

justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final rule merely extends the current regulatory schedule for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems.

#### K. Congressional Review Act

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 rule 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). This rule will become effective on October 2, 2007.

#### List of Subjects in 40 CFR Part 3

Environmental protection, Conflict of interests, Electronic records, Electronic reporting requirements, Electronic reports, Intergovernmental relations.

Dated: July 26, 2007.

**Stephen L. Johnson,**  
*Administrator.*

■ Therefore, title 40 chapter I of the Code of Federal Regulations is amended as follows:

#### PART 3—CROSS-MEDIA ELECTRONIC REPORTING

■ 1. The authority citation for part 3 continues to read as follows:

**Authority:** 7 U.S.C. 136 to 136y; 15 U.S.C. 2601 to 2692; 33 U.S.C. 1251 to 1387; 33

U.S.C. 1401 to 1445; 33 U.S.C. 2701 to 2761; 42 U.S.C. 300f to 300j-26; 42 U.S.C. 4852d; 42 U.S.C. 6901-6992k; 42 U.S.C. 7401 to 7671q; 42 U.S.C. 9601 to 9675; 42 U.S.C. 11001 to 11050; 15 U.S.C. 7001; 44 U.S.C. 3504 to 3506.

#### Subpart D—Electronic Reporting Under EPA-Authorized State, Tribe, and Local Programs

■ 2. Section 3.1000 is amended by revising paragraph (a)(3) to read as follows:

##### § 3.1000 How does a state, tribe, or local government revise or modify its authorized program to allow electronic reporting?

(a) \* \* \*

(3) *Programs already receiving electronic documents under an authorized program:* A state, tribe, or local government with an existing electronic document receiving system for an authorized program must submit an application to revise or modify such authorized program in compliance with paragraph (a)(1) of this section no later than October 13, 2008. On a case-by-case basis, this deadline may be extended by the Administrator, upon request of the state, tribe, or local government, where the Administrator determines that the state, tribe, or local government needs additional time to make legislative or regulatory changes in order to meet the requirements of this part.

\* \* \* \* \*

[FR Doc. E7-15013 Filed 8-2-07; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R05-OAR-2006-0541; FRL-8449-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Michigan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Michigan Department of Environmental Management (MDEQ) on March 31, 2006, to revise the Michigan State Implementation Plan (SIP) to amend R336.1627 and R336.2005, and adopt R336.2004. These changes take place within Part 6, Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions; Delivery Vessels; Vapor Collection

Systems; and Part 10, Intermittent Testing and Sampling, respectively.

**DATES:** This rule is effective on October 2, 2007, unless EPA receives adverse written comments by September 4, 2007. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0541 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax:* (312) 886-5824.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2006-0541. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your

name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy 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 legal holidays. We recommend that you telephone Jonathan Nichols, Life Scientist, at (312) 353-7942 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Nichols, Life Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-7942, [nichols.jonathan@epa.gov](mailto:nichols.jonathan@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

- A. When did the State submit the requested rule revisions to EPA?
- B. Did Michigan hold public hearings for each of these rule revisions?

II. What are the revisions that the State requests be incorporated into the SIP?

- A. Part 6—Emission Limitations for Existing Sources
- B. Part 10—Changes to Intermittent Testing and Sampling

III. What is EPA’s evaluation of the rule?

IV. Statutory and Executive Order Reviews

**I. Background**

*A. When did the State submit the requested rule revisions to EPA?*

MDEQ submitted the requested rule revisions on March 31, 2006.

*B. Did Michigan hold public hearings for each of these rule revisions?*

MDEQ held a public hearing for the rule revisions on October 31, 2005, and did not receive any adverse comments.

**II. What are the revisions that the State requests be incorporated into the SIP?**

The State has requested the following revisions: Changes to Part 6, Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions; and changes to Part 10, Intermittent Testing and Sampling. The revisions are described in more detail below.

*A. Part 6—Emission Limitations for Existing Sources*

MDEQ is requesting the amendment of Part 6, R336.1627, in order to replace the MDEQ Vapor Tightness Test (VTT) method with EPA Method 27. The MDEQ VTT method is not an acceptable substitution for the leak test required by the U.S. Department of Transportation (U.S. DOT). Therefore, tank trucks must undergo VTT using both state and federal test methods. As written, EPA Method 27 is more stringent than the leak test required by MDEQ, satisfying both U.S. DOT and MDEQ standards.

In addition, MDEQ is requesting an amendment to test submittal requirements in order to provide consistency between U.S. DOT and MDEQ requirements with regard to the time period within which tank trucks must be tested. The amendment would require delivery vessels to perform the VTT within one year of the date of the previous test, rather than the existing, narrow time period of April 1 to June 30. Under the amendment, the results of the test would be submitted to MDEQ within 30 days of test completion. Upon successful completion of the required testing, the vessel would be deemed provisionally certified providing the department does not invalidate the certification by issuing disapproval within 45 days of receipt of the results.

*B. Part 10—Changes to Intermittent Testing and Sampling*

MDEQ is requesting the amendment of Part 10, Intermittent Testing and Sampling, to incorporate Method 27 by reference at R336.2004, and to amend R336.2005, the reference test method used to detect gasoline vapor leaks by a combustible gas detector. The amendment to R336.2005 removes the VTT component, but leaves the reference test method to detect gasoline vapor leaks by a combustible gas detector intact. Method 27, which is more stringent than the existing state

VTT method, is incorporated in R336.2004.

