

**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:**

2022-18 EQ

**Title of proposed rule set:**

Part 6. Emission Limitations and Prohibitions – Existing Sources of VOC Emissions

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

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Part 6 contains rules developed to fulfill the federal Clean Air Act (CAA) 42 U.S.C. 7401 et seq., requirements referred to as “Reasonably Available Control Technologies” (RACT). They are necessary to address moderate nonattainment area provisions for National Ambient Air Quality Standards (NAAQS). For past standards, EGLE promulgated RACT rules for existing volatile organic compound (VOC) sources in the nonattainment areas established under those standards. With the establishment of a new standard, the state must:

- 1) Revise existing RACT rules to align with the most recent recommendations contained in the United States Environmental Protection Agency’s (USEPA) Control Technique Guidelines (CTGs) as required by the CAA Section 182(b)(2).
- 2) Evaluate VOC sources in the NAAQS nonattainment areas based on the more recently created CTG categories.
- 3) Promulgate new rules setting or revising emission standards and operational requirements for certain types of existing emission sources applicable to CTGs, beyond those established as rules under previous standards, for the nonattainment areas. These nonattainment areas consist of the following counties: Allegan (partial), Berrien, Livingston, Macomb, Monroe, Muskegon (partial), Oakland, St. Clair, Washtenaw, and Wayne.

Additionally, the CAA requires Michigan to show reasonable further progress by reducing VOC emissions in the nonattainment areas by fifteen percent from the baseline year. To meet this requirement, beyond the reductions gained from implementing VOC RACT rules, EGLE has also revised and drafted additional rules that address volatile chemical products.

#### **4. Summary of proposed rules:**

The proposed rule set (2022-18 EQ) will amend the current Part 6 containing rules developed to fulfill the federal Clean Air Act (CAA) 42 U.S.C 7401 et seq., requirements referred to as “Reasonably Available Control Technologies” (RACT). They are necessary to address moderate nonattainment area provisions for National Ambient Air Quality Standards (NAAQS). For past standards, EGLE promulgated RACT rules for existing VOC sources in the nonattainment areas established under those standards. With the establishment of a new standard, the state must:

- 1) Revise existing RACT rules to align with the most recent recommendations contained in the United States Environmental Protection Agency’s (USEPA) Control Technique Guidelines (CTGs) as required by the CAA Section 182(b)(2).
- 2) Evaluate VOC sources in the NAAQS nonattainment areas based on the more recently recreated CTG categories.
- 3) Promulgate new rules setting or revising emission standards and operational requirements for certain types of existing emission sources applicable to CTGs, beyond those established as rules under the previous standards, for the nonattainment areas. These nonattainment areas consist of the following counties: Allegan (partial), Berrien, Livingston, Macomb, Monroe, Muskegon (partial), Oakland, St. Clair, Washtenaw, and Wayne.

Additionally, the CAA requires Michigan to show reasonable further progress by reducing VOC emissions in the nonattainment areas by fifteen percent from the baseline year. To meet this requirement, beyond the reductions gained from implementing VOC RACT rules, EGLE has also revised and drafted additional rules that address volatile chemical products.

If approved, the rules will be submitted to the USEPA as an amendment to the Michigan State Implementation Plan (SIP). The comment period and hearing will fulfill requirements contained in the state administrative rules and the CAA.

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

Lansing State Journal, published September 26, 2022  
Oakland Press, published September 26, 2022  
The Mining Journal, published September 26, 2022

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

10/15/2022

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

10/26/2022 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/3cSr0B9> 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=1377>

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

Department of Environment, Great Lakes, and Energy (EGLE) staff:

Trace McDonald – Air Quality Division (AQD)  
Marissa Vaerten – AQD  
Cari DeBruler – AQD  
Thomas Shanley – AQD  
Robert Irvine – AQD (Virtual)  
Mary Ann Dolehanty – AQD  
Annette Switzer – AQD  
Joyce Zhu – AQD (Virtual)  
Lorraine Hickman – AQD (Virtual)  
Erica Shuff – AQD  
Alec Kownacki – AQD  
Jenifer Dixon – 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:**

