

## OFFICE OF REGULATORY REFORM

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Brian D. Devlin, Director

### REQUEST FOR RULEMAKING

**Name of Agency:**

Department of Environmental Quality

**Division:**

Air Quality Division

**Contact Person:**

Mary Ann Halbeisen, Administrative Rules Coordinator

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**Date:**

Revised October 26, 2004

**A. Title of Proposed Rule:**

Michigan Air Pollution Control Rules, Part 19 – New Source Review for Major Sources in Nonattainment Areas

**B. Rule Set to be Amended Identified by Rule Numbers:**

R 336.2901 through R 336.2910

**C. Estimated Timetable:**

RFR submitted: 10/26/04

Rules Drafted: 11/1/04

ORR Informal Review: 12/1/04

LSB Informal Review: 1/2/05

Incorporate changes and Prepare for Publication: 1/9/05  
Publication/Notice of Hearing: 3/1/05  
Response to Public Hearing Report: 4/1/05  
DEQ EX DIV/ORR approval of changes after Public Hearing 4/22/05  
LSB Formal Certification: 5/6/05  
ORR Formal Certification: 5/13/05  
Prepare/Submit to JCAR: 5/27/05  
JCAR Review: 6/17/05  
Potential legislative Review: 7/8/05  
File Rules with Secretary of State: 7/18/05  
Rules go into effect: 7/26/05

**D. Brief Description of Proposed Rule:**

The federal Clean Air Act requires New Source Review permitting of major sources of air pollution. New Source Review permitting consists of two permitting programs: Prevention of Significant Deterioration (PSD) and nonattainment area New Source Review (major NSR). The PSD (Part 18) applies in areas where the concentration of air pollutants does not exceed federal standards. Major NSR applies in areas where the concentration of air pollutants exceeds federal standards. The proposed rules contain a complete major NSR permitting program, including public participation and appellate procedures.

**E. State or Federal Statutory or Regulatory Basis for Proposed Rule:**

Sections 5503, 5504, and 5512, Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), require the promulgation of rules. Sections 110(a)(2)(C), 160 through 169b, and 170 through 179b of the federal Clean Air Act and 40 C.F.R. §§51.165 and 51.166 contain detailed provisions requiring permitting of new and modified major sources of air pollution.

**F. Problem the Proposed Rule Intends to Address:**

Current state rules address the major NSR program but not the PSD program. Because of this, the U.S. Environmental Protection Agency (EPA) delegated to Michigan the authority to issue PSD permits through federal rules. The EPA has recently made many changes to the PSD program. The EPA made these changes to increase operational flexibility for industrial sources. These changes have been effective for PSD permits in Michigan since March 3, 2003. However, the current state rules for major NSR permits mirror federal regulations from the early 1980's. When the EPA changed its PSD rules, it made identical changes to the major NSR permitting program and required state rules to adopt these changes by March 2006. The proposed rules will address this EPA requirement, provide increased operational flexibility for regulated industries, and grant Michigan more autonomy in the review and issuance of air quality permits.

**RAO:** *Paula McAllister*  
**DATE:** *October 28, 2004*

**ORR OFFICER:** *Brian Devlin*  
**DATE:** *November 1, 2004*

**ORR # 2004-054 EQ**

**ORR RESPONSE:**  
**APPROVAL**            **X**  
**DISAPPROVAL**  
**MORE INFORMATION**