

Part 201 Criteria Stakeholder Advisory Group Meeting

Wednesday, March 26 | 9 AM–Noon
Constitution Hall, Great Lakes Conference Room

AGENDA

- I. **Welcome and Overview** Dan Wyant, MDEQ
 - a. Introductions
 - b. Charge to the Criteria Stakeholder Advisory Group (CSA)
 - c. Role of Public Sector Consultants Inc. (PSC)

- II. **Responsibilities and Procedures** Jack Bails, PSC
 - a. Responsibilities of the CSA
 - b. Formation and responsibilities of technical groups
 - c. Operating procedures and discussion guidelines for the CSA and technical groups
 - d. Guidelines for finalizing recommendations

- III. **What Do We Know? What Do We Need to Know?** Jack Bails, PSC

- IV. **Next Steps** Jack Bails, PSC
 - a. Meeting logistics (i.e., dates, location, summaries, information sharing)

Part 201 Criteria Stakeholder Advisory Group Meeting Summary

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Attendees

Criteria Stakeholder Advisory Group

Ravi K. Adibhatla, Consumers Energy
James Clift, Michigan Environmental Council
Troy Cumings, Warner, Norcross & Judd LLP

Karen Hathaway, Horizon Environmental
Ian Ladomer, Marathon Petroleum Company
Corinne Miller, Mich. Department of Community Health
Matthew Naud, City of Ann Arbor
Eric Pessell, Kent County Health Department
Edward Peterson, General Motors
Rob Rouse, Dow Chemical Company
James Trosko Michigan State University – Emeritus
Brad Venman NTH Consultants, Ltd

Representing

Energy
Environmental Group
Office of Regulatory Reform,
Admin. Rules Committee
Environmental Consulting
Petroleum
Public Health
Local Government
Public Health
Automotive
Chemical
Academia
Environmental Consulting

Absent

Kristin Mariuzza, Lundin Eagle Mine

Resource Extraction

Invited Observers

Sarah Schillio aide to Representative Jeff Irwin
Robert Lee, DTE Energy

MI Legislature
Energy

MDEQ Staff

Anne Couture, Senior Policy Advisor
Sue Erickson, Asst. Division Chief, RRD
Dave Fiedler, Compliance Coordinator
Paul Owens, District Supervisor
Jim Sygo, Deputy Director
Bob Wagner, Division Chief, RRD
Dan Wyant, Director

PSC Staff

Jack Bails
Mark Coscarelli
Julie Metty Bennett

AGENDA

I. Welcome and Overview

Director Wyant opened the meeting at 9:00 AM and welcomed participants. Attendees introduced themselves with background on their education and work experience. Director Wyant provided an overview of the charge to the Criteria Stakeholder Advisory Group (CSA), indicating that the 2010 amendments to Part 201 included the requirement for the Department of Environmental Quality (MDEQ) to evaluate and revise the cleanup criteria. This process shall take into account best practices from other states, reasonable and realistic conditions, and sound science. He indicated that while progress has been made recently in incorporating changes, several outstanding issues remain to be addressed, and that the MDEQ established the CSA to provide input on how the remaining issues should be resolved.

The group is charged with reviewing the existing rules, and determining if the cleanup criteria should be updated. If the CSA supports updating the criteria, the charge is to:

- identify guiding principles to be used as the basis for evaluating recommended updates;
- apply the guiding principles in to evaluate any proposed updates; and
- provide recommendations to the director for updating the cleanup criteria rules.

Director Wyant mentioned that Public Sector Consultants Inc. (PSC) has been hired by the MDEQ to facilitate the review process and provide support to the CSA and coordinate project activities. He thanked all of the participants for devoting time to the project.

II. Facilitation of the Stakeholder Involvement and Technical Review

Jack Bails from PSC led the discussion and provided an overview of the proposed process for stakeholder involvement with the CSA. He walked through the contents of several handouts that described the role of the CSA and the three technical advisory groups (TAGs), as well as the operating procedures.

Formation and Responsibilities of Criteria Stakeholder Advisory Group (CSA) (see handout)

The CSA consists of a diverse set of representatives from industry, academia, private consulting firms, and government appointed by the MDEQ. The four primary roles of the CSA were explained, namely: (1) assistance in the formation of TAGs; (2) development of guiding principles; (3) review of background white papers; and, (4) recommendations to the director, following application of guiding principles to any proposed changes to cleanup criteria.

Formation and Responsibilities of Each Technical Advisory Group (TAGs) (see handout)

The CSA will be asked to assist in the selection of up to four, non-public agency members in each of three TAGs. Public agency staff (MDEQ, MDCH) will also be appointed to the TAGs by their respective departments.

1. Toxicological Updates

The first TAG will review the existing criteria, as well as relevant research and studies, and recommend updates to chemical-specific toxicity and chemical-physical data used to generate the generic Part 201 cleanup criteria.

2. Exposure Assumptions

The second TAG will similarly review and recommend updates of the generic exposure assumptions used in the cleanup criteria.

