

Agency Report to the
JOINT COMMITTEE ON ADMINISTRATIVE RULES

This form must be completed by the department/agency that has the statutory authority for promulgating the rules. Please send an electronic copy of this form to the State Office of Administrative Hearings and Rules (SOAHR) at soahr_rules@michigan.gov. The SOAHR will review the document, the newspaper advertisements, and the corresponding rules prior to completing the legal certification of the rules. Please be sure to send to the SOAHR proofs of publication for the three newspaper advertisements required by MCL 24.242(1). You may mail them or send them as a scanned attachment.

Department

Environmental Quality

Division/agency/bureau:

Air Quality Division

Rule set number (as assigned by SOAHR)

2007-006EQ

Title of rules:

Part 6. Emission Limitations and Prohibitions--Existing Sources of Volatile Organic Compound Emissions

1. Name, address, FAX and phone numbers of agency contact person:

Mary Ann Halbeisen, Constitution Hall; Phone 517-373-7045; Fax 517-241-7499

2. Purpose for the proposed rules and background:

The Michigan Department of Environmental Quality (DEQ) intends to amend the existing Air Pollution Control Rules, R 336.1660 and R 336.1661 (Rules 660 and 661). These two existing rules adopt by reference the Ozone Transport Commission (OTC) model rule for consumer products dated March 6, 2001. These rules are a primary component of the DEQ strategy for attaining the ozone standard in southeast Michigan. The rules were adopted to control the concentration of volatile organic compounds (VOCs) in various products used in households and institutions. The rules apply to consumer products whose use may result in the release of VOCs to the atmosphere. These VOCs cause air pollution due to ground level ozone formation in Michigan outdoor air. The ground level ozone causes health problems and also causes damage to some crops.

On September 13, 2006, the OTC published an amendment to the existing model rule, dated March 6, 2001. The amended OTC model rule includes 23 additional categories of consumer products for which the VOC content will be reduced. The amended rule will also facilitate the inclusion as well as clarification of some definitions and will modify or change some

requirements that will help the industry to comply with the rule. The inclusion of additional product categories in the amended OTC model rule will result in a further decrease in VOC emissions in Michigan.

The amended Rule 660 will limit VOC content in an additional 23 categories of consumer products along with the 87 categories already listed in the existing rule. Those categories include personal care products, household products, automotive aftermarket products, adhesives and sealants, insecticides, coatings and related products (except architectural and maintenance coatings). The rule stipulates that no person shall sell, supply, offer for sale, or manufacture for sale, in the state of Michigan, any of the affected consumer products (mostly aerosols and sprays), unless the VOC content limits specified in the Table of Standards of the rule are adhered to. These limits, along with the additional limits for the 23 categories added in the amendment, will further reduce the VOC content at the point of manufacture of a greater number of these products, subsequently resulting in the reduction of VOC emissions when the products are used by the consumers.

The rule stipulates VOC emission reductions by limiting the VOC content through product reformulation -- modifying the current formulation to obtain a lower VOC content. The product reformulation options vary with each product category and can involve one or more of the following approaches:

- Replacing VOC solvents with a water-based formulation;
- Replacing VOC solvents with acetone or another exempt solvent;
- Increasing the solids content of the product;
- Formulating a non-VOC propellant; and
- Changing the valve, container, or delivery system to reduce VOC content.

The existing Rule 661 contains the VOC definition specific to Rule 660. The amended Rule 661 will adopt by reference the federal VOC definition as per 40 C.F.R. §51.100 (2006). The adoption of the federal definition will bring uniformity to this rule's definition with the rest of the Midwest states that have adopted or plan to adopt a similar definition for VOC. The uniformity of VOC definition in the Midwest states will help industry reduce the cost of reformulation in compliance with the rule by not having to customize their methods of reformulation and production to meet different VOC definitions for the different states in the region.

The amended Rules 660 and 661 will be submitted to the United States Environmental Protection Agency upon final promulgation as part of the revised Michigan Ozone State Implementation Plan.

