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. The proposed change only corrects and simplifies one error in Appendix N of part 50 (Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$); thus, Executive Order 13132 does not apply to this proposed rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. The proposed change only corrects and simplifies one error in Appendix N of part 50 (Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$). Thus, Executive Order 13175 does not apply to this proposed rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23,1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because, while it is based on the need for monitoring data to characterize risk, this proposed rule itself does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve any new technical standards for environmental monitoring and measurement. Ambient air concentrations of $PM_{2.5}$ are currently measured by the Federal reference method in 40 CFR part 50, Appendix L (Reference Method for the Determination of Fine Particulate as $PM_{2.5}$ in the Atmosphere) or by Federal Reference Method or Federal Equivalent Method that meet the requirements in 40 CFR part 53.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary standards and to explain why such standards should be used in this regulation.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed rule merely amends the October 17, 2006, final PM NAAQS rule (71 FR 61144) by correcting and simplifying existing $PM_{2.5}$ data handling conventions and computations.

List of Subjects in 40 CFR Part 50

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 29, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. 07–5953 Filed 1–8–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1043; FRL–8514–4]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to conditionally approve revisions to Michigan's State Implementation plan (SIP) to add the prevention of significant deterioration (PSD) construction permit program under the Federal Clean Air Act (CAA). This program affects major stationary sources in Michigan that are subject to or potentially subject to the PSD construction permit program.

DATES: Comments must be received on or before February 8, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–

OAR–2007–1043, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: blakley.pamela@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* Pamela Blakley, Chief, Air Permits 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–2007–1043. 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 Laura Cossa, Environmental Engineer, at (312) 886–0661 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Laura Cossa, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0661, *cossa.laura@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. What Is Being Addressed in This Document?
III. What Are the Changes That EPA Is Conditionally Approving?
IV. What Action Is EPA Taking Today?
V. Statutory and Executive Order Reviews

I. What Should I Consider as I Prepare My Comments for EPA?

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. What Is Being Addressed in This Document?

EPA is proposing to conditionally approve revisions to Michigan's SIP to add the PSD construction permit program. Approval of the proposed state rules would allow Michigan to obtain a full CAA New Source Review (NSR) SIP. Current state SIP rules implement the major NSR permitting program for sources located in counties not attaining air quality standards, but not the PSD permitting program for sources located in counties attaining air quality standards. Prior to Michigan's development of the submitted PSD program, EPA delegated to Michigan the authority to issue PSD permits through the Federal PSD rules at 40 CFR 52.21 (via delegation letter dated September 26, 1988).

The new state PSD rules reflect the requirements of CAA 42 Sections 110(a)(2)(c) and 165. The state PSD rules also reflect recent changes to 40 CFR 51.166, following the June 24, 2005, United States Court of Appeals for the District of Columbia Circuit ruling on the Federal PSD and non-attainment NSR regulation revisions. These revisions are commonly referred to as ''NSR Reform'' regulations, and became effective on March 3, 2003. Michigan adopted the PSD rules on December 4, 2006. The rules took effect immediately at the state level. The Michigan Department of Environmental Quality (MDEQ) submitted to EPA a final request for approval of these rules into the SIP on December 21, 2006. On February 12, 2007, EPA notified the state that the submittal satisfied the completeness criteria set forth at 40 CFR 51, Appendix V.

III. What Are the Changes That EPA Is Conditionally Approving?

Michigan Air Pollution Control Rules, Part 18, Prevention of Significant Deterioration of Air Quality, Rules R 336.2801 to R 336.2819 and R 336.2823 (1) to (14).

The following subsections discuss the elements of the proposed state rules and how they compare to Federal requirements:

R 336.2801 Definitions

Actual Emissions

Michigan has established the definition of ''actual emissions'' in R

336.2801(a). This definition is consistent with the definition in 40 CFR 51.166(b)(21).

Baseline Actual Emissions

Michigan has established the definition of ''baseline actual emissions'' in R 336.2801 (b). This definition is consistent with the definition in 40 CFR 51.166(b)(47).