SEMCOG – Kelly Karl

**12. Persons submitting other comments:**

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Mixed comments in support and opposition:

HCPA - Nicholas Georges

Comments requesting partial revisions:

National Aerosol Association – Doug Raymond; Fishbeck - Lillian Woolley; Printing United Alliance – Gary Jones; American Coatings Association – Rhett Cash; O’Leary Paint – David O’Leary; Michigan Oil and Gas Association (MOGA) – Jason Geer; Michigan Manufacturer’s Association (MMA) – Caroline Liethen; Consumers Energy – Kathryn Ross; Willert Home Products, Inc. – Troy Cummings; RadTech International – Rita Loof; Saint Clair Systems – Michael Bonner

**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		Align the proposed regulatory definitions with other existing federal program definitions.	Added additional definition to support phrase (Local Distribution Company custody transfer station) used in R 336.1601(g). Definition is consistent with federal standards (40 CFR Part 60, Subparts OOOO and OOOOa) to keep Michigan rules consistent with federal standards.	R 336.1601 (e)

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2	Kathryn Ross, Consumers Energy		Align the proposed regulatory definitions with other existing federal program definitions.	Revised existing definition to align with federal standard definition. This will help provide consistency for these applicable sources between our rules and federal regulations (40 CFR Part 98, Subpart W). The federal standard definition aligns with the description of “natural gas distribution” outlined in the CTG document (EPA-453/B-16-001 2016/10).	R 336.1601(f)

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3	Kathryn Ross, Consumers Energy		Align the proposed regulatory definitions with other existing federal program definitions.	Revised existing definition to align with federal standard definition. This will help provide consistency for these applicable sources between our rules and federal regulations (40 CFR Part 60, Subparts OOOO and OOOOa). The federal standard definition aligns with the description of “natural gas transmission and storage” outlined in the CTG document (EPA-453/B-16-001 2016/10).	R 336.1601(i)
4	Jason Geer, MOGA		Request to define “Well Site” within the rules.	Well site was not previously defined within the Michigan Air Pollution Control Rules. Agency incorporated a well site definition based on the definition in the USEPA issued Control Techniques Guidelines for the Oil and Natural Gas Industry, 2016 (EPA-453/B-16-001 2016/10).	R 336.1601 (m)

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5	Caroline Liethen, MMA		<p>Commentor requested that the VOC testing requirements in Rule 610a(4)(e)(vii) allow for alternate test methods to be used, especially previously approved alternate test methods, if a different or modified method would more accurately represent equipment operating conditions.</p>	<p>Agency recognizes need for flexibility in rule to allow for various alternatives to be pursued. Alternative was added to this rule to allow for the alternate compliance methods option added to R610a(4)(e)(vii).</p>	R 336.1602 (2)(a)(iv)

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6	Caroline Liethen, MMA and Kathryn Ross, Consumers Energy		<p>The compliance schedule for the various stages of the RACT analysis required under R 336.1602 (4) should be lengthened.</p> <p>A de minimis threshold should be incorporated into R 336.1602 (4) in order to avoid insignificant analysis for low emitting sources that will have no technical or economic feasible control options.</p>	<p>Agency agreed with commentors rationale for extending timeframes under this rule and allowing for a small de minimis threshold to remove insignificant analysis and burden on industry.</p> <p>Revised language to extend compliance periods and also allow for department approval of additional time, if needed.</p> <p>Created new subrule to allow sources less than 2.7 tons per year volatile organic compound emissions at an applicable facility be exempt from conducting a RACT analysis. However, if combined emissions from those sources equal 25 tons per year or more they must complete the analysis.</p>	R 336.1602 (4)
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7	Caroline Liethen, MMA		Commentor requested that the VOC testing requirements in Rule 610a(4)(e)(vii) allow for alternate test methods to be used, especially previously approved alternate test methods, if a different or modified method would more accurately represent equipment operating conditions.	Agency recognizes need for flexibility in rule to allow for various alternatives to be pursued. Language was added to this rule to allow for alternate test methods as approved through the process detailed in R 336.1602(2) per USEPA policy.	R 336.1610a (4)(e)(vii)
8	Gary Jones, Printing United Alliance		Suggestion to add clarifying language to the recordkeeping requirements for exempt sources.	Agreed clarification was needed. Made revisions to clarify the 12-month rolling average basis recordkeeping requirement for exempt sources.	R 336.1624a (8)(f)
9	Gary Jones, Printing United Alliance		Removal of additional space.	Error in formatting. Removed additional spacing from sentence.	R 336.1634 (5)(c)

