions of this subdivision, research and development activities, as described in R 336.1118, may be treated as a separate stationary source, unless the research and development activities support the primary activity of the stationary source.

(s) "Stationary vessel" means any tank, reservoir, or container used for the storage of any volatile organic compound ~~which that~~ is not used to transport ~~such~~ volatile organic compounds and ~~in which~~ no manufacturing process or part thereof takes place.

(t) "Stencil coat" means a coating that is applied over a stencil to a plastic part at a thickness of 1 mil or less of coating solids. Stencil coats are most frequently letters, numbers, or decorative designs.

(u) "Styrene devolatilizer unit" means equipment performing the function of separating unreacted styrene monomer and other volatile components from polystyrene in a vacuum devolatilizer.

(v) "Styrene recovery unit" means equipment performing the function of separating styrene monomer from other less volatile components of the styrene devolatilizer unit's output. The separated styrene monomer may be reused as raw material in the manufacturing of polystyrene resin.

(w) "Submerged fill pipe" means any fill pipe that has its discharge opening entirely submerged when the liquid level is 6 inches above the bottom of the vessel or, when applied to a vessel that is loaded from the side, means either of the following:

(i) Any fill pipe that has its discharge opening entirely submerged when the liquid level is 18 inches above the bottom of the vessel.

(ii) Any fill pipe that has its discharge opening entirely submerged when the liquid level is twice the diameter of the fill pipe above the bottom of the vessel, but ~~in no case shall~~ the top of ~~such the~~ submerged fill pipe **must not** be more than 36 inches above the bottom of the vessel.

(x) "Sufficient evidence," a term of art, means either of the following:

(i) In human epidemiological studies, that the data indicates that there is a causal relationship between the agent and human cancer.

(ii) In animal studies, the data suggests that there is an increased incidence of malignant tumors or combined malignant and benign tumors in any of the following:

(A) Multiple species or strains.

(B) Multiple experiments.

(C) To an unusual degree in a single experiment with regard to high incidence, unusual site or type of tumor, or early age at onset.

(y) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(z) "Surface coating" means any paint, lacquer, varnish, ink, adhesive, or other coating material applied on a surface.

(aa) "Sweet condensate" means any condensate that is not a sour condensate.

(bb) "Sweet crude" means any crude oil that is not a sour crude.

(cc) "Sweetening facility" means a facility or process that removes hydrogen sulfide or sulfur-containing compounds, or both, from a sour gas, sour crude oil, or sour condensate stream and converts it to sweet gas, sweet crude, or sweet condensate. The term "sweetening facility" does not include a facility or process that operates in an enclosed system and does not emit hydrogen sulfide to the outer air.

(dd) "Sweet gas" means any gas that is not a sour gas.

(ee) "Synthetic natural gas" means any manufactured fuel gas of approximately the same composition and ~~BTU value~~**heating value** as that obtained naturally from ~~oil fields~~**geological formations beneath the Earth's surface**.

(ff) "Synthetic organic chemical and polymer manufacturing plant" means a stationary source where the production, as intermediates or final products, of 1 or more of the following chemicals takes place:

- (i) Methyl tert-butyl ether.
- (ii) Polyethylene.
- (iii) Polypropylene.
- (iv) Polystyrene.

(v) Synthetic organic chemicals listed in "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry," 40 C.F.R. part 60, subpart VV, adopted by reference in R 336.1902.

(gg) "Synthetic organic chemical and polymer manufacturing process unit" means all process equipment assembled to manufacture, as intermediates or final products, 1 or more of the chemicals listed in the definition of synthetic organic chemical and polymer manufacturing plant. A synthetic organic chemical and polymer manufacturing process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

R 336.1120 Definitions; T.

Rule 120. As used in these rules:

(a) "Temporary source" means a stationary source, process, or process equipment that commences operation and is located at a geographic site for not more than 12 consecutive months.

(b) "Texture coat" means a coating that is applied to a plastic part which, in its finished form, consists of discrete raised spots of the coating.

(c) "Thin particleboard" means a manufactured board that is 1/4 of an inch or less in thickness and ~~which~~ is made of individual wood particles that have been coated with a binder and formed into flat sheets by pressure.

(d) "Thinning tank," as it pertains to R 336.1631, means any vessel that receives resin from a reactor and to which solvents or other materials are added to thin the resin.

(e) "Tileboard" means paneling that has a colored, waterproof surface coating.

(f) "Toxic air contaminant" ~~or "TAC"~~ means any air contaminant for which there is no national ambient air quality standard and ~~which~~ is or may become harmful to public health or the environment when present in the outdoor atmosphere in sufficient quantities and duration. For the purpose of this definition, ~~all of the following substances shall not be~~ **are not** considered ~~to be~~ toxic air contaminants:

- (i) Acetylene.
- ~~(ii) Aluminum metal dust.~~
- ~~—(iii) Aluminum oxide (nonfibrous forms).~~
- ~~—(iv) Ammonium sulfate.~~

~~(vii)~~ Animal or plant materials, including extracts and concentrates thereof, used as ingredients in food products or dietary supplements in accordance with applicable regulations of the United States Food and ~~d~~**Drug Administration**.

- ~~(viii)~~ Argon.
- ~~(ix)~~ Calcium carbonate.
- ~~(x)~~ Calcium hydroxide.
- ~~(xi)~~ Calcium oxide.
- ~~(xii)~~ Calcium silicate.
- ~~(xiii)~~ Calcium sulfate.
- ~~(xiv)~~ Carbon dioxide.

- (xiii) Carbon monoxide.
- (xiv) Cellulose.
- ~~(xv) Coal dust.~~
- (xvi) Crystalline silica emissions from any of the following processes:
 - (A) Extraction and processing of all metallic or non-metallic minerals.
 - (B) Sand production, processing, and drying.
 - (C) Asphalt production.
 - (D) Concrete production.
 - (E) Glass and fiberglass manufacturing.
 - (F) Foundries.
 - (G) Foundry residual recovery activities.
 - ~~(H) Any other process if the crystalline silica emissions are less than 10% of the total PM-10 emissions.~~

- (xiii) Dipropylene glycol**
- (xiv) Emery (**corundite**).
- (xv) Ethane.
- ~~(xvi) Graphite (synthetic).~~
- ~~(xvii) Grain dust.~~
- ~~(xviii) Helium.~~
- (xix) Hydrogen.
- (xx) Iron oxide.
- (xxi) Lead.
- (xxii) Liquefied petroleum gas (l.p.g.).
- ~~(xxiii) Methane.~~
- (xxiv) Neon.
- (xxv) Nitrogen.
- (xxvi) Nitrogen oxides.
- ~~(xxvii) Nuisance particulates.~~
- ~~(xxviii) Oxygen.~~
- ~~(xxix) Ozone.~~
- (xxx) Perlite.
- ~~(xxxi) Portland cement.~~
- ~~(xxxii) Propane.~~
- (xxxiii) Propylene glycol**
- (xxxiii) Silicon.**
- (xxxiv) Starch.
- (xxxv) Sucrose.
- ~~(xxxvi) Sulfur dioxide.~~
- ~~(xxxvii) Vegetable oil mist.~~
- ~~(xxxviii) Water vapor.~~
- ~~(xxxix) Zinc metal dust.~~

(g) "Toxicological interaction" means the simultaneous exposure to 2 or more hazardous substances **that which together will** produce a toxicological response that is greater or less than **what** their individual responses **would be**.

(h) "Transfer efficiency" means the percentage of coating solids material that leaves the coating applicator and remains on the surface of the product.

(i) "True vapor pressure" means the equilibrium partial pressure exerted by a liquid or the sum of partial pressures exerted by a mixture of liquids. For refined petroleum stock, **such as** gasolines and

naphthas,) and crude oil, the "true vapor pressure" may be determined in accordance with methods described in American petroleum institute MPMS C19 S2, "Manual of Petroleum Measurement Standards, Chapter 19, Evaporative Loss Measurements, Section 2, Evaporative Loss ~~From~~ **from** Floating-Roof Tanks," adopted by reference in R 336.1902.

R 336.1122 Definitions; V.

Rule 122. As used in these rules:

(a) "Vacuum-metalizing coatings" means topcoats and basecoats that are used in the vacuum-metalizing process.

(b) "Vacuum-producing system" means any device that creates a pressure below atmospheric, such as a pump or steam ejector with condenser, including hot wells and accumulators.

(c) "Vapor collection system," as it pertains to R 336.1627, means all piping, seals, hoses, connections, pressure-vacuum vents, and ~~any other~~ equipment between and including the delivery vessel and a stationary vessel, vapor processing unit, or vapor holder.

(d) [Reserved]

(e) "Visible emission" means any emissions that are visually detectable without the aid of instruments.

(f) "Volatile organic compound" means any compound of carbon or mixture of compounds of carbon that participates in photochemical reactions, excluding the following materials, all of which have been determined by the United States ~~E~~environmental ~~P~~rotection ~~A~~gency to have negligible photochemical reactivity:

(i) Carbon monoxide (CAS No. 630-08-0).

(ii) Carbon dioxide (CAS No. 124-38-9).

(iii) Carbonic acid (CAS No. 463-79-6).

(iv) Metallic carbides or carbonates (CAS No. not applicable).

(v) Boron carbide (CAS No. 12069-32-8 or 60063-34-5).

(vi) Silicon carbide (CAS No. 409-21-2 or 12327-32-1).

(vii) Ammonium carbonate (CAS No. 10361-29-2 or 506-87-6).

(viii) Ammonium bicarbonate (CAS No. 1066-33-7).

(ix) Methane (CAS No. 74-82-8).

(x) Ethane (CAS No. 74-84-0).

(xi) The methyl chloroform (CAS No. 71-55-6) portion of commercial grades of methyl chloroform, if all of the following provisions are complied with:

(A) The commercial grade of methyl chloroform is used only in a surface coating or coating line that is subject to the requirements part 6 or 7 of these rules.

(B) The commercial grade of methyl chloroform contains no stabilizers other than those listed in table 11.

(C) Compliance with the applicable limits specified in parts 6 or 7 of these rules is otherwise not technically or economically reasonable.

(D) All measures to reduce the levels of all organic solvents, including the commercial grade of methyl chloroform, from the surface coating or coating line to the lowest reasonable level, ~~will be~~ **are** implemented.

(E) The emissions of the commercial grade of methyl chloroform do not result in a maximum ambient air concentration exceeding any of the allowable ambient air concentrations listed in table 11.

(F) The use of the commercial grade of methyl chloroform is specifically identified and allowed by a permit to install, permit to operate, or order of the department.

(G) Table 11 reads as follows:

TABLEable 11.

Commercial Grade of Methyl Chloroform -- Allowable Ambient Air Concentrations

Compound	Ppm ¹	Time ²
Methyl chloroform	3.5	1 hour
Tertiary butyl alcohol ³	1.0	1 hour
Secondary butyl alcohol ³	1.0	1 hour
Methylal ³	10.0	1 hour
1,2-butylene oxide ³	0.028 and 0.00041	1 hour annual

¹ Parts per million, by volume

² Averaging time period

³ This compound is a stabilizer

(xii) The methyl chloroform (**CAS No. 71-55-6**) portion of commercial grades of methyl chloroform that contain ~~any other~~ **another** stabilizer not listed in table 11 of this rule, if all of the following provisions are complied with:

(A) The commercial grade of methyl chloroform is used only in a surface coating or coating line that is subject to the requirements of parts 6 or 7 of these rules.

(B) Compliance with the applicable limits specified in parts 6 or 7 of these rules is otherwise not technically or economically reasonable.

(C) All measures to reduce the levels of all organic solvents, including the commercial grade of methyl chloroform, from the surface coating or coating line to the lowest reasonable level ~~will be~~ **are** implemented.

(D) The emissions of any compound in the commercial grade of methyl chloroform that is listed in table 11 of this rule do not result in a maximum ambient air concentration exceeding any of the allowable ambient air concentrations listed in table 11.

(E) The emission of all compounds in the commercial grade of methyl chloroform that are not listed in table 11 is demonstrated to comply with R 336.1901.

(F) The use of the commercial grade of methyl chloroform is specifically identified and allowed by a permit to install, permit to operate, or order of the department.

(xiii) Acetone (**CAS No. 67-64-1**).

(xiv) Cyclic, branched, or linear completely methylated siloxanes (**CAS Nos. include 107-45-0, 107-51-7, 141-62-8, 141-63-9, 107-63-9, 63148-62-9, 541-05-9, 556-67-2, 541-02-6, 540-97-6, 69430-24-6, 17928-28-8, 3555-47-3**).

(xv) Parachlorobenzotrifluoride (**CAS No. 98-56-6**).

(xvi) Perchloroethylene (**CAS No. 127-18-4**).

(xvii) Trichlorofluoromethane (CFC-11) (**CAS No. 75-69-4**).

(xviii) Dichlorodifluoromethane (CFC-12) (**CAS No. 75-71-8**).

(xix) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113) (**CAS No. 76-13-1**).

(xx) 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114) (**CAS No. 76-14-2**).

(xxi) Chloropentafluoroethane (CFC-115) (**CAS No. 76-15-3**).

(xxii) 1,1-dichloro 1-fluoroethane (HCFC-141b) (**CAS No. 1717-00-6**).

(xxiii) 1,1-chloro 1,1-difluoroethane (HCFC-142b) (**CAS No. 75-68-3**).

(xxiv) Chlorodifluoromethane (HCFC-22) (**CAS No. 75-45-6**).

(xxv) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123) (**CAS No. 306-83-2**).

- (xxvi) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124) (CAS No. 2837-89-0).
- (xxvii) Trifluoromethane (HFC-23) (CAS No. 75-46-7).
- (xxviii) Pentafluoroethane (HFC-125) (CAS No. 354-33-6).
- (xxix) 1,1,2,2-tetrafluoroethane (HFC-134) (CAS No. 359-35-3).
- (xxx) 1,1,1,2-tetrafluoroethane (HFC-134a) (CAS No. 811-97-2).
- (xxxi) 1,1,1-trifluoroethane (HFC-143a) (CAS No. 420-46-2).
- (xxxii) 1,1-difluoroethane (HFC-152a) (CAS No. 75-37-6).
- (xxxiii) 3,3-dichloro-1, 1,1,2,2-pentafluoropropane (HCFC-225ca) (CAS No. 422-56-0).
- (xxxiv) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb) (CAS No. 507-55-1).
- (xxxv) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee) (CAS No. 138495-42-8).
- (xxxvi) Difluoromethane (HFC-32) (CAS No. 75-10-5).
- (xxxvii) Ethyl fluoride (HFC-161) (CAS No. 353-36-6).
- (xxxviii) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa) (CAS No. 690-39-1).
- (xxxix) 1,1,2,2,3-pentafluoropropane (HFC-245ca) (CAS No. 679-86-7).
- (xl) 1,1,2,3,3- pentafluoropropane (HFC-245ea) (CAS No. 24270-66-4).
- (xli) 1,1,1,2,3- pentafluoropropane (HFC-245eb) (CAS No. 431-31-2).
- (xlii) 1,1,1,3,3- pentafluoropropane (HFC-245fa) (CAS No. 460-73-1).
- (xliii) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea) (CAS No. 431-63-0).
- (xliv) 1,1,1,3,3-pentafluorobutane (HFC365mfc) (CAS No. 406-58-6).
- (xlv) Chlorofluoromethane (HCFC-31) (CAS No. 593-70-4).
- (xlvi) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a) (CAS No. 354-23-4).
- (xlvii) 1-chlor-1-fluoroethane (HCFC-151a) (CAS No. 1615-75-4).
- (xlviii) 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃ or HFE-7100) (CAS No. 163702-07-6).
- (xlix) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane (CAS No. 163702-08-7).
- (l) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅ or HFE-7200) (CAS No. 163702-05-4).
- (li) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane (CAS No. 163702-06-5).
- (lii) Methyl acetate (CAS No. 79-20-9).
- (liii) Perfluorocarbon compounds that fall into the following classes:
- (A) Cyclic, branched, or linear, completely fluorinated alkanes.
 - (B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
 - (C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
 - (D) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- (liv) Methylene chloride (CAS No. 75-09-2).
- (lv) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃, HFE-7000) (CAS No. 375-03-1).
- (lvi) 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE 7500) (CAS No. 297730-93-9).
- (lvii) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea) (CAS No. 431-89-0).
- (lviii) Methyl formate (HCOOCH₃) (CAS No. 107-31-3).
- (lix) T-butyl acetate (CAS No. 540-88-5).
- (lx) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300) (CAS No. 132182-92-4).
- (lxi) Dimethyl carbonate (CAS No. 616-38-6).
- (lxii) Propylene carbonate (CAS No. 108-32-7).
- (lxiii) 2,3,3,3-tetrafluoropropene (HFO–1234yf) (CAS No. 754-12-1).
- (lxiv) Trans-1,3,3,3-tetrafluoropropene (HFO–1234ze) (CAS No. 29118-24-9).
- (lxv) HCF₂OCF₂H (HFE-134) (CAS No. 1691-17-4).

- (lxvi) HCF₂OCF₂OCF₂H (HFE-236cal2) (CAS No. 78522-47-1).
- (lxvii) HCF₂OCF₂CF₂OCF₂H (HFE-338pcc13) (CAS No. 188690-78-0).
- (lxviii) HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040X or H-Galden ZT 130 (or 150 or 180)) (CAS No. 188690-77-9).
- (lix) Trans 1-chloro-3,3,3-trifluoroprop-1-ene (Solstice™ 1233zd(E)) (CAS No. 102687-65-0).
- (lxx) 2-amino-2-methyl-1-propanol (AMP) (CAS No. 124-68-5).
- (lxxi) 1,1,2,2-Tetrafluoro-1,-(2,2,2-trifluoroethoxy) ethane (HFE-347pcf2) (CAS No. 406-78-0).
- (lxxii) cis-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz-Z) (CAS No. 692-49-9).
- (lxxiii) trans-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz(E)) (CAS No. 66711-86-2).

The methods described in R 336.2004 and R 336.2040 ~~shall~~**must** be used for measuring volatile organic compounds for purposes of determining compliance with emission limits. Where ~~such~~ a method also measures compounds with negligible photochemical reactivity, these negligibly-photochemical reactive compounds may be excluded as volatile organic compounds if the amount of ~~such~~ **the** compounds is accurately quantified and ~~such~~ **the** exclusion is approved by the department.