Baseline Area

Michigan has established the definition of ''baseline area'' in R 336.2801(c). The definition is consistent with the definition in 40 CFR 51.166(b)(15). The reference to nonattainment area regulations in state rule R 336.2801(c)(ii)(b) is irrelevant for the purposes of this PSD SIP submittal.

Baseline Concentration

Michigan has established the definition of ''baseline concentration'' in R 336.2801(d). This definition is consistent with the definition in 40 CFR 51.166(b)(13).

Begin Actual Construction

Michigan has established the definition of ''begin actual construction'' in R 336.2801 (e). This definition is consistent with the definition in 40 CFR 51.166(b)(11).

Best Available Control Technology or ''BACT''

Michigan has established the definition of ''BACT'' in R 336.2801(f). This definition is consistent with the definition in 40 CFR 51.166(b)(12).

Building, Structure, Facility, or Installation

Michigan has established the definition of ''building, structure, facility, or installation''—in R 336.2801 (g). This definition is consistent with the definition in 40 CFR 51.166(b)(6).

Clean Coal Technology

Michigan has established the definition of ''clean coal technology'' in R 336.2801 (h). This definition is consistent with the definition in 40 CFR 51.166(b)(33).

Clean Coal Technology Demonstration Project

Michigan has established the definition of ''clean coal technology demonstration project'' in R 336.2801(i). This definition is consistent with the definition in 40 CFR 51.166(b)(34).

Commence

Michigan has established the definition of ''commence'' in R 336.2801(k). This definition is consistent with the definition in 40 CFR 51.166(b)(9).

Complete

Michigan has established the definition of ''complete''—in reference to an application to a permit—in R 336.2801(l). This definition is consistent with the definition in 40 CFR 51.166(b)(22).

Construction

Michigan has established the definition of ''construction'' in R 336.2801(m). This definition is consistent with the definition in 40 CFR 51.166(b)(8).

Continuous Emissions Monitoring System or ''CEMS''

Michigan has established the definition of ''CEMS'' in R 336.2801(n). This definition is consistent with the definition in 40 CFR 51.166(b)(43).

Continuous Emissions Rate Monitoring System or ''CERMS''

Michigan has established the definition of ''CERMS'' in R 336.2801(o). This definition is consistent with the definition in 40 CFR 51.166(b)(46).

Continuous Parameter Monitoring System or ''CPMS''

Michigan has established the definition of ''CPMS'' in R 336.2801(p). This definition is consistent with the definition in 40 CFR 51.166(b)(45).

Electric Utility Steam Generating Unit

Michigan has established the definition of ''electric utility steam generating unit'' in R 336.2801(q). This definition is consistent with the definition in 40 CFR 51.166(b)(30).

Emissions Unit

Michigan has established the definition of ''emissions unit'' in R 336.2801(r). This is consistent with the definition in 40 CFR 51.166(b)(7). Included in both the Federal and state definitions is the statement that a replacement unit is considered an existing unit under this definition. However, Michigan's rules do not define ''replacement unit,'' which is included in the Federal rule at 40 CFR 51.166(b)(7). In a letter sent to EPA on May 17, 2007, Michigan agreed to follow the Federal definition of ''replacement unit'' in its implementation of these rules, and committed to add the definition in a future rulemaking. In a subsequent letter to EPA, dated November 30, 2007, MDEQ committed to add this definition in the rules not later than one year after EPA's conditional approval of this plan. Based on this commitment, and the understanding that Michigan will follow the Federal definition of ''replacement unit'' in its implementation of the rules in the interim, EPA is proposing to conditionally approve this rule.

Federal Land Manager

Michigan has established the definition of ''federal land manager'' in R 336.2801(s). This definition is consistent with the definition in 40 CFR 51.166(b)(24).

High Terrain

Michigan has established the definition of ''high terrain'' in R 336.2801(t). This definition is consistent with the definition in 40 CFR 51.166(b)(25).

Hydrocarbon Combustion Flare

Michigan has established the definition of ''hydrocarbon combustion flare'' in R 336.2801(u). This definition is consistent with the definition in 40 CFR 51.166(b)(31)(iv).

