

power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). 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), because it 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. 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.

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. 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.*).

The Congressional Review Act, 5 U.S.C. section 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 March 31, 2008. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 16, 2008.

Robert W. Varney,
Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 U—Maine

■ 2. Section 52.1023 is amended by adding paragraph (i) to read as follows:

§ 52.1023 Control strategy: Ozone.

* * * * *

(i) Approval: EPA is approving the 110(a)(1) 8-hour ozone maintenance plans in the four areas of the state required to have a 110(a)(1) maintenance plan for the 8-hour ozone National Ambient Air Quality Standard. These areas are as follows: portions of York and Cumberland Counties; portions of Androscoggin County and all of Kennebec County; portions of Knox and Lincoln Counties; and portions of Hancock and Waldo Counties. These maintenance plans were submitted to EPA on August 3, 2006.

[FR Doc. E8-1416 Filed 1-28-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2007-0024; FRL-8519-4]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Oxides of Nitrogen Regulations, Phase II

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving Michigan's oxides of nitrogen (NO_x) rules which satisfy the requirements of EPA's NO_x SIP Call Phase II Rule (the Phase II Rule). We are approving these regulations based on Michigan's demonstration that they will result in the achievement of the Phase II budget through source compliance with rules affecting stationary internal combustion (IC) engines which are identified in the NO_x plan submittal. Limiting NO_x emissions from IC engines will enable the State to meet the Phase II incremental difference of 1,033 tons during the ozone season, thereby improving air quality and protecting the health of Michigan citizens.

DATES: This direct final will be effective March 31, 2008, unless EPA receives adverse comments by February 28, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-0024, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: 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-2007-0024. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The 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 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 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 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 Douglas Aburano, Engineer, at (312) 353-6960 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental

Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6960, aburano.douglas@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. What should I consider as I prepare my comments for EPA?
- II. Background
- III. Who is affected by the new rule and the amended rules?
- IV. What does approval of this rule accomplish?
- V. How are owners and operators expected to comply with the new requirement?
- VI. What action is EPA taking today?
- VII. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. Background

On October 27, 1998 (63 FR 57356), EPA issued the NO_x SIP Call, which required 22 states, including Michigan, to prepare plans to reduce the transport of ozone throughout the eastern part of the United States. This was to be accomplished by reducing emissions of NO_x from selected source categories, primarily major fuel burning sources, using available cost-effective measures. The rule established a cap on emissions of NO_x from each state. States had flexibility in determining which fuel burning sources were to be included in

their rules. For the most part, states targeted NO_x reductions from electric utilities and other large industrial boilers, cement kilns, and IC engines as sources which could be controlled in a cost-effective manner. Background information in this regard is available from documents prepared by EPA, and can be found at <http://www.epa.gov/ttn/rto/otag/index.html>.

Some states and industry challenged the rule. In *Michigan v. EPA*, 213 F.3d 663 (DC Cir. 2000), the Court largely upheld EPA's rulemaking. It did, however, remand a portion of the rule concerning IC engines to EPA for further notice and public comment.

Subsequent to the Court's decision, EPA proceeded initially with rules concerning electric generating units (EGU), industrial boilers (non-EGU) and cement kilns as Phase I sources. The IC engines fell into the Phase II group, to be addressed at a later date. Michigan adopted its Phase I rules and submitted them to EPA. We conditionally approved them on April 16, 2004 (69 FR 20548) and finally approved them on May 4, 2005 (70 FR 23029).

On April 21, 2004 (69 FR 21603), EPA issued the Phase II Rule. It required most states with Phase I budget programs to submit a Phase II plan to achieve incremental reductions not addressed by Phase I rules. The Phase II Rule also identified the additional NO_x budget reductions (incremental reductions) that states would have to achieve by regulating large (greater than one ton per day emissions) IC engines. EPA calculated the amount of incremental reductions required by recalculating the overall budget to reflect a control level of 82 percent from natural gas-fired lean-burn IC engines with greater than one ton per day NO_x emissions. MDEQ drafted the new rule (R 336.1818 Emission limitations for stationary internal combustion engines, also known as Rule 818) based on guidance from EPA dated September 19, 2004, which contained an example model rule.

The public process for Rule 818 started on April 1, 2006 when the rule was made available for public comment in the Michigan State Register. On April 3, 2006, notices that the rule was available for public comment were published in four newspapers throughout Michigan. Both the notices in the Michigan State Register and the newspapers indicated that a public hearing would be held on the rule on May 9, 2006.

On December 22, 2006, the Michigan Department of Environmental Quality (MDEQ) submitted its Phase II rules to EPA. MDEQ sent additional follow-up

information addressing the budget demonstration for this source category in a March 12, 2007 letter requesting EPA approval. Because Michigan adopted EPA's model rule in which was used to calculate the state's Phase II budget, it follows that Michigan's Phase II budget will be met.

