

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SUPERVISOR OF WELLS INSTRUCTION 1-2006

**NOTIFICATION TO SURFACE OWNERS OF SPILLS AND RELEASES**

**Purpose**

The purpose of this Supervisor of Wells Instruction is to clarify the requirements for oil and gas operators to notify property owners of contamination resulting from spills or releases.

**Applicable Statutes and Rules**

Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

Part 201, Environmental Remediation, of the NREPA.

Rule 522 under Part 201 (R 299.5522 of the Michigan Administrative Code (MAC)).

Rule 1017 under Part 201 (R 299.51017 of the MAC).

**Background**

Neither Part 615, Supervisor of Wells, of the NREPA nor the administrative rules promulgated thereunder contain requirements for reporting of spills and releases to landowners. However, the administrative rules under Part 201, Environmental Remediation, of the NREPA do address that issue. Rule 522 and Rule 1017 under Part 201 require a person who holds a permit for an oil or gas well under Part 615 to notify the owner of the surface rights of the property if a spill or release from the oil and gas activities results in hazardous substance concentrations in excess of residential cleanup criteria. Residential cleanup criteria have been developed by the Department of Environmental Quality (DEQ) and are defined in the Remediation and Redevelopment Division (RRD) Operational Memorandum No. 1, "Part 201 Cleanup Criteria, Part 213 Risk-based Screening Levels," updated December 10, 2004.

The notice required under Rule 522 or Rule 1017 must be in writing and filed within 45 days after the permittee has knowledge of the contamination. The purpose of this Instruction is to clarify the circumstances and conditions under which an owner or operator must provide this notification.

Part 201 and the administrative rules also set forth requirements under which an owner or operator of a property must notify the owner of *adjacent* property when a spill or release results in hazardous substance concentrations in excess of residential cleanup criteria migrating onto or under the adjacent property. These provisions apply to an owner or operator of *any* property, whether used for oil and gas production or other purposes. They are sufficiently clear as to how they apply to oil and gas operations, and do not require further explanation or clarification in this Instruction.

### Instruction

1. A person who holds a permit for an oil or gas well under Part 615 (the "permittee") and who is responsible for a spill or release of brine, crude oil, condensate, oil or gas field liquid waste, or other products or chemicals used in association with oil or gas exploration or production activities shall provide notice to property owners as follows:
  - a. The permittee shall notify the owner of the surface rights of the property where the well or related surface activities are located if a spill from the oil and gas activities results in hazardous substance concentrations in the soil or groundwater in excess of residential cleanup criteria.
  - b. The applicable residential cleanup criteria are defined in the RRD Operational Memorandum No. 1, "Part 201 Cleanup Criteria, Part 213 Risk-based Screening Levels" and Attachment 1, updated December 10, 2004. The criteria for hazardous substances commonly found in crude oil and oil field brine are as follows:

Substance	Concentration in groundwater, micrograms per liter	Concentration in soil, micrograms per kilogram
Chloride	250,000	500,000*
Benzene	5	100
Ethylbenzene	74	1500
Toluene	790	16,000
Xylenes	280	5600

\* Direct contact criterion

The criteria for substances that may be found in other liquid wastes, products, or chemicals can be found in the attachments to Operational Memorandum No. 1. The Memorandum and Attachments may be obtained from RRD at P.O. Box 30426, Lansing, MI 48909-7926, or from the DEQ web site, <http://michigan.gov/deq>.

- c. The notice shall include all of the following:
  - (i) The name of the permittee and location of the oil or gas well or associated surface activity.
  - (ii) The name, address, and telephone number of a representative of the permittee who may be contacted regarding the spill or release.
  - (iii) A summary of information on the spill or release, identifying whether soils or groundwater is affected, the specific hazardous substances, and the concentrations of those hazardous substances in the soils or groundwater.
- d. The permittee shall provide the notice required by this Instruction and the Part 201 rules within 45 days of the date on which the permittee has reason to believe that a spill or release has resulted in hazardous substance concentrations in excess of the criteria defined in b. above. The permittee is not required to notify the property owner if the spill or release is remediated within 45 days so that the soils and groundwater meet the criteria defined in b. above.

2. This Instruction does not override any obligations that a permittee may have under an oil and gas lease or other contractual agreement with a property owner, including such an agreement with the State of Michigan. It may be reasonable or prudent in some instances for a permittee to take actions to notify a property owner in addition to the notification required by this Instruction and the rules promulgated under Part 201.

THIS INSTRUCTION IS EFFECTIVE MARCH 15, 2006.

Date: 2/16/06

  
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STEVEN E. CHESTER  
SUPERVISOR OF WELLS