3. Summary of proposed rules:

R 336.1660 (Rule 660)

Rule 660 adopts the amended OTC published rule "Model Rule for Consumer Products" dated

September 13, 2006, by reference. Several provisions of the amended model rule are excluded. The model rule contains the following provisions:

- The rule limits VOCs in consumer products, including personal care products, household products, automotive aftermarket products, adhesives and sealants, insecticides, coatings and related products (except architectural and maintenance coatings), and other miscellaneous product categories added in the amended rule. The rule stipulates that no person shall sell, supply, offer for sale, or manufacture for sale, in the state of Michigan any of the affected consumer products (mostly aerosols and sprays) unless the VOC content limits as provided by the Table of Standards in the rule are adhered to in the formulation of those consumer products.
- The rule further prohibits sale or manufacture of antiperspirants and deodorants that contain certain toxic air contaminants as defined in the referenced and adopted OTC's amended Model Rule.
- There are special requirements for products that are diluted prior to use.
- There is a special date of compliance for consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC Section 136-136y).
- There are specific certification requirements for charcoal lighter materials as defined in the referenced and adopted OTC's Model Rule that limit the VOC release from starting a fire by use of lighter fluid.
- Aerosol adhesives have to meet the referenced and adopted OTC's Model Rule or Michigan laws and regulations, if any, for aerosol adhesives including consumer, industrial, and commercial uses.
- There are special requirements for floor wax strippers.
- The affected consumer products shall not contain 15 specific ozone depleting compounds. There are some exemptions to this restriction for existing product formulation, provided there is no increase in these specific ozone depleting compounds as a result of reformulation for VOC reduction in the product.
- The requirements of the rule are not applicable to ozone depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.
- This rule is not applicable to consumer products manufactured in Michigan for shipment and use outside Michigan. There are some other exemptions as well.
- Industry can bypass the standards for VOC, as given in Rule 660, by adopting different methods of compliance by use of innovative characteristics of product formulation, design,

delivery system, etc., that result in less VOC emissions than a representative product that complies with the applicable VOC standard.

- Industry may use a bubble/emission averaging plan that also includes emissions trading aspects for single product manufacturing industries to buy emissions, as “surplus trading,” from other industries that manufacture similar products.
- The exceptions to the OTC Model Rule are provided in Rule 660 and apply to the following sections in the model Rule: Section (8) Variances; Section (10) Severability; Section 11(f) Violations.
- The effective date of the OTC Model Rule is changed from "January 1, 2005", to January 29, 2007, in Rule 660. This applies to the following sections of the Model Rule: Section (1), Applicability; Section (3)(a), Table, (f)(1)(i), and (g)(3), Standards; Section (6)(d)(1), Administrative Requirements. Where the date “2005” appears in Section 7(d)(2) and (3) of the OTC Model Rule, this is changed to 2007 in Rule 660. Where the date “March 1, 2006” appears in Section 7(d)(2) and (3), Rule 660 instead recognizes March 1, 2008.

4. Name of newspapers and date of publication in newspapers (minimum 3 newspapers of general circulation, representing different parts of the state, one of which must be located in the Upper Peninsula):

The notice was published in the following newspapers on June 11, 2007:
Lansing State Journal
Oakland Press
Marquette Mining Journal

5. Time, date, location and duration of public hearing:

July 19, 2007, 10:00-10:50 a.m., Constitution Hall, 525 West Allegan Street, Lansing, Michigan

6. Date of publication of rules and public hearing notice in *Michigan Register*:

June 15, 2007

7. Agency representative(s) attending hearing (include agency name and title of representative[s]):

Mary Ann Dolehanty, Supervisor, Thermal Process Unit, AQD
Mary Ann Halbeisen, Administrative Rules Coordinator, AQD
Asadullah Khan, Environmental Engineer, AQD
Steve Kish, Environmental Engineer Specialist, AQD
Susan Maul, DEQ Regulatory Reform Officer
Mary Maupin, Environmental Quality Specialist, AQD

Jeffrey Rathbun, Environmental Engineer, AQD
Barbara Rosenbaum, Supervisor, Air Quality Evaluation Section, AQD
Teresa Walker, Environmental Quality Analyst, AQD

8. Names, organizations and (complete) addresses of persons attending the hearing:

None

9. Persons submitting letters, comments and testimony of support:

Janessa Stroud, Program Coordinator, Public Policy & Government Affairs, Grand Rapids Area Chamber of Commerce, 111 Pearl Street NW, Grand Rapids, MI 49503

10. Persons submitting letters, comments and testimony of opposition:

None

11. Summary of suggestions to modify proposed rules:

There were no suggestions or comments received during the public comment period to modify the proposed rules.

Name of person completing this report:

Mary Ann Halbeisen

Date report completed:

August 10, 2007