



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

Quarterly Status Report

Winter 2015

### AIR QUALITY DIVISION

#### **Recommendation A-1: Air Toxic Rules (IN PROCESS)**

The Air Quality Division's (AQD) Air Toxics Workgroup held nine meetings between December 3, 2012, and September 25, 2013. In September-October 2013 Workgroup members submitted comments to the 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, and the report was finalized on January 31, 2014. Almost all of the ARC recommendations are being addressed via proposed rule changes or changes in AQD procedures, as appropriate. The Request for Rulemaking (RFR) for amendments to the Part 1 and Part 2 rules were approved by the Office of Regulatory Reinvention (ORR) on December 9, 2014, and are identified as ORR rule set numbers 2014-153 EQ and 2014-154 EQ, respectively.

Contact: Joy Taylor Morgan, 517-284-6765, [taylorj1@michigan.gov](mailto:taylorj1@michigan.gov)

#### **Recommendation A-3: Additional Rule 201 (Permit to Install) Exemptions (IN PROCESS)**

The ten members of the Exemption Workgroup held their first meeting on December 20, 2012. The Exemption Workgroup held additional meetings on January 24, 2013; March 6, 2013; April 10, 2013; May 1, 2013; June 5, 2013; July 10, 2013; August 7, 2013; and August 26, 2013. The Exemption Workgroup report has been completed. The Air Advisory Council (AAC) recommends addressing U.S. Environmental Protection Agency (U.S. EPA) concerns with previously-submitted exemptions in this same rulemaking package, as well as developing a different mechanism for Rule 291 exemptions. The RFR for amendments to the Part 1 and Part 2 rules were approved by ORR on December 9, 2014, and are identified as ORR rule set numbers 2014-153 EQ and 2014-154 EQ, respectively.

Contact: Tracey McDonald, 517-284-6756, [mcdonaldt@michigan.gov](mailto:mcdonaldt@michigan.gov)

#### **Recommendation A-5: Dispersion Modeling Guidance Document (IN PROCESS)**

A draft policy and procedure was presented to the AAC at its March 1, 2013; May 9, 2013; and January 29, 2014, meetings. On May 28, 2014, the AAC recommended that additional meetings on the dispersion modeling policy be held over the summer of 2014, and for this recommendation to be added to the October 29, 2014, AAC agenda. A new version of the draft guidance document provided to the AAC on December 3, 2014, will be ready by January 15, 2015. Comments on the new draft are due by January 30. The AQD's goal is to finalize and implement this recommendation no later than the first week of February 2015.

Contact: Mary Ann Dolehanty at 517-284-6791 or [dolehantym@michigan.gov](mailto:dolehantym@michigan.gov)

**Recommendation A-7: Rule 801, Rule 803, and State Implementation Plan (SIP) (ON HOLD)**

The federal Cross-State Air Pollution Rule that changed the federal emissions trading program was vacated by the Washington, D.C., Court of Appeals on August 23, 2012. In April 2014, the U.S. Supreme Court upheld the rule. Decisions on how to proceed with implementation of the rule have yet to be made by the U.S. EPA, and the Court of Appeals must still rule on outstanding legal arguments. This recommendation remains on hold for the time being.

Contact: Barb Rosenbaum, 517-284-6759, [rosenbaumb@michigan.gov](mailto:rosenbaumb@michigan.gov)

**Recommendation A-12: Electronic Permit (NOT TO BE COMPLETED)**

This recommendation is closed as there is no state or private industry funding available.

**Recommendation A-14: Permit to Install Exemptions (IN PROCESS)**

See comments under Recommendation A-3.

Contact: Tracey McDonald, 517-284-6756, [mcdonaldt@michigan.gov](mailto:mcdonaldt@michigan.gov)

**Recommendation A-15: Volatile Organic Compounds (VOC) Emissions from Pharmaceuticals (IN PROCESS)**

VOC emissions will be a discussion item at the October 29, 2014, AAC Meeting. An agreement was reached at the December 3, 2014, AAC meeting to have a small group work together over the next 90 days to discuss the nexus between the Maximum Achievable Control Technology and Rule 625, as well as State Implementation Plan (SIP) backsliding implications.