NOTICE OF PUBLIC HEARING

Department of Environment, Great Lakes and Energy
Air Quality Division
Administrative Rules for Part 1. General Provisions
Rule Set 2023-11 EQ

NOTICE OF PUBLIC HEARING
Wednesday, May 22, 2024
01:00 PM

In Person: Ford Conference Room, 2nd Floor, South Tower, Constitution Hall, 525 West Allegan Street,
Lansing, MI 48933

Virtual: <https://bit.ly/3wZt1VQ> To join by phone: 636-651-3142, conference code 374288

The Department of Environment, Great Lakes and Energy will hold a public hearing to receive public comments on proposed changes to the Part 1. General Provisions rule set.

The Part 1 proposed rule set will revise and add additional definitions needed to support revisions done in subsequent rule parts developed to fulfill the federal Clean Air Act, 42 USC 7401 et seq. The proposed rules add additional definitions to further support and clarify the Michigan Air Pollution Control Rules, as well as revise existing definitions for “Carcinogens” and exemptions for “Volatile organic compounds” and “Toxic air contaminant” definitions to align with the United States Environmental Protection Agency’s regulatory definitions and toxics research findings.

By authority conferred on the director of the department of Environment, Great Lakes, and Energy by sections 5503 and 5512 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, 2011-1, and 2019 -1, MCL 324.99903, 324.99919, 324.99921, and 324.99923.

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at www.michigan.gov/ARD and in the 5/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: VaertenM@Michigan.gov.

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 5/22/2024 at 05:00PM.

Marissa Vaerten

P.O. Box 30260, Lansing, MI 48909-7760

VaertenM@Michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-599-1938 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

Filed with the secretary of state on

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. 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 environment, Great Lakes, and energy by sections 5503 and 5512 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, **2011-1**, and **2011-9-1**, MCL 324.99903, 324.99919, ~~and~~ 324.99921, **and 324.99923**)

R 336.1801, R 336.1802, R 336.1803, R 336.1810, and R 336.1818 of the Michigan Administrative Code are amended, and R 336.1840, R 336.1841, R 336.1842, R 336.1843, R 336.1844, R 336.1845, and R 336.1846 are added, as follows:

PART 8. EMISSION LIMITATIONS AND PROHIBITIONS - OXIDES OF NITROGEN

R 336.1801 Emission of oxides of nitrogen (NO_x) from non-SIP call stationary sources.

Rule 801. (1) As used in this rule:

- (a) "Btu" means a British thermal unit.
- (b) "Capacity factor" means either of the following:
 - (i) The ratio of a unit's actual annual electric output, expressed in megawatt hour, to the unit's nameplate capacity times 8,760 hours.
 - (ii) The ratio of a unit's annual heat input, expressed in million Btu or equivalent units of measure, to the unit's maximum design heat input, expressed in million Btus per hour or equivalent units of measure, times 8,760 hours.
- (c) "Electricity-generating utility unit" means a unit that produces electricity for sale.
- (d) "Fossil fuel-fired" means the actual combustion of fossil fuel, which includes coke oven gas, alone or in combination with ~~another any other~~ fuel, where either of the following quantities are greater than 50% on an annual basis:
 - (i) Sum of the mass of fossil fuels combusted divided by the total mass of all fuels combusted.
 - (ii) Sum of the annual heat inputs for fossil fuels combusted divided by the total heat input for all fuels combusted. Annual heat inputs are on a Btu basis.
- (e) "Low-NO_x burners" means 1 of several developing combustion technologies used to minimize the formation of emissions of nitrogen oxides. -As applicable to cement kilns, low-NO_x burners means a type of cement kiln burner system designed to minimize (NO_x) formation by controlling flame turbulence, delaying fuel/air mixing, and establishing fuel-rich zones for initial combusting, that for firing of solid fuel in the burning end zone of a kiln's main burner includes an indirect firing system or comparable technique for the main burner in the burning end zone of the kiln to minimize the amount of primary air supplied through the burner. In an indirect firing system, 1 air stream is used to convey pulverized fuel from the grinding equipment and at least 1 or more other air streams are used to supply primary air to the burning end zone kiln burner of the kiln with the pulverized fuel, with intermediate storage of the fuel, and necessary safety and explosion prevention systems associated with the intermediate storage of fuel.
- (f) "Mid-kiln system firing" means the secondary firing in a kiln system by injecting solid fuel at an intermediate point in the kiln system using a specially designed heat injection mechanism for the purpose of decreasing NO_x emissions through coal burning part of the fuel at lower temperatures and reducing conditions at the fuel injection point that may destroy some of the NO_x.
- (g) "Non-SIP call source" means any stationary source of NO_x emissions that is not a NO_x budget source subject to R 336.1802.

- (h) "NOx" means oxides of nitrogen.
- (i) "Ozone control period" means the period of May 1 through September 30.
- (j) "Peaking unit" means an electricity-generating utility unit that has an average capacity factor of not more than 10% during the previous 3 calendar years and a capacity factor of not more than 20% in each of those calendar years.
- (k) "Process heater" means any combustion equipment which is fired by a liquid fuel or a gaseous fuel, or both, and which is used to transfer heat from the combustion gases to a process fluid, superheated steam, or water.
 - (l) "SIP" means state implementation plan.
 - (m) "Unit" means a fossil fuel-fired combustion device.
- (2) Except as provided in subrule (11) of this rule, any fossil fuel-fired unit that meets both of the following requirements is subject to this rule:
 - (a) A unit that has the potential to emit more than 25 tons of NOx each ozone control period.
 - (b) A unit that has a maximum rated heat input capacity of more than 250 million Btu, per hour.
- (3) An owner or operator of an emission unit subject to this rule shall comply with the following provisions, as applicable:
 - (a) An owner or operator of a fossil fuel-fired, electricity-generating utility unit that serves a generator that has a nameplate capacity of less than 25 megawatts shall comply with the appropriate NOx emission limit in table 81 of this rule.
 - (b) An owner or operator of a fossil fuel-fired boiler or process heater shall meet the emission limits contained in table 81 of this rule.
 - (c) An owner or operator of a gas-fired boiler or process heater that fires gaseous fuel that contains more than 50% hydrogen by volume shall comply with an NOx emission limit of 0.25 pounds per million Btu heat input.
 - (d) An owner or operator of a stationary internal combustion engine that is subject to the provisions of this rule and has a maximum rated heat input capacity that is the heat input at 80 degrees Fahrenheit at sea level and takes into account inlet and exhaust losses shall comply with the following NOx emission limits, as applicable:
 - (i) For a natural gas-fired stationary internal combustion engine - 14 grams of NOx per brake horsepower hour at rated output.
 - (ii) For a diesel-fired stationary internal combustion engine - 10 grams of NOx per brake horsepower hour at rated output.
 - (e) An owner or operator of a cement kiln that is subject to the provisions of this rule shall reduce kiln NOx emissions by any of the following methods:
 - (i) Low-NOx burners.
 - (ii) Mid-kiln system firing.
 - (iii) A 25% rate-based reduction of NOx from 1995 levels. Compliance with this paragraph is based on calculations showing that the emission rate, on a pounds of NOx per ton of clinker produced basis, during each compliance ozone control period, has been reduced below the 1995 ozone control period emission rate by 25%.
 - (f) An owner or operator of a stationary gas turbine that is subject to the provisions of this rule and which has a maximum rated heat input capacity that is the heat input at 80 degrees Fahrenheit at sea level and takes into account inlet and exhaust losses shall comply with an emission limit of 75 parts per million, dry volume, corrected to 15% oxygen, at rated capacity.
- (4) The method for determining compliance with the emission limits in subrule (3) of this rule is as follows:
 - (a) If the emission limit is in the form of pounds of NOx per million Btu, then the unit is in compliance if the sum of the mass emissions from the unit that occurred during the ozone control period, divided by the sum of the heat input from the unit that occurred during the ozone control period, is less than or equal to the limit in subrule (3) of this rule.
 - (b) For an emission unit not subject to subdivision (a) of this subrule, the method for determining compliance ~~shall~~**must** be a method acceptable to the department.
- (5) The owner or operator of a boiler, process heater, stationary internal combustion engine, stationary gas turbine, cement kiln, or ~~another any other~~ stationary emission unit that is subject to the provisions of subrule (3) of this rule shall measure NOx emissions by any of the following:
 - (a) Performance tests described in subrule (6) of this rule.
 - (b) Through the use of a continuous emission monitor in accordance with the provisions of subrule (8) of this rule.
 - (c) According to a schedule and using a method acceptable to the department.
- (6) An owner or operator of an emission unit that measures NOx emissions by performance tests as specified in subrule (5) of this rule shall do all of the following:
 - (a) Conduct an initial performance test not later than 90 days after the compliance deadline. For an emission unit that is not in service ~~on or~~ after the compliance deadline, the owner or operator shall contact the department and schedule an alternate initial performance test as agreed to by the department.
 - (b) After the initial performance test, conduct a compliance performance test each ozone control period or according to the following schedule:
 - (i) After 2 consecutive ozone control periods in which the emission unit demonstrates compliance, an owner or operator shall conduct performance tests at least once every 2 years during the ozone control period.
 - (ii) After a total of 4 consecutive ozone control periods in which the emission unit has remained in compliance, an owner or operator shall conduct performance tests at least once every 5 years during the ozone control period.

(c) If an emission unit is not in compliance at the end of an ozone control period, then the owner or operator shall conduct a compliance performance test each ozone control period, but may elect to use the alternative schedule specified in subdivision (b) of this subrule.

(d) An owner or operator shall submit 2 copies of each compliance performance test to the department within 60 days after completing the testing. The test results must be presented and include data as requested in the department format for submittal of source emission test plans and reports. All performance test reports must be kept on file at the plant and made available to the department upon request.

(7) An owner or operator of an emission unit that is required to conduct performance testing under subrule (5) of this rule shall submit a test plan to the department, not less than 30 days before the scheduled test date. To ensure proper testing, the plan must supply the information in the department format for submittal of source emission test plans and reports. The owner or operator shall give the department a reasonable opportunity to witness the tests.

(8) An owner or operator of an emission unit that measures NO_x emissions by a continuous emission monitoring system or an alternate method, as specified in subrule (5) of this rule, shall do either of the following:

(a) Use the procedures set forth in 40 CFR part 60, subpart A and appendix B, adopted by reference in R 336.1902 and comply with the quality assurance procedures in part 60, appendix F, adopted by reference in R 336.1902 or 40 CFR part 75, adopted by reference in R 336.1902 and associated appendices, as applicable and acceptable to the department.

(b) Use a previously installed continuous emission monitoring system to demonstrate compliance with this rule as long as the previously installed continuous emission monitoring system monitors NO_x pursuant to other applicable federal, state, or local rules, meets the installation, testing, operation, calibration, and reporting requirements specified by those federal, state, or local rules, and is acceptable to the department.

(9) The owner or operator of an emission unit that is subject to this rule shall submit a summary report, in an acceptable format, to the department within 60 days after the end of each ozone control period. The report must include all of the following information:

(a) The date, time, magnitude of emissions, and emission rates where applicable, of the specified emission unit.

(b) If emissions or emission rates exceed the emissions or rates allowed for in the ozone control period by the applicable emission limit, the cause, if known, and any corrective action taken.

(c) The total operating time of the emission unit during the ozone control period.

(d) For continuous emission monitoring systems, system performance information ~~shall~~**must** include the date and time of each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments. When the continuous monitoring system has not been inoperative, repaired, or adjusted, the information must be stated in the report.

(10) Table 81 reads as follows:

TABLE 81

Boilers and process heaters with heat input capacity of 250 million Btu or more NO _x emission limitations (pounds NO _x per million Btu of heat input averaged over the ozone control period)	
Fuel type	Emission limit
Natural gas	0.20
Distillate oil	0.30
Residual oil	0.40
Coal	
(1) Coal spreader stoker	0.40
(2) Pulverized coal fired	0.40
Gas (other than natural gas) ¹	0.25

For units operating with a combination of gas, oil, or coal, a variable emission limit calculated as the heat input weighted average of the applicable emission limits must be used. The emission limit is determined as follows:

$$\text{Emission limit} = a(0.20) + b(\text{applicable oil limit}) + c(\text{applicable coal limit}) + d(0.25)$$

Where:

- a = Is the percentage of total heat input from natural gas
- b = Is the percentage of total heat input from oil
- c = Is the percentage of total heat input from coal
- d = Is the percentage of total heat input from gas (other than natural gas)

¹ This may include a mixture of gases. In this case, natural gas may be part of the mixture.

(11) The provisions of this rule do not apply to the following emission unit or units:

(a) A unit that is subject to NOx standards or a NOx federal trading programs that ~~have~~ **has** been promulgated in **any of the following**:

(i) ~~a~~ Federal implementation plans under section 110(c) of the clean air act, 42 USC 7410.

(ii) **A federal implementation plan** required under section 126 of the clean air act, 42 USC 7426. ~~or.~~

(iii) ~~promulgated in a~~ Federal regulations under 40 CFR part 51, ~~part 60,~~ or part 97.

(iv) **Federal regulations under 40 CFR part 60, which are equally stringent or more stringent than this rule.**

(b) A unit that is subject to ~~another any other~~ rule included in this part.

(c) A peaking unit. The owner or operator shall retain records of capacity for a period of 5 years demonstrating that the unit meets the definition of a peaking unit. The unit becomes subject to the provisions of this rule on January 1 of the year following failure to meet the peaking unit definition.

(d) A stationary gas turbine that is subject to a new source performance standard contained in 40 CFR part 60, subpart GG or KKKK, adopted by reference in R 336.1902.

R 336.1802 Applicability under ~~the~~ oxides of nitrogen (NOx) budget ~~trading~~ program.

Rule 802. (1) This rule establishes the applicability for ~~a~~ NOx budget **units program** as described in these rules. Except as provided in subrule (2) of this rule, units that meet all of the following requirements are NOx budget units and are subject to the requirements of this rule and R 336.1810:

(a) Units that meet the definition of a NOx budget unit ~~as defined in R 336.1803(e).~~

(b) Units that are located in the Michigan fine grid zone.

(2) A unit described in subrule (1) of this rule is not a NOx budget unit, if the unit has a federally enforceable permit that includes the following requirements, **terms, and restrictions**:

(a) A restriction on the unit to burn only natural gas or fuel oil during ozone control periods.

(b) A restriction of the unit's operation during each ozone control period by 1 of the following methods such that the unit's potential NOx mass emissions for the ozone control period are limited to 25 tons or less:

(i) By restricting the mass emissions to 25 tons or less of NOx as measured by a certified **CEMS continuous emission monitoring system** in accordance with 40 CFR 75.70 to 75.75, or, alternatively, 40 CFR 60.13, adopted by reference in R 336.1902.

(ii) By restricting the unit's operating hours to no more than the number calculated by dividing 25 tons of potential ~~NOx~~ NOx mass emissions by the unit's maximum potential hourly ~~NOx~~ NOx mass emissions. The maximum potential hourly ~~NOx~~ NOx mass emissions are determined by multiplying a rate in either subparagraph (A) or (B) of this paragraph by the value in subparagraph (C) of this paragraph:

(A) The default ~~NOx~~ NOx emission rate in 40 CFR 75.19, table LM-2, that would otherwise be applicable assuming that the unit burns only the type of fuel, for example, only natural gas or fuel oil, that has the highest default ~~NOx~~ NOx emission factor of any type of fuel that the unit is allowed to burn under the fuel use restriction in subdivision (a) of this subrule.

(B) The maximum ~~NOx~~ NOx emission rate established in accordance with 40 CFR 75.19(c)(1)(iv), which is adopted by reference in R 336.1902.

(C) The unit's maximum rated hourly heat input. The owner or operator of the unit may petition the department to use a lower value for the unit's maximum rated hourly heat input than the value as defined ~~in R 336.1803(k).~~ The department may approve the lower value if the owner or operator demonstrates that the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative, and that the lower value is

representative of the unit's current capabilities because modifications have been made to the unit limiting its capacity permanently.

(iii) By restricting the amount of fuel that can be used based on total heat input by dividing 25 tons by a NO_x mass emission rate in either subparagraph (A) or (B) of paragraph (ii) of this subdivision and multiplying by the fuel heat content using the highest default gross calorific value under **40 CFR 75.19**, table LM-5, and using a billing fuel flow meter ~~to determine the quantity of fuel being used~~ or other fuel flow monitoring method device approved by ~~AQD~~ **the department to determine the quantity of fuel being used**. Title 40 CFR part 75 is adopted by reference in R 336.1902.

(c) A requirement that the owner or operator of the unit shall retain records on site for a period of 5 years. The records must show hours of operation for units with the operating hours restriction, volumes of fuel burned and maximum default gross calorific values for units with the heat input restriction, ~~CEMS continuous emission monitoring system~~ data for units with the ~~CEMS continuous emission monitoring system~~ exemption, and all other information necessary to demonstrate that requirements of the permit related to these restrictions were met.

(d) A requirement that the owner or operator of the unit shall report the unit's hours of operation, heat input, or ~~CEMS continuous emission monitoring system~~ measured NO_x emissions to the department by November 1 of each year for which the unit is subject to the federally enforceable permit incorporating the provisions of ~~R 336.1802(2)~~ **this subrule**. If the hours of operation are required to be reported, the owner or operator shall treat any partial hour of operation as a whole hour of operation.

(3) The department shall notify the ~~United States Environmental Protection Agency, USEPA~~, in writing, within 30 days ~~after~~ of either of the following scenarios:

- (a) A unit is issued a federally enforceable permit under subrule (2) of this rule.
- (b) Any of the following provisions apply to a unit's federally enforceable permit previously issued by the department under subrule (2) of this rule:
 - (i) The permit is revised to remove any restriction established pursuant subrule (2) of this rule.
 - (ii) The permit includes any restriction established pursuant to subrule (2) of this rule that is no longer applicable.
 - (iii) The permit conditions do not comply with any restriction.
- (4) A unit ~~shall~~ **must** be treated as commencing operation, on September 30 of the ozone control period in which either of the following conditions apply:
 - (a) The fuel use restriction, operating hours, or emissions restriction is no longer applicable.
 - (b) The unit does not comply with the fuel use restriction, operating hours, or emissions restriction.

R 336.1803 Definitions for the oxides of nitrogen (NO_x) budget program.