In the Phase II Rule, EPA calculated the 2007 base year emissions inventory from which Michigan needed additional reductions of 1,033 tons per ozone season. EPA based the calculation upon achieving an 82 percent reduction at all IC engines in Michigan with greater than one ton per day of NO_x emissions.

III. Who is affected by the new rule and the amended rules?

Rule 818 applies only in the fine grid portion of Michigan, as this is the only portion of Michigan where the NO_x SIP Call (both Phases I and II) applies (see 69 FR 21627–8). Michigan's fine grid includes the following counties: Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Livingston, Macomb, Mecosta, Midland, Monroe, Montcalm, Muskegon, Newaygo, Oakland, Oceana, Ottawa, Saginaw, Saint Clair, Saint Joseph, Sanilac, Shiawassee, Tuscola, Vanburen, Washtenaw and Wayne. Rule 818 applies to any person who owns or operates a large stationary reciprocating IC engine and other smaller stationary internal combustion engines that are included in a compliance plan. A large IC engine is defined as an engine that emits more than one ton of NO_x per ozone season day, based on operation during the 1995 ozone season.

IV. What does approval of this rule accomplish?

EPA published the incremental budget for affected states including Michigan in the April 21, 2004, **Federal Register** (69 FR 21604). The State's budget demonstration shows that the State will be able to reduce emissions of NO_x to meet the Phase II incremental difference of 1,033 tons of NO_x for the ozone season.

Approval of Rule 818 will provide a means by which the State of Michigan will meet the required reductions of NO_x emissions from IC engines during the ozone season. The State rule affects NO_x SIP Call IC engines, as well as any other stationary internal combustion engine subject to NO_x control in the State's rule, within Michigan's fine grid. The emission reductions for some large engines will be permanent and year-round resulting from low emission combustion measures retrofitted to

existing engines. Low emission combustion measures cannot be cycled off once the changes are made to the engine. The combustion control technology is a permanent, physical change to the design and operation of the engine which, when implemented, is expected to reduce emissions of NO_x year-round. The State's rules include provisions which the source must follow to demonstrate compliance with the rules. EPA expects environmental benefits and health implications to be permanent.

V. How are owners and operators expected to comply with the new requirement?

The State Rule 818 includes a requirement that an owner or operator of a large IC engine shall not operate an affected engine during the ozone period, unless there is a compliance plan which meets the requirements of the rule. Owners and operators of subject large IC engines were required to submit compliance plans to the State by October 1, 2006, and the rules prohibit operation of affected engines after May 1, 2007, except in compliance with the requirements. Included in the compliance plan is a requirement that the projected NO_x emissions from the engine, in grams per break horsepower-hour, be included in a federally enforceable permit. This information will enable the State to determine if reductions from the covered sources should meet the Phase II budget increment. The failure of a source to meet the required NO_x reductions is a violation of the provisions of the permit. The State of Michigan is expected to enforce non-compliance with its rules by reviewing monitoring and testing information submitted by the owners and operators of the affected engines.

VI. What action is EPA taking today?

EPA is approving Rule 818 submitted by Michigan. We are taking this action because we have determined that the rule satisfies the requirements of the Clean Air Act and the NO_x SIP Call Phase II rules. The State has shown, through its budget demonstration, that it can achieve the Phase II budget increment through source compliance with the State's rules affecting IC engines and the State's permitting program. Meeting the Phase II budget increment and the Phase I increment means the State will meet its total overall ozone season NO_x budget and bring about reductions in ozone concentrations in the State and downwind from Michigan.

VII. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

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.*).

Regulatory Flexibility Act

This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 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 proposes to approve 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 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 (65 FR 67249, November 9, 2000).

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 is not economically significant.

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 regulatory 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).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 11, 2008.

Gary Gulezian,
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, the table in paragraph (c) entitled "EPA—Approved Michigan Regulations" is amended by adding an entry in Part 8 for "R 336.1818" to read as follows:

§ 52.1170 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
*	*	*	*	*
Part 8. Emission Limitations and Prohibitions—Oxides of Nitrogen				
*	*	*	*	*
R 336.1818	Emission limitations for stationary internal combustion engines.	11/20/06	1/29/08 [Insert page number where the document begins].	
*	*	*	*	*

* * * * *
[FR Doc. E8-1415 Filed 1-28-08; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2007-0445; FRL-8348-8]

Acephate, Fenbutatin-Oxide (Hexakis), MCPA, Pyrethrins, and Triallate; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking certain tolerances for the insecticides acephate and pyrethrins. Also, EPA is modifying certain tolerances for the insecticides acephate and pyrethrins. In addition, EPA is establishing new tolerances for the herbicides MCPA and triallate, and the insecticides fenbutatin-oxide (hexakis) and pyrethrins. The regulatory actions finalized in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

DATES: This regulation is effective January 29, 2008. Objections and

requests for hearings must be received on or before March 31, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0445. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in