

**State Office of Administrative Hearings and Rules**

PO Box 30695; 611 W. Ottawa Street

Lansing, MI 48909-8195

Phone (517) 335-2484 FAX (517) 335-6696

**REGULATORY IMPACT STATEMENT**

The department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the State Office of Administrative Hearings and Rules no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions may be made to [soahr\\_rules@michigan.gov](mailto:soahr_rules@michigan.gov). The SOAHR will review the regulatory impact statement and send its response to the agency (see last page).

**A. GENERAL**

**1. SOAHR #, title, and rule numbers (or rule set range of numbers):**

2007-006EQ; Part 6, Emission Limitations and Prohibitions—Existing Sources of Volatile Organic Compound (VOC) Emissions; R 336.1660 and R 336.1661 (Rules 660 and 661)

**2. Identify the relationship of the rule to state and federal statutes and regulations:**

These rules are being added as authorized by Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). These rules do not conflict with any other rules. The rules adopt by reference the amended Ozone Transport Commission (OTC) Model Rule for consumer products, published September 13, 2006, and were developed in response to the U.S. Environmental Protection Agency's (EPA's) new nonattainment designations for the ozone National Ambient Air Quality Standards (NAAQS). The Clean Air Act requires states to submit State Implementation Plans (SIPs) for nonattainment areas. The rules will become part of the Michigan ozone SIP upon final promulgation.

**3. Identify how the rule compares to an industry standard set by a state or national licensing organization.**

Rule 660 adopts by reference the amended OTC Model Rule, published September 13, 2006, that has been approved by the EPA in other states. This amendment updates existing Rules 660 and 661 that became effective on January 29, 2007.

**4. Is the rule more restrictive or less restrictive than the federal rule or industry standard?**

The amended Rules 660 and 661 adopt by reference the amended OTC Model Rule published September 13, 2006.

**5. What are the sanctions on the state if the rule is not adopted?**

Failure to submit an adequate SIP can result in southeast Michigan facing more severe

controls on businesses and implementation of an inspection and maintenance program. The amended rules provide added reduction of VOC's from the consumer products that were not included in the existing Rules 660 and 661, effective January 29, 2007.

**B. GOAL OF RULE:**

**6. Identify the conduct and its frequency of occurrence that the rule is designed to change:**

The amended rules will result in reducing VOC emissions from subject sources, included in the presently adopted rule, as well as 23 more categories added in the amended rule effective January 1, 2009. The added categories will help further reduce ground-level ozone in Michigan and downwind areas.

**7. Identify the harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:**

The amended rule eliminates some inconsistencies and errors in the existing rules. For this reason all of the states in Region V that are still working to adopt/promulgate the rule have decided to adopt the amended rule. If Michigan does not adopt the amended rule, it will result in inconsistent requirements of consumer products rules in the Region V states. This inconsistency may be uneconomical to the industry because it will result in more than one method of manufacturing process to satisfy the unchanged Michigan requirements vs. the amended rule requirements for the rest of the Region V states. If the rule is not changed, Michigan will retain some of the errors and inconsistencies of the existing rule.

**8. Estimate the change in the frequency of the targeted conduct expected from the rule change:**

The existing rules will reduce total VOC emissions by over 5,900 tons per year, which will result in reduction of ground-level ozone concentrations in Michigan and neighboring areas. In the year 2009 there will be further reductions in VOC emissions beyond the current levels of 5,900 tons per year from the 23 added categories included in the amended rules.

**9. Identify any alternatives to regulation by rule that would achieve the same or similar goals:**

The provisions could be adopted through legislation instead of rulemaking.

**10. Discuss the feasibility of establishing a regulatory scheme within the industry independent of state intervention:**

The Clean Air Act, through the SIP process, mandates that states develop enforceable plans to bring nonattainment areas into attainment. This normally requires adoption of regulations and/or legislation by the state.

**C. COSTS TO GOVERNMENT UNITS:**

- 11. Estimate the cost of rule imposition on the department or agency promulgating the rule, including the costs of equipment, supplies, labor, and increased administrative costs for initial imposition of the rule and any ongoing monitoring:**

The rules are expected to result in minimal additional costs to the agency. They will become part of normal compliance activity of the agency.

- 12. Estimate the cost of rule imposition on other state or local governmental agencies, including the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring:**

There will be no additional cost to other state or local agencies.

**D. COSTS TO REGULATED INDIVIDUALS:**

- 13. Estimate the actual statewide compliance costs of the rule to individuals, including the costs of education, training, application fees, examination fees, license fees, new equipment or increased labor, exclusive of those costs identified in section C above:**

There are no statewide compliance costs to individuals in terms of the costs of education, training, application fees, examination fees, license fees, new equipment or increased labor.

- 14. Identify any compliance costs requiring reports and the estimated cost of their preparation by individuals who would be required to comply with the rule:**

There are no additional reports required by the changes, because the rules do not apply to individuals.

- 15. Estimate the cost of any legal, consulting, and accounting services and any other administrative expenses individuals will incur in complying with the rule:**

There will not be any legal, consulting, nor accounting services, or any other administrative expenses to individuals, because the rules do not apply to individuals.

