

**DRAFT Part 115 Inert and Compost Rules
Meeting Summary
December 9, 2009**

Participants		
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Handouts:

- Agenda
- Draft Part 115 Meeting Summary from September 25, 2009
- Draft Rules (revision 8)
- RIS
- MMA's Proposed Changes
- DEQ Response to MMA's Proposal

1. Reviewed and approved meeting notes from September 25, 2009. Will remove "draft" and post.
2. Rule 110(o) – discussed with Tom Stanton, Michigan Public Service Commission (MPSC), the proposed exemption for wastes that are being used under the Clean

Renewable Efficient Energy Act of 2008 (PA 295). Due to a number of issues that still need to be worked out under PA 295 the workgroup decided that it would be best to just remove the proposed exemption and handle these projects on a case-by-case basis until such time that both the DEQ and MPSC have a better understanding of how things will work under this statute.

3. Comments on MMA's proposed changes and DEQ's associated draft response:

- *Sugar Beet Residuals* - The group discussed why a "by-product" is considered to be a waste under Part 115. The DEQ explained that we consider any residual that is not the primary goal of a producing facility to be a waste unless it has a specific statutory exemption, rule exemption, or has been granted a specific exemption by the DEQ.

The group discussed the use of sugar beet pulp, which is stored in a silo, as animal feed. Subsequent to the meeting, the DEQ determined that the decision made at the meeting was incorrect. We have determined that this material is not a regulated solid waste per the exemption in Section 11506(g) which says that food processing residuals that are used as animal feed, land applied, or composted and land applied are not solid waste provided the storage is "performed in a manner that prevents losses from runoff and leaching". If on the other hand the sugar beet pulp were exposed to the environment by placing it on the ground it would be a regulated waste until such time that it was fed to animals, land applied, or composted and land applied.

Another topic discussed was the time required to close historical waste piles. Michigan Sugar proposed moving an amount that equals 120 percent of the yearly generation rate while the DEQ proposed 150 percent of the yearly generation rate. **Steve Smock will attempt to estimate the total volume of lime at his facilities and the time required for closure of the historical waste piles using both the 120 percent and 150 percent reuse rates and send written comments to the DEQ early in the week of December 14, 2009.**

- *Foundry Sand* – the DEQ explained that the proposed changes proposed by MMA for this waste stream were essentially the same as the proposed rules. However, the DEQ was not in agreement with the proposed changes to the testing parameters and offered to share the analytical results that the DEQ had. The DEQ did agree that they would consider reducing the yearly testing requirements if a company could show that their waste had consistent levels of contaminants. **Bill Lievense will check to see what analytical data the foundry industry has that may help in reducing the number of parameters that need to be analyzed.**
- *Paper mill sludge* – the DEQ proposed raising the rates that could be land applied under Rule 120b (2) and (3) for Category 2 and 3 industrial by-

products, respectively (it would still be limited to agronomic rates). The representative of the paper mills thought that this would address their concerns.

- *Coal Ash* – the coal power industry raised a number of issues related to regulation of coal ash. Many of these issues were directly related to the development of the Part 201 criteria. The first issue discussed was whether the inhalation and ingestion pathways were relevant pathways. The DEQ believes that bottom ashes have the potential through wear and weathering to be reduced in size so that the inhalation and ingestion pathways are relevant pathways. It was agreed that a company had the right to make a demonstration that rebuts these presumptions, which the DEQ could consider.

The DEQ does not agree with the coal power industry that that a generic mixing value of five is appropriate for all situations. The group discussed how to be able to use the most recent aquatic toxicity values that are developed under Rule 57 of Part 31 for groundwater venting to surface water. One possible suggestion was for the generator to request a mixing zone determination from Water Bureau.

It was proposed that aluminum, iron, and manganese are not parameters of concern for coal ash because it has been demonstrated that these contaminants are not mobile. The DEQ disagrees based on proven groundwater impacts at numerous licensed facilities.

The group discussed whether petroleum coke was a waste material or a product. Early information seemed to indicate that pet coke was a waste but after further discussion and information, it became clear that it is a product and the storage of it does not need to comply with the waste pile requirements contained in Rule 129 or 130. The DEQ received additional information related to pet coke ash and the question of whether it should be listed as a low-hazard waste was raised. The additional information did not contain any analytical results for vanadium (which appears to be the contaminant of concern) so the DEQ does not feel comfortable in listing this material as a low hazard waste.

The DEQ will add language to Rule 117 that will allow a generator to make a demonstration that a pathway is not relevant. The DEQ will check the values in the low-hazard table 101 to make sure that the most recent criteria are included. The coal power industry will send their written comments to the DEQ early in the week of December 14, 2009.

4. Regulatory Impact Statement and Draft Rules (Revision 8) – DEQ’s proposed RIS and the latest revision of the rules were handed out at the meeting but were not discussed. The workgroup was asked to comment on these documents through e-mails to the department. **Responses from workgroup are due by January 8, 2010.**
5. Rulemaking Policy Analysis Form – in order to assist the DEQ in providing information required, we are asking that each member of the workgroup let us know whether they support or do not support the rules package and why. **Responses from workgroup are due by January 8, 2010.**
6. Splitting the inert and compost rules – it was discussed that if the DEQ can not get sufficient support for the inert portion of the rules package during the public hearing, we may just go forward with the composting portions of the rules since there seems to be industry support for this portion of the proposed rules.
7. Next version of the rules – Once we receive the comments identified in this meeting summary we plan to post the next version of the rules on the web site.
8. Next meeting – No further meetings planned. Plan to handle all future discussions through e-mails. Please share your written comments with the entire workgroup.

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