

**Michigan Office of Administrative Hearings and Rules**  
MOAHR-Rules@michigan.gov

**AGENCY REPORT TO THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

**1. Agency Information**

**Agency name:**

Environment, Great Lakes and Energy

**Division/Bureau/Office:**

Air Quality Division

**Name of person completing this form:**

Cari DeBruler

**Phone number of person completing this form:**

517-899-5275

**E-mail of person completing this form:**

DEBRULER@michigan.gov

**Name of Department Regulatory Affairs Officer reviewing this form:**

Dale Shaw

**2. Rule Set Information**

**MOAHR assigned rule set number:**

2023-15 EQ

**Title of proposed rule set:**

Part 10. Intermittent Testing and Sampling

**3. Purpose for the proposed rules and background:**

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

The proposed changes to Part 10 will:

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

**4. Summary of proposed rules:**

## Agency Report to JCAR-Page 2

The general purpose of the proposed rules is to outline applicable intermittent testing and sampling procedures referenced throughout the Michigan Air Pollution Control Rules. The proposed changes to Part 10 will:

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

**5. List names of newspapers in which the notice of public hearing was published and publication dates:**

Lansing State Journal published February 20, 2025  
Oakland Press published February 20, 2025  
The Mining Journal published February 20, 2025

**6. Date of publication of rules and notice of public hearing in Michigan Register:**

3/1/2025

**7. Date, time, and location of public hearing:**

3/20/2025 01:00 PM at In Person: Ford Conference Room, 2nd Floor, South Tower, Constitution Hall, 525 West Allegan Street, Lansing, MI 48933 , Virtual: <https://bit.ly/40h9GKM> To join by phone: 636-651-3142, Conference Code 374288

**8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:**

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1442>

**9. List of the name and title of agency representative(s) who attended the public hearing:**

Marissa Vaerten – Air Quality Division (AQD)  
Thomas Shanley – AQD  
Annette Switzer – AQD  
Katherine Winiecki – AQD  
Kaitlyn DeVries – Environmental Support Division (ESD)  
Jim Ostrowski – ESD (Virtual)  
Dale Shaw – Information Management Division

**10. Persons submitting comments of support:**

None.

**11. Persons submitting comments of opposition:**

None.

**12. Persons submitting other comments:**

# Agency Report to JCAR-Page 3

Kathryn Ross, representing Consumers Energy.

## 13. Identify any changes made to the proposed rules based on comments received during the public comment period:

	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for Rule Change and Description of Change(s) Made	Rule number & citation changed
1	Kathryn Ross, Consumers Energy		Request to remove R 336.2001(1)(a) referencing an outdated “permit to operate” requirement.	Revised R336.2001(1)(a) to remove reference to “permit to operate” requirement and replaced with “Reserved.” Air quality permits have been issued with references to R 336.2001, including subrule (1) therefore the revision was made so as not to disrupt the current rule structure.	R 336.2001 (1)(a)

Agency Report to JCAR-Page 4

2	Kathryn Ross, Consumers Energy		Request to clarify if Methods 3A, 3B, or 3C are allowed to be utilized along with Method 3 under R 336.2003 (4) and to make it explicit in the regulatory language.	Revised language to clarify that the use of Methods 3A and 3B is allowed. Additional language was added to further clarify the sampling methodology allowed in Methods 3, 3A, 3B and create consistency with the rule language and methods referenced. Method 3C was not included because it is not applicable to these particular analyses and procedures.	R 336.2003 (4)
3	Kathryn Ross, Consumers Energy		Revision under R 336.2003(5) to set standard temperature as 68 degrees Fahrenheit, consistent with USEPA, instead of current 70 degrees Fahrenheit.	Revised reference that was provided within comments along with additional revisions to rules with the same reference to remain consistent throughout the rules. Rule language was revised to update from 70 degrees Fahrenheit to 68 degrees Fahrenheit to be consistent with USEPA methods.	R 336.2003 (5), R 336.2011(a)(iii)(C), R 336.2011(f)(iii), and R 336.2012 (a)(iii)(C)

Agency Report to JCAR-Page 5

4	Kathryn Ross, Consumers Energy		Request to allow smaller or alternative sized storage containers.	Revised to remove the size requirements for glass sample storage containers.	R 336.2011 (b)(ii)(C) and R 336.2012 (b)(ii)(C)
5	Kathryn Ross, Consumers Energy		Request to replace “asbestos string gasket” with “heat-resistant fiberglass, graphite, or other material” under R 336.2011(d)(i)(C) (IV) and R 336.2012(d)(i) (C).	Revised to remove the requirement for an asbestos string gasket and updated with “heat-resistant fiberglass, graphite, or other material string gasket”. Additionally, revised references to “asbestos string gasket” under R 336.2012(d)(i)(D) (I), R 336.2014(d)(iv)(C), and R 336.2014(d)(iv) (D)(I) as needed for consistency and comprehensibility within the rule language.	R 336.2011 (d)(i)(C)(IV), R 336.2012 (d)(i)(C), R 336.2012 (d)(i)(D)(I), R 336.2014 (d)(iv)(C), and R 336.2014 (d)(iv)(D)(I)
6	Kathryn Ross, Consumers Energy		Request to spellcheck the misspelled milliliter.	Corrected the misspelling of “millileter” to “milliliter”.	R 336.2011 (d)(iii) and R 336.2011(f)(i)

Agency Report to JCAR-Page 6

7	Kathryn Ross, Consumers Energy		Request to update R 336.2011(d)(iv) calibration method to calibration against mercury-in-glass thermometer or other calibrated thermometer, due to mercury-in-glass thermometers becoming less common.	Revised R 336.2011(e)(iv), as R 336.2011(d)(iv) does not exist and the comment was clearly in reference to (e) (iv). Additional revisions were made to R 336.2012(e)(v) and R 336.2014(e) (v) where the same reference was made to mercury-in-glass thermometers to maintain consistency within the rules. Language was updated to allow for “mercury-in-glass thermometers or other thermometers that are calibrated using a National Institute of Standards and Technology calibrated reference thermometer.”	R 336.2011(e) (iv), R 336.2012 (e)(v), and R 336.2014 (e)(v)
---	--------------------------------------	--	--	---	---

**14.Date report completed:**

5/12/2025