



Implementation of the Environmental Advisory Rules Committee's Recommendations

Quarterly Status Report

Spring 2014

AIR QUALITY DIVISION

Recommendation A-1: Air Toxic Rules

The Air Quality Division's (AQD) Air Toxics Workgroup held nine meetings between December 3, 2012, and September 25, 2013. From September through October 2013, the Workgroup members submitted comments to AQD on two iterations of the Workgroup's final draft report. A few remaining issues were then resolved between the AQD and Workgroup members in December 2013. Almost all of the Environmental Advisory Rules Committee's (ARC) recommendations are being addressed via proposed rule changes or changes in AQD procedures, as appropriate. In May, a Request for Rulemaking (RFR) will be submitted to the Office of Regulatory Reinvention (ORR) for changes to the Part 2. Air Use Approval Rules, which includes changes to the air toxics and permit exemption rules.

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Recommendation A-3: Additional Rule 201 (Permit to Install) Exemptions

The ten members of the Exemption Workgroup held their first meeting on December 20, 2012. The Exemption Workgroup held additional meetings on January 24; March 6; April 10; May 1; June 5; July 10; August 7; and August 26, 2013. The Exemption Workgroup has completed its report. An RFR will be submitted to the ORR for changes to the Part 2. Air Use Approval Rules, which will include changes to the air toxics and permit exemption rules.

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Recommendation A-5: Dispersion Modeling Guidance Document

A draft policy and procedure was presented to the Air Advisory Council at their March 1, 2013 and May 9, 2013, meetings. The Air Advisory Council did not approve the dispersion modeling guidance. The AQD will be starting fresh and intends to present a new draft to the Air Advisory Council at its May 28, 2014, meeting for discussion.

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OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION

Recommendation RM-1: Liquid Industrial Waste Regulations

The Department of Environmental Quality (DEQ) will be discussing legislative changes to Part 121, Liquid Industrial Wastes, of the Natural Resources and Environmental Protection Act, 1994

PA 451, as amended (NREPA) . The Office of Waste Management and Radiological Protection (OWMRP) has been working with Michigan Manufacturing Association (MMA) and the Michigan Chamber of Commerce representatives to identify possible stakeholders and issues. A kickoff meeting of the stakeholders is planned for June 2014.

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Recommendation RM-2: Beneficial Reuse

[House Bill \(HB\) 5400](#) was introduced by Representative Schmidt and is making its way through the legislative process. The bill amends and adds sections to Part 115, Solid Waste Management, and Part 85, Fertilizers, of the NREPA, to allow for the beneficial reuse of certain industrial byproducts if the products meet the environmental standards set forth in the legislation. [HB 5401](#) and [5402](#) amend sections of Part 201, Environmental Remediation, to provide liability protection under Part 201 if the products are used in accordance with Part 85 or Part 115.

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Recommendation RM-8: Medical Waste Storage Accumulation Limitation

The proposal to allow Sharps used for “non-medical procedures” to be stored for more than 90 days requires amendments to Part 138, Medical Waste Regulatory Act, of the Public Health Code, 1978 PA 368, as amended. Stakeholders proposed legislation, [HB 4495 of 2010](#), which would have allowed a longer storage period for small quantities of Sharps. A slightly different approach was taken in September 2012 with Senate Bill 1334. None of the legislation introduced to date on this issue has been enacted. The DEQ will develop rules to implement any eventual legislation as appropriate.

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OFFICE OF OIL, GAS AND MINERALS

Recommendation RM-9: Conformance Bond or Statement of Financial Responsibility Requirements for Mineral Well Operators

The Office of Oil, Gas and Minerals (OOGM) developed a draft Memorandum of Understanding (MOU) that was sent to the U.S. Environmental Protection Agency (U.S. EPA) for review on May 23, 2013. The draft MOU was returned from the U.S. EPA to the OOGM on January 13, 2014. The OOGM is currently reviewing the draft, which includes other programmatic agreements outside of the conformance bond issue. If the DEQ concurs with the changes, the MOU should be approved in May 2014.

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OFFICE OF DRINKING WATER AND MUNICIPAL ASSISTANCE

Recommendation W-17: Safe Drinking Water – Cross Connection Inspections of Residential, Commercial, and Industrial Properties

On February 13, 2013, the U.S. EPA published the revised total coliform rule which will require the DEQ to make additions and changes to Parts 1-28, Supplying Water to the Public Rules, of the Michigan Safe Drinking Water Act, 1976 PA 399, as amended. Recommendation W-17 will also be addressed in these rule changes. Stakeholders met on December 17, 2013, to discuss the Part 14, Cross Connection rules. The draft rules will include a statement recommending that backflow preventers installed on a residential lawn irrigation system should be or can be tested once every five years in certain situations. The draft rules package should be submitted to the Office of Regulatory Reinvention sometime in the summer of 2014. It will then have to go through the formal rulemaking process, including a public comment period and public hearings.

