



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

**[EPA-R05-OAR-2017-0100; EPA-R05-OAR-2017-0501; FRL-9980-08-
Region 5]**

**Air Plan Approval; Michigan; Revisions to Volatile Organic
Compound Rules**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revised rules submitted by the State of Michigan as State Implementation Plan (SIP) revisions. The main revision specifies volatile organic compound (VOC) limits for cutback and emulsified asphalts as well as the test methods for determining the VOC content of these products. Michigan also moved the adoption by reference citations from Part 6. Emission Limitations and Prohibitions - Existing Sources of Volatile Organic Emissions to Part 9. Emission Limitations and Prohibitions - Miscellaneous and updated references to federal test methods in several of its Part 6 rules.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0100 and EPA-R05-OAR-2017-0501.

All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312)886-6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, rosenthal.steven@epa.gov.

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

- I. Background
- II. What Action is EPA Taking?

III. Incorporation by Reference.

IV. Statutory and Executive Order Reviews.

I. Background

Michigan revised its rule R 336.1618 "Use of cutback or emulsified paving asphalt" along with several other of its VOC rules. Michigan also revised rules R 336.1611 to R 336.1614, R 336.1619, R 336.1622, R 336.1625, R336.1627 to R 336.1629, R 336.1632, R 336.1651, R 336.1660, and R 336.1661 for the purpose of removing adoptions by reference which have been moved to and consolidated in R 336.1902 "Adoption of standards by reference." Revisions to R 336.1622, R 336.1627 to R 336.1629, and R 336.1632 update references to federal test methods.

On March 30, 2018 (83 FR 13710) EPA published a notice of proposed rulemaking (NPR) proposing approval of Michigan's VOC revisions. The specific details of Michigan's VOC revisions and the rationale for EPA's approval are discussed in the NPR and will not be restated here. EPA received no relevant comments on this proposal.

II. What Action is EPA Taking?

EPA is approving Michigan's VOC revisions in Part 6 and Part 9 because they satisfy the EPA's requirement of reasonably available control technology.

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Michigan Regulations described in the amendments to 40 CFR part 52 set forth below. 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). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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

¹ 62 FR 27968 (May 22, 1997).

the criteria of the Clean Air Act. 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 Clean Air Act; 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as

added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations, Ozone,
Reporting and recordkeeping requirements, and Volatile organic
compounds.

Dated: June 18, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1170 amend the table in paragraph (c) by:

a. Revising the entries under the heading "Part 6: Emission Limitations and Prohibitions - Existing Sources of Volatile Organic Compound Emissions", for rules "R 336.1611", "R 336.1612", "R 336.1613", "R 336.1614", "R 336.1618", "R 336.1619", "R 336.1622", "R 336.1625", "R336.1627", "R 336.1628", "R 336.1629", "R 336.1632", "R 336.1651", "R 336.1660", and "R 336.1661";

b. Adding an entry under the heading "Part 9: Emission Limitations and Prohibitions - Miscellaneous" for rule "R 336.1902" in numerical order.

The addition and revisions read as follows:

§ 52.1170 Identification of plan.

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(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
* * * * *				
Part 6: Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions				

Michigan citation	Title	State effective date	EPA approval date	Comments
* * * * *				
R 336.1611	Existing cold cleaners	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1612	Existing open top vapor degreasers	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1613	Existing conveyORIZED cold cleaners	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1614	Existing conveyORIZED vapor degreasers	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
R 336.1618	Use of cutback or emulsified paving asphalt	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1619	Standards for perchloroethylene dry cleaning equipment	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
R 336.1622	Emission of volatile organic compounds from existing	3/29/2017	[insert date of publication in the Federal	

Michigan citation	Title	State effective date	EPA approval date	Comments
	components of petroleum refineries; refinery monitoring program		Register], [Insert Federal Register citation]	
* * * * *				
R 336.1625	Emission of volatile organic compound from existing equipment utilized in manufacturing synthesized pharmaceutical products	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1627	Delivery vessels; vapor collection systems	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1628	Emission of volatile organic compounds from components of existing process equipment used in manufacturing synthetic organic chemicals and polymers; monitoring program	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1629	Emission of volatile organic compounds from components of existing process equipment used in processing natural gas; monitoring program	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
R 336.1632	Emission of volatile organic compounds from existing automobile, truck, and business machine plastic part coating lines	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1651	Standards for	3/29/2017	[insert date of	

Michigan citation	Title	State effective date	EPA approval date	Comments
	degreasers		publication in the Federal Register], [Insert Federal Register citation]	
R 336.1660	Standards for volatile organic compounds emissions from consumer products	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
R 336.1661	Definitions for consumer products	3/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Part 9: Emission Limitations and Prohibitions—Miscellaneous				
R 336.1902	Adoption of Standards by reference	12/20/2016	[insert date of publication in the Federal Register], [Insert Federal Register citation]	Only sections (1) (a), (b) (i), (b) (iii), (b) (iv), (b) (vii), (b) (viii), (c), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), and (s); (2) (b), (e), and (g); (3) (a); (4) (a), (b), (c), (d), (e), (f), (l), (m), (o), and (p); (5); (8);

Michigan citation	Title	State effective date	EPA approval date	Comments
				and (9).
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[FR Doc. 2018-13953 Filed: 6/28/2018 8:45 am; Publication Date: 6/29/2018]