Rule 803. As used in R 336.1802 to R 336.1810:

- (a) "Administrator" means, for purposes of complying with reporting requirements in this part, both of the following:
 - (i) The ~~United States Environmental Protection Agency, USEPA~~ for sources using 40 CFR part 75 monitoring requirements to comply.
 - (ii) The department of ~~environment, Great Lakes, and energy~~, for sources using 40 CFR part 60 or alternative monitoring requirements to comply.
- (b) "Benchmark apportionment" means a point of reference against which the ozone control period NO_x emissions from a NO_x budget source ~~affected unit~~ will be compared ~~to~~ if the state exceeds its ozone season budget of 2,209 tons.
- (c) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in R 336.1802(2) for a unit that is a NO_x budget unit under R 336.1802(1) on the date of commencement of operation, the date remains the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in R 336.1802(2), for a unit that is not a NO_x budget unit under R 336.1802(1) on the date of commencement of operation, the date the unit becomes a NO_x budget unit under R 336.1802(1) is the unit's date of commencement of operation.
- (d) "Continuous Emission Monitoring System" ~~(CEMS)~~ means the equipment used to sample, analyze, measure, and provide, by means of readings taken at least once every 15 minutes, using an automated data acquisition and handling system, ~~(DAHS)~~, a permanent record of NO_x ~~emissions~~ **emission rate**, stack gas volumetric flow rate or stack gas moisture content, as applicable, in a manner consistent with 40 CFR part 75 or 40 CFR part 60, appendices B and F, as applicable.
- (e) "Department" means the department of environment, Great Lakes, and energy.
- (f) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the NO_x authorized account representative or responsible official.
- ~~(g) "EPA" means the United States environmental protection agency.~~
- ~~(h) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from natural gas, petroleum, or coal.~~
- ~~(h) "Generator" means a device that produces electricity.~~
- ~~(i) "Heat input" means, with regard to a specified period to time, the product, in million Btu/time, of the gross calorific value of the fuel, in Btu/pound, divided by 1,000,000 Btu/million Btu and multiplied by the fuel feed rate into a combustion~~

device, in pounds of fuel/time, as measured, recorded, and reported to the administrator by the NOx authorized account representative or responsible official. Heat input does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(j) “Life-of-the-unit, firm power contractual arrangement” means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit, and pays its proportional amount of such unit’s total costs, pursuant to a contract for the duration of 1 of the following:

(i) The life of the unit.

(ii) A cumulative term of no less than 30 years, including contracts that allow an election for early termination.

(iii) A period equal to or greater than 25 years or 70% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(k) “Maximum design heat input” means the ability of a unit to combust a stated maximum amount of fuel per hour, in million Btu/hour, on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(l) “Maximum potential hourly heat input” means an hourly heat input, in million Btu/hour, used for reporting purposes when a unit lacks certified monitors to report heat input for any unit that uses 40 CFR part 75 to comply with this part. If the unit intends to use 40 CFR part 75, appendix D, to report heat input, this value should be calculated, in accordance with 40 CFR part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR part 75, using the maximum potential flowrate and either the maximum carbon dioxide concentration, in CO₂, or the minimum oxygen concentration, in percent O₂.

(m) “Maximum rated hourly heat input” means a unit-specific maximum hourly heat input, (in million Btu/hour,) which is the higher of the manufacturer’s maximum rated hourly heat input or the highest observed hourly heat input.

(n) “Michigan fine grid zone” means the geographical area that includes all of the following counties:

(i) Allegan.

(ii) Barry.

(iii) Bay.

(iv) Berrien.

(v) Branch.

(vi) Calhoun.

(vii) Cass.

(viii) Clinton.

(ix) Eaton.

(x) Genesee.

(xi) Gratiot.

(xii) Hillsdale.

(xiii) Ingham.

(xiv) Ionia.

(xv) Isabella.

(xvi) Jackson.

(xvii) Kalamazoo.

(xviii) Kent.

(xix) Lapeer.

(xx) Lenawee.

(xxi) Livingston.

(xxii) Macomb.

(xxiii) Mecosta.

(xxiv) Midland.

(xxv) Monroe.

(xxvi) Montcalm.

(xxvii) Muskegon.

(xxviii) Newaygo.

(xxix) Oakland.

(xxx) Oceana.

(xxxi) Ottawa.

(xxxii) Saginaw.

(xxxiii) Saint Clair.

(xxxiv) Saint Joseph.

- (xxxv) Sanilac.
- (xxxvi) Shiawassee.
- (xxxvii) Tuscola.
- (xxxviii) Van Buren.
- (xxxix) Washtenaw.
- (xl) Wayne.

(o) "Monitoring system" means any monitoring system, including a ~~CEMS or an accepted~~ **excepted** monitoring system that meets the requirements of ~~40 CFR part 60 or 40 CFR part 75~~, **a continuous emissions monitoring system, an approvable monitoring system that meets the requirements of 40 CFR part 60**, or an alternative monitoring system that has been approved by the department.

(p) "Nameplate capacity" means the maximum electrical generating output, in Mwe, that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(q) "NOx budget source" means any source that has 1 or more NOx budget units.

~~(qr)~~ "NOx budget unit" means the following:

(i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale.

(ii) For units that commenced operation ~~on or~~ after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale.

(iii) For units that commence operation ~~on or~~ after January 1, 1999, a unit that has a maximum design heat input of more than 250,000,000 Btu's per hour and to which either of the following provisions ~~applies~~ **apply**:

(A) The unit at no time serves a generator producing electricity for sale.

(B) The unit at any time serves a generator producing electricity for sale, if ~~any such~~ **the** generator has a nameplate capacity of 25 megawatts or less and has the potential to use not more than 50% of the potential electrical output capacity of the unit.

(iv) All units listed in 40 CFR 97, subpart E, appendix B, adopted by reference in R 336.1902, in this state, except those listed that have since been decommissioned, dismantled, or permanently retired.

~~(v) All units qualifying as a cogeneration unit and not considered a cross state air pollution rule NOx ozone season group 2 unit as listed in 40 CFR 97.804(b), adopted by reference in R 336.1902. A unit that meets both of the following:~~

~~(A) Serves at any time a generator with a nameplate capacity greater than 25 megawatts producing electricity for sale.~~

~~(B) Qualifies for an exemption from the Cross-State Air Pollution Rule NOx Ozone Season Group 3 Trading Program as a cogeneration unit under 40 CFR 97.1004(b), adopted by reference in R 336.1902.~~

~~(r) "NOx budget source" means any source that has 1 or more NOx budget units.~~

~~(s) "Operator" means any a person that operates, controls, or supervises a NOx budget unit, or a NOx budget source, and includes, but is not limited to, any holding company, utility system, or plant manager of such a unit or source.~~

~~(t) "Owner" means any of the following:~~

~~(i) Any holder of any portion of the legal or equitable title in a NOx budget unit.~~

~~(ii) Any holder of a leasehold interest in a NOx budget unit. However, "owner" must not include a passive lessor, or a person that has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from the NOx budget unit, unless expressly provided for in a leasehold agreement.~~

~~(iii) Any purchaser of power from a NOx budget unit. under a life-of-the-unit, firm power contractual arrangement. Unless expressly provided for in a leasehold agreement, owner does not include a passive lessor, or a person that has an equitable interest through a passive lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NOx budget unit.~~

~~(iv) With respect to any general account, any person that has an ownership interest with respect to the NOx allowances held in the general account and is subject to the binding agreement for the NOx authorized account representative to represent that person's ownership interest with respect to the NOx allowances.~~

~~(u) "Ozone control period" means the period of May 1 to September 30. The term "ozone control period" replaces the term "control period" as used in 40 CFR part 96.1 to 96.88 and part 97.1 to 97.88.~~

(v) "Ozone federal implementation plan" means a federal implementation plan created under the authority of 42 USC 7410 (a)(2)(D)(i)(I) with requirements to address a state's obligations to eliminate significant contribution to nonattainment, or interference with maintenance, in other states of the 2015 or future iterations of the ozone national ambient air quality standards, NAAQS.

(~~v~~w) “Potential electrical output capacity” means 33% of a unit's maximum design heat input.

(~~w~~x) “Receive” or “receipt of” means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence, either in writing or through an authorized electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

(~~x~~y) “Source” means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the clean air act, 42 USC 7401 to 7671q. For purposes of section 502(c) of the clean air act, 42 USC 7661a, a source, including a source with multiple units, is considered a single facility.

(~~y~~z) “Submit” or “serve” means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation, as follows:

(i) In person.

(ii) By United States Postal Service.

(iii) By other means of dispatch or transmission and delivery. Compliance with any “submission,” “service,” or “mailing” deadline is determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(~~z~~aa) “Ton” or “tonnage” means any short ton or 2,000 pounds. For the purpose of determining the NOx emissions, total tons for an ozone control period is calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal 1 ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

(~~a~~bb) “Unit” means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system that meets any of the following criteria:

(i) For units that commenced operation before January 1, 1996, the combustion of fossil fuel, alone or in combination with ~~another any other~~ fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1995, or, if a unit had no heat input in 1995, during the last year of operation of the unit ~~prior to~~ before 1995.

(ii) For units that commenced operation ~~on or~~ after January 1, 1996, and before January 1, 1997, the combustion of fossil fuel, alone or in combination with ~~another any other~~ fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1996.

(iii) For units that commence operation ~~on or~~ after January 1, 1997, either of the following apply:

(A) The combination of fossil fuel, alone or in combustion with ~~another any other~~ fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during any year.

(B) The combination of fossil fuel, alone or in combination with ~~another any other~~ fuel, where fossil fuel is projected to comprise more than 50% of the annual heat input on a Btu basis during ~~a any~~ year, provided that the unit ~~shall~~ must be fossil fuel-fired as of the date, during such year, on which the unit begins combusting fossil fuel.

(cc) “USEPA” means the United States Environmental Protection Agency.

R 336.1810 Allowance **benchmark** apportionments under **the oxides of nitrogen (NOx)** budget program.

Rule 810. (1) The department shall establish a budget program for the ozone control period for NOx budget units ~~and~~ located within the Michigan fine grid zone. Total NOx emission **benchmark** apportionments are limited to 2,209 tons, for each ozone control period.

(2) Pursuant to R 336.1802(1), the department shall ~~apportion~~ **establish** a benchmark **apportionment** of NOx emissions for each NOx budget unit **and source** that will be used for comparison to actual NOx emissions from the NOx budget units at the source. The benchmarks will be apportioned and maintained as follows:

(a) For NOx budget units that commence operation before May 1, 2020, ~~these units must have a combined budget of the sum of the benchmark apportionments will be~~ 1,699 tons, ~~except when the budget is modified subject to decrease because of unit retirements or because the units are subject to an Ozone Federal Implementation Plan as described in subdivision (d) of this subrule.~~

(b) For any new NOx budget unit commencing operation after May 1, 2020, ~~or any unit the EPA designates as a NOx SIP call subject source after May 1, 2020,~~ the department shall establish a benchmark apportionment from the new unit set-aside pool for each ozone **control period**. ~~season control apportionment year of~~ **The initial amount of the new unit set aside pool will be 510 tons, or the most current new unit set aside pool as established subject to increase because of unit retirements as described in subdivision (d) of this subrule.**

(c) Benchmark apportionments for all NOx budget units and sources are maintained and made available by the department and updated annually by April 1. These benchmark apportionments are established according to the requirements described in ~~subrules subrule (2)(a), (2)(b) and (2)(d) of this rule, subdivisions (a), (b), and (d) of this subrule, and use are based on~~ a combination of federally enforceable permit limits, maximum nameplate capacities with an appropriate emission factor, physical limitations, and other attributes of the unit or process as applicable. ~~This budget~~ **The department** establishes a benchmark apportionment for each active NOx budget unit that is summed by source to create a NOx budget source total

benchmark apportionment. Bases for the established budgets ~~budgets~~ **benchmark apportionments** and adjustments to ~~those budgets~~ **the amount of the new unit set aside pool and the sum of the benchmark apportionments for NOx budget units that commenced operation before May 1, 2020** are included with the benchmark apportionment information that is made available.

(d) ~~The amount of the new unit set- aside pool and associated apportionment budget~~ **the sum of the benchmark apportionments for NOx budget units that commenced operation before May 1, 2020** are updated as appropriate in the following ways:

(i) For any new NOx budget unit as described in ~~subrule (2)(b) of this rule,~~ **subdivision (b) of this subrule**, the department shall establish a ~~NOx emission limit for the ozone period based on federally enforceable conditions in a permit to install.~~ **benchmark apportionment for the ozone control period based on a federally enforceable NOx emission limit in a permit to install.** The department shall include appropriate monitoring, recordkeeping, and reporting requirements for ozone season NOx emissions within the issued permit.

(ii) For ~~units~~ **a NOx budget unit that commenced operation before May 1, 2020, and that are** is permanently retired, the responsible official for the NOx budget source shall do ~~one~~ **1** of the following:

(A) Notify the department's air quality division within 30 days ~~after~~ **of** the NOx budget unit's permanent retirement and not emit any NOx from the retired unit starting on the date that the unit is permanently retired. They ~~will~~ **shall** then have ~~their~~ **its** corresponding benchmark apportionments revoked and added to the new unit set aside pool described in ~~subrule (2)(b) of this rule~~ **subdivision (b) of this subrule** at the end of the calendar year unless the facility meets the requirements of ~~subrule (2)(d)(ii)(B) of this rule.~~ **The source total benchmark apportionment in the budget subparagraph (B) of this paragraph. The sum of the benchmark apportionments for all NOx budget units that commenced operation before May 1, 2020 will shall be adjusted reduced** accordingly.

(B) Identify at the time of retirement of any NOx budget unit ~~installed~~ **that commenced operation** before May 1, 2020; if the facility would like to transfer the retired units' **benchmark** apportionments to new units installed in the same ozone season.

(iii) If ownership of a NOx budget unit ~~of NOx budget source~~ is transferred as described in R 336.1219, all associated unit benchmark apportionments transfer with the unit to the new owner.

(iv) If a NOx budget unit participates in an ozone federal implementation plan, the most recent benchmark apportionment for that unit must be removed from the most recent budget, the overall budget must be reduced accordingly, and the benchmark apportionment must be held in reservation for the NOx budget unit until the unit leaves the ozone federal implementation plan program.

(3) **Except for NOx budget units participating in an ozone federal implementation plan,** ~~the~~ owner or operator of a NOx budget unit shall monitor and record NOx emissions during the ozone control period using 1 of the following methods:

(a) In accordance with 40 CFR part 75 monitoring requirements that include, but are not limited to, data substitution procedures and monitoring and reporting requirements. The owner or operator shall report to the USEPA's clean air markets division the information required by 40 CFR part 75 and the department the information required in ~~subpart rule (4) of this rule.~~ **If this approach is followed, a responsible official shall be authorized to certify each submission and may delegate the responsible official's authority in accordance with 40 CFR part 97, subpart B, adopted by reference in R 336.1902.**

(b) The owner or operator may make a request to the department to monitor and record NOx emissions in accordance with methodologies acceptable under 40 CFR part 60. The owner or operator shall submit a monitoring plan to the department to be approved describing how the amount of NOx emissions in tons per ozone control period ~~are will be~~ determined from the 40 CFR part 60 NOx emission rate data. The owner or operator shall report to the department the information as described in the approved plan and the information in ~~subpart rule (4) of this rule.~~ **part rule (4) of this rule.**

(c) The owner or operator of a NOx budget unit that is natural gas-fired and whose NOx mass emissions is 25 tons or less over each of the 3 previous ozone seasons may opt for alternative monitoring and recordkeeping. Except as provided in ~~subparagraph paragraph~~ **paragraph (iii)** of this subdivision, those choosing this option shall notify the department of their intention before the next ozone season to use the following alternative monitoring and recordkeeping methods:

(i) The hourly NOx mass emissions ~~or emission rate~~ are determined by multiplying a rate in either subparagraph (A) or (B) of this paragraph by the unit's maximum rated hourly heat input, except as allowed in subparagraph (C) of this paragraph:

(A) The default NOx emission rate of 1.5 lbs/million Btu for boilers or 0.7 lbs/million Btu for **combustion** turbines.

(B) The maximum NOx emission rate established **through stack testing** in accordance with 40 CFR 75.19(c)(1)(iv) or a similar **stack testing** methodology **using USEPA reference methods. If this approach is followed, ongoing stack tests must be conducted not less than once every 5 years after the date of the previous stack test for units still in operation.**

(C) The owner or operator of the NOx budget unit may petition the department to use a lower value for the unit's maximum rated hourly heat input as described in R 336.1802(2)(b)(ii)(C).

(ii) The owner or operator of the NOx budget unit shall retain records on site for a period of 5 years. The records must show, as applicable, the hourly NOx mass emissions, hours of operation, hourly volumes of fuel burned and maximum default gross calorific values, ~~CEMS~~ **continuous emission monitoring system** data, and all other information necessary to demonstrate the amount of NOx emitted during the ozone season.

(iii) Any NOx budget unit that is natural gas-fired and has less than 3 years of NOx mass emissions of 25 tons or less may petition the department to use alternative monitoring and recordkeeping as allowed in this subdivision. The petition must include all the reasons why the ~~predictive~~ **projected** NOx emissions for the next ozone season will remain at 25 tons or less. The petition must be approved by the department before using the alternative monitoring and recordkeeping methods described in this subrule.

(iv) Any NOx budget unit that is using this alternative monitoring and recordkeeping method and exceeds 25 tons for the ozone season must comply with either subdivision (a) or (b) of this subrule starting with the next ozone season. Once the unit has 3 consecutive years of data showing emissions of 25 tons or less, the owner or operator may request to the department to use the alternative monitoring and recordkeeping methods described in this subdivision ~~of this rule~~ before the next ozone season.

(d) The owner or operator of a NOx unit budget that is subject to requirements of 40 CFR 52.40 to 52.46, as applicable, may opt to use the monitoring and recordkeeping requirements in those sections to meet the requirements of this subrule.

(4) The owner or operator of a NOx budget unit shall submit to the department all the following information by November 1 each year:

- (a) The type of each unit subject to this rule with an identifying name or number, or both.
- (b) The name and address of the plant where the unit is located.
- (c) The name and telephone number of the responsible official or their authorized representative responsible for demonstrating compliance with this rule.
- (d) A report documenting, to the satisfaction of the department, each subject unit's hours of operation, heat input, total NOx emissions for the ozone control period and related materials that include, but are not limited to, the amount of fuel used, types of fuels burned, emission factor verified or revised by most recent stack test, and other information that was used to determine total NOx emissions for the ozone season, as applicable. For the purposes of this rule, this information must be used to determine "actual NOx emissions" for ~~affected~~ **NOx budget** units.

(e) ~~In any year~~ **Following any ozone control period** in which a unit located in an area designated as non-attainment for an ozone standard as of the end of the ozone control period exceeds its unit benchmark apportionment, a report documenting, to the satisfaction of the department, a description of reasons for the exceedance of the benchmark and actions taken to meet benchmark apportionment levels in the future.