**Recommendation A-17: Rule 703, Gasoline Storage Tanks (>2,000 gallons) (ON HOLD)**

Awaiting action by the federal government on ozone reductions.

Contact: Barb Rosenbaum, (517) 284-6759, [rosenbaumB@michigan.gov](mailto:rosenbaumB@michigan.gov)

**OFFICE OF DRINKING WATER AND MUNICIPAL ASSISTANCE**

**Recommendation W-17: Safe Drinking Water – Cross Connection Inspections of Residential, Commercial, and Industrial Properties (IN PROCESS)**

On February 13, 2013, the U.S. EPA published the revised total coliform rule that will require the DEQ to make additions and changes to Parts 1-28, Supplying Water to the Public, 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 Inspections of Residential, Commercial, and Industrial Properties, rules. The draft rules include a provision allowing backflow preventers installed on a residential lawn irrigation system to be tested once every five years

in certain situations. The draft rules can be viewed on the ORR [Pending Rule Changes](#) Web page. See ORR rule set 2014-023 EQ, page 165. A public hearing is scheduled for February 18, 2015.

[House Bill 5317](#) was introduced by Representative Michael McCready. As enrolled by the Legislature, the bill limited a water supplier's ability to require testing of backflow preventers on untreated, residential irrigation systems to not more often than once every 5 years. Governor Snyder vetoed the bill due to an increased potential risk to public health.

Contact: Pat Cook at 517-284-6514 or [cookp@michigan.gov](mailto:cookp@michigan.gov)

## OFFICE OF OIL, GAS, AND MINERALS

### **Recommendation RM-9: Conformance Bond or Statement of Financial Responsibility Requirements for Mineral Well Operators (IN PROCESS)**

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 DEQ's OOGM on January 13, 2014. The OOGM has been working on further revisions and language changes with the U.S. EPA and their legal counsel. The DEQ is waiting to hear back from U.S. EPA on the latest version of the draft.

Contact: Adam Wygant at 517-897-4828 or [wyganta@michigan.gov](mailto:wyganta@michigan.gov)

## OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION

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

The DEQ has been discussing 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 is one of the Office of Waste Management and Radiological Protection's (OWMRP's) legislative priorities for 2015 and the legislative affairs staff will assist in getting the changes enacted.

Contact: Jack Schinderle at 517-284-6570 or [schinderlej@michigan.gov](mailto:schinderlej@michigan.gov)

## REMEDIATION AND REDEVELOPMENT DIVISION

### **Recommendation R-2: Part 201/213 Vapor Intrusion Policy and Procedure (IN PROCESS)**

Three of the four proposed solutions have been implemented. The Part 201/Part 213 (Leaking Underground Storage Tanks of the NREPA) Guidance Document for the Vapor Intrusion Pathway was finalized in May 2013 and posted to the [Remediation and Redevelopment Division](#) (RRD) Web site. This document allows for use of a conceptual site model. The RRD allows for data collection and evaluation processes consistent with the needs of business transactions, as described in recent presentations at

various environmental professional workshops. The RRD has prioritized the collection of empirical data for Michigan sites, collaborating with practitioners and project managers to develop a database for future use. The RRD has engaged with stakeholders to evaluate vapor intrusion as related to the Cleanup Criteria Rules. The Criteria Stakeholder Advisory (CSA) Workgroup provided recommendations to DEQ Director Wyant with respect to Vapor Intrusion Criteria. The recommendations are under review by DEQ staff. The update to the criteria for all hazardous substances will be conducted in 2015, pursuant to the Director's response to the Stakeholders' recommendations. The recommendations for the Vapor Intrusion pathway include a tiered approach which allows use of certain site specific conditions (e.g. soil type, temperature), consistent with the ORR Recommendation.

Contact: Matt Williams at 517-284-5171 or [williamsm13@michigan.gov](mailto:williamsm13@michigan.gov)

### **Recommendation R-3: Revising Part 201, Cleanup Criteria (IN PROCESS)**

#### Background

The Part 7 Cleanup Criteria Rules were rescinded on December 31, 2013. Taking their place are new criteria rules, numbered from R 299.1 to R 299.50, that 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, 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 Web site.