- 16. Estimate the number of individuals the rule affects:**

The proposed changes do not directly affect individuals.

- 17. Will the rule have a disproportionate impact on individuals based on their geographic location?**

The rules do not apply to individuals.

**E. COSTS TO BUSINESSES:**

**18. Estimate the actual statewide compliance costs of the rule to specifically include small businesses, including the costs of equipment, supplies, labor, training, application fees, permit fees, supervisory costs, exclusive of those identified in sections C and D above:**

The costs to all businesses including small businesses as estimated by OTC will be about \$800 per ton of VOC reduction. Information is not available on how many affected businesses are small.

**19. Identify any reports the rule requires and the estimated cost of their preparation by businesses; specifically include small businesses:**

The rules will not result in any additional costs for reports.

**20. Estimate the cost of any legal, consulting, and accounting services and any other administrative expenses businesses will incur in complying with the rule; specifically include small businesses:**

There will be no additional costs.

**21. Estimate the number of businesses the rule affects:**

All businesses and industries that use VOC in their product formulations for individual products, including personal care products, household products, automotive aftermarket products, adhesives and sealants, FIFRA-related insecticides, coatings and related products (except architectural and maintenance coatings), and other miscellaneous products. Information is not available on the number of businesses in Michigan that are affected.

**22. Identify any disproportionate impact the rule may have on small businesses because of their size or geographic location:**

This is a statewide rule that will be applicable to businesses of various sizes. The provisions in the rules like Alternative Control Plans and Innovative Products exemptions may help small businesses in some instances of hardships.

**23. Discuss the ability of small businesses to absorb the costs estimated above without suffering economic harm and without adversely affecting competition in the marketplace:**

The provisions in the rule like Alternative Control Plans may help small businesses in some instances of hardships.

**24. Estimate the cost of the agency enforcing or administering the rule to exempt or set lesser standards for small businesses:**

There is no cost to the agency to exempt or set lesser standards for small business. However, the OTC rule was developed with the concurrence of both small and large businesses.

**25. Determine the impact on the public interest of exempting or setting lesser standards for small businesses:**

The impact to affected sources is considered in the rulemaking process, and it is not apparent from the OTC or DEQ workgroup process that small businesses should be exempted. The increase in the cost of production would be small and may be absorbed in a slight increase in the retail prices of the affected consumer products.

**26. Explain how the agency reduced the economic impact of the rule on small businesses, as MCL 24.240 requires, or discuss why such a reduction was not feasible:**

Allowed alternatives like Alternative Control Plan exemptions may reduce economic impacts on small businesses.

**27. Discuss whether and how the agency has involved both industry and small business in the development of the rule:**

The Department of Environmental Quality (DEQ) has a workgroup that includes representatives of industry as well as various associations that represent the industry, both large and small businesses. There has been no complaint against the rules so far.

**F. BENEFITS OF RULE:**

**28. Estimate the primary and direct benefits of the rule, including but not limited to the rule's impact on business competitiveness, the environment, worker safety, and consumer protection.**

An estimated reduction of over 5,900 tons per year (TPY) of ozone-causing VOC emissions from the existing rule and additional reductions from this revision will be a notable benefit to the Michigan environment. Bringing the nonattainment areas in the state to attainment of the NAAQS will help attract business to locate in Michigan. Companies will benefit from exemptions in the VOC definition revision, and less toxic materials will be used.

**29. Estimate the secondary or indirect benefits of the rule, including spin-off benefits to business, the environment, workers, and consumers:**

The reduction (5,900 TPY and potentially more in 2009) of ozone causing VOC emissions will reduce the ground level ozone concentration, resulting in better health and productivity benefits to Michigan residents and businesses.

**30. Are the direct and indirect benefits of the rule likely to justify the cost?**

A better environment resulting in better health and productivity for individuals and businesses justify the reasonable costs involved in implementing this rule. The costs of this rule are lower than other options evaluated to achieve necessary VOC reductions.

**31. Estimate the cost reductions to government, individuals, and businesses as a result of the rule:**

A better environment resulting in better health and productivity for individuals and businesses will result in better economy due to reduction in health costs and more

productivity of workers due to better health.

**32. Estimate the increased revenues to state or local government units as a result of the rule:**

No revenue increase expected.

**33. Identify the sources you relied upon in calculating your cost and benefit responses:**

The DEQ is following the OTC Model Rule and has inquired from other states that have already implemented the rule. Control cost options were also determined by a study done by Mactec (a contractor to the Lake Michigan Air Director’s Consortium—LADCO).

**Reviewed by Department Regulatory Affairs Officer:**

Susan Maul

**Reviewed by SOAHR Representative:**

Norene Lind, Administrative Rules Manager

**SOAHR Response:**

Date received: 4-20-07 (amended)		
Approval	<input checked="" type="checkbox"/>	
Disapproval	<input type="checkbox"/>	Explain:
More information needed	<input type="checkbox"/>	Explain:
Date approved: 5-2-07 (amended)		SOAHR #: 2007-006EQ

(SOAHR-RIS June 2005)