(f) A certification by a responsible official or their authorized representative that states, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(5) Except for NOx budget units participating in an ozone federal implementation plan, Any year following any ozone control period in which the total actual NOx emissions of all ~~affected~~ **NOx budget** units exceed 2,209 tons, **or the current budget adjusted for units in an ozone federal implementation plan, both** of the following must occur:

(a) Each source's total actual NOx emissions ~~of affected~~ **from NOx budget** units ~~will~~ **must** be compared to ~~their~~ **its** source total benchmark apportionment as described ~~in~~ and established in subrule (2) of this rule.

(b) Within 30 days after receipt of a request by the department, each source that was determined to be exceeding ~~their~~ **its** source total benchmark apportionment must submit a report to the ~~air quality division~~ **department** that includes the following:

- (i) An explanation of the circumstances that caused the source to exceed ~~their~~ **its** benchmark apportionment.
- (ii) An approvable plan describing what actions will be taken to prevent recurrences. This plan must contain a timeline of all actions to take place in response to the exceedance.
- (iii) ~~For those that do not already have one, sources exceeding their~~ **A source exceeding its** benchmark apportionment **that does not already have** will apply for and obtain a permit to install with federally enforceable NOx emission limits for the ozone season **shall apply for and obtain such a permit.**

R 336.1818 Emission limitations for **the oxides of nitrogen (NOx) SIP call for** stationary internal combustion **engines.**

Rule 818. (1) As used in this rule:

(a) "Affected engine" means a stationary internal combustion engine that is a large NOx SIP call engine, or ~~another any other~~ stationary internal combustion engine that is subject to NOx control under a compliance plan established under subrule (3) of this rule.

(b) "Diesel engine" means a compression ignited 2- or 4-stroke engine in which liquid fuel injected into the combustion chamber ignites when the air has been compressed to a temperature sufficiently high for auto-ignition.

(c) "Dual fuel engine" means any stationary reciprocating internal combustion engine in which a liquid fuel, typically diesel fuel, is used for compression ignition and gaseous fuel, typically natural gas, is used as the primary fuel.

(d) "Engine seasonal NOx 2007 tonnage reduction" means the year 2007 ozone control period NOx emissions reductions value, (tons,) for a large NOx SIP call engine, which is based on an NOx control efficiency of 82% for large gas-fired engines and 90% for diesel and dual-fuel engines.

(e) "Facility seasonal NO_x 2007 tonnage reduction" means the total of the engine ozone control period NO_x 2007 tonnage reductions attributable to all of an owner or operator's large NO_x SIP call engines.

(f) "Large NO_x SIP call engine" means a stationary internal combustion engine emitting more than 1 ton of NO_x per average ozone control period day in 1995.

(g) "Lean-burn engine" means any 2- or 4-stroke spark-ignited engine that is not a rich-burn engine.

(h) "Ozone control period" means the period of May 1 to September 30.

(i) "Past NO_x emission rate" means the emission rate of an affected engine in grams per brake horsepower-hour as determined by performance testing consistent with the requirements of 40 CFR part 60, appendix A, as adopted by reference in R 336.1902. Where the performance test data are not available, the past NO_x emission rate may be determined by the department on a case-by-case basis using, for example, appropriate emission factors. For large NO_x SIP call engines, the past NO_x emission rate is the uncontrolled emission rate.

(j) "Projected operating hours" means the projected actual number of hours of operation per ozone control period for an affected engine.

(k) "Projected NO_x emission rate" means the projected emission rate in grams per brake horsepower-hour after installation of controls on an affected engine.

(l) "Rich-burn engine" means a spark-ignited stationary internal combustion engine in which the concentration of oxygen in the exhaust stream before any dilution is 1% or less measured on a dry basis.

(m) "Stationary internal combustion engine" means an internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from 1 location to another and remains at a single site at a building, structure, facility, or installation for more than 12 consecutive months. An engine, or engines, that replaces an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period.

(2) The requirements of this rule apply to the owner or operator of a large NO_x SIP call engine located in the Michigan fine grid zone.

(3) An owner or operator of a large NO_x SIP call engine shall not operate the engine in the ozone control period unless the owner or operator complies with either the requirements of a compliance plan that meets the following provisions or the emission rate limitations expressed as NO_x listed in subdivision (b) of this subrule:

(a) Compliance plan includes the following:

(i) Must be approved by the department.

(ii) Must demonstrate enforceable emission reductions from 1 or more stationary internal combustion engines equal to or higher than the facility seasonal NO_x 2007 tonnage reduction.

(iii) May cover some or all engines at an individual facility or at several facilities or at all facilities in the Michigan fine grid zone that are under control of the same owner or operator.

(iv) Must include the following items:

(A) A list of affected engines, including the engine's manufacturer, model, facility location address, and facility state registration number.

(B) The projected ozone control period hours of operation for each affected engine and supporting documentation.

(C) A description of the NO_x emissions control installed, or to be installed, on each affected engine and documentation to support the projected NO_x emission rates.

(D) The past and projected NO_x emission rates for each affected engine in grams per brake horsepower-hour.

(E) A numerical demonstration that the emission reductions obtained from all affected engines will be equivalent to or greater than the owner or operator's facility seasonal NO_x 2007 tonnage reduction, based on the difference between the past NO_x emission rate and the projected NO_x emission rate multiplied by the projected operating hours for each affected engine.

(F) Provisions for monitoring, reporting, and recordkeeping for each affected engine.

(v) The projected NO_x emission rate in grams per brake horsepower-hour for each affected engine must be included in a federally enforceable permit.

(b) The following are NO_x emission rate limitations:

(i) Rich-burn, 1.5 grams per brake horsepower per hour.

(ii) Lean-burn, 3.0 grams per brake horsepower per hour.

(iii) Diesel, 2.3 grams per brake horsepower per hour.

(iv) Dual fuel, 1.5 grams per brake horsepower per hour.

(4) An owner or operator subject to the requirements of subrule (3) of this rule shall comply with the following requirements:

(a) Each affected engine subject to this rule ~~shall~~**must** perform monitoring sufficient to yield reliable data for each ozone control period that is representative of a source's compliance with the projected NO_x emission rate in subrule (3)(a) of this rule or the emission rate limit specified in subrule (3)(b) of this rule. The monitoring may include 1 of the following:

(i) Performance tests consistent with either of the applicable provisions of 40 CFR part 60 or part 75 adopted by reference in R 336.1902. An owner or operator of an affected engine shall submit a test plan to the department not less than 30 days

before the scheduled test date. To ensure proper testing, the plan must supply the information in the department format for submittal of source emission test plans and reports. The owner or operator shall give the department a reasonable opportunity to witness the tests. An owner or operator shall submit 2 copies of each compliance performance test to the department within 60 days ~~after~~ of completion of the testing. The test results must be presented and include data as requested in the department format for submittal of source emission test plans and reports.

(ii) A parametric monitoring program that specifies operating parameters, and their ranges, that ~~shall provide~~ **provides** reasonable assurance that each engine's emissions are consistent with the requirements of subrule (3) of this rule.

(iii) A predictive emissions measurement system that relies on automated data collection from instruments.

(iv) A continuous emission monitoring system that complies with the procedures set forth in 40 CFR part 60, subpart A and appendix B, and with the quality assurance procedures in **40 CFR** part 60, appendix F; or 40 CFR part 75, as applicable and acceptable to the department. An owner or operator of an emission unit ~~which~~ **that** elects this option shall submit a monitoring plan to the department not less than 30 days before installation. The owner or operator shall provide the department with a 30-day notice before a relative accuracy test audit.

(b) Recordkeeping requirements are as follows:

(i) Maintain all records necessary to demonstrate compliance with the requirements of this rule for a period of 5 calendar years at the plant at which the affected engine is located. The records ~~shall~~ **must** be made available to the department and the ~~United States Environmental Protection Agency~~ **USEPA** upon request.

(ii) For each engine subject to the requirements of this rule, the owner or operator shall maintain records of all of the following:

(A) Identification and location of each engine subject to the requirements of this subrule.

(B) Calendar date of record.

(C) The number of hours the unit is operated during each ozone control period compared to the projected operating hours.

(D) Type and quantity of fuel used.

(E) The results of all compliance tests.

(c) An owner or operator subject to the requirements of this rule shall submit the results of all compliance tests to the department within 60 days after the completion of the testing.

R 336.1840 Definitions for the NO_x RACT rules.

Rule 840. As used in R 336.1841 to R 336.1846:

(a) **“2015 ozone nonattainment areas” means collectively the nonattainment area of Berrien County, the nonattainment area of the western portion of Allegan County, and the nonattainment area of the western portion of Muskegon County.**

(b) **“Engine test cell” or “engine test stand” means a combustion device and its associated apparatus used to develop, characterize, and test uninstalled engines for operational and emission specifications.**

(c) **“Equal to or more stringent than” means the pollutant, units of measurement, time periods, operating scenarios, equipment, monitoring, and recordkeeping, as applicable, of 1 standard or requirement can be established to be at least as stringent as that of a second standard or requirement.**

(d) **“Gaseous fuels” means propane, natural, digester, landfill, and coke oven gas.**

(e) **“Liquid fuels” means residual and distillate fuel oils, and liquid biomass.**

(f) **“MMBtu” means million British thermal units.**

(g) **“NO_x” means oxides of nitrogen.**

(h) **“RACT” means Reasonably Available Control Technology.**

(i) **“Solid fuels” means coal, pet coke, tire-derived material, wood, and solid biomass.**

(j) **“Tune-up” means adjustments made to an engine or boiler in accordance with procedures supplied by the manufacturer, vendor, or as applicable, certified, or licensed specialist to optimize the combustion efficiency or performed in accordance with 40 CFR part 63, subpart DDDDD or JJJJJ.**

(k) **“Western portion of Allegan County” means the areas located in Allegan County described as Casco Township, Cheshire Township, city of Douglas, city of Holland, city of Saugatuck, Clyde Township, Fillmore Township, Ganges Township, Heath Township, Laketown Township, Lee Township, Manlius Township, Overisel Township, Saugatuck Township, and Valley Township.**

(l) “Western portion of Muskegon County” means the areas located in Muskegon County described as Blue Lake Township; city of Montague; city of Muskegon; city of Muskegon Heights; city of North Muskegon; city of Roosevelt Park; city of Whitehall; Dalton Township, including village of Lakewood Club; Fruitland Township; Fruitport Township, including village of Fruitport; Laketon Township; Montague Township; Muskegon Township; city of Norton Shores; White River Township; and Whitehall Township.

R 336.1841 RACT emission limitations for engines.

Rule 841. (1) As used in this rule:

(a) “Certified engine operating in a non-certified manner” means an engine not operated and maintained according to the manufacturer's emission-related written instructions or if no manufacturer emission-related instructions were provided.

(b) “Engine” means any reciprocating internal combustion engine that uses reciprocating motion to convert heat energy into mechanical work and is not mobile. An engine test cell or engine test stand and any associated apparatus are not considered engines for the purpose of this rule.

(2) A person is subject to this rule and shall not cause or allow the emission of NOx from the combustion of fuels in an engine or its replacement unit in excess of the requirements of this rule at facilities meeting either of the following criteria:

(a) Located in the 2015 ozone nonattainment areas and either of the following:

(i) A stationary source with a potential to emit of 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or upon the effective date of this rule, whichever is later.

(ii) Any engine manufactured after the effective date of this rule.

(b) Has at any time been subject to the requirements of this rule or becomes subject as part of a normal maintenance program that meets the exemption requirements of R 336.1285(2)(a)(vi). The requirements in this rule, at a minimum, must permanently apply regardless of any change in the attainment or maintenance status of the stationary source location or the potential to emit of the stationary source, when the engine is located at the stationary source.

(3) Engines may utilize the following exemptions from all provisions of this rule except subrule (6)(d). If an exemption is utilized, all applicable requirements of R 336.1846 must be met. All provisions of this rule apply if the engine is not utilizing an exemption listed below:

(a) Engines less than 300 horsepower, HP.

(b) Emergency engines as described in 40 CFR 63.6640(f) and 63.6675.

(c) Engines subject to federal regulations under 40 CFR part 60, 40 CFR part 61, or 40 CFR part 63, if the applicable regulations are included in the SIP or established to be equal to or more stringent than the requirements of subrule (4) of this rule.

(d) Engines used for research and development.

(e) Any engine that is subject to a federal implementation plan under section 110(a) of the clean air act, 42 USC 7410, that is equal to or more stringent than the requirements of subrule (4) or (7) of this rule, as applicable.

(f) Engines with a federally enforceable limit of 100 hours per 12-month rolling time period.

(g) Black start engines whose only purpose is to start up combustion turbines and all associated equipment.

(4) Except as allowed by R 336.1845 or as required by subrule (7) of this rule, a person that generates NOx emissions from the use of an engine shall meet the following limits within table 841 on and after March 1, 2024, or the effective date of this rule, whichever is later, as applicable:

TABLE 841

NOx emission limits for internal combustion engines.

Engine type	Grams of NOx per brake
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	horsepower-hour
Any engine from 300 HP to 500 HP	N/A
Compression ignition Greater than 500 HP	3
Spark ignition, natural gas burning engines	
2 stroke greater than 500 HP	3
4 stroke from 500 HP to 1000 HP	3
4 stroke greater than 1000 HP	1.5
Spark ignition greater than 500 HP using gaseous fuels other than natural gas	3

(5) Compliance and monitoring with this rule must be determined using 1 of the following methods:

(a) Maintain engine certification according to procedures specified in 40 CFR part 60, subpart III, JJJJ, or ZZZZ, as applicable, for the same model year, which includes, at a minimum, the following requirements:

(i) Operate and maintain the certified engine and, if applicable, control device according to the manufacturer's emission-related written instructions.

(ii) Use diesel fuel with a sulfur content not to exceed 15 parts per million or natural gas, as applicable.

(b) For a non-certified engine or a certified engine operating in a non-certified manner, a person subject to this rule shall meet the following requirements:

(i) Create and implement an approvable maintenance plan for the engine. The plan must contain, at a minimum, the maintenance requirements of 40 CFR part 63, subpart ZZZZ, which includes, among other requirements, the conditions of inspection, the frequency of inspections, operating parameters to be monitored and their normal operating ranges, major replacement parts that must be maintained in inventory and a description of corrective procedures or operational changes that must be taken in the event of a malfunction or failure to comply with applicable emission limits.

(ii) To the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions at all times, including during startup, shutdown, and malfunction. The department shall determine compliance with this requirement based on information that may include, but is not limited to, monitoring results and review of operation and maintenance procedures and records.

(iii) For emission units subject to an emission rate limit specified in subrule (4) of this rule, compliance must be determined by 1 of the following:

(A) If a performance test has not been done within the last 5 years before the effective date of this rule, the person subject to this rule shall conduct an initial performance test, acceptable to the department, to demonstrate the required emission rate limit within 180 days after the effective date of this rule, or within 30 days after startup if the unit is not operating. An acceptable performance test must then be completed every 5 years, at a minimum, from the date of the last test, consistent with the requirements of R 336.2004. A representative test for multiple identical emission units may be approved by the department.

(B) The person subject to this rule shall submit to the department for approval a monitoring plan describing how the NO_x emissions shall be monitored. The monitoring plan must include how the performance of periodic monitoring is sufficient to yield reliable data from relevant time

periods representative of the source’s compliance with the emission rates specified in subrule (4) of this rule. The periodic monitoring may include the following:

(I) Performance test results consistent with the requirements of R 336.2004, or portable monitors using ASTM D6522, adopted by reference in R 336.1902. The protocol must be submitted as required under R 336.2001.

(II) A parametric monitoring program that specifies operating parameters and ranges providing reasonable assurance that each engine’s emissions are consistent with the requirements of this rule.

(III) A predictive emissions measurement system that relies on automated data collection from instruments.

(IV) A continuous emission monitoring system that complies with 40 CFR part 60 or part 75, both adopted by reference in R 336.1902.

(6) A person subject to this rule shall obtain current information and maintain records for all requirements or exemptions in sufficient detail to determine compliance. The information and records must be made available to the department upon request. The information and records must, at a minimum, include the following:

(a) Manufacture and installation dates of the engine.

(b) For non-certified engines or certified engines operating in a non-certified manner, the following:

(i) The maintenance plan.

(ii) All associated maintenance records for a minimum of 5 years.

(iii) Either the results of the most recent stack test or a minimum of 5 years of all monitoring data necessary to demonstrate compliance with the limits and requirements in subrule (4) of this rule, or both, as applicable.

(c) For certified engines, documentation from the manufacturer that the engine is certified to meet the emission standards.

(d) If the provisions of this rule are not applicable as allowed by subrule (3), all information necessary to demonstrate that the equipment meets the exemption being utilized.

(7) A person that generates NO_x emissions from the use of an engine located in the 2015 ozone nonattainment area shall meet the following limits within table 841a 12 months after the effective date of a final determination by the USEPA, under section 182(c)(9) of the clean air act, 42 USC 7511a, for either of the following elements of the 2015 ozone National Ambient Air Quality Standard:

(a) The USEPA issues a determination that reasonable further progress as described in Michigan’s approved state implementation plan was not achieved.

(b) The USEPA issues a finding of failure to attain the standard by the applicable attainment date.

TABLE 841a
NO_x emission limits for internal combustion engines.

Engine type	Grams of NO _x per brake horsepower-hour
Compression Ignition Greater than 500 HP	2.5
Spark ignition, natural gas burning engines	
2 stroke greater than 500 HP	2.5
4 stroke from 500 HP to 1000 HP	2.5
4 stroke greater than 1000 HP	1.0

Spark Ignition greater than 500 HP using landfill, digester, or other gaseous fuels	2.5
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R 336.1842 RACT emission limitations for boilers.

Rule 842. (1) As used in this rule:

(a) “Boiler” means an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water.

(b) “Limited use boiler” means a boiler that burns an amount of solid, liquid, or gaseous fuels and has a federally enforceable annual capacity factor of no more than 10%.

(2) A person shall not cause or allow the emission of NOx from the combustion of fuels in boilers in excess of the requirements of this rule at facilities meeting either of the following criteria:

(a) Located in the 2015 ozone nonattainment areas and either of either of the following:

(i) A stationary source with a potential to emit 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or upon the effective date of this rule, whichever is later.

(ii) A emission unit installed after the effective date of this rule.

(b) Has at any time been subject to the requirements of this rule. The requirements in this rule, at a minimum, must permanently apply regardless of any change in the attainment or maintenance status of the stationary source location or the potential to emit of the stationary source.

