

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2017-0100; FRL-9980-94—Region 5]

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

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving 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.

**DATES:** This final rule is effective on August 20, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0100. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. 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](http://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 Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency,

Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@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 are the State rule revisions?
- II. What action is EPA taking?
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

#### I. What are the State rule revisions?

On February 2, 2017, and supplemented on November 8, 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 submitted 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. The revisions to Rule 902 have already been approved into Michigan's SIP, and the revisions to Rule 916 will be addressed in a future action.

Michigan's Rule 930 specifies CO emission limits for large ferrous cupola operations with a melting capacity of 20 tons or more per hour. Rule 930 currently approved into the Michigan SIP only applies to ferrous cupola operations in Saginaw, Macomb, Oakland, and Wayne Counties in Michigan. 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.

On May 3, 2018 (83 FR 19497), EPA published a notice of proposed rulemaking (NPR) proposing approval of Michigan's Part 9 Rule submitted by MDEQ on February 2, 2017, and supplemented on November 8, 2017, as a revision into Michigan's SIP. Specifically, we proposed 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 specific details of Michigan's SIP revision and the rationale for EPA's approval are discussed in the NPR.

EPA received no comments on the proposed action.

#### II. What action is EPA taking?

EPA is approving Michigan's Part 9, specifically for Rule 930 submitted by MDEQ on February 2, 2017, and supplemented on November 8, 2017, as a revision to the Michigan SIP.

#### 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](http://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 State implementation plan, 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.<sup>1</sup>

#### 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 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

<sup>1</sup> 62 FR 27968 (May 22, 1997).

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 (Pub. L. 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 September 17, 2018. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 9, 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, the table in paragraph (c) is amended by revising the entry for “R 339.1930” under the heading “Part 9. Emission Limitations and Prohibitions—Miscellaneous” to read as follows:

**§ 52.1170 Identification of plan.**

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

**EPA-APPROVED MICHIGAN REGULATIONS**

Michigan citation	Title	State effective date	EPA approval date	Comments
*	*	*	*	*
<b>Part 9. Emission Limitations and Prohibitions—Miscellaneous</b>				
R 339.1930 .....	Emission of carbon monoxide from ferrous cupola operations.	12/20/2016	7/19/2018, [insert <b>Federal Register</b> citation].	*
*	*	*	*	*