[HB 5317](#) was introduced by Representative McCready to reduce the inspection for residential lawn irrigation system backflow preventers to no more than once every 3 years. The legislation is making its way through the legislative process.

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REMEDIATION AND REDEVELOPMENT DIVISION

Recommendation R-3: Revising Part 201 Cleanup Criteria

Background

Further work is necessary to reach consensus on revisions to the cleanup criteria. Accordingly, on December 22, 2012, Governor Snyder signed SB 1328 into law as Public Act 446. Act 446 amended Part 201 to extend the deadline for revision of cleanup criteria rules from December 31, 2012, to December 31, 2013.

New Rules Promulgated December 30, 2013

The Part 7 Cleanup Criteria Rules were rescinded on December 31, 2013. Taking their place are new criteria rules, numbered from 299.1 to 299.50 which became effective on December 30, 2013. A link to the [new Environmental Contamination Response Activity rules](#) is available on the [Remediation and Redevelopment Division \(RRD\) web site](#).

The Part 201 groundwater and soil cleanup criteria and screening levels, criteria footnotes, and the toxicological and chemical-physical properties of the hazardous substances are now located in the following rules:

- R 299.44 Generic groundwater cleanup criteria (Table 1).
- R 299.46 Generic soil cleanup criteria for residential category (Table 2).
- R 299.48 Generic soil cleanup criteria for nonresidential category (Table 3).
- R 299.49 Footnotes for generic cleanup criteria tables.
- R 299.50 Toxicological and chemical-physical properties (Table 4).

As presented in the Cleanup Criteria Requirements for Response Activity Rules, some groundwater and soil cleanup criteria and screening levels were revised, as compared to the previous September 28, 2012, release of these tables under the Part 7 rules. These changes are noted in a document posted on the RRD website.

New Stakeholder Process Beginning in 2014

The first two meetings of the Criteria Stakeholder Advisory Group (CSA) occurred on March 26 and April 16, 2014. Three technical subcommittees will also be appointed by the DEQ to assist the CSA. The responsibilities of the CSA include: developing guiding principles to serve as the basis for updating the existing criteria, reviewing background white papers, reviewing reports of the technical groups, and making recommendations to the DEQ Director. The DEQ has hired Public Sector Consultants to facilitate the stakeholder process. A [webpage](#) for information and status of the CSA has been completed.

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Recommendation R-11: Source Control Requirements under MCL 324.20114(1) and R 299.5526(4)

Senator Casperson introduced [Senate Bill \(SB\) 0891](#) earlier this year. Under the proposed changes a “source” would be defined as the place or container (e.g. landfill or underground storage tank) from which the release originated.

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WATER RESOURCES DIVISION

Recommendation W-5: Nationwide Permitting Approach (COMPLETED)

Michigan updated and issued new/revised Minor Project and General Permit categories in August 2012 and again in March 2013 which correspond to the U.S. Army Corps of Engineers Nationwide Permits when possible, while staying consistent with Michigan law and continuing a consolidated permit application process under several state statutes.

Public Act 98 of 2013 also requires the DEQ to propose development of two additional General Permit categories; for blueberry production in wetlands, and for activities in designated county drains. The categories must be public noticed and also approved by the U.S. EPA prior to issuance.

The DEQ issued a public notice on September 9, 2013, for obtaining comments on adding a General Permit for county drains to the existing General Permit categories. The U.S. EPA objected to the proposed county drain category on November 21, 2013. The DEQ worked with the U.S. EPA and the Michigan Association of County Drain Commissioners to resolve the objections and a General Permit category for county drains was issued on February 19, 2014. A [blueberry production permit category](#) has been drafted and a public notice was issued on December 30, 2013. The U.S. EPA objected to the proposed blueberry farming category on March 31, 2014. The DEQ is working with the U.S. EPA to try to resolve the objections.

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Recommendation W-16: Construction Storm Water Exemption (COMPLETED)

Sites that have determined that they will not discharge to waters of the state need not comply with the Michigan Permit-by-Rule for Construction Sites. However, if the site is found by DEQ staff to in fact discharge to waters of the state, the landowner will be in violation of Michigan's Permit-by-Rule. Should the landowner wish additional assurance, he or she may submit the DEQ form titled "No Potential to Discharge, for Exclusion of Coverage under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharges Associated with Construction Activity." The form is identified as [EQP9213](#). For more information, go to www.michigan.gov/soilerosion and click on the third and fourth bullets under the title, "Construction Storm Water Info."

