

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

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Environment, Great Lakes and Energy

2. Bureau:

Air Quality Division

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Part 9: Emission Limitation and Prohibitions - Miscellaneous

5. Rule numbers or rule set range of numbers:

R 336.1902 and R 336.1974

6. Estimated time frame:

12 months

Name of person filling out RFR:

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

R 336.1902, “Adoptions of standards by reference,” provides information for the reference material appearing throughout the Michigan Air Pollution Control Rules. This information consists of the following: physical and web addresses, price, and publication dates. The proposed revisions consist primarily of updates to reference prices to align with what is currently offered by the respective sources, including the AQD. The update also revises the publication dates referenced. Revisions were also made to the physical and web addresses listed in the rule in order to reflect the current information and availability of these reference materials from their respective agencies.

R 336.1974, “Emission standards for existing commercial and industrial solid waste incinerators” (CISWI), addresses the Section 111(d) requirement under the Clean Air Act to limit emissions of air pollutants from CISWI units as stated in Title 40 of the Code of Federal Regulations (CFR), Part 60, Standards of Performance for New Stationary Sources, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units. The proposed revisions to R 336.1974 address the most recent amendments to Subpart DDDD made by the United States Environmental Protection Agency (USEPA) on March 18, 2019. The rule revisions will account for the changes to Subpart DDDD. The proposed revisions to R 336.1974 will result in a rule that directly mirrors Subpart DDDD except for the compliance date. The compliance date of the rule, as required under MCL 24.247, will be 7 days after rule promulgation. The compliance date in Subpart DDDD has passed, so Michigan units will need to be in compliance on the effective date of the rules.

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

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

In addition, the Administrative Procedures Act, 1969 PA 306, as amended, in 2018 was updated to include the Environmental Rule Review Committee which oversees all of EGLE’s rulemaking. Section 65 of Act 306 explains the makeup and terms of the Committee and Section 66 of Act 306 explains the Committee’s responsibilities during the rulemaking process.

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

MCL 324.5503 and MCL 324.5512.

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

A State Plan to control emissions is mandated by Section 111(d) of the Clean Air Act. A rule that is as stringent as the emission guidelines is required as part of a State Plan under 40 CFR 60, Subpart B, Adoption and Submittal of State Plans for Designated Facilities and 40 CFR 60, Subpart DDDD.

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

These revisions to R 336.1902 and R 336.1974 do not conflict with or duplicate any similar rules. The proposed changes are similar to existing language in R 336.1902 and R 336.1974 and will compliment those rules.

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

The subject matter is not currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memo.

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

Yes.

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

Full Process

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

The AQD is adopting 40 CFR 60, Subpart DDDD verbatim except for the compliance date.

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

No recommendations or complaints were received from the public regarding these rules.

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

R 336.1902 was last evaluated on December 20, 2016. Since then there has only been minimal economic condition changes, such being the price of access to documents, which has changed the regulatory activity covered by the rules.

R 336.1974 was first promulgated in January 2019. Since that time, the USEPA finalized amendments to 40 CFR 60, Subpart DDDD that changed the regulatory activity covered by the rule.

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

There is a continued need for these rules.

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

No