(3) If an exemption is utilized, all applicable requirements of R 336.1846 must be met. If the boiler is not utilizing an exemption listed below, all provisions of this rule apply. Boilers may utilize the following exemptions from all provisions of this rule except subrule (8)(d):

(a) Boilers with a heat input capacity rating of less than 20 MMBtu/hr.

(b) Boilers subject to federal regulations under 40 CFR part 60, part 61, or art 63 if the applicable regulations are included in the state implementation plan or established to be equal to or more stringent than the requirements of subrule (4) of this rule.

(c) A boiler that is subject to a federal implementation plan under section 110(a) and (c) of the clean air act, 42 USC 7410, that is equal to or more stringent than the requirements of subrule (4) of this rule.

(d) Limited use boilers.

(4) Except as allowed under R 336.1845, or as required by subrule (9) of this rule, a person that generates NOx emissions from the use of a subject boiler shall meet the following provisions on and after March 1, 2024, or the effective date of this rule, whichever is later, as applicable:

(a) The following NOx limits within table 842:

**TABLE 842
NOx emission limits for boilers**

Fuel Type	Lbs of NOx per million Btu of heat input on hourly basis ^a
All boilers: > 20 MMBTU/hr =< 50 MMBtu/hr	N/A
Gaseous fuels: > 50 MMBtu/hr	0.10
Distillate Oil: > 50 MMBtu/hr	0.12
Residual Oil: > 50 MMBtu/hr	0.25
Solid fuels: > 50 MMBtu/hr, < 100 MMBtu	0.35
Solid fuels: => 100 MMBtu	0.25

^a Except for alternative averaging periods as allowed in subrule (7)(b) of this rule.

(b) A boiler installed after March 1, 2024, or the effective date of this rule, whichever is later, must utilize a low NOx burner, equivalent technology, or better technology.

(c) For emission units operating with a combination of gas, oil, or other fuels, a variable emission limit calculated as the heat input weighted average of the applicable emission limits must be used. The emission limit must be determined as follows:

$$\text{Emission limit} = \sum_{i=1}^n (P_i)(L_i)$$

Where:

P_i = Percentage of total heat input from fuel listed in table 842 on a 24-hr basis

L_i = Applicable limit for fuel listed in table 842

n = Number of different fuel types

(5) The person subject to this rule shall conduct a tune-up of each boiler at the following frequency:

(a) For a boiler subject to the tune-up requirements of 40 CFR part 63, subpart DDDDD, JJJJJ, and UUUUU adopted by reference in R 336.1902, tune-ups must be conducted in the manner and frequency as prescribed in that rule.

(b) All boilers not described in subrule (5)(a) must undergo a tune-up following the requirements in subrule (6) at the frequency indicated in table 842a.

TABLE 842a
Boiler tune-up frequency by emission unit type.

Boiler Type	Frequency of tune-up
Natural gas-fired or equipped with an oxygen analyzer system	Every 5 years but no more than 61 months after the last tune-up
All other fuels	Once every year but no longer than 13 months after the last tune-up

(6) For boilers that are subject to subrule (5)(b) of this rule, the person subject to this rule shall meet the following tune-up related requirements on and after the effective date of this rule, as applicable:

(a) Create and implement a plan for the boiler that is approvable by the department. At a minimum, this plan must address the following details regarding tune-ups and denote the frequency these activities shall occur:

(i) Inspection of the burner, and cleaning or replacement of any components of the burner as necessary.

(ii) Inspection of the flame pattern and adjustments of the burner as necessary to optimize the flame pattern. The adjustment must be consistent with the manufacturer's specifications, if available.

(iii) Inspection of the system controlling the air-to-fuel ratio, as applicable, and confirmation that it is correctly calibrated and functioning properly.

(iv) Optimization of total emissions of NOx and carbon monoxide, CO. This should be consistent with the manufacturer's specifications, if available, and with any NOx requirement to which the emission unit is subject.

(v) Measurement of the concentrations in the effluent stream of CO in parts per million by volume, and oxygen in volume percent, before and after the adjustments are made. Measurements may be on either a dry or wet basis, as long as it is the same basis before and after the adjustments are made. Measurements may also be taken using a properly operated and maintained portable CO analyzer.

(vi) If the emission unit is shutdown on the required date for tune-up activities, the tune-up must be conducted as soon as practicable, but no longer than 30 days after startup.

(b) To the extent practicable, maintain and operate the boiler in a manner consistent with good air pollution control practice for minimizing emissions at all times including during startup, shutdown, and malfunction. Determination of whether such operation and maintenance procedures are being used is based on information available to the department that may include, but is not limited to, monitoring results and review of operation and maintenance procedures and records.

(7) For boilers subject to an emission rate limit specified in subrule (4) of this rule, compliance must be determined by using 1 of the following:

(a) If a performance test has not been done within the last 5 years before the effective date of this rule, the person subject to this rule shall conduct an initial performance test, acceptable to the department, within 180 days after the effective date of this rule to demonstrate compliance with the required emission rate limit, or within 30 days after startup if the unit is not operating. An acceptable performance test must then be completed every 5 years, at a minimum, after the date of the last test, consistent with the requirements of R 336.2004. A performance test that determines that the emission unit complies with the limit in table 842 must be presumed to comply with this limit as long as the emission unit maintains regularly scheduled tune-ups required in subrule (5) of this rule until the next performance test is conducted. A representative test for multiple identical emission units may be approved by the department.

(b) An approvable plan must be submitted to the department describing how the NO_x emissions are monitored. The monitoring plan must include the performance of periodic monitoring that is sufficient to yield reliable data from relevant time periods representative of the source's compliance with the emission rates specified in subrule (4) of this rule. Periodic monitoring may include the following:

(i) A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance that each boiler's emissions are consistent with the requirements of this rule.

(ii) A predictive emissions measurement system that relies on automated data collection from instruments. If a boiler is equipped with a predictive emission monitoring system, then compliance with the applicable emissions limit must be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(iii) A continuous emission monitoring system that complies with 40 CFR part 60 or part 75, both adopted by reference in R 336.1902. If a boiler is equipped with a continuous emission monitoring system, compliance with the applicable emissions limit must be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(8) A person operating a boiler subject to this rule shall obtain current information and maintain records for all requirements or exemptions in sufficient detail to determine compliance. The information and records must be made available to the department upon request. Examples of acceptable information and records include, but are not limited to the following:

(a) Installation dates of the boiler.

(b) Records of tune-ups and related inspections conducted in accordance with subrule (5) of this rule and all associated records for a minimum of 5 years.

(c) Either the results of the most recent stack test, or a minimum of 5 years of all monitoring data necessary to demonstrate compliance with limits and requirements in subrule (4) of this rule, or both, as applicable.

(d) If the provisions of this rule are not applicable as allowed by subrule (3) of this rule, all information necessary to demonstrate that the equipment meets the exemption being utilized.

(9) A person that generates NOx emissions from the use of a boiler located in the 2015 ozone nonattainment area shall meet the following limits within table 842b 12 months after the effective date of a final determination by the USEPA, pursuant to section 182(c)(9) of the clean air act 42 USC 7511a, for either of the following elements of the 2015 ozone National Ambient Air Quality Standard:

(a) The USEPA issues a determination that reasonable further progress as described in Michigan’s approved state implementation plan was not achieved.

(b) The USEPA issues a finding of failure to attain the standard by the applicable attainment date.

TABLE 842b
NOx emission limits for boilers

Fuel Type	Lbs of NOx per million Btu of heat input on hourly basis ^a
All boilers > 20 MMBTU/hr =< 50 MMBtu/hr	N/A
Gaseous fuels; > 50 MMBtu/hr	0.08
Distillate Oil; > 50 MMBtu/hr	0.10
Residual Oil ; > 50 MMBtu/hr	0.20
Solid fuels; > 50 MMBtu/hr , < 100 MMBtu	0.30
Solid fuels; => 100 MMBtu	0.20

^a Except for alternative averaging periods as allowed in subrule (7)(b) of this rule.

R 336.1843 RACT emission limitations for combustion turbines.

Rule 843. (1) As used in this rule, “emergency turbines” means turbines used in emergency situations to produce power for critical networks or equipment when electric power from the local utility is interrupted, to pump water in the case of fire or flood or required maintenance checks and readiness testing.

(2) A person is subject to this rule and shall not cause or allow the emission of NOx from the combustion of fuels in turbines in excess of the requirements of this rule at facilities meeting either of the following criteria:

(a) Located in the 2015 ozone nonattainment areas and either of the following:

(i) A stationary source with a potential to emit of 100 tons per year or greater of NOx from all combined NOx sources on March 1, 2024, or upon the effective date of this rule, whichever is later.

(ii) An emission unit installed after the effective date of this rule.

(b) Has been subject to the requirements of this rule. The requirements in this rule, at a minimum, must permanently apply regardless of a change in the attainment or maintenance status of the stationary source location or the potential to emit of the stationary source.

(3) If an exemption is utilized, all applicable requirements of R 336.1846 must be met. If the turbine is not utilizing an exemption listed below, all provisions of this rule apply. Turbines may utilize the following exemptions from all provisions of this rule except subrule (7)(d) of this rule:

(a) Turbines subject to federal regulations under 40 CFR part 60, part 61, or part 63, or other federally enforceable conditions if the applicable regulations are included in the state implementation plan or established to be equal to or more stringent than the requirements of subrule (4) of this rule.

- (b) Turbines that are rated at less than 30 MMBtu/hr.
 - (c) Emergency turbines.
 - (d) Any turbine that is subject to a federal implementation plan under section 110(a) or (c) of the clean air act, 42 USC 7410, that is equal to or more stringent than the requirements of subrule (4) of this rule.
- (4) Except as allowed by R 336.1845, a person that generates NOx emissions from the use of a turbine must meet the following:
- (a) The limits within table 843 by March 1, 2024, or the effective date of this rule, whichever is later:

TABLE 843
NOx emission limits by turbine and fuel type

Turbine type and fuel	Parts per million (volume, dry, corrected to 15% oxygen on an hourly basis) ^a
Gaseous fuel fired	
Between 30 and 50 MMBtu/hr	150
50 MMBtu/hr and greater	25
Liquid fuel fired	
Between 30 and 50 MMBtu/hr	200
50 MMBtu/hr and greater	65

^a Except for alternative averaging periods as allowed in subrule (6)(b) of this rule.

- (b) For emission units operating with a combination of gaseous and liquid fuels, a variable emission limit calculated as the concentration average of the applicable emission limits, as described in R 336.1842(4)(c) must be used.
- (5) A person subject to this rule shall demonstrate compliance by implementing and maintaining the following:
- (a) Create and implement an approvable maintenance plan for the turbine.
 - (b) To the extent practicable, maintain and operate the turbine in a manner consistent with good air pollution control practice for minimizing emissions at all times including during startup, shutdown, and malfunction. The department shall determine compliance with this requirement based on information that may include, but is not limited to, monitoring results and review of operation and maintenance procedures and records.
- (6) For turbines subject to the emission rate limit specified in subrule (4) of this rule, compliance must be determined by using 1 of the following:
- (a) If a performance test has not been done within the last 5 years before the effective date of this rule, the person subject to this rule shall conduct an initial performance test, acceptable to the department, within 180 days after the effective date of this rule to demonstrate compliance with the required emission rate limit, or within 30 days after startup if the unit is not operating. A performance test must then be completed every 5 years, at a minimum, after the date of the last test, consistent with the requirements of R 336.2004. A representative test for multiple identical emission units may be approved by the department.
 - (b) An approvable plan must be submitted to the department describing how the NOx emissions will be monitored. The monitoring plan must include how the performance of periodic monitoring is sufficient to yield reliable data from relevant time periods representative of the source’s compliance with the emission rates specified in subrule (4) of this rule. Periodic monitoring must include 1 of the following:

(i) A parametric monitoring program that specifies operating parameters, and their ranges, that provides reasonable assurance each turbine’s emissions are consistent with the requirements of this rule.

(ii) A predictive emissions measurement system that relies on automated data collection from instruments. If a boiler is equipped with a predictive emission monitoring system, compliance with the applicable emissions limit must be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(iii) A continuous emission monitoring system that complies with 40 CFR part 60 or part 75, both adopted by reference in R 336.1902. If a boiler is equipped with a continuous emission monitoring system, compliance with the applicable emissions limit must be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(7) A person operating a turbine subject to this rule shall obtain current information and maintain records for all requirements and exemptions in sufficient detail to determine compliance. The information and records must be made available to the department upon request. The information and records may include the following:

- (a) Installation dates of the turbine.
- (b) The maintenance plan.
- (c) All associated maintenance records for a minimum of 5 years.
- (d) Either the results of the most recent stack test, or a minimum of 5 years of all monitoring data necessary to demonstrate compliance with limits and requirements in subrule (4) of this rule, or both, as applicable.
- (e) If the provisions of this rule are not applicable as allowed by subrule (3) of this rule, all information necessary to demonstrate that the equipment meets the exemption being utilized.

R 336.1844 RACT emission limitations for miscellaneous process specific combustion sources.

Rule 844. (1) As used in this rule:

(a) “Combustion device” means an individual unit of equipment used for combustion of a fuel using a controlled flame.

(b) “Process heater” means an enclosed combustion device, or collection of combustion devices, in which the emission unit’s primary purpose is to transfer heat to a process material, gas, liquid, or solid, or heat transfer material for use in a process other than to generate steam. Process heaters do not include emission units that are used for comfort, water or space heat, food preparation for on-site consumption, autoclaves, waste heat process heaters, or devices whose primary function is to control air pollution.

(2) A person is subject to this rule and shall not cause or allow the emission of NO_x from the combustion of fuels in asphalt plants, process heaters, engine test cells and stands, lime kilns, or glass manufacturing units in excess of the allowable emissions, including the limitations of this rule at facilities meeting either of the following criteria:

- (a) Located in the 2015 ozone nonattainment areas and either of the following:
 - (i) A stationary source with a potential to emit 100 tons per year or greater of NO_x from all combined NO_x sources on March 1, 2024, or the effective date of this rule, whichever is later.
 - (ii) An emission unit installed after the effective date of this rule.
- (b) Has been subject to the requirements of this rule. The requirements in this rule, at a minimum, must permanently apply regardless of a change in the attainment or maintenance status of the stationary source location or the potential to emit of the stationary source.

(3) If an exemption is utilized, all applicable requirements of R 336.1846 must be met. If the emission unit is not utilizing an exemption listed below, all provisions of this rule apply. Emission units may utilize the following exemptions from all provisions of this rule except subrule (7)(d) of this rule:

- (a) Asphalt plants equal to or less than 50 MMBtu/hr.
 - (b) Process heaters equal to or less than 60 MMBtu/hr that do not inject ammonia or use refinery fuel gas.
 - (c) Process heaters equal to or less than 10 MMBtu/hr that inject ammonia.
 - (d) All combustion devices under 20 MMBtu/hr in a process heater that do not exceed a total of 100 MMBtu/hr when combined.
 - (e) Lime kilns equal to or less than 50 MMBtu/hr.
 - (f) Glass manufacturing furnaces equal to or less than 50 MMBtu/hr.
 - (g) A research or development emission unit meeting the requirements of R 336.1283.
 - (h) Engine test cells and stands that are testing engines rated 1200 HP or less.
 - (i) Air pollution control devices.
 - (j) An asphalt plant, process heater, engine test cell, lime kiln, or glass manufacturing unit that is subject to a federal implementation plan under section 110(a) of the clean air act, 42 USC 7410 that is equal to or more stringent than the requirements of subrule (4) of this rule.
- (4) Except as allowed by R 336.1845, or as required by subrule (8) of this rule, a person that generates NOx emissions from the use of hot mix asphalt plants, process heaters, engine test cells and stands, lime kilns, or glass manufacturing shall meet the following limits within table 844, as applicable, by March 1, 2024, or the effective date of the rule, whichever is later.

TABLE 844
NOx emission limits from miscellaneous combustion sources

Process	NOx Emission limit on an hourly basis ^a
Hot Mix Asphalt Plants > 50 MMBtu/hr	
Gaseous fuels	0.15 lb/MMBtu
Distillate oil	0.20 lb/mmBtu
Residual Oil	0.27 lb/mmBtu
Process Heaters	
Gaseous fuels >60 MMBtu/hr	0.12 lb/MMBtu
Distillate Oil >60, =< 100 MMBtu/hr	0.12 lb/MMBtu
Distillate Oil > 100 MMBtu/hr	0.14 lb/MMBtu
Residual Oil >60, =< 100 MMBtu/hr	0.15 lb/MMBtu
Residual Oil > 100 MMBtu/hr	0.18 lb/MMBtu
Refinery Fuel Gas	0.18 lb/MMBtu
Any fuel > 10 MMBtu/hr utilizing ammonia injection	0.20 lb/MMBtu
Engine Test Cells/Stands	
Gaseous Fuel engines > 1200 HP	0.08 lb/MMBtu
Distillate Oil engines > 1200 HP	0.10 lb/MMBtu
Lime Kilns > 50 MMBtu/hr	6.0 lb/ton of lime produced
Glass Manufacturing > 50 MMBtu/hr	3.5 lb/ton of glass produced

^a Except for alternative averaging periods as allowed in (6)(c)(ii) of this rule.

- (5) A process heater installed after March 1, 2024, or the effective date of the rule, whichever is later, must utilize a low-NOx burner, equivalent technology, or better.
- (6) A person subject to this rule shall demonstrate compliance by implementing and maintaining the following:

(a) Create and implement an approvable maintenance plan for the affected emission unit.

(b) To the extent practicable, maintain and operate the affected emission unit in a manner consistent with good air pollution control practice for minimizing emissions at all times, including during startup, shutdown, and malfunction. The department shall determine compliance with this requirement based on information that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, and review of operation and maintenance records.

(c) For emission units with an emission rate limit specified in subrule (4) of this rule, 1 of the following:

(i) If a performance test has not been done within the last 5 years before the effective date of this rule, the person subject to this rule shall conduct an initial performance test, acceptable to the department, within 180 days after the effective date of this rule to demonstrate compliance with the required emission rate limit, or within 30 days after startup if the unit is not operating. A performance test must then be completed every 5 years, at a minimum, after the date of the last test, consistent with the requirements of R 336.2004. A representative test for multiple identical emission units may be approved by the department.

(ii) An approvable plan must be submitted to the department describing how the NO_x emissions will be monitored. The monitoring plan must include how the performance of periodic monitoring is sufficient to yield reliable data from relevant time periods representative of the source's compliance with the emission rates specified in subrule (4) of this rule. Periodic monitoring may include the following:

(A) A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance each emission unit's emissions are consistent with the requirements of this rule.