Indian Reservation

Michigan has established the definition of ''Indian reservation'' in R 336.2801(v). This definition is consistent with the definition in 40 CFR 51.166(b)(27).

Indian Governing Body

Michigan has established the definition of ''Indian governing body'' in R 336.2801(w). This definition is consistent with the definition in 40 CFR 51.166(b)(28).

Innovative Control Technology

Michigan has established the definition of ''innovative control technology'' in R 336.2801(x). This definition is consistent with the definition in 40 CFR 51.166(b)(19).

Low Terrain

Michigan has established the definition of ''low terrain'' in R 336.2801(y). This definition is consistent with the definition in 40 CFR 51.166(b)(26).

''*Lowest Achievable Emission Rate'' or ''LAER''*

Michigan has established the definition of ''LAER'' in R 336.2801(z). This definition is consistent with the definition in 40 CFR 51.166(b)(52).

Major Modification

Michigan has established the definition of ''major modification'' in R 336.2801(aa). This definition is consistent with the definition in 40 CFR 51.166(b)(2).

Major and Minor Source Baseline Date

Michigan has established the definition of ''major source baseline date'' and ''minor source baseline date'' in R 336.2801(bb). This definition is consistent with the definition in 40 CFR 51.166(b)(14).

Major Stationary Source

Michigan has established the definition of ''major stationary source'' in R 336.2801(cc). This definition is consistent with the definition in 40 CFR 51.166(b)(1).

Necessary Preconstruction Approvals or Permits

Michigan has established the definition of ''necessary preconstruction approvals or permits'' in R 336.2801(dd). This definition is consistent with the definition in 40 CFR 51.166(b)(10).

Net Emissions Increase

Michigan has established the definition of ''net emissions increase'' in

R 336.2801(ee). This definition exceeds the requirements of 40 CFR 51.166(b)(3). As described in 40 CFR 51.166(b), states can use definitions that are more stringent than the corresponding definitions listed in 40 CFR 51.166(b)(1) to (56). However, in a letter dated May 17, 2007, Michigan declined intent for a more stringent definition, and stated that the definition of ''net emissions increase'' is being rewritten under a state rulemaking, so that it will follow the same requirements as the Federal rule. Michigan indicates that the definition of ''net emissions increase'' as currently set forth in R 336.2801(ee) will be applied until the state rules are revised. EPA finds that the rule is approvable as currently promulgated, and as proposed to be revised to match the Federal definition. Therefore we propose to approve the definition of ''net emissions increase'' as part of the SIP.

Pollution Prevention

Michigan has established the definition of ''pollution prevention'' in R 336.2801(gg). This definition is consistent with the definition in 40 CFR 51.166(b)(38).

Potential to Emit or ''PTE''

''Michigan has established the definition of ''PTE'' in R 336.2801(hh). This definition is consistent with the definition in 40 CFR 51.166(b)(4), except instead of ''federally enforceable,'' vacated in *Chemical Manufacturers Assn* v. *EPA,* No. 89–1514 (D.C. Cir. Sept. 15, 1995) the Michigan rules use the more general term ''legally enforceable.'' See EPA Interim Policy on Federally Enforceable Requirement for Limitations on PTE, dated January 22, 1996 (''Interim Policy''). EPA proposes to find the use of the term ''legally enforceable'' approvable as part of the definition of ''PTE'' because Michigan agrees to apply the term ''legally enforceable'' in accordance with the Interim Policy to mean legally and practically enforceable by a state or local air pollution control agency, as well as by the EPA. In general, practicable enforceability for a source-specific permit means that the permit's provisions must specify: (1) A technically-accurate limitation and the portions of the source subject to the limitation; (2) the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); and (3) the method to determine compliance including appropriate monitoring, recordkeeping, and reporting. For rules and general permits that apply to categories of sources, practicable enforceability additionally requires that the provisions: (1) Identify the types or categories of sources that are covered by the rule; (2) where coverage is optional, provide for notice to the permitting authority of the source's election to be covered by the rule; and (3) specify the enforcement consequences relevant to the rule.

