



## Implementation of the Environmental Advisory Rules Committee's (ARC) Recommendations Cumulative Report

Waste Management & Radiological Protection Division      January 2017

### **Recommendation RM-1: Liquid Industrial Waste Regulations (COMPLETED)**

#### *Recommendation:*

The DEQ should develop rules and/or changes to the statute(s) governing liquid industrial waste to make the process of handling these materials more streamlined and cost effective for the regulated community while protecting human health and the environment. In the development of these rules and recommendations, the department should look at what rules can be eliminated and how the various rules can be consolidated.

This rules package and/or statutory change recommendations must be evaluated in comparison to the federal standards and should be consistent with the programs in surrounding Great Lakes States. Any rules package and statutory changes should be presented to the Office of Regulatory Reinvention (ORR) by September 1, 2012.

The development of the liquid industrial waste recommendations must consider:

- The role of manifests in the hauling and disposal process.
- The development of an electronic manifesting system.
- *De minimis* and threshold quantities in determining applicability of the law or rule.
- Duplicative rules and standards between the various parts of the Act(s) governing liquid industrial waste.
- Whether certain insignificant materials such as used oil, wash water and other small or insignificant materials should be included in the Act.
- How liquid industrial waste is handled under the present laws and rules.
- Registration/licensing of liquid industrial waste haulers.
- The reasons for using a licensed hauler.
- Reasonable insurance and financial assurance requirements that reflect real risk and actual costs.
- Whether the current list of materials in the Act should continue to be listed.
- The option of regulating used oil as a universal waste.
- Consider regulating other LIW wastes streams as universal waste.

#### *Response:*

The DEQ discussed legislative changes to Part 121, Liquid Industrial Waste, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), with a stakeholder workgroup. On January 9, 2015, Director Dan Wyant approved the 19 recommendations of the workgroup with some minor changes. Changes to Part 121 were one of the Office of Waste Management and Radiological Protection's (OWMRP) legislative priorities for 2015. Senate Bills (SB) 400, 401 and 402 amend Part 121 and corresponding statutes by

incorporating in the agreed upon recommendations. These bills were passed by the legislature and signed by Governor Snyder on December 17, 2015, respectively becoming Public Acts 224, 225, and 226 of 2015.

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### **Recommendation RM-2: Beneficial Reuse (COMPLETED)**

#### *Recommendation:*

The DEQ should develop, based on recommendations from stakeholders, a new comprehensive Beneficial Reuse Act. The recommendations of the stakeholder workgroup should be completed by April 1, 2012 and legislation prepared by May 1, 2012.

#### *Response:*

[House Bill \(HB\) 5400](#) was introduced by Representative Wayne Schmidt and was signed into law by the Governor on June 16, 2014 (2014 PA 178). The bill amends and adds sections to Part 115, Solid Waste Management; Part 31, Water Resources Protection; Part 201, Environmental Remediation; 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. The changes to Part 115 go into effect on September 16, 2014. HBs 5401 and 5402 amend sections of Part 201 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-3: Hazardous Waste Regulations (COMPLETED)**

#### *Recommendation:*

The DEQ should conduct a systematic review – including stakeholder and public comment – of the chemicals and wastes listed in R 299.9226, Table 205c (“U” listed); R 299.9219, Table 202 (“S” characteristic); and R 299.9223, Table 204b (“K” listed). The review should consider new information about the chemicals and wastes to determine if they should remain on the lists or be removed.

#### *Response:*

A request for rulemaking to amend the Hazardous Waste Management rules was approved by the Office of Regulatory Reinvention (ORR) on September 24, 2012. It is identified as 2012-108 EQ. A public hearing on the rule package was held on May 23, 2013. The rules were filed with the Joint Committee on Administrative Rules (JCAR) on September 23, 2013 and the rules were filed with the Secretary of State on October 29, 2013.

The purpose of the rulemaking is to (1) maintain federal authorization to administer the state's Hazardous Waste Management Program under NREPA, in lieu of the federal Hazardous Waste Management Program under the Resource Conservation and Recovery Act of 1976, as amended, by the Hazardous and Solid Waste Amendments of 1984 (RCRA); (2) to improve the

overall quality of the rules, both in terms of clarification of existing requirements and areas of program coverage; and (3) to reduce some of the regulatory burdens on the regulated community by providing streamlined and flexible requirements, including the implementation of Recommendations RM-3 and RM-7.

The Waste Management and Radiological Protection Division (WMRPD) has deleted 17 discarded commercial chemical products; off-specification species; container residues; and spill residues thereof as toxic hazardous wastes listed in R 299.9226 (i.e., Table 205c). These 17 waste codes were deleted as they either duplicated federal listings. WMRPD had scientific information suggesting that their listing was no longer warranted, and/or the definition of the listing made it difficult to determine what should and should not be included in the listing (e.g., class listings).