(B) A predictive emissions measurement system that relies on automated data collection from instruments. If a boiler is equipped with a predictive emission monitoring system, compliance with the applicable emissions limit is determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(C) A continuous emission monitoring system that complies with 40 CFR part 60 or 40 CFR part 75, both adopted by reference in R 336.1902. If a boiler is equipped with a continuous emission monitoring system, compliance with the applicable emissions limit shall be determined based on the 30-day rolling average of the hourly arithmetic average emissions rates.

(7) A person operating an emission unit subject to this rule shall obtain current information and maintain records for all requirements and exemptions in sufficient detail to determine compliance. When requested by the department, the following information and records must be made available:

(a) Installation dates of the affected emission unit.

(b) The maintenance plan.

(c) All associated maintenance records for a minimum of 5 years.

(d) Either the results of the most recent stack test, or a minimum of 5 years of all monitoring data necessary to demonstrate compliance with limits and requirements in subrule (4) of this rule, or both as applicable.

(e) If the provisions of this rule are not applicable as allowed by subrule (3), all information necessary to demonstrate that the equipment meets the exemption being utilized.

(8) A person that generates NO_x emissions from the use of a process heater located in the 2015 ozone nonattainment area shall meet the following limits within table 844b 12 months after the effective date of a final determination by the USEPA, pursuant to section 182(c)(9) of the clean air

act 42 USC 7511a, for either of the following elements of the 2015 ozone National Ambient Air Quality Standard:

- (a) The USEPA issues a determination that reasonable further progress as described in Michigan’s approved state implementation plan was not achieved.
- (b) The USEPA issues a finding of failure to attain the standard by the applicable attainment date.

TABLE 844a
NOx emission limits from process heaters

Process	NOx Emission limit on an hourly basis
Process Heaters	
Gaseous fuels >60 MMBtu/hr	0.10 lb/MMBtu
Distillate Oil >60, =< 100 MMBtu/hr	0.10 lb/MMBtu
Distillate Oil > 100 MMBtu/hr	0.12 lb/MMBtu
Residual Oil >60, =< 100 MMBtu/hr	0.14 lb/MMBtu
Residual Oil > 100 MMBtu/hr	0.15 lb/MMBtu

^a Except for alternative averaging periods as allowed in (6)(c)(ii) of this rule.

R 336.1845 RACT requirements for alternative RACT.

Rule 845. A person with an emission unit subject to the requirements in rules R 336.1841 through R 336.1844 may request approval from the department and the USEPA for equivalent or alternate requirements. The department may consider equivalent or alternate requirements only if the following provisions are met:

- (a) An application must be submitted to the department for a new permit or order, or for a revision to an existing permit or order, requesting the approval of equivalent or alternative requirements for the applicable emission unit within 180 days after the effective date of this rule or an alternative timeframe approved by the department. The source must submit a demonstration as part of the application containing the following, as applicable:
 - (i) Reasons why the applicant is requesting an alternative requirement.
 - (ii) Information demonstrating why the limitation or requirement as described in R 336.1841 to R 336.1844, as applicable, is not possible to attain.
 - (iii) Explanation of why alternative options, such as implementation of add-on controls or modifying equipment, would not be sufficient to meet the applicable requirements in rules R 336.1841 through R 336.1844. Identification of the existing and available control technologies and demonstration of why the application of these control options is either not technologically feasible, not economically reasonable, or neither.
 - (iv) A document containing quantitative or qualitative analyses demonstrating that the emission contributions from the applicable emission unit shall not contribute to the overall achievement of the ozone National Ambient Air Quality Standard in the nonattainment area. This may include, but is not limited to, modeling, calculations based on throughput and control efficiency, or other quantitative evaluations to similar insignificant units.
 - (v) A description of actions that are being taken to reduce emissions, while pursuing the steps described in this rule, to minimize the effect of noncompliance with rules R 336.1841 to R 336.1844, as applicable, if pursuit of alternative RACT extends beyond required compliance dates.
 - (vi) An expected schedule of significant steps to achieving compliance with R 336.1841 to R336.1844, as applicable.

(vii) Additional information, as needed.

(b) At a minimum, the applicable portion of the proposed draft permit or order related to this rule must be subject to a minimum 30-day public comment period when located at a source of NO_x with a potential to emit of 100 tons per year or greater on March 1, 2024, or the effective date of this rule, whichever comes later. When the proposed draft permit or order is noticed for a 30-day public comment period, a copy of the notice must also be sent to the USEPA.

(c) The proposed draft permit or order must offer a public hearing upon request during or immediately after the 30-day public comment period when required in subdivision (b) of this rule.

(d) Within 240 days after receipt of an administratively complete application, the department shall issue a legally enforceable order or permit to install or deny the application. An alternative timeframe may be utilized by the department in lieu of the 240-day requirement, if necessary.

(e) Upon department issuance of the legally enforceable document identified in subdivision (d) of this rule, it must be sent to the USEPA as a request for a revision of the state implementation plan, together with all of the other information that is required for the submittal of a complete state implementation plan revision request when located at a source of NO_x with a potential to emit of 100 tons per year or greater from all combined NO_x sources on March 1, 2024, or the effective date of this rule, whichever is later. Department approval and the legally enforceable document do not affect the federally approved state implementation plan until and unless the submitted state implementation plan revision request is formally approved by the USEPA.

(f) Implementation of the legally enforceable order of the department or permit to install must be completed according to the schedule established in the order or permit to install as expeditiously as practicable but not later than either of the following:

(i) Two years after department approval of the order or permit for combustion device modification.

(ii) Three years after department approval of the order or permit for add-on controls.

R 336.1846 RACT requirements for miscellaneous large sources at major sources of NO_x.

Rule 846. (1) As used in this rule "potential NO_x emissions" means theoretical potential emissions based on design capacity, maximum production, and maximum hours of operation before add-on control. Except for control, any physical or operational limitation on the emission unit's capacity, such as restrictions on hours of operation, types or amount of material combusted, stored, or processed, can limit potential NO_x emissions with a legal and federally enforceable permit or order.

(2) A person responsible for a stationary source shall meet the requirements as described in subrules (4) to (7) of this rule if all of the following criteria are met:

(a) Located in a 2015 ozone nonattainment area.

(b) Has 1 or more emission units that are not subject to any RACT requirements as described in R 336.1841 through R 336.1845 and meets the following:

(i) Have combined potential emissions of NO_x from all applicable emission units that equals 100 tons per year or more on March 1, 2024, or the effective date of this rule, whichever is later.

(ii) Have actual NO_x emissions equal to or greater than 25 tons per year from all emission units with emissions of 5 tons or more per emission unit.

(c) Has been subject to the requirements of this rule. The requirements in this rule, at a minimum, must permanently apply regardless of a change in the attainment or maintenance status of the stationary source location or the potential to emit of the stationary source.

(3) Instead of submitting a site-specific NO_x RACT proposal, the stationary source may submit a complete permit to install application requesting a facility-wide NO_x limit that would limit NO_x emissions using a federally enforceable restriction or restrictions to less than 100 tons per year or a complete permit to install application for the potentially subject emission units that would limit

emissions from all applicable emission units to less than 25 tons per year, before March 1, 2024 or the effective date of the rule, whichever is later.

(4) The person responsible shall provide the department and the USEPA with the following information within 120 days after the effective date of this rule:

(a) Identification of each stationary source including individual emission units or groups of emission units at those stationary sources to which this rule applies.

(b) A determination of the total potential to emit, potential NO_x emissions and the actual emissions of NO_x for the most recent calendar year for each applicable NO_x emission unit at the stationary source using emission testing or a calculation method approvable by the department.

(5) Within 1 year after the effective date of this rule, a person responsible shall provide to the department and the USEPA, a proposal for RACT for the stationary source. The RACT proposal must include, at a minimum, the following information:

(a) A list of each emission unit subject to the RACT requirements of this rule.

(b) The size or capacity of each affected emission unit, and the types and quantities of materials processed or produced in each emission unit, as applicable.

(c) A physical description of each emission unit and its operating characteristics.

(d) Estimates of the potential to emit and actual NO_x emissions from the affected stationary source and each affected emission unit for the most recent calendar year and associated supporting documentation.

(e) A RACT analysis which meets the requirements of subrule (6), including technical and economic support documentation for each affected emission unit.

(f) A schedule for completing implementation of the RACT proposal as expeditiously as practicable, including interim dates for the issuance of purchase orders, start and completion of process, technology and control technology changes, and the completion of compliance testing, if applicable.

(g) The testing, monitoring, recordkeeping, and reporting procedures proposed to demonstrate compliance with RACT.

(h) Additional information as requested by the department that is necessary for the evaluation of the RACT proposal.

(6) The RACT analysis required under subrule (5)(e) of this rule must include:

(a) A ranking of the available control options for the affected emission unit in descending order of control effectiveness. Available control options are air pollution control technologies or techniques with a reasonable potential for application to the emission unit. Air pollution control technologies and techniques include the application of production process, or control methods that reduce NO_x. The control technologies and techniques must include existing controls for the source category and technology transfer controls applied to similar source categories.

(b) An evaluation of the technical feasibility of the available control options identified in subdivision (a) of this subrule. The evaluation of technical feasibility must be based on physical, chemical, and engineering principles. A determination of technical infeasibility must identify technical difficulties which would preclude the successful use of the control option on the affected emission unit.

(c) A ranking of the technically feasible control options in descending order of overall control effectiveness for NO_x emissions. The list must present the array of control options and include, at a minimum, the following information:

(i) The baseline emissions of NO_x before implementation of each control option.

(ii) The estimated emission reduction potential or the estimated control efficiency of each control option.

(iii) The estimated emissions after the application of each control option.

(iv) The economic impacts and cost effectiveness of each control option.

(d) An evaluation of cost effectiveness of each control option consistent with the “EPA Air Pollution Control Cost Manual,” EPA-452/B-02-001, adopted by reference in R 336.1902. The evaluation must be conducted in accordance with the following requirements:

(i) The cost effectiveness must be evaluated in terms of dollars per ton of NOx emissions reduction.

(ii) The cost effectiveness must be calculated as the annualized cost of the control option divided by the baseline emission rate minus the control option emission rate, as shown by the following equation:

$$\text{Average cost effectiveness (\$/ton removed)} = \frac{\text{Control option total annualized cost (\$/yr)}}{\text{Baseline emission rate} - \text{Control option rate (tons/yr)}}$$

(iii) For purposes of this paragraph, baseline emission rate represents the maximum emissions before the implementation of the control option. The baseline emission rate must be established using either test results or approvable emission factors and historic operating data.

(7) The department shall approve, deny, or modify each RACT proposal.

(8) Upon receipt of notice of the department's approval of the RACT proposal, the stationary source shall begin implementation of the measures necessary to comply with the approved RACT proposal. Implementation of the RACT program must be completed according to the schedule established in the approved RACT proposal and as expeditiously as practicable but not later than the following, as applicable:

(a) One year after department approval of the RACT proposal and schedule.

(b) Two years after department approval of the order or permit for combustion device modification, or

(c) Three years after department approval of the order or permit for add-on controls.

(9) The department shall submit each state-issued enforceable order or permit to install with its corresponding RACT program to the USEPA for approval as a revision to the state implementation plan.

NOTICE OF PUBLIC HEARING

Department of Environment, Great Lakes and Energy
Air Quality Division
Administrative Rules for Part 8. Emission Limitations and Prohibitions-Oxides of Nitrogen
Rule Set 2023-13 EQ

NOTICE OF PUBLIC HEARING
Wednesday, May 22, 2024
01:00 PM

In Person: Ford Conference Room, 2nd Floor, South Tower, Constitution Hall, 525 West Allegan Street,
Lansing, MI 48933
Virtual: <https://bit.ly/3wZt1VQ> To join by phone: 636-651-3142, conference code 374288

The Department of Environment, Great Lakes and Energy will hold a public hearing to receive public comments on proposed changes to the Part 8. Emission Limitations and Prohibitions-Oxides of Nitrogen rule set.

The Part 8 proposed rule set contains rules developed to fulfill federal Clean Air Act, 42 USC 7401et seq (CAA) requirements for sources of oxides of nitrogen (NOx). Michigan must create new rules to address a change to a moderate classification in nonattainment areas under provisions of the National Ambient Air Quality Standards (NAAQS). These rules are often referred to as NOx “Reasonably Available Control Technologies” (RACT). For past NAAQS, EGLE was not required to promulgate RACT rules for NOx sources in the nonattainment areas established under those standards. With the establishment of a new standard and a new classification, Michigan must create RACT rules to align with requirements of Section 182(b)(2) of the CAA. EGLE must promulgate new rules setting emission standards and operational requirements for certain types of NOx emission sources for the nonattainment areas.

Additionally, existing Part 8 Rules addressing the “NOx State Implementation Plan (SIP) Call” federal program will be modified to address minor improvements suggested by representatives of the United States Environmental Protection Agency.

By authority conferred on the director of the Department of Environment, Great Lakes, and Energy by sections 5503 and 5512 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, 2011-1, and 2019 -1, MCL 324.99903, 324.99919, 324.99921, and 324.99923.

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at www.michigan.gov/ARD and in the 5/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: McDonaldT@Michigan.gov.

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 5/22/2024 at 05:00PM.

Trace McDonald

P.O. Box 30260, Lansing, MI 48909-7760

McDonaldT@Michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking

available. Anyone needing assistance to take part in the hearing due to disability may call 517-599-1938 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

Filed with the secretary of state on

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. 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 environment, Great Lakes, and energy by sections 5503 and 5512 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, ~~and~~ 2011-1, **and 2019-1**, MCL 324.99903, 324.99919, ~~and~~ 324.99921, **and 324.99923**)

R 333.1902 of the Michigan Administrative Code is amended, as follows:

PART 9. EMISSION LIMITATIONS AND PROHIBITIONS - MISCELLANEOUS

R 336.1902 Adoption of standards by reference.

Rule 902. (1) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from the U.S. Government Publishing Office, **by calling 205-512-1800** ~~732 North Capitol Street, NW, Washington, DC 20401~~, or by accessing their online bookstore at **<http://bookstore.gpo.gov>** ~~<http://www.ecfr.gov>~~ at a cost as of the time of adoption of these rules (GPO price). The standards can also be viewed or printed, or both, free of charge at **<http://www.ecfr.gov>**; ~~<http://bookstore.gpo.gov>~~.

(a) “National Primary and Secondary Ambient Air Quality Standards,” 40 CFR part 50 (201922), AQD price \$61.00/~~\$51.00~~ **and** GPO price **\$51.00** for part 50 to part 51.

(b) The following sections of “Requirements for Preparation, Adoption, and Submittal of Implementation Plans,” 40 CFR part 51 (201922), AQD price \$61.00/~~\$51.00~~ **and** GPO price **\$51.00** for part 50 to part 51:

(i) “Definitions,” 40 CFR 51.100.

(ii) “Legally enforceable procedures,” 40 CFR 51.160.

(iii) “Permit requirements,” 40 CFR 51.165.

(iv) “Prevention of significant deterioration of air quality,” 40 CFR 51.166.

(v) ~~“Protection of Visibility”~~ **“Definitions,”** 40 CFR 51.301 to **“Requirements related to the Grand Canyon Visibility Transport Commission,” 40 CFR 51.309.**

(vi) ~~“Emission Offset Interpretive Ruling,” appendix S.~~

(vii) “Recommended Test Methods for State Implementation Plans,” ~~a~~Appendix M.

(vii) “Emission Offset Interpretive Ruling,” Appendix S.

(viii) “Guideline on Air Quality Models,” ~~a~~Appendix W.

(ix) “Guidelines for BART Determinations under the Regional Haze Rule,” ~~a~~Appendix Y.

(c) The following sections of “Approval and Promulgation of Implementation Plans,” 40 CFR part 52 (201922); AQD price \$74.00/~~\$64.00~~ and GPO price **\$64.00** for part 52 (52.01 to 52.1018):-:

(i) “~~Prevention of Significant Deterioration~~ **significant deterioration of Air Quality** ~~air quality~~,” 40 CFR 52.21.

(ii) “Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties,” 40 CFR 52.741.

(d) “Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring,” 40 CFR part 58, appendix B (201922); AQD price \$46.00/~~\$36.00~~ and GPO price **\$36.00** for part 53 to part 59.

(e) “Standards of Performance for New Stationary Sources,” 40 CFR part 60, subparts A to WW (201922); AQD price \$74.00/~~\$64.00~~ and GPO price **\$64.00** for part 60 (60.1 to 60.499).

(f) “Standards of Performance for New Stationary Sources (Continued),” 40 CFR part 60, subpart XX to end, ~~UUUUa~~, except 40 CFR part 60, subpart AAA, “Standards of Performance for New Residential Wood Heaters,” (201922); AQD price \$74.00/~~\$64.00~~ and GPO price **\$64.00** for part 60 (60.499**500** to end).

(g) 40 CFR part 60 appendices ~~A-1 to A-8~~, B, and F (201922); AQD price \$73.00/~~\$63.00~~ and GPO price **\$63.00** for part 60 appendices.

(h) “National Emission Standards for Hazardous Air Pollutants,” 40 CFR part 61 (201922); AQD price \$61.00/~~\$51.00~~ and GPO price **\$51.00** for part 61 to part 62.

(i) “National Emission Standards for Hazardous Air Pollutants for Source Categories,” 40 CFR part 63, subparts A to ~~ZY~~ (201922); AQD price \$74.00/~~\$64.00~~ and GPO price **\$64.00** for part 63 (63.1 to 63.599).

(j) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 CFR part 63, subparts AA to DDD (201922); AQD price \$63.00/~~\$53.00~~ and GPO price **\$53.00** for part 63 (63.600 to 63.1199).

(k) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 CFR part 63, subparts EEE to PPP (201922); AQD price \$66.00/~~\$56.00~~ and GPO price **\$56.00** for part 63, (63.1200 to 63.1439).

(l) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 CFR part 63, subparts QQQ to YYYY (201922); AQD price \$47.00/~~\$37.00~~ and GPO price **\$37.00** for part 63 (63.1440 to 63.6175).

(m) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 CFR part 63, subparts ZZZZ to MMMMM (201922); AQD price \$50.00/~~\$40.00~~ and GPO price **\$40.00** for part 63 (63.6580 to 63.8830).