#### Criteria Stakeholder Advisory (CSA) Workgroup

A CSA Workgroup was convened by the DEQ on March 26, 2014. The responsibilities of the CSA Workgroup included: 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 hired Public Sector Consultants to facilitate the stakeholder process. Four technical subcommittees were appointed to assist the CSA Workgroup; the Technical Advisory Groups evaluated physical-chemical parameters and toxicity data, exposure pathway assumptions, vapor intrusion, and addressed potential statutory concerns raised during the process. A [Web page](#) for information and status of the CSA Workgroup is available on the RRD Web site. The workgroup completed their report and provided a total of 29 recommendations to the Director. The recommendations are under review by DEQ staff. The update to the criteria for all hazardous

substances will be conducted in 2015, pursuant to the Director's response to the Stakeholders' recommendations.

Contact: Sue Erickson at 517-284-5091 or [ericksons@michigan.gov](mailto:ericksons@michigan.gov)

**Recommendation R-8: Definition of Background Concentrations for Hazardous Substance in Soil and Groundwater. (IN PROCESS)**

Act 446 of 2012 amended Part 201 by amending the definition of "background concentration." Additional amendments to Part 201 in Senate Bill (SB) 891 were passed by the Legislature, and 2015 PA 542 was signed by the Governor on January 15, 2015 which further clarifies the definition of "background concentration." A policy on appropriate use of the Michigan Background Soil Survey will be redrafted to include information on the revised definition of "background concentration" after the bill is signed into law. Data collected from the DEQ's files that are considered representative of background conditions has been undergoing statistical analysis to improve the existing database of background concentrations and calculate background concentration levels for various soil types specific to glacial lobes. This effort will be completed in January 2015.

Contact: Sara Pearson at 517-420-3219 or [pearsons@michigan.gov](mailto:pearsons@michigan.gov)

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

Senator Thomas Casperson introduced SB 891 in early 2014. 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. The bill has passed both the Senate and the House and 2015 PA 542 was signed by the Governor on January 15, 2015.

Contact: Bob Wagner, 517-284-5144, [wagnerr1@michigan.gov](mailto:wagnerr1@michigan.gov)

**Recommendation R-14: Boron Standard for Groundwater (IN PROCESS)**

The RRD attempted to update the exposure assumptions and toxicity data through stakeholder engagement in 2012 and 2013; however, consensus was not achieved. The RRD has re-engaged with stakeholders to review the physical-chemical properties, toxicity endpoints, and exposure assumptions as related to the Cleanup Criteria Rules. The CSA Workgroup has developed recommendations and provided them to Director Wyant. The recommendations are under review by DEQ staff. The update to the criteria for all hazardous substances will be conducted in 2015, pursuant to the Director's response to the Stakeholders' recommendations. Boron is one of the hazardous substances included in the criteria and will be addressed as a part of the review.

Contact: Sue Erickson at 517-284-5091 or [ericksons@michigan.gov](mailto:ericksons@michigan.gov)

**WATER RESOURCES DIVISION**

**Recommendation W-1: Part 5 – Spillage of Oil and Polluting Material Rules (IN PROCESS)**

Stakeholders met on May 3, 2013; May 16, 2013; May 30, 2013; June 13, 2013; June 27, 2013; July 11, 2013; July 25, 2013; August 8, 2013; August 22, 2013; September 12, 2013; and November 3, 2014, to discuss changes to the rules. The Water Resources Division (WRD) provided additional information to the stakeholders on December 5, 2014. On January 15, 2015, a subgroup of the stakeholders submitted a version of the Part 5 Rules for WRD review. The next meeting with stakeholders is scheduled for January 30, 2015. This meeting may complete the stakeholder process and initiate the rule and/or legislative process.

Contact: Laura Verona at 586-601-7693 or [veronal@michigan.gov](mailto:veronal@michigan.gov); or Matthew Goddard at 586-753-3780 or [goddardM@michigan.gov](mailto:goddardM@michigan.gov)

**Recommendation W-10: Part 5 – Spillage of Oil and Polluting Material Rules (IN PROCESS)**

See Recommendation W-1.

Contact: Laura Verona, (586) 601-7693, [veronal@michigan.gov](mailto:veronal@michigan.gov) or Matthew Goddard, (586) 753-3780, [goddardM@michigan.gov](mailto:goddardM@michigan.gov)