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Recommendation W-18: NPDES Water Treatment Additives (COMPLETED)

Process to Receive Approval to Discharge Select Water Treatment Additives (WTA)

Select WTAs are those commonly-used chemical products that are added as conditioners to improve the water quality for use in a system or process, condition and treat the water to make it suitable for discharge, are considered to not adversely affect aquatic life, are a single chemical (i.e., not a mixture of chemicals), and can be regulated through a facility's NPDES permit with a chemical-specific water quality-based effluent limit (WQBEL), using a parameter that mitigates the WTA toxicity (i.e., pH limits that mitigate a pH adjusting WTA).

The following commonly used disinfectants and dechlorinating agents, flocculants, pH adjusters, water softeners, and oxygen scavengers are included on the List of Select Water Treatment Additives (see below).

The process to receive approval to use and subsequently discharge Select WTAs to a surface water of the state from an NPDES-permitted outfall includes the following:

1. Directions for locating the online form are as follows: go to www.michigan.gov/deq , choose "Water," "Surface Water," "NPDES Permits," and under the title "Water Treatment Additives," choose "Select Water Treatment Additives Discharge Application Instructions and Form."
2. Upon submittal of the form, you will receive an automatic response. The automatic response is required prior to the discharge of any Select WTA to a surface water of the state from an NPDES-permitted outfall.
3. Only those Select WTAs included on the list are authorized under this process. For the process to receive approval to discharge any WTA not included on the List of Select Water Treatment Additives, go to www.michigan.gov/deq , choose "Water," "Surface Water," "NPDES Permits," and under the title "Water Treatment Additives," select "Non-Select Water Treatment Additives Discharge Application Instructions."
4. The corresponding WQBEL for the Select WTA must already be included in the NPDES permit for the outfall from which the WTA will be discharged.
5. Required sampling to fulfill NPDES permit requirements must be conducted on effluent discharged from the outfall during a representative time period of Select WTA usage and discharge.

6. The facility must already possess an NPDES permit, and the outfall from which the Select WTA will be discharged must already be permitted under the NPDES permit.

LIST OF SELECT WATER TREATMENT ADDITIVES

NOTE: Approval to discharge additives on this list must be obtained by the Water Resources Division prior to use and discharge of the additive. Additives that contain the following chemicals as a single constituent in the product (plus water) are considered to be Select Water Treatment Additives.

Table 1. Select Water Treatment Additives - disinfectants and dechlorinating agents.

Constituent	Product Type	NPDES Limited Parameter
Calcium hypochlorite	Disinfectant	TRC and pH
Sodium hypochlorite	Disinfectant	TRC and pH
Chlorine gas	Disinfectant	TRC and pH
Sodium thiosulfate	Dechlorinating Agent	TRC and pH
Sodium sulfite	Dechlorinating Agent	TRC and pH
Sodium bisulfite	Dechlorinating Agent	TRC and pH
Sodium metabisulfite	Dechlorinating Agent	TRC and pH

Table 2. Select Water Treatment Additives - flocculants.

Constituent	Product Type	NPDES Limited Parameter
Ferric chloride	Flocculant	pH
Aluminum sulfate (alum)	Flocculant	pH

Table 3. Select Water Treatment Additives - pH adjusters and water softeners.

Constituent	Product Type	NPDES Limited Parameter
Hydrochloric acid (muriatic acid, hydrogen chloride)	pH Adjuster and Water Softener	pH
Phosphoric acid	pH Adjuster and Water Softener	Phosphorus and pH
Sodium hydroxide	pH Adjuster and Water Softener	pH
Sulfuric acid	pH Adjuster	pH

Table 4. Select Water Treatment Additives - oxygen scavengers.

Constituent	Product Type	NPDES Limited Parameter
Sodium bisulfite	Oxygen Scavenger	pH and DO

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GENERAL

Recommendation G-1: Rules More Stringent Than Federal

The DEQ is addressing this recommendation through three avenues:

- The DEQ along with all other state of Michigan departments submits an annual regulatory plan to the Office of Regulatory Reinvention. The plan identifies which rules are most problematic to the regulatory community and could be reviewed to determine the most business-friendly method of regulation. The DEQ is continuously reviewing rules that conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government. This report is published on [the DEQ rules web page](#).
- Anyone who has concerns about DEQ rules being unfairly more restrictive than federal regulations are encourage to contact the appropriate division or office chief.
- During the process of promulgating new rules or amending existing rules, all departments must respond to the following question contained in the Regulatory Impact Statement that is reviewed by the Office of Regulatory Reinvention.
 - Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

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