(n) “National Emission Standards for Hazardous Air Pollutants for Source Categories (Continued),” 40 CFR part 63, subpart NNNNN to end ~~HHHHHHH~~ (201922); AQD price \$50/~~\$76.00~~/~~\$40.00~~ and GPO price **\$66.00** for part 63 (63.8980 to end).

(o) “Compliance Assurance Monitoring,” 40 CFR part 64 (201922); AQD price \$44.00/~~\$34.00~~ and GPO price **\$34.00** for part 64 to part 71.

(p) The following sections of “State Operating Permit Programs,” 40 CFR part 70 (201922); AQD price \$44.00/~~\$34.00~~ and GPO price **\$34.00** for part 64 to part 71:

(i) “Definitions,” 40 CFR 70.2.

(ii) “State program submittals and transition,” 40 CFR 70.4(b)(12), (14), and (15).

(iii) “Emissions ~~trading~~ **Trading**,” 40 CFR 70.6(a)(8).

(iv) “Re-openings for cause by EPA,” 40 CFR 70.7(g).

- (v) “Transmission of information to the Administrator,” 40 CFR 70.8(a)(1) and (2).
 - (vi) “EPA objection,” 40 CFR 70.8(c).
 - (vii) “Public petitions to the Administrator,” 40 CFR 70.8(d).
 - (q) “~~Permits Permit~~ Regulations,” 40 CFR part 72 (201922); AQD price \$78.00/~~\$68.00~~ and GPO price **\$68.00** for part 72 to part 79.
 - (r) “Sulfur Dioxide Opt-Ins,” 40 CFR part 74 (201922); AQD price \$78.00/~~\$68.00~~ and GPO price **\$68.00** for part 72 to part 79.
 - (s) “Continuous Emission Monitoring,” 40 CFR part 75 (201922); AQD price \$78.00/~~\$68.00~~ and GPO price **\$68.00** for part 72 to part 79.
 - (t) “Acid Rain Nitrogen Oxides Emission Reduction Program,” 40 CFR part 76 (201922); AQD price \$78.00/~~\$68.00~~ and GPO price **\$68.00** for part 72 to part 79.
 - (u) “NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs for State Implementation Plans,” 40 CFR part 96, ~~subparts 96.1 A,~~ “**NOx Budget Trading Program General Provisions**” to ~~96.88 I~~ “**Individual Unit Opt-ins**”(201922); AQD price \$76.00/~~\$66.00~~ and GPO price **\$66.00** for part 96 to part 99.
 - (v) “Federal NOx Budget Trading Program, CAIR NOx and SO2 Trading Programs, ~~and~~ CSAPR NOx and SO2 Trading Programs, **and Texas SO2 Trading Program**” 40 CFR part 97 (201922); AQD price \$76.00/~~\$66.00~~ and GPO price **\$66.00** for part 96 to part 99.
- (2) The following United States Environmental Protection Agency (U.S. EPA) documents are adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$20.00 each. A copy may also be obtained from the U.S. EPA, ~~Office of the Science Advisor~~ **Mail Code 340T**, 1200 Pennsylvania Avenue, NW, Washington, DC 20460 or on the U.S. EPA Online Library System website, ~~www-~~ **<https://cfpub.epa.gov/ols/>**, free of charge as of the time of adoption of these rules.
- (a) “Advances in Inhalation Gas Dosimetry for Derivation of a Reference Concentration (RfC) and Use in Risk Assessment,” EPA/600/R-12/044, September 2012.
 - (b) “Alternative Control Techniques Document: NOx Emissions from Cement Manufacturing,” EPA-453/R-94-004, 1994.
 - (c) “Benchmark Dose Technical Guidance,” EPA/100/R-12/-001, June 2012.
 - (d) “Compilation of Air Pollutant Emission Factors. Volume 1-. Stationary Point and Area Sources. **Fifth Edition**,” AP-42-ED-5, January 1995.
 - (e) “Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products, Appendix B,” EPA-450/2-78-029, December 1978.
 - (f) “**EPA Air Pollution Control Cost Manual (Sixth Edition)**,” EPA-452/B-02-001, January 2002.
 - (g) “**Control Techniques Guidelines for Miscellaneous Industrial Adhesives**,” EPA/453/R-08/005, **September 2008**.
 - (h) “**Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings**,” EPA/453/R-08/003, **September 2008**.
 - (i) “Guidelines for Carcinogen Risk Assessment,” EPA/630/P-03-001B, March 2005.
 - (~~g~~j) “Protocol for Determining the Daily Volatile Compound Emission Rate of Automobile and Light-duty Truck Topcoat Operations,” ~~EPA 450/3-88-018~~ **EPA-453/R-08/002**, ~~December 1988~~ **September 2008**.
 - (~~h~~k) “Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens,” EPA/630/R-03-003F, March 2005.
- (3) The following Federal Register documents are adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption

of these rules of \$10.00 each. **The Federal Register documents may also be viewed or printed, or both, free of charge at as of the time of adoption of these rules at <https://www.govinfo.gov/>:**

- (a) U.S. EPA Emissions Trading Policy statement, 51 FR 43814, December 4, 1986.
- (b) U.S. EPA Recommended Policy on Control of Volatile Organic Compounds, Table 1, 42 FR 35314, July 8, 1977.
- (4) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at the cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from ASTM International, **100 Barr Harbor Drive**, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959 or on the ASTM website, www.astm.org, at a cost as of the time of adoption of these rules (ASTM price):
 - (a) Standard Test Method for Distillation of Petroleum Products and Liquid Fuels at Atmospheric Pressure, ASTM method D86, 2018**20**; AQD price ~~\$7988.00/\$69.00~~ **and \$78.00** ASTM price.
 - (b) Standard Test Method for Pour Point of Petroleum Products, ASTM D97, 2017; AQD price ~~\$5864.00/\$48.00~~ **and ASTM price \$54.00.**
 - (c) Standard Test Method for Vapor Pressure of Petroleum Products, ASTM D323, 2015**20**; AQD price ~~\$6470.00/\$54.00~~ **and ASTM price \$60.00.**
 - (d) Standard Specification for Fuel Oils, ASTM D396, 20218; AQD price ~~\$6470.00/\$54.00~~ **and ASTM price \$60.00.**
 - (e) Standard Test Method for Distillation of Cutback Asphalt, ASTM D402/D402M, 2014; AQD price ~~\$5864.00/\$48.00~~ **and ASTM price \$54.00.**
 - (f) Standard Specification for Aviation Gasolines, ASTM D910, 20217; AQD price ~~\$5864.00/\$48.00~~ **and ASTM \$54.00.**
 - (g) Standard Specification for Diesel Fuel Oils, ASTM D975, 20219; AQD price ~~\$7988.00/\$69.00~~ **and ASTM price \$78.00.**
 - (h) **Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, ASTM D1475, 2013; AQD \$58.00 and ASTM price \$48.00.**
 - (i) Standard Specification for Aviation Turbine Fuels, ASTM D1655, 202219; AQD price ~~\$792.00/\$69.00~~ **and ASTM price \$82.00.**
 - (j) **Standard Test Method for Volatile Content of Coatings, ASTM D2369, 2020; AQD price \$64.00 and ASTM price \$54.00.**
 - (k) Standard Specification for Gas Turbine Fuel Oils, ASTM D28802018**20**; AQD price ~~\$5864.00/\$548.00~~ **and ASTM price \$54.00.**
 - (j) **Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, ASTM D6522, 2000, AQD price \$74.00 and ASTM price \$64.00.**
 - (m) Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, ASTM D6751, 2019**20**; AQD price ~~\$5870.00/\$48.00~~ **and ASTM price \$60.00.**
 - (kn) Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), ASTM D6784, 2016; AQD price ~~\$7088.00/\$60.00~~ **and ASTM price \$78.00.**
 - (lo) Standard Test Method for Distillation of Emulsified Asphalt, ASTM D6997, 20120; AQD price ~~\$528.00/\$42.00~~ **and ASTM price \$48.00.**
 - (mp) Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20), ASTM D7467, 2019**20**; AQD price ~~\$7988.00/\$69.00~~ **and ASTM price \$78.00.**
 - (mq) Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM E168, 2016; AQD price ~~\$64.00/\$54.00~~ **and ASTM price \$54.00.**

(~~or~~) Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM E169, 2016; AQD price ~~\$5870.00/\$48.00~~ and ASTM price **\$60.00**.

(~~ps~~) Standard Practice for Packed Column Gas Chromatography, ASTM E260, 2014~~9~~; AQD price ~~\$6470.00/\$54.00~~ and ASTM price **\$60.00**.

(5) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at the cost as of the time of adoption of these rules (AQD price). Copies may also be obtained from the American Association of State Highway and Transportation Officials, AASHTO Publication Order Department, P.O. Box 933538, Atlanta, Georgia, 31193-3538, or from their website, <https://www.techstreet.com/>, at a cost as of the time of adoption of these rules (AASHTO price):

(a) Standard Method of Test for Emulsified Asphalts, AASHTO T59, 2016; AQD price ~~\$1326.00/\$116.00~~ and AASHTO price **\$122.00**.

(b) Standard Method of Test for Distillation Cutback Asphalt Products, AASHTO T78, 2015; AQD price ~~\$88.00/\$78.00~~ and AASHTO price **\$78.00**.

(6) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, for \$20.00 as of the time of adoption of these rules. Copies may also be obtained from the National Technical Information Service, U.S. Department of Commerce website, <https://ntrl.ntis.gov/NTRL/>, for free as of the time of adoption of these rules.

(a) PB95-196028, “Compilation of Air Pollution Emission Factors. Volume 1. Stationary Point and Area Sources,” (1995).

(b) PB94-183522, “Alternative Control Techniques Document: NOx Emissions from Cement Manufacturing,” (1994).

(c) PB203-060, “Construction Details of Isokinetic Source Sampling Equipment,” (1971).

(d) PB209-022, “Maintenance, Calibration, and Operation of Isokinetic Source-Sampling Equipment,” (1972).

(7) “TLVs and BEIs. Threshold Limit Values for Chemical Substances and Physical Agents, and Biological Exposure Indices,” 201~~7~~**22** is adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$75.95. A copy may also be obtained from the American Conference of Governmental Industrial Hygienists, ~~1330 Kemper Meadow Drive~~**3640 Park 42 Drive**, Cincinnati, Ohio 45240, or on the American Conference of Governmental Industrial website, www.acgih.org, at a cost as of the time of adoption of these rules of \$54.95.

(8) “NIOSH Pocket Guide to Chemical Hazards,” 2017, is adopted by reference in these rules. A copy **of this document on CD-ROM** is available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, for \$20.00 as of the time of adoption of these rules. ~~A copy on CD-ROM~~ **Print, online, PDF, or mobile web app formats of this document** may also be obtained from the Centers for Disease Control website, <https://www.cdc.gov/niosh/npg/>, for free as of the time of adoption of these rules.

(9) “American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 19.2,” 201~~2~~**20**, is adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of ~~\$194~~**\$220.00**. A copy may also be obtained from ~~the~~ American Petroleum Institute, Techstreet, ~~3916 Ranchero~~**3025 Boardwalk Drive, Suite 220**, Ann Arbor, Michigan 48108-2775, or at the American Petroleum Institute website at

<https://www.techstreet.com/api/pages/home>, at a cost as of the time of adoption of these rules of \$181210.00.

(10) The following standards are adopted by reference in these rules. Copies are available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, for \$10.00 as of the time of adoption of these rules. Copies may also be obtained from the Ozone Transport Commission website at <https://otcair.org/document.asp?fview=modelrules> for free as of the time of adoption of these rules.

~~(a) “OTC Model Rule for Consumer Products,” except sections 8(b), 10, and 11(f), (2006), is adopted by reference in these rules. A copy is available for inspection and purchase at the Air Quality Division, Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$10.00. A copy may also be obtained from the Ozone Transport Commission website for free as of the time of adoption of these rules.~~

(b) “OTC Model Rule for Consumer Products,” except section 8(b), (2012).

(c) “Technical amendment to the Ozone Transport Commission Consumer Products Model Rule,” (2013).

(d) “Model Rule for Architectural and Industrial Maintenance (AIM) Coatings,” (2011).

NOTICE OF PUBLIC HEARING

Department of Environment, Great Lakes and Energy
Air Quality Division
Administrative Rules for Part 9. Emission Limitation and Prohibitions--Miscellaneous
Rule Set 2023-14 EQ

NOTICE OF PUBLIC HEARING
Wednesday, May 22, 2024
01:00 PM

In Person: Ford Conference Room, 2nd Floor, South Tower, Constitution Hall, 525 West Allegan Street,
Lansing, MI 48933
Virtual: <https://bit.ly/3wZt1VQ> To join by phone: 636-651-3142, conference code 374288

The Department of Environment, Great Lakes and Energy will hold a public hearing to receive public comments on proposed changes to the Part 9. Emission Limitation and Prohibitions--Miscellaneous rule set.

The Part 9 proposed rule set provides revisions and additional adopted standards to support revisions pending or completed in other rule parts developed to fulfill the ozone requirements under the federal Clean Air Act, 42 USC 7401 et seq. The proposed revisions also consist of updates to reference prices to align with what is currently offered by the respective sources, including the Air Quality Division; and revisions to the publication dates referenced, the physical and web addresses listed in the rule to reflect the current information, and availability of these reference materials from their respective agencies.

By authority conferred on the director of the Department of Environment, Great Lakes, and Energy by sections 5503 and 5512 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, 2011-1, and 2019 -1, MCL 324.99903, 324.99919, 324.99921, and 324.99923.

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at www.michigan.gov/ARD and in the 5/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: VaertenM@Michigan.gov.

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 5/22/2024 at 05:00PM.

Marissa Vaerten

P.O. Box 30260, Lansing, MI 48909-7760

VaertenM@Michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-599-1938 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

AUDIOLOGY - GENERAL RULES

Filed with the secretary of state on

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. 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 licensing and regulatory affairs by sections 16145, 16148, and 16811 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, and 333.16811, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1 and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.1, R 338.1a, R 338.2, R 338.3, R 338.4, R 338.5, R 338.6, R 338.8, R 338.9, R 338.10, R 338.11, R 338.12, and R 338.13 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 338.1 Definitions.

Rule 1. (1) As used in these rules:

- (a) "ASHA" means the American Speech-Language-Hearing Association.
 - (b) "Board" means the Michigan board of audiology created under section 16805 of the code, MCL 333.16805.
 - (c) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
 - (d) "Department" means the department of licensing and regulatory affairs.
 - (e) **"NACES" means the National Association of Credential Evaluation Services.**
- (2) A term defined in the code has the same meaning when used in these rules.

R 338.1a Training standards for identifying victims of human trafficking; requirements.

Rule 1a. (1) Under section 16148 of the code, MCL 333.16148, an individual seeking licensure or ~~that~~ **who** is licensed shall have completed training in identifying victims of human trafficking that satisfies the following standards:

- (a) Training content must cover all the following:
 - (i) Understanding the types and venues of human trafficking in this state or the United States.
 - (ii) Identifying victims of human trafficking in healthcare settings.
 - (iii) Identifying the warning signs of human trafficking in healthcare settings for adults and minors.
 - (iv) Identifying resources for reporting the suspected victims of human trafficking.
- (b) Acceptable providers or methods of training include any of the following:
 - (i) Training offered by a nationally-recognized or state-recognized, health-related organization.

(ii) Training offered by, or in conjunction with, a state or federal agency.

(iii) Training obtained in an educational program that has been approved for initial licensure, or by a college or university.

(iv) Reading an article related to the identification of victims of human trafficking that satisfies the requirements of subdivision (a) of this subrule and is published in a peer-reviewed journal, healthcare journal, or professional or scientific journal.

(c) Acceptable modalities of training include any of the following:

(i) Teleconference or webinar.

(ii) Online presentation.

(iii) Live presentation.

(iv) Printed or electronic media.

(2) The department may select and audit an individual and request documentation of proof of completion of training. If audited by the department, the individual shall provide acceptable proof of completion of training, ~~that includes~~ **including** either of the following:

(a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and the individual's name.

(b) A self-certification statement by the individual. The certification statement must include the individual's name and either of the following:

(i) For training completed under subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.

(ii) For training completed under subrule (1)(b)(iv) of this rule, the title and author of the article, publication name of the peer-reviewed journal, healthcare journal, or professional or scientific journal, and the date, volume, and issue of publication, as applicable.

~~(3) Under section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the 2017 renewal cycle and for initial licenses issued after April 22, 2021.~~

R 338.2 Application for audiologist license; requirements.

Rule 2. (1) An applicant for an audiologist license shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

(a) Provide the required fee and a completed application on a form provided by the department.

(b) Provide proof, as directed by the department, verifying completion of a master's or doctoral degree in audiology from an accredited educational program under R 338.8(1) or (2) and (3) or (4).

(c) Provide proof, as directed by the department, verifying completion of a minimum of 9 months of supervised clinical experience in audiology, as shown by 1 of the following requirements:

(i) For an applicant ~~that~~ **who** has a doctor of audiology (Au.D.), an official transcript that shows the awarding of an Au.D. from an accredited educational institution under R 338.8(1) or (2) and (3) or (4).

(ii) For an applicant ~~that~~ **who** has either a **master's or** doctoral ~~or master's~~ degree in audiology, a certification of clinical experience that shows that the applicant completed the required supervised clinical experience.

(d) Provide proof, as directed by the department, verifying a passing score on an examination adopted under R 338.7.

(2) If an applicant for an audiologist license provides either a Certificate of Clinical Competence in Audiology (CCC-A) from ASHA or an American Board of Audiology Certified credential from the American Board of Audiology (ABA) that has been held, up to September 1, 1995, ~~then~~ it is presumed that the applicant satisfies the requirements of subrule (1)(b), (c), and (d) of this rule.

R 338.3 Licensure by endorsement; audiologist.

Rule 3. (1) An applicant for an audiologist license by endorsement shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

- (a) Provide the required fee and a completed application on a form provided by the department.
- (b) Provide proof, as directed by the department, verifying a current and full audiologist license in another state or in a province of Canada.
- (c) If the applicant is licensed as an audiologist in a province in Canada, provide proof, as directed by the department, verifying that the applicant completed the educational requirements in Canada or in the United States for licensure as an audiologist in Canada or in the United States.
- (d) Provide proof, as directed by the department, verifying a passing score on either of the following examinations for an audiologist license in another state or in a province of Canada to obtain licensure as an audiologist in another state or in a province of Canada:
 - (i) One of the examinations adopted under R 338.7.
 - (ii) The Canadian Entry-to-Practice Exam for Audiology.
- (e) If the applicant has held an audiologist license for less than 18 months, the applicant has completed, in the United States, 9 months of supervised clinical experience under a licensed audiologist, and the supervised clinical experience satisfies R 338.5.