WMRPD advanced the deletions based on the science behind the listing and what they knew about the waste. WMRPD did not propose additional waste codes for deletion at this time since the remaining codes need to be further evaluated with respect to the basis of the original listing, prevalence in industry, presence at sites of environmental contamination, and science associated with the specific chemicals. WMRPD resources do not allow for that type of evaluation in the time period needed to advance the current rules package. They are committed to continuing the review of the remaining waste codes in subsequent rules packages.

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#### **Recommendation RM-4: Rescind/Repeal Michigan PCB Regulations (COMPLETED)**

##### *Recommendation:*

Michigan's PCB rules (R 299.3301 – R 299.3319) should be rescinded. Make statutory amendments necessary to remove PCB regulations from Michigan statute (MCL 324.14701 – 324.14705).

##### *Response:*

Recommendation RM-4 proposed that the 19 PCB rules should be rescinded and that Part 147 of NREPA should be amended as necessary to remove PCB regulations from Michigan statute. [SB 1328](#) (2012 PA 446) was signed into law by the Governor on December 22, 2012. The bill repeals Subpart 1, PCB Compounds, of Part 147. The bill also rescinds PCB related rules (R 299.3301 to R 299.3319).

#### **Recommendation RM-5: Hazardous Waste Biennial Reporting (COMPLETED)**

##### *Recommendation:*

The DEQ should convene a stakeholder workgroup to develop electronic biennial reporting for hazardous waste generators to streamline the process and eliminate duplicative reporting.

##### *Response:*

The DEQ has discussed the biennial reporting process with stakeholders and implemented an electronic reporting system based on free software developed by the state of Florida. The software was tested and reviewed by both the DEQ and stakeholders. The U.S. EPA has been briefed on the use of the software and the new reporting process to be used in Michigan.

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### **Recommendation RM-6: Financial Assurance for Landfills (COMPLETED)**

#### *Recommendation:*

Part 115 should be amended to allow for additional financial assurance mechanisms, and to streamline and create a more cost effective method of assuring proper funds are available for landfill emergencies and closure.

#### *Response:*

The financial assurance provisions are all in statute, and the DEQ and stakeholders developed draft amendments that would increase the amount of financial assurance required of Type III landfills and provide more options for demonstrating the required financial assurance at all disposal area types. The amendments in SB 404 (PA 250, effective December 26, 2013), provide more options for satisfying the perpetual care fund requirements. The DEQ will continue to work with industry and the legislative sponsors to assure proper funds are available for Type III landfills.

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### **Recommendation RM-7: Hazardous Waste User Charge and Manifest Systems (COMPLETED)**

#### *Recommendation:*

The DEQ should convene a stakeholder group to redesign the hazardous waste user charge system to make it fair, simple and timely, and to develop electronic methods for minimizing the paperwork associated with the verification of hazardous waste manifests.

#### *Response:*

The Hazardous Waste User Charge Work Group provided their recommendations for an updated fee schedule to the DEQ Director Wyant. Director Wyant evaluated the recommendations and in turn provided his input to the state budget office for consideration for the fiscal year 2014 budget cycle. The recommendation needs to be approved first by the Governor and then through the legislative process as part of the 2014 budget bill.

[ORR 2012-108 EQ](#) contained a rule change that minimizes the paperwork associated with manifests. The manifest itself is a federal form that the state cannot change. The rules package which was filed with the Secretary of State on October 29, 2013 eliminates the requirement for the generator to submit the initial copy of the manifest. The DEQ will retain the

authority to require the generator to provide the final copy of manifest showing receipt by an out-of-state facility.

The DEQ intends to participate in activities related to the federal electronic manifest project. The DEQ is initiating an electronic manifest information submittal system with the licensed hazardous waste treatment, storage and disposal facilities; however, this effort is occurring outside of a formal stakeholder group.

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### **Recommendation RM-8: Medical Waste Storage Accumulation Limitation (IN PROCESS)**

#### *Recommendation:*

Amend the Act and/or rules governing the disposal of medical waste to require disposal of sharps that are used strictly for non-medical procedures (a) when the storage container is full, or (b) annually, whichever occurs first. The sector(s) receiving this exemption should be defined in the rules to avoid having sharps containers with different storage requirements within the same facility.

#### *Response:*

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 4459 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 SB 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. The DEQ established the Medical Waste Stakeholders Advisory Group in December 2016 to recommend improvements to the MWRA, including how sharps storage is regulated. The recommendations are anticipated by July 2017.

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