Michigan has committed in a letter dated September 11, 2007, to apply the term ''legally enforceable'' consistent with the above, and to revise the rule to make it consistent with this understanding. In a subsequent letter to EPA, dated November 30, 2007, MDEQ committed to add this definition in the rules not later than one year after EPA's conditional approval of this plan. Therefore EPA is proposing to conditionally approve this rule.

Predictive Emissions Monitoring System or ''PEMS''

Michigan has established the definition of ''PEMS'' in R 336.2801(ii). This definition is consistent with the definition in 40 CFR 51.166(b)(44).

Prevention of Significant Deterioration Program or ''PSD''

Michigan has established the definition of ''PSD'' in R 336.2801(jj). This definition is consistent with the definition in 40 CFR 51.166(b)(42).

Project

Michigan has established the definition of ''project'' in R 336.2801(kk). This definition is consistent with the definition in 40 CFR 51.166(b)(51).

Projected Actual Emissions

Michigan has established the definition of ''projected actual emissions'' in R 336.2801(ll). This definition is consistent with the definition in 40 CFR 51.166(b)(40).

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit

Michigan has established the definition of ''reactivation of a very clean coal-fired electric utility steam generating unit'' in R 336.2801 (mm). This definition is consistent with the definition in 40 CFR 51.166(b)(37).

Regulated New Source Review Pollutant

Michigan has established the definition of ''regulated new source review pollutant'' in R 336.2801(nn). This definition is consistent with the definition in 40 CFR 51.166(b)(49).

Repowering

Michigan has established the definition of ''repowering'' in R 336.2801(oo). This definition is consistent with the definition in 40 CFR 51.166(b)(36).

Secondary Emissions

Michigan has established the definition of ''secondary emissions'' in R 336.2801(pp). This definition is consistent with the definition in 40 CFR 51.166(b)(18).

Significant

Michigan has established the definition of ''significant'' in R 336.2801(qq). This definition is consistent with the definition in 40 CFR 51.166(b)(23).

Significant Emissions Increase

Michigan has established the definition of ''significant emissions increase'' in R 336.2801(rr). This definition is consistent with the definition in 40 CFR 51.166(b)(39).

Stationary source

Michigan has established the definition of ''stationary source'' in R 336.2801(ss). This definition is consistent with the definition in 40 CFR 51.166(b)(5).

Temporary Clean Coal Technology Demonstration Project

Michigan has established the definition of ''temporary clean coal technology demonstration project'' in R 336.2801(tt). This definition is consistent with the definition in 40 CFR 51.166(b)(35).

Definitions Not Included in the PSD SIP

The following 40 CFR 51.166(b) definitions are not included in the submitted SIP rules: ''allowable emissions'', ''federally enforceable'', and ''fugitive emissions''. The definitions of ''allowable emissions'' and ''fugitive emissions'' are included in previously approved SIP programs in Michigan's air rules (R 336.1101(j) and R 336.1106(h)), and are consistent with the definitions in 40 CFR 51.166(b)(16) and 40 CFR 51.166(b)(20). EPA is proposing to approve the rules based on Michigan's commitment that, in its implementation of the PSD rules, the State will follow the definitions of ''allowable emissions'' and ''fugitive emissions'' as included in previously approved SIP programs in Michigan's air rules (R 336.1101(j) and R 336.1106(h)), and as consistent with the definitions in 40 CFR 51.166(b)(16) and 40 CFR 51.166(b)(20).

The definition of ''federally enforceable'' is not required for the PSD SIP. See discussion above in conjunction with the definition of ''PTE.'' Instead of ''federally enforceable,'' the Michigan rules use the term ''legally enforceable.'' Consistent with the Interim Policy, EPA proposes to find the term ''legally enforceable'' conditionally approvable as part of the rules' definition of ''PTE'' (R 336.2801(hh)) as long as Michigan agrees to apply the term ''legally enforceable'' in accordance with the Interim Policy to mean legally and practically enforceable by the EPA, a state or local air pollution control agency,'' as discussed above.