3. Vapor Intrusion

A third group will examine the vapor intrusion pathway and associated criteria and screening levels.

The CSA was given the opportunity to add names to a list of potential members provided to it during the meeting. Several suggestions were made at the meeting and CSA members were given a week to provide any additional names.

The MDEQ will contact potential members to determine their interest and ability to serve and select members for each TAG, looking toward a balanced representation from academia, private consultants and industry to complement public agency representatives selected by MDEQ. Technical committee members provided by the MDEQ and CSA are expected to have expertise in one or more of the three technical issues identified; have participated in similar reviews in Michigan in the past; and/or have dealt with Michigan cleanup criteria through their work experience in public agencies, academia, industry, or as private consultants. Although it was originally proposed that those selected to be members of the technical groups would be required to attend meetings in person, it was agreed, following discussion among CSA members, that to assure that the best members could be selected, accommodations would be provided to allow technical group members to participate via video-based conferencing only. TAG members will be appointed by the DEQ.

Before the three TAGs are convened, PSC, with the assistance of MDEQ staff members, will prepare white papers for each of the three technical topics that will succinctly summarize the issues involved. The white papers will outline any new scientific information that may require an update of current Michigan criteria, and provide benchmark analyses of how other state or federal agencies address the specific parameters. Attached to the three white papers will be a series of questions that the appropriate TAG will be asked to comment upon. The CSA will be asked to review each white paper, and associated questions, and suggest changes. Specifically, the CSA will be asked to focus on whether or not the right questions are being asked of the TAGs.

The three technical groups will: (1) review the white papers and agree on contents; (2) generate comments and/or answers to the questions raised in the white papers; and, (3) propose updates/changes to Part 201 cleanup criteria to the CSA.

Meeting Schedule of CSA and TAGs (see handout with revised dates)

The meeting schedule of the CSA was discussed and alternative dates and meeting times were agreed upon. The April 9 meeting was changed to April 16, and the hours of each meeting were changed from afternoons to 9:00 AM to 12:30 PM. The meeting dates for the TAGs will not be set until the groups are formed and meet for the first time, but are expected to occur between the dates of the meetings of the CSA and conclude in the same time frame.

Operating Procedures for the CSA and TAGs (see revised handout)

Except as noted earlier with respect to the change adopted to allow TAG members to participate by video conferencing, if necessary, the operating procedures as presented were not changed.

Discussion Guidelines for CSA and Technical Group members (see handout)

The guidelines for discussion were not changed.

Guidelines for Finalizing CSA Recommendations (see handout)

The guidelines for finalizing CSA recommendations were not changed.

Additional Comments/Questions by CSA and Responses

A CSA member asked whether the CSA would be expected to prepare actual administrative rules changes in their recommendations. It was indicated, with the concurrence of MDEQ, that a CSA recommendation for any rule changes would be in the form of a description of the recommended change, with the actual Administrative Rule being prepared by others using the established internal process following the director's decision on whether or not to adopt the proposed changes.

There was also a question as to whether there would be legal issues requiring examination. The MDEQ has suggested that a separate "legal" TAG be formed to address any legal issues that may arise during the discussions of the TAGs or the CSA. A legal TAG will be formed on an as needed basis during the process.

A CSA member asked for clarification as to whom a TAG's suggested changes and responses will be sent. The CSA will receive and consider the reports and proposals from the TAGs.

A question was asked about how and when future 201 criteria updates will occur. Part of the charge to the CSA will be to recommend to the director how frequently and what process should be used in the future to update cleanup criteria. The process for future updates may raise procedural questions that are best deferred until the *legal* TAG is formed.

III. What Do We Know? What Do We Need to Know? (see handout)

Bails lead a discussion on the types of background information on cleanup criteria that would be most desirable for the CSA members. Potential issues for discussion at the next meeting to assure a common knowledge base were presented. Potential statements also were presented that could be used to help both the facilitators and the CSA members understand the diversity of opinions among CSA members. A web-based survey of CSA members before the next meeting will be used to determine topics for focused discussion at the next meeting. The survey also will ask for CSA members' opinions on various related cleanup topics, the results of which will be shared with the CSA in summary form and without attribution to individual responses.

Discussion among CSA members indicated it may be valuable to share information on why chemicals in the environment and the potential impacts on public health and the environment became such a public issue, and how current public perception drives policy decisions. Members were urged to share electronic copies of documents and publications on this topic on a Share File website being prepared by PSC for the use of the CSA. PSC will be posting a copy of a publication on the Relative Risk Project conducted in Michigan in 1990.

IV. Next Steps

The next meeting was changed from April 9 to April 16. In addition, the meetings now will run from 9:00 AM to 12:30 PM. All future meetings will be held at the offices of Public Sector Consultants, 230 N. Washington Square, Suite 300. CSA members were reminded that any recommendations for additions to the list of potential technical group members should be sent to PSC by April 2, 2014.