(2) An applicant ~~that~~ **who** is or has been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.4 Supervised clinical experience; limited license requirements.

Rules 4. (1) An applicant for an audiologist limited license who has earned a master's or doctoral degree in audiology, but who still must complete the required 9 months of supervised clinical experience in audiology, shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

- (a) Provide the required fee and a completed application on a form provided by the department.
- (b) Provide proof, as directed by the department, verifying completion of ~~an accredited educational program in audiology under R 338.8(1) or (2) and (3) or (4).~~ **a master's or doctoral degree in audiology from either of the following:**
 - (i) **An accredited educational program under R 338.8(1) or (2) and (3) or (4).**
 - (ii) **An educational program that is substantially equivalent to the educational requirements under R 338.8(1) or (2) and (3) or (4). The department accepts a credential evaluation completed by a credential evaluation organization that is a current member organization of NACES as proof of an applicant's satisfaction of the educational requirements.**

(c) Provide proof, as directed by the department, verifying acceptance for training in a clinical situation under the supervision of an individual ~~that~~ **who** is licensed as an audiologist in this state.

(2) The applicant shall provide proof, as directed by the department, verifying the completion of 9 months of clinical supervised experience, **which is** (1,080 clock hours). ~~or the equivalent of 9 months of experience after having graduated from an accredited master's degree program in audiology under R 338.8(1) or (2) and (3) or (4).~~ Both of the following requirements apply to the clinical supervised experience:

- (a) The experience is subject to R 338.5.

(b) Only experience obtained in an approved supervised clinical situation by an individual ~~that~~ **who** holds a limited license counts toward the experience requirement.

(3) If an applicant transfers to a different supervised clinical situation, ~~then~~ the applicant shall provide information about the supervised clinical situation on ~~an updated~~ **a** form provided by the department. ~~under subrule (2) of this rule.~~

R 338.5 Clinical experience requirements.

Rule 5. (1) The 9 months of supervised clinical experience required for licensure ~~in R 338.2(1)(e) and R 338.4(2)~~ must satisfy the following requirements:

(a) The experience must be obtained under the supervision of a licensed audiologist.

(b) Except as otherwise provided in subrule (2) of this rule, experience must be full time, which means not less than 30 hours per week and obtained within 24 consecutive months.

(2) The supervised clinical experience required under subrule (1) of this rule may be fulfilled on a part-time basis and must satisfy the following requirements:

(a) The experience must be obtained under the supervision of a licensed audiologist.

(b) The experience must be part time, which means not less than 15 hours per week and obtained within 36 consecutive months.

R 338.6 Foreign trained applicants; licensure requirements.

Rule 6. An applicant for an audiologist license who graduated from a postsecondary institution outside of the United States or Canada shall satisfy the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

(a) Provide proof, as directed by the department, verifying completion of **a master's or doctoral degree in audiology from** an educational ~~degree~~ program ~~in audiology~~ that is substantially equivalent to the educational requirements ~~in R 338.2(1)(b)~~. **under R 338.8(1) or (2) and (3) or (4)**. The department accepts a credential evaluation completed by a credential evaluation organization that is a current member organization of the ~~National Association of Credential Evaluation Services~~ **NACES** as proof of an applicant's satisfaction of the educational requirements.

(b) Provide proof, as directed by the department, verifying that the applicant may practice as an audiologist without limitation in a country currently recognized by the United States. An applicant ~~that~~ **who** is or has been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

(c) Provide proof, as directed by the department, verifying that the applicant has completed, in the United States, 9 months of supervised clinical experience under a licensed audiologist, and the supervised clinical experience satisfies R 338.5.

R 338.8 Educational standards; adoption by reference.

Rule 8. (1) The standards for accrediting audiology educational programs developed and adopted by the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA), ASHA, 2200 Research Boulevard, #310, Rockville, Maryland 20850, in the publication titled "Standards for Accreditation of Graduate Education Programs in Audiology and Speech-Language Pathology," effective ~~August 1, 2017, and updated August 2020,~~ **January 2023**, which are available at no cost on

the council’s website at <https://caa.asha.org>, are approved and adopted by reference. ~~If an~~ **An** audiology educational program ~~is accredited by the CAA, it~~ **CAA** is approved.

(2) The standards for accrediting doctor of audiology programs developed and adopted by the Accreditation Commission for Audiology Education (ACAE), 11480 Commerce Park Drive, Ste. 220, Reston, Virginia 20191, in the publication titled "Accreditation Standards for the Doctor of Audiology (Au.D.) Program," adopted March 2016, which are available at no cost on the commission's website at <https://acaecacred.org>, are approved and adopted by reference. ~~If an~~ **An** audiology educational program ~~is accredited by the ACAE, it~~ **ACAE** is approved.

(3) The standards for recognition of accrediting organizations developed and adopted by the Council for Higher Education Accreditation (CHEA), One Dupont Circle NW, Suite 510, Washington, D.C. 20036, in the publication titled “CHEA Standards and Procedures for Recognition,” effective October 4, 2021, which are available at no cost on the council’s website at <https://www.chea.org>, are approved and adopted by reference. If a higher education institution is accredited by the accrediting body of the region in which the institution is located and the accrediting body satisfies the recognition standards of CHEA, the institution is approved.

(4) The criteria for recognition and the recognition process for the secretary’s recognition of accrediting agencies of the United States Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, Washington, D.C. 20202, in 34 CFR 602.10 to 602.39, effective July 1, 2020, which are available at no cost on the department’s website at <https://www2.ed.gov/about/offices/list/ope/index.html>, are approved and adopted by reference. If a higher education institution is accredited by the accrediting body of the region in which the institution is located and the accrediting body satisfies the recognition criteria and process of the United States Department of Education, the institution is approved.

(5) Copies of the standards in this rule are available for inspection and distribution at a cost of 10 cents per page from the Board of Audiology, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, Lansing, Michigan 48909.

R 338.9 Relicensure.

Rule 9. (1) An applicant may be relicensed within 3 years after the expiration date of the license under section 16201(3) of the code, MCL 333.16201, if the applicant satisfies the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

- (a) Provides the required fee and a completed application on a form provided by the department.
- (b) Establishes good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.
- (c) Provides proof, as directed by the department, verifying the completion of not less than 20 hours of continuing education credit that satisfies the requirements under R 338.10 and R 338.11 during the 2 years immediately before the application for relicensure.

(2) An applicant may be relicensed more than 3 years after the expiration date of the license under section 16201(4) of the code, MCL 333.16201, if the applicant satisfies the requirements of the code and the rules promulgated under the code, ~~as well as~~ **and** all the following requirements:

- (a) Provides the required fee and a completed application on a form provided by the department.
- (b) Establishes good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.
- (c) Provides fingerprints as required under section 16174(3) of the code, MCL 333.16174.
- (d) Provides proof, as directed by the department, verifying the satisfaction of either of the following requirements:
 - (i) Successfully passing an examination required under R 338.7 during the 2 years immediately before the date of the application for relicensure.

(ii) Presents proof, as directed by the department, verifying that the applicant was licensed as an audiologist in another state or in a province of Canada during the 2-year period before the application for relicensure.

(3) An applicant ~~that~~ **who** is or has been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.10 License renewal; requirements; applicability.

Rule 10. (1) An applicant for renewal shall satisfy the requirements of the code and the rules promulgated under the code.

(2) An applicant for license renewal who has been licensed in the 2-year period immediately before the expiration date of the license shall complete not less than 20 hours of continuing education in activities approved under these rules during the 2 years before the end of the license cycle.

(3) Submission of an application for renewal constitutes the applicant's certification of compliance with the requirements of this rule. The licensee shall maintain documentation of satisfying the requirements of this rule for 4 years after the date of applying for license renewal. Failure to satisfy this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(4) ~~The department shall receive~~ **An applicant shall submit** a request for a waiver of continuing education requirements **to the department** for the board's consideration not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license.

R 338.11 Acceptable continuing education; requirements; limitations.

Rule 11. (1) As used in this rule, "instruction" means education time, exclusive of breakfast, lunch, or dinner periods, or any other breaks in the program.

(2) The 20 hours of continuing education required under R 338.10(2) for the renewal of an audiologist license must satisfy the following requirements:

(a) Not more than 10 hours of continuing education may be earned during a 24-hour period.

(b) The licensee may not earn credit for a continuing education program or activity that is equivalent or substantially equivalent to a program or activity the licensee has already earned credit for during the license cycle.

(c) Under section 16204 of the code, MCL 333.16204, at least 1 hour of continuing education must be earned in pain and symptom management. Continuing education hours in pain and symptom management may include, but are not limited to, courses in behavior management, behavior modification, stress management, and clinical applications, as they relate to professional practice under part 168 of the code, MCL 333.16801 to 333.16811.

(d) Completion of implicit bias training under R 338.7004 during the 2 years before the end of the license cycle may be used towards satisfaction of the requirements of R 338.10(2) and this subrule.

(3) Any of the following activities are considered acceptable continuing education:

Activity Code	Activity and Proof Required	Number of continuing education hours granted/allowed per activity
(a)	Initial presentation of a continuing	Three hours of continuing

	<p>education program related to the practice of audiology provided to a state, regional, national, or international audiology organization.</p> <p>To receive credit, the presentation must not be a part of the licensee's regular job description and must satisfy the standards in R 338.12.</p> <p>If audited, the licensee shall provide a copy of the presentation notice or advertisement showing the date of the presentation, the licensee's name listed as a presenter, and the name of the organization that approved or offered the presentation for continuing education credit.</p>	<p>education are granted for each 50 to 60 minutes of presentation.</p> <p>No other credit is granted for preparation of a presentation.</p> <p>A maximum of 9 hours of continuing education are allowed for this activity in each renewal period.</p> <p>Under subrule (2)(b) of this rule, credit for a presentation is granted once per renewal period.</p>
(b)	<p>Initial presentation of a scientific exhibit, paper, or clinical demonstration to an audiology organization.</p> <p>To receive credit, the presentation must not be part of the licensee's regular job description or performed in the normal course of the licensee's employment.</p> <p>If audited, the licensee shall provide a copy of the document presented with proof of presentation or a letter from the program sponsor verifying the length and date of the presentation.</p>	<p>Two hours of continuing education are granted for each 50 to 60 minutes of presentation.</p> <p>No other credit is granted for preparation of a presentation.</p> <p>A maximum of 6 hours of continuing education are allowed for this activity in each renewal period.</p> <p>Under subrule (2)(b) of this rule, credit for a presentation is granted once per renewal period.</p>
(c)	<p>Passing a postgraduate academic course related to the practice of audiology offered in an educational program approved under R 338.8(1) or (2) and (3) or (4).</p> <p>If audited, the licensee shall provide an official transcript documenting successful completion of the course.</p>	<p>Five hours of continuing education are granted for each academic credit hour passed.</p> <p>Three hours of continuing education are granted for each academic term or quarter credit hour passed.</p> <p>A maximum of 20 hours of continuing education are allowed for this activity in each renewal period.</p>
(d)	<p>Attendance at a continuing education program approved under R 338.12.</p>	<p>One continuing education hour is granted for each 50 to 60</p>

	<p>If audited, the licensee shall provide a program description, a copy of a letter or certificate of completion showing the licensee’s name, number of continuing education hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date the program was held or activity completed.</p>	<p>minutes of program attendance.</p> <p>A maximum of 20 hours of continuing education are allowed for this activity in each renewal period.</p>
(e)	<p>Attendance at a continuing education program approved by another state board of audiology.</p> <p>If audited, the licensee shall provide a program description, a copy of a letter or certificate of completion showing the licensee’s name, number of continuing education hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date the program was held or activity completed.</p>	<p>One continuing education hour is granted for each 50 to 60 minutes of program attendance.</p> <p>A maximum of 20 hours of continuing education are allowed for this activity in each renewal period.</p>
(f)	<p>Initial publication of an article related to the practice of audiology in a non-peer-reviewed journal or newsletter.</p> <p>If audited, the licensee shall provide a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</p>	<p>One hour of continuing education is granted for each article.</p> <p>A maximum of 5 hours of continuing education are allowed for this activity in each renewal period.</p> <p>Under subrule (2)(b) of this rule, credit for publication is granted once per renewal period.</p>
(g)	<p>Initial publication of a chapter related to the practice of audiology in either of the following:</p> <ul style="list-style-type: none"> - A professional or healthcare textbook. - A peer-reviewed journal. <p>If audited, the licensee shall provide a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</p>	<p>Five hours of continuing education are granted for serving as the primary author.</p> <p>Two hours of continuing education are granted for serving as the secondary author.</p> <p>Under subrule (2)(b) of this rule, credit for publication is granted once per renewal period.</p>

(h)	<p>Reading an audiology professional journal and successfully completing an evaluation created for continuing education credit in audiology practice education.</p> <p>If audited, the licensee shall provide a copy of the publication and the evaluation created for continuing education credit in audiology practice education.</p>	<p>One hour of continuing education is granted for each 50 to 60 minutes of this activity.</p> <p>A maximum of 5 hours of continuing education are allowed for this activity in each renewal period.</p>
(i)	<p>Attendance at a program approved for continuing education by the board of medicine or the board of osteopathic medicine related to audiology practice.</p> <p>If audited, the licensee shall provide a program description, a copy of a letter or certificate of completion showing the licensee’s name, number of continuing education hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date the program was held or activity completed.</p>	<p>One continuing education hour is granted for each 50 to 60 minutes of program attendance.</p> <p>A maximum of 5 hours of continuing education are allowed for this activity in each renewal period.</p>
(j)	<p>Participating on a state or national committee, board, council, or association related to the field of audiology. A committee, board, council, or association shall enhance the participant’s knowledge and understanding of the field of audiology.</p> <p>If audited, the licensee shall provide documentation verifying the licensee’s participation in not less than 50% of the regularly scheduled meetings of the committee, board, council, or association.</p>	<p>Two hours of continuing education are granted for each committee, board, council, or association.</p> <p>A maximum of 2 hours of continuing education are allowed for this activity in each renewal period.</p>

R 338.12 Continuing audiology education providers and programs; methods of approval.

Rule 12. (1) Any continuing education provider or program approved by ASHA is approved. The standards for continuing education providers developed and adopted by the American Speech-Language-Hearing Association Continuing Education Board (ASHA-CEB), 2200 Research Boulevard, Rockville, Maryland 20850-3289, in the publication titled “American Speech-Language-Hearing Association Continuing Education Board Manual,” updated ~~January~~ **October** 2022, which are available at no cost on the association's website at <https://www.asha.org>, are approved and adopted by reference.

(2) Any continuing education provider or program approved by the American Academy of Audiology is approved. The standards for continuing education programs developed and adopted by the American Academy of Audiology, 11480 Commerce Park Drive, Suite 220, Reston, Virginia 20191, in the publication titled “CE Provider Course Application Requirements and Guidelines,” revised October 1, 2020, which are available at no cost on the academy’s website at <https://www.audiology.org>, are approved and adopted by reference.

(3) Any continuing education provider or program approved by the board is approved. Providers or programs that need to be reviewed **by the board and pre-approved shall petition the board for approval of a continuing education program. The continuing education program provider shall complete an application provided by the department, file the application and supporting documentation with the department for review not less than 120 days before the program date, and must provide include all the following requirements: information:**

- (a) Course content related to current issues in audiology practice.
- (b) An outline of the course or program provided with time allotted for each section of the program.
- (c) Documentation of qualifications of presenters.
- (d) Description of the method for delivering the course or program.
- (e) Inclusion of defined measurements of pre-knowledge and post-knowledge or skill improvement.
- (f) Monitoring of participant attendance at the program or course.
- (g) Records of a course or program maintained that include the number of participants in attendance, the date of the program, the program's location, the credentials of the presenters, rosters of the individuals who attended, and the continuing education time awarded to each participant.

~~(h) A participant shall receive a certificate or written proof of attendance at a program that shows a participant's name, the date of the program, the location of program, the sponsor or program approval number, and the hours of continuing education awarded.~~

~~(4) Copy of the standards in this rule are available for inspection and distribution at a cost of 10 cents per page from the Michigan Board of Audiology, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, Michigan 48909.~~ **A participant shall receive a certificate or written proof of attendance at a program that shows a participant's name, the date of the program, the location of program, the sponsor or program approval number, and the hours of continuing education awarded.**

(5) Copy of the standards in this rule are available for inspection and distribution at a cost of 10 cents per page from the Michigan Board of Audiology, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, Michigan 48909.

R 338.13 Telehealth.

Rule 13. (1) A licensee shall obtain consent from the patient for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284.

(2) A licensee shall ~~keep~~ **maintain** proof of consent for telehealth treatment in the patient’s up-to-date medical record and satisfy section 16213 of the code, MCL 333.16213.

(3) A licensee providing any telehealth service shall do both of the following:

- (a) Act within the scope of the licensee’s practice.
- (b) Exercise the same standard of care applicable to a traditional, in-person ~~healthcare health-care~~ service.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Audiology – General Rules
Rule Set 2023-37 LR

NOTICE OF PUBLIC HEARING

Friday, May 10, 2024

09:00 AM

UL-5

611 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Audiology – General Rules rule set.

The proposed rules clarify that graduates from educational programs that are substantially equivalent to accredited educational programs also satisfy the educational requirements for the limited license, update accreditation standards for audiology educational programs, clarify that a licensee who completes implicit bias training under R 338.7004 may also use that training toward fulfillment of continuing education requirements, supply updated accreditation standards for audiology continuing education programs, and clarify that a proposed continuing education provider, not already approved under the rules, must file an application and supporting documentation with the department for review not less than one-hundred twenty (120) days before the scheduled program date.

By authority conferred on the Department in consultation with the Board under MCL 333.16145, 333.16148, 333.16287, and 333.16811, and Executive Reorganization Nos. 1991-9, 1996-2, 2003-1 and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030.

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at www.michigan.gov/ARD and in the 5/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: BPL-BoardSupport@michigan.gov.

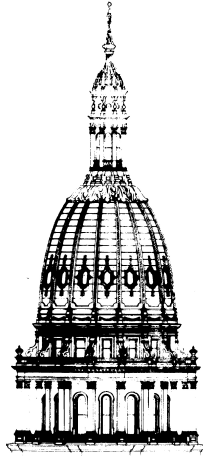
Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 5/10/2024 at 05:00PM.

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing – Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Departmental Specialist

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing – Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Departmental Specialist

BPL-BoardSupport@michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 711- to make arrangements.



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Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”