R 336.2802 Applicability

The Michigan rule defines the applicability of the PSD permitting program. The rule states that new major sources or major modifications at existing major sources of air pollution must obtain a PSD permit before construction begins. The rule also states that major modifications occur when a project causes a significant increase in an air pollutant. The rule then goes on to provide four methods of determining whether a significant increase occurs: (1) Baseline actual emissions v. future potential emissions (applies to new or existing sources); (2) baseline actual emissions v. projected actual emissions (applies to existing sources only); (3) hybrid combination (for projects involving new and existing sources); and (4) Plantwide Applicability Limitations. Rule R 336.2802 is consistent with 40 CFR 51.166(a)(7).

R 336.2803 Ambient Air Increments

This rule contains the ambient air increment requirements (acceptable maximum impacts that may be caused by a new source of air pollution). Rule R 336.2803 is consistent with 40 CFR 51.166(c).

R 336.2804 Ambient Air Ceilings

This rule sets forth ambient air increment requirements to ensure that no source may cause the concentration of air pollutants in the ambient air to exceed the National Ambient Air Quality Standards (NAAQS). Rule R 336.2804 is consistent with 40 CFR 51.166(d).

R 336.2805 Restrictions on Area Classifications

This rule contains the ambient air ceiling requirements for certain Class I areas (such as national parks and national wildlife areas). All other areas of the state are Class II areas. The Federal and state PSD rules allow greater impacts from air pollutants in Class III areas, but Michigan does not currently contain any Class III areas. If Michigan were to seek to establish any Class III areas, then this rule would need to be consistent with Class III requirements at that time. Rule R 336.2805 is consistent with 40 CFR 51.166(e).

R 336.2806 Exclusions From Increment Consumption

This rule specifies concentrations which shall be excluded from determining compliance with maximum allowable increments. Rule R 336.2806 is consistent with 40 CFR 51.166(f).

R 336.2807 Redesignation

This rule contains provisions for obtaining waivers from normal increment consumption requirements. Rule R 336.2807 is consistent with 40 CFR 51.166(g).

R 336.2808 Stack Heights

This rule contains stack heights requirements. Rule R 336.2808 is consistent with 40 CFR 51.166(h).

R 336.2809 Exemptions

This rule exempts certain sources from applicable technology review, air quality monitoring, and projected emission impact modeling requirements. Rule R 336.2809 is consistent with 40 CFR 51.166(i).

R 336.2810 Control Technology Review

This rule requires permit applicants to include the BACT on proposed new major sources or major modifications at existing major sources. Rule R 336.2810 is consistent with 40 CFR 51.166(j).

R 336.2811 Source Impact Analysis

This rule requires permit applicants to demonstrate that their proposed emissions will not cause a violation of the NAAQS or the air quality increment. Rule R 336.2811 is consistent with 40 CFR 51.166(k).

R 336.2812 Air Quality Models

This rule provides requirements for acceptable computer models which may be used in an air quality impact demonstration. Rule R 336.2812 is consistent with 40 CFR 51.166(l).

R 336.2813 Air Quality Analysis

This rule requires that a PSD permit applicant analyze the existing condition of the ambient air at the proposed site both before and after construction (sometimes referred to as preconstruction and post-construction monitoring). Rule R 336.2813 is consistent with 40 CFR 51.166(m).

R 336.2814 Source Information

This rule contains minimum information content requirements for PSD permit applications. Rule R 336.2814 is consistent with 40 CFR 51.166(n).

R 336.2815 Additional Impact Analyses

This rule requires that the PSD permit applicant evaluate additional environmental impacts, like the impairment of visibility, soils, or vegetation. Rule R 336.2815 is consistent with 40 CFR 51.166(o).