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10	Gary Jones, Printing United Alliance		Suggestion to revise language to replace the incorrect phrases used by mistake. Also provided additional clarifying language to add to various definitions in this rule.	The “offset lithographic” phrase was used by mistake and was updated to the correct term “letterpress”.  Additional language suggested was incorporated as the Agency agreed it provided additional clarity to the definitions under this rule.	R 336.1635 (1)
11	Gary Jones, Printing United Alliance		Addition of “or heatset letterpress” as exempt from the add-on control requirements.	Reviewed the CTG and it does allow for exemption of heat presses, which is interpreted to include both offset lithographic as well as letterpress. Revised the rule language to add in the heat set letterpress exemption.	R 336.1635 (3)(f)(iii)
12	Gary Jones, Printing United Alliance		Clarifying language suggested to denote “heatset” classification.	Agreed this added more clarity and added in the additional term “heatset”.	R 336.1635 (4)(a)

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13	Gary Jones, Printing United Alliance		Suggested revisions to clarify language.	Agreed the language further clarified the rule, made suggested revisions which consisted of deletion of “their” and replacement of “meet” with “demonstrate the emissions are below”.	R 336.1635 (6)(c) & R 336.1635 (6)(d)
14	Gary Jones, Printing United Alliance		Suggestion to add language to define retention factors and capture efficiencies.	Added language to clarify acceptable retention factors to assist regulated community while leaving flexibility.	R 336.1635 (6)(e)
15	Jason Geer, MOGA		Allowance of an approved engineer in accordance with 40 CFR 60.5393a.	Agency agreed this was a reasonable option and has been allowed at the federal level. Agency revised the rule to incorporate an allowance for certification from an approved engineer as defined under 40 CFR 60.5393a.	R 336.1642 (3)(a)(i) & R 336.1642 (3)(a)(ii)

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16	Jason Geer, MOGA		Allowance of a calibrated bag or engineering calculations to be used for pneumatic device testing.	Evidence provided showed that testing a pneumatic device through calibrated bag and calculations was a reasonable and cost-effective method. Agency revised the rule to include options for alternative performance testing as approved by the department.	R 336.1642 (5)(b)
17	Jason Geer, MOGA		Commentor suggested removing the requirement for rod packing replacement every 36 months due to high cost of replacement. Recommended to revise the rule to allow for either rod packing replacement every 36 months or route rod packing emissions to a process.	Evidence provided that rod packing is inspected regularly during every inspection, oil change, and service so there is ample monitoring occurring. Agency revised the requirement to allow for either rod packing replacement every 36 months or route rod packing emissions to a process.	R 336.1643 (5)(a) & R 336.1643 (5)(b)
18	Troy Cummings, Warner Norcross and Judd		Suggestion to change a date in the rule to eliminate an undefined/illogical gap in applicability.	The date proposed was an error and was corrected.	R 336.1660 (1)(b)

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19	Troy Cummings, Warner Norcross and Judd		The proposed rule exempted some activities but neglected to exempt those activities elsewhere in the model rule.	Added language to exempt the activity clearly and completely in the rule.	R 336.1660 (2)(f)
20	David O’Leary, O’Leary Paints		Commentor claims small manufacturers lack resources to make coatings compliant in timeframes proposed.	Due to the nature of these small manufacturers making up a very small portion of emissions, the agency added language (Rule 662(1)(c)) to delay compliance deadlines for small manufacturers with total production under 1 million gallons per calendar year. Additional minor edits were made to R662(1)(a) and (b) to accommodate these changes.	R 336.1662 (1)(a)-(c)

**14.Date report completed:**

12/22/2022