



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0100; FRL-9977-53-Region 5]

**Air Plan Approval; Michigan; Revisions to Part 9 Miscellaneous
Rules**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request submitted by the Michigan Department of Environmental Quality (MDEQ) on February 2, 2017, and supplemented on November 8, 2017, to revise the Michigan state implementation plan (SIP) for carbon monoxide (CO). The revision incorporates changes to Michigan's Air Pollution Control Rules entitled "Emissions Limitations and Prohibitions - Miscellaneous." The revision updates existing source-specific rule requirements for ferrous cupola operations by removing obsolete rule language and makes a minor change to correct the citation to a Federal test method. The revision continues to result in attainment of the CO national ambient air quality standard (NAAQS).

DATES: Comments must be received on or before **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2017-0100 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever
"we," "us," or "our" is used, we mean EPA. This supplementary
information section is arranged as follows:

- I. What are the State rule revisions?
- II. Did the State hold public hearings for the submittal?
- III. What is EPA's analysis of the State's submittal?
- IV. What action is EPA taking?
- V. Incorporation by Reference.
- VI. Statutory and Executive Order Reviews.

I. What are the State rule revisions?

On February 2, 2017, MDEQ submitted a request to
incorporate revisions to Michigan's Air Pollution Control Rules
in Chapter 336, Part 9 - Emissions Limitations and Prohibitions
- Miscellaneous (Part 9) in the Michigan SIP. Michigan's
submittal included revisions to three separate rules in Part 9:
R 336.1902 - "Adoption of standards by reference" (rule 902); R
336.1916 - "Affirmative defense for excess emissions during
start-up or shutdown" (rule 916); and R 336.1930 - "Emission of

carbon monoxide from ferrous cupola operations" (rule 930).

This rule will only take action on rule 930, while the revisions to rule 902 and 916 will be addressed separately.

Michigan's rule 930 specifies CO emission limits for large ferrous cupola operations with a melting capacity of 20 tons or more per hour. The version of rule 930 currently approved into the Michigan SIP only applies to ferrous cupola operations in Saginaw, Macomb, Oakland, and Wayne Counties in Michigan.¹ The rule is designed to require installation of afterburner control system, or equivalent, which reduces the CO emissions from the ferrous cupola by 90 percent.

MDEQ revised rule 930 to clarify rule requirements and applicability. MDEQ removed the compliance date of December 31, 1982, and replaced it with a general compliance requirement because the compliance date has passed. MDEQ also removed language outlining the details of a compliance plan, instead requiring immediate compliance. MDEQ removed the applicability of rule 930 in Saginaw, Macomb and Oakland Counties where ferrous cupola operations no longer exist. Wayne County is the only remaining area subject to rule 930.

Finally, MDEQ corrected the citation to the Federal test method used to determine CO emission rates for rule compliance.

¹ EPA approved rule 930 on May 6, 1980 (45 FR 29790).

The change to rule 930 clarifies that 40 CFR part 60, appendix A, reference test method 10 must be used to determine CO emission rates for rule compliance, and clarifies that this test method is adopted by reference in rule 902.

II. Did the State hold public hearings for the submittal?

A public hearing on the Part 9 (specifically rule 930) rule revisions was held on May 2, 2016, and no comments were received.

III. What is EPA's analysis of the State's submittal?

The removal of the compliance plan requirement from rule 930 and the replacement of the December 21, 1982, compliance date with a general compliance requirement is acceptable because the revised language requires immediate compliance.

The removal of Saginaw, Macomb, and Oakland Counties from the list of areas subject to rule 930 is also acceptable because there are no ferrous cupola sources located in these counties. As part of MDEQ's reassessment of rule 930 in 2013, MDEQ conducted a search of the Michigan Air Emissions Reporting System and found that there are no ferrous cupola sources in the Saginaw, Macomb, Oakland, or Wayne Counties. Thus, MDEQ chose to revise the areas subject to rule 930 listed in table 91 by removing Saginaw, Macomb, and Oakland Counties.

Last, the administrative changes to rule 930 that correct the citation to the Federal test method is acceptable because the revised language clarifies that 40 CFR part 60, appendix A, reference test method 10 must be used to determine CO emission rates for rule compliance and its adoption by reference in rule 902. EPA is taking action to approve the revisions to rule 902 in a separate rulemaking.

Section 110(l) Analysis of the State's submittal

EPA is proposing to approve the revisions to rule 930 discussed above because the revisions meet all applicable requirements under the Clean Air Act (CAA), consistent with section 110(k)(3) of the CAA. Furthermore, MDEQ has shown that the revisions to Part 9 do not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirement, consistent with section 110(l) of the CAA.

Under Section 110(l) of the CAA, EPA shall not approve a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the CAA) or any other applicable requirement of the CAA. The proposed SIP revision would not interfere with any applicable CAA requirements based

on technical analysis submitted by MDEQ. MDEQ has shown that the impact of revising rule 930 continues to result in attainment of the CO NAAQS. Replacing the obsolete compliance date and compliance plan with a general compliance requirement results in requiring immediate compliance, which is not a relaxation to the SIP. Removing the applicability to areas of the state that no longer contain ferrous cupola sources will have no effect on any emissions and will not interfere with the attainment or maintenance of the CO NAAQS, or any other applicable requirements of the CAA, including the attainment or maintenance of the nitrogen dioxide, lead, particulate matter, or sulfur dioxide NAAQS.

In addition, any new ferrous cupola operations subject to rule 930 that may be sited in Michigan would have to meet the EPA- approved New Source Review permitting requirements (R 336.1201 to R 336.1209), which would ensure that the CO NAAQS would not be exceeded in Saginaw, Macomb, or Oakland Counties, regardless of their exclusion from rule 930.

IV. What action is EPA taking?

EPA is proposing to approve the revision to Michigan's Part 9 Rule submitted by MDEQ on February 2, 2017, and supplemented on November 8, 2017, as a revision to the Michigan SIP.

Specifically, we are proposing to approve the revision that updates the applicability of rule 930 to: 1) remove an obsolete compliance date and requires immediate compliance, 2) remove the areas of the state that no longer contain ferrous cupola sources subject to the rule, and 3) correct the citation to a Federal test method to determine CO emission rates for rule compliance. The revision to this rule will not increase emissions of CO to the atmosphere because no CO emission limits are revised.

Michigan's Part 9 rule also included revisions to rule 902 and rule 916. EPA is taking action to approve the revisions to rule 902 in a separate rulemaking. EPA will also address the revisions to rule 916 separately.

V. Incorporation by Reference.

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA proposes to incorporate by reference Michigan Administrative Code R 336.1930 Emission of carbon monoxide from ferrous cupola operations, effective December 20, 2016. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "For Further Information

Contact” section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Volatile organic compounds and Ozone.

Dated: April 25, 2018.

Edward H. Chu,
Acting Regional Administrator, Region 5.

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