R 336.2816 Sources Impacting Federal Class I Areas; Additional Requirements

This rule establishes alternative increment requirements for sources impacting Class I areas. Rule R 336.2816, as submitted, is not consistent with 40 CFR 51.166(p). Specifically, state rule R 332.2816(2)(a) does not include the requirements of 51.166(p)(3), under which a plan must provide a mechanism whereby the Federal Land Manager may present to the state a demonstration of impacts of air quality-related values from proposed source/modification where maximum allowable increases for a Class I area are not violated, in which case if the state concurs, the state does not issue a permit. In a letter to EPA dated November 30, 2007, MDEQ committed to include these requirements in a future rule-making revision, to be completed no later than one year after EPA's conditional approval. Additionally, the state committed to clarify Rules R 332.2816 to more closely comport with 40 CFR 51.166(p). The proposed language, included in the November 30, 2007, letter is acceptable. Therefore EPA is proposing to conditionally approve this rule.

R 336.2817 Public Participation

This rule establishes the minimum acceptable opportunities for public comment on a proposed PSD permit. In its rules, Michigan is foregoing the right to one full year to act on a complete permit application, and is bound, instead, under the rules to act within 120 days. We approve this change. Rule R 336.2817 is consistent with 40 CFR 51.166(q).

R 336.2818 Source Obligation

This rule places additional requirements upon the PSD permit applicant, including recordkeeping requirements for applicants using certain methods for determining if a project results in a significant increase.

On December 31, 2002, EPA published revisions to the Federal PSD and non-attainment NSR regulations. These revisions are commonly referred to as ''NSR Reform'' regulations and became effective on March 3, 2003. These regulatory revisions include provisions for baseline emissions determinations, actual-to-future actual methodology, Plantwide Applicability Limits (PALs), Clean Units, and Pollution Control Projects (PCP). The Federal rules require a source to follow the recordkeeping and reporting requirements in this section if there is a ''reasonable possibility'' that a source may exceed the projected actual

emissions (40 CFR 51.166(r)(6)). The ''reasonable possibility'' clause of this provision of the Federal rule has been remanded to EPA in the June 24, 2005, D.C. Circuit Court ruling in *State of New York et al.* v. *EPA*, 413 F.3d 3 (D.C. Cir. 2005). On December 14, 2007, EPA issued a final rule that provides additional explanation and more detailed criteria to clarify the ''reasonable possibility'' recordkeeping and reporting standard of the 2002 NSR reform rules. This final action will require recordkeeping and reporting when the projected increase in emissions to which the ''reasonable possibility'' test applies equals or exceeds 50 percent of the CAA's NSR significance levels for any pollutant.[1] MDEQ must submit a notice to EPA within 1 year from this conditional approval—before EPA takes final action to approve this aspect of the SIP—to acknowledge the rule change and that the PSD regulations will continue to follow the ''reasonable possibility'' provisions in a manner that is consistent with EPA's final rule. All the requirements of rule R 336.2818 are consistent with 40 CFR 51.166(r).

R 336.2819 Innovative Control Technology

This rule contains provisions allowing a PSD permit applicant to experiment with new control technologies to satisfy the BACT requirement. Rule R 336.2819 is consistent with 40 CFR 51.166(s).

R 336.2823 (1) to (14) Actuals Plantwide Applicability Limits (PALs)

This rule contains an alternate applicability method for determining if a source requires a PSD permit. Rule R 336.2823(1) to (14) is consistent with 40 CFR 51.166(w).

Rules Not Included in the PSD SIP

Subrule R 336.1823(15) contains provisions synchronizing the Michigan minor permit to install program with the new PAL provisions. This subrule is mainly concerned with state air toxics provisions and was not submitted as part of Michigan's PSD SIP. Therefore, EPA is not taking action on rule R 336.1823(15) as part of this rulemaking action.

[1] Currently, the MDEQ's minor source permitting program—Rule R 336.1201—requires this information to be submitted for all sources as part of a complete Permit to Install application before beginning actual construction on the proposed project (not just where there is a ''reasonable possibility'' that the source may exceed the projected actual emissions). Because this is more stringent than the Federal requirement, we approve this approach.