**III. What is EPA’s evaluation of the rule?**

We are approving revisions to the Michigan SIP in two areas: (1) To amend R336.1627 of Part 6, Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions; Delivery Vessels; Vapor Collection Systems, by replacing the MDEQ VTT method with EPA Method 27, and to adopt the U.S. DOT annual VTT requirement and test submittal requirements; and, (2) to amend Part 10, Intermittent Testing and Sampling, through incorporating Method 27 by reference at R336.2004, and to amend R336.2005, the reference test method used to detect gasoline vapor leaks by a combustible gas detector.

The main revisions to R336.1627 are the replacement of its VTT test with Method 27 and the requirement to test the delivery vessel within one year of the previous test. Both of these revisions are consistent with EPA guidance. In addition, the following factors add to the effectiveness of this rule: (1) the testing stations are certified by the Michigan Department of Transportation and the tests that are performed at these stations are spot checked by the MDEQ; (2) the MDEQ has a history of reviewing all test results, and rejects those that are inadequate, within 30 days; and, (3) the Michigan gasoline terminals do not accept any tank trucks that are not certified to be in compliance with R336.1627, and are prohibited from accepting uncertified trucks due to the emission limitations found in 40 CFR part 60, subpart XX, which cover the same sources through limits on loading racks at bulk liquid gasoline terminals constructed or modified after December 17, 1980, that deliver liquid product into gasoline tank trucks. These regulations require that a gasoline terminal owner or operator not reload gasoline delivery vessels without documentation indicating that a VTT has been performed.

Michigan rule R336.1627 provides that the vessel is deemed to have passed the gasoline vapor leak detection test if Michigan does not notify the owner or operator of the vessel of the vessel’s failure to pass the test within 45 days. EPA strongly discourages the use of default approvals. However, we find this rule to be approvable due to the special circumstances described above and also because recertification is required within a year. Nevertheless, should Michigan revise its rules to remove the safeguards described above,

EPA will require the State to revise this section of the SIP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective October 2, 2007 without further notice unless we receive relevant adverse written comments by September 4, 2007. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective October 2, 2007.

#### IV. Statutory and Executive Order Reviews

##### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and, therefore, is not subject to review by the Office of Management and Budget.

##### *Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

##### *Regulatory Flexibility Act*

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

##### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law

and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

##### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

##### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

##### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal Standard.

##### *National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

##### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### *Congressional Review Act*

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 rule 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 October 2, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 24, 2007.

**Walter W. Kovalick Jr.**,

*Acting Regional Administrator, Region 5.*

■ 40 CFR part 52 is amended as follows:

#### **PART 52—[AMENDED]**

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

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

**Subpart X—Michigan**

■ 2. In § 52.1170(c) the table is amended as follows:

- a. Under Part 6 by revising entry “R336.1627”.
- b. Under Part 10 by revising entries “R336.2004” and “R336.2005”.

**§ 52.1170 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED MICHIGAN REGULATIONS**

Michigan citation	Title	State effective date	EPA approval date	Comments
<b>Part 6. Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound Emissions</b>				
R336.1627	Delivery Vessels; Vapor Collection Systems	2/22/06	8/3/07, [Insert page number where the document begins].	
<b>Part 10. Intermittent Testing and Sampling</b>				
R336.2004	Appendix A; reference test methods; adoption of federal reference test methods.	2/22/06	8/3/07, [Insert page number where the document begins].	
R336.2005	Reference test methods for state-requested tests of delivery vessels.	2/22/06	8/3/07, [Insert page number where the document begins].	

\* \* \* \* \*  
[FR Doc. E7–15011 Filed 8–2–07; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA–R04–OAR–2006–0362–200702; FRL–8449–5]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky: Redesignation of Boyd County, Kentucky Portion of the Huntington-Ashland 8-Hour Ozone Nonattainment Area to Attainment for Ozone**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a request, submitted on September 29, 2006, from the Commonwealth of Kentucky (Kentucky), through the Kentucky Division for Air Quality (KDAQ), to redesignate the Kentucky portion of the bi-state Huntington-Ashland 8-hour ozone nonattainment area to attainment

for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Kentucky portion of the bi-state Huntington-Ashland 8-hour ozone nonattainment area (hereafter referred to as “Boyd County”) is comprised of one county in Kentucky (Boyd County) and two counties in West Virginia (Cabell and Wayne Counties). EPA’s approval of Kentucky’s redesignation request is based upon the determination that Kentucky has demonstrated that Boyd County has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including the determination that the entire (including both the Kentucky and West Virginia counties) bi-state Huntington-Ashland 8-hour ozone nonattainment area has attained the 8-hour ozone standard. Additionally, EPA is approving a revision to the Kentucky State Implementation Plan (SIP) including the 8-hour ozone maintenance plan for Boyd County that contains the new 2018 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs). Through this action, EPA is also finding the 2018 MVEBs adequate for the purposes of transportation conformity. On May 17, 2006, the State of West Virginia submitted a redesignation

request and maintenance plan through a separate action. The final rulemaking approving the West Virginia submittal was published in the **Federal Register** on September 15, 2006. MVEBs for Cabell and Wayne Counties in West Virginia were approved through EPA’s September 15, 2006, action.  
**DATES:** *Effective Date:* This rule will be effective September 4, 2007.  
**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2006–0362. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA