

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

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Environment, Great Lakes and Energy

2. Bureau:

Air Quality Division

3. Promulgation type:

Full Process

4. Title of proposed rule set:

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

5. Rule numbers or rule set range of numbers:

R 336.1601 - R 336.1662

6. Estimated time frame:

12 months

Name of person filling out RFR:

Cari DeBruler

E-mail of person filling out RFR:

DEBRULER@michigan.gov

Phone number of person filling out RFR:

517-899-5275

Address of person filling out RFR:

Constitution Hall, 525 W Allegan St, Lansing MI

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

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.

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 federal CAA.

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.

MCL 324.5512 requires the department to promulgate rules for, among other things, the purpose of controlling air pollution, complying with the federal CAA, and establishing suitable emission standards. The rules in this submittal are necessary to address these requirements by limiting VOC emissions and addressing the requirements of the federal CAA under Section 182 (b), as it pertains to ozone nonattainment areas.

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.

The current rules do not sufficiently address requirements of the federal regulations. The proposed changes will update the emission standards to a level required by the federal CAA under Section 182(b)(2) for this standard’s respective moderate nonattainment areas.

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

The subject matter of the rules is specified in federal regulations and guidance. The proposed rules will align with recommendations outlined in USEPA's CTGs for what is considered RACT level emission limits and controls, as well as adopt by reference portions of the Ozone Transport Commission's "Model Rule for Consumer Products" Phase IV and "Mode Rule for Architectural and Industrial Maintenance (AIM) Coatings" Phase II.

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

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

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

Full Process

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

These rule changes and additions are federally required and will not exceed federal requirements or other standards. One exception is R 336.1618 addressing cutback and emulsified asphalt. R 336.1618 currently prohibits the statewide use, manufacture, mixing, storing, or applying of these specialty asphalts from April 1 to September 31. The proposed rule changes will revise this rule to add the months of March and October to align with the updated ozone season defined by the USEPA. This revision is required for the nonattainment areas at a minimum; however, the proposed rule applicability remains statewide to be consistent with the existing rule.

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

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

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

The rules being modified were last added/edited at different times ranging from April 20, 1989, through March 29, 2017. Since then, the federal regulations and guidance upon which these rules were based have changed or been created. The proposed changes will update Michigan's rules accordingly.

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

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

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

No