Rule R 336.2830 is intended to provide a parallel appeal procedure to the procedure that is currently in place for the Federal PSD program in Michigan under the regulation at 40 CFR 124. The rule creates a right to an administrative hearing before a state administrative law judge that is similar to the current appeal rights under the Federal PSD permitting program. This rule is not submitted as part of Michigan's PSD SIP. Therefore, EPA is not taking action on rule R 336.2830.

IV. What Action Is EPA Taking Today?

EPA is proposing to conditionally approve revisions to the SIP to include the PSD construction permit programs of the State of Michigan.

Conditions for Conditional Approval

As noted above, EPA has identified several minor deficiencies that are necessary to correct in Michigan's rules so that the rules are approvable. The areas of concern are discussed in more detail above. In a letter to EPA dated May 17, 2007, Michigan committed to follow the federal definition of *''replacement unit''* (40 CFR 51.166(b)(7)) in its implementation of these rules, and to add the definition to the state rules in a future rulemaking. For the definition of *''PTE'' (Rule 336.2801(hh))*, Michigan follows the federal definition, except instead of *''federally enforceable''*, the Michigan rules use the more general term *''legally enforceable''*. Michigan has committed, in a letter to EPA dated September 11, 2007, to apply the term *legally enforceable* to mean legally and practically enforceable by the EPA, a state or local air pollution agency, consistent with the Interim Policy dated January 22, 1996.

The state's current *Rule 336.2816* does not include a mechanism under which the Federal Land Manager may present to the state a demonstration of impacts of air quality-related values from proposed source/modification where maximum allowable increases for a Class I area are not violated, and if the state concurs it does not issue the permit (as per 40 CFR 51.166(p) (3)). In order to add the missing requirement for sources impacting federal Class I areas, MDEQ committed, in a letter to EPA dated November 30, 2007, to add these requirements through a future rule-making revision. Additionally, the state committed to clarify this state rule to more closely comport with federal requirements (The deficiencies being addressed are described in more detail above in Part III of this document entitled ''What Are The Changes That EPA is Conditionally Approving?'').

Under section 110(k)(4) of the CAA, EPA may conditionally approve a SIP revision based on a commitment from the state to adopt specific enforceable measures by a date certain that is no more than one year from the date of conditional approval. In this action, we are proposing to approve the SIP revision that Michigan has submitted on the condition that the specified deficiencies in the SIP revision are corrected, as noted above, within a year of a final conditional approval of the rules.

If this condition is not fulfilled within one year of the effective date of final rulemaking by correction of all of the specified deficiencies, the conditional approval for the uncorrected sections of the state rules will automatically revert to disapproval, as of the deadline for meeting the conditions, without further action from the EPA. EPA would subsequently publish a notice in the **Federal Register** providing notice and details of such disapproval.

If Michigan submits final and effective rule revisions correcting the deficiencies, as discussed above, within one year from this conditional approval becoming final and effective, EPA will publish a subsequent notice in the **Federal Register** to acknowledge conversion of the conditional approval to a full approval.

V. 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 proposed 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 proposed 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 CAA.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed 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 proposed 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 proposes approval of a state rule implementing a Federal Standard.

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 CAA. 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 CAA. Therefore, the requirements of section 12(d) of the NTTAA do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 27, 2007.

Gary Gulezian,

Acting Regional Administrator, Region 5.

[FR Doc. E8–186 Filed 1–8–08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–5037; MB Docket No. 07–279; RM–11411]

Radio Broadcasting Services; Iola, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Charles Crawford (''Petitioner'') proposing the allotment of Channel 299A at Iola, Texas, as the first FM broadcast service at Iola. The proposed coordinates are 30–40–42 NL and 96–09–30 WL with a site restriction of 13.1 kilometers (8.1 miles) southwest of Iola, Texas.

DATES: Comments must be filed on or before February 11, 2008, and reply comments on or before February 26, 2008.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner and his counsel as follows: Charles Crawford; 4553 Bordeaux Ave.; Dallas, Texas 75295; and Gene A. Bechtel, Law Office of Gene Bechtel; 1050 17th Street, NW., Suite 600; Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 07–279, adopted December 19, 2007, and released December 21, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR Section 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR Sections 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows: