



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

Quarterly Status Report

Summer 2015

AIR QUALITY DIVISION

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

Response:

The Air Quality Division's (AQD) Air Toxics Workgroup held nine meetings between December 3, 2012, and September 25, 2013. In September and October of 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 Environmental ARC's 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. Revisions to the RFRs were approved by the ORR on March 23, 2015. The draft rules and Regulatory Impact Statement and Cost-Benefit Analysis were submitted to ORR on July 17, 2015. A public hearing on the rules will be held on December 7, 2015.

Contact: Joy Taylor Morgan, 517-284-6765, taylorJ1@michigan.gov

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

Response:

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. Revisions to RFRs were approved by the ORR on March 23, 2015. The draft rules and Regulatory Impact Statement and Cost-Benefit Analysis were submitted to ORR on July 17, 2015. A public hearing on the rules will be held on December 7, 2015.

Contact: Tracey McDonald, 517-284-6756, mcdonaldt@michigan.gov

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

Response:

This recommendation remains on hold for the time being. As of July 28, 2015, all legal challenges to the federal Cross State Air Pollution Rule (CSAPR) have concluded. The AQD met with representatives of the non-EGUs to explore options for moving forward with rule modifications. Additionally, discussions have with the EGUs have taken place. This recommendation will be on the agenda for the October 21, 2015 Air Advisory Council meeting.

Contact: Barb Rosenbaum, 517-284-6759, rosenbaumb@michigan.gov

OFFICE OF DRINKING WATER AND MUNICIPAL ASSISTANCE

Nothing new to report

OFFICE OF OIL, GAS AND MINERALS

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

Response:

The Office of Oil, Gas, and Minerals (OOGM) developed a draft Memorandum of Understanding (MOU) that was sent to the 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 worked on 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. On August 20th, 2015 U.S. EPA indicated that the MOU is with their Division Director and no time estimate on when we will receive approval to forward the official MOU.

Contact: Adam Wygant at 517-897-4828 or wyganta@michigan.gov

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION

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

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 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. Senate Bill

400, which amends Part 121 by incorporating in the agreed upon recommendations was introduced on June 16, 2015 and is awaiting action by the Senate Natural Resources Committee.

Contact: Jack Schinderle at 517-284-6852 or schinderlej@michigan.gov

REMEDATION REVELOPMENT DIVISION

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

Response:

Three of the four proposed solutions have been implemented and the fourth is currently underway and being implemented in conjunction with the work associated with Recommendation R-3: Revising Part 201, Cleanup Criteria. The Part 201, Environmental Remediation, and Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, 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 details the use of a conceptual site model in evaluating the volatilization to indoor air pathway (also known as the vapor intrusion pathway) and provides guidance 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 also completed a review of the available Michigan-based soil, soil gas, and groundwater data and comparison to screening levels. Following the recommendations of the CSA Workgroup, the vapor intrusion pathway will include a tiered approach for the development of facility and site specific criterion which allows the use of certain site specific conditions (e.g. soil type, temperature) consistent with the ORR Recommendation. The update to the criteria for all hazardous substances is well underway, and a project Gantt chart depicting the current status of the criteria development is provided on the DEQ RRD [CSA webpage](#). The proposed rules will include a process to implement this recommendation.

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

Criteria Stakeholders 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 Workgroup completed their report and provided a total of 29 recommendations to the Director. All of the recommendations were supported by the DEQ, and four recommendations warranted further discussion with the CSA. The update to the criteria for all hazardous substances for all pathways (including vapor intrusion) is currently underway, pursuant to the Director's response to the stakeholders' recommendations.

Current Progress

The Remediation and Redevelopment Division (RRD) is updating the Cleanup Criteria pursuant to the recommendations of the Criteria Stakeholders Advisory workgroup. The Cleanup Criteria (a.k.a. the Environmental Contamination Response Activity Administrative Rules, R 299.1 – 299.50) are undergoing a significant update to evaluate and select the most appropriate toxicological data, physical-chemical properties, and exposure assumptions for each of the 300 plus hazardous substances and associated criteria.

The update process involves a number of tasks and is expected to continue through 2015, at which point the DRAFT rule package will be submitted to the Office of Regulatory Reinvention for public comment and promulgation.

To keep everyone informed as to the status of the update, the RRD has posted a Gantt project chart on the [RRD CSA Workgroup webpage](#). The webpage also provides information about the CSA Workgroup and a link to the CSA Workgroup Final Report and Recommendations to the DEQ.

For program questions, please contact Sue Leeming, Remediation and Redevelopment Division, at 517-284-5091, or at LeemingS@michigan.gov, or Phil Schrantz at 517-420-5190, or at SchrantzP@michigan.gov.

Recommendation R-7b: Part 211-UST Regulations (REFERRED TO LARA)

Response:

The Bureau of Fire Services has submitted a request for rulemaking to the Office of Regulatory Reinvention and will be holding the first meeting of stakeholders to discuss the rule changes in mid-September.

Recommendation R-7h: Storage and Handling of Gaseous and Liquefied Hydrogen Systems (REFERRED TO LARA)

Response:

Once the revision to the UST regulations is completed, the Bureau of Fire Services will start the revisions of these rules.

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

Response:

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 is being drafted by the Soil Background Technical and Program

Support team to include information on the revised definition of “background concentration.” Additionally, the DEQ completed a two-year project of collecting background soil data from existing RRD files to add to the database of background data that was used for the 2005 Michigan Background Soil Survey. The 2015 version of the Michigan Background Soil Survey is currently available for public comment. Comments due Oct. 30, 2015.

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WATER RESOURCES DIVISION

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

Response:

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 review by the WRD. A meeting was held on January 30, 2015, with a final meeting on March 3, 2015. The stakeholder process is concluded now, and final pieces are being put into place to proceed with legislation and/or rule process. One last meeting to discuss changes to the Part 5 rules was scheduled for October 1, 2015.

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