

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

Public Hearing for the Administrative Rules Part 6. Emission Limitations and Prohibitions – Existing Sources of VOC Emissions

Wednesday, October 26, 2022

APPEARANCES:

For the Michigan Department of Environment, Great Lakes, and Energy:

- Tracey McDonald – Air Quality Division (AQD)
- Marissa Vaerten – AQD
- Cari DeBruler – AQD
- Thomas Shanley – AQD
- Robert Irvine – AQD (virtual)
- Mary Dolehanty – AQD
- Annette Switzer – AQD
- Joyce Zhu – AQD (virtual)
- Lorraine Hickman – AQD (virtual)
- Erica Shuff – AQD
- Alec Kownacki – AQD
- Jenifer Dixon – Environmental Support Division (ESD)
- Jim Ostrowski – ESD
- Dale Shaw – Information Management Division

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In-person and Microsoft Teams Public Meeting
Wednesday, October 26, 2022 – 1:00 p.m.

MS. DIXON:

Good afternoon, everybody. Thanks a lot for joining us. Hopefully you can hear us. That would be good. So, we're going to go right in and start with the opening statement and after that we'll get right to calling anybody's name who would like to make a statement.

So good afternoon. My name is Jennifer Dixon with the Michigan Department of Environment, Great Lakes and Energy, here and after EGLE. I'll be serving as the hearing officer for this public hearing on the proposed administrative part six rule revisions, specifically 2022 18 EQ Part 6. Emission Limitation and Prohibitions - Existing Sources of Volatile Organic Compound Emissions. We'll also be accepting comments on their proposed submittal of these revised rules to the US Environmental Protection Agency for inclusion in the Michigan State Implementation Plan or SIP.

Mary Ann Dolehanty, to my right, the Air Quality Division Director, is representing EGLE's Director Liesl Eichler Clark as the decision maker. We also have other EGLE staff, including Marissa Vaerten and Cari DeBruler who will be speaking with you today.

First, we will begin with some background information about why we are here. Then we will describe the purpose of the hearing and how your comments will be considered. Following that, we will outline the procedure under which we will take your comments and describe what will happen after today's hearing. Then it will be time to hear your comments. We will spend the majority of today's times listening to those comments.

MS. VAERTEN:

The AQD is responsible for creating and writing Michigan's air pollution control rules. The laws governing this responsibility are sections 5503 and 5512 of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act 1994, PA 451 as amended. We are here to take your comments on the proposed revisions to Part 6 Emission Limitations and Prohibitions, Existing Sources of Volatile Organic Compound Emissions. The AQD is proposing to update 22 existing rules, establish 17 new rules, and rescind one existing rule. Rules 601 through 644 are being updated and created to fulfill the Federal Clean Air Act, Section 182(b) requirements referred to as Reasonably Available Control Technologies, or RACT. These rules are necessary to address moderate non-attainment area provisions for the National Ambient Air Quality Standards. Additionally, the Clean Air Act requires Michigan to show reasonable further progress by reducing VOC emissions in the non-attainment area by 15% from the baseline year. To meet this requirement, beyond the reductions gained from implementing VOC RACT rules, EGLE revised Rule 660 and drafted Rule 662 to address volatile chemical products. Rule 661 was rescinded because it housed definitions that were rolled into Rule 660. The changes to the part six rules are expected to have a beneficial impact on public health in the ozone non-attainment areas and will work towards lowering VOC emissions to meet the National Ambient Air Quality Standard for Ozone.

MS. DIXON:

Now, Cari DeBruler will explain the purpose of today's hearing and how your comments will be used.

MS. DEBRULER:

In order for the rules to be adopted, the department must follow the procedures set forth in the Administrative Procedures Act, Act 306 of 1969 as amended. The purpose of today's hearing is to give anyone interested an opportunity to provide information that the department may use to make changes to the proposed rules. We are here today to receive public input on these proposed changes. The notice of this public hearing was published in three newspapers of general circulation, the Lansing State Journal, the Mining Journal, and the Open Press on September 26th, 2022. This public hearing was also posted to EGLE's Environmental Calendar on September 26th, 2022. Copies of the Notice of Public Hearing, regulatory impact statement

and the proposed rules have been made available on the AQD Rules website and the Michigan Office of Administrative Hearings and Rules website.

To ensure today's hearing is conducted in a fair manner, we will follow these steps. First, we will call the names of those who have indicated they would like to make a statement when they registered for the hearing. When your name is called, your microphone will be unmuted. As you begin your comments, please state your name, your city, and any group or association you may represent. After we have called on those who requested to comment during registration, we will open up to all others to make comments. At the time, you can click the raise your hand icon on your Zoom toolbar to indicate you would like to make a comment. If you're joining by telephone only, you can type pound two on your telephone to raise your hand. Please remember as you begin your comments to state your name, city, and any group or organization you may represent. When all comments have been completed, we will ask if anyone else would like to make a statement.

Each person will be given three to about five minutes to make their comments. We will indicate to you when you have a minute left. Please begin wrapping up your comments and end within the allotted time. If need be, we will indicate when your time has ended.

Please understand the purpose of the hearing today is to provide an opportunity to receive and listen to your comments. The hearings process does not allow for open discussion or questions about the proposed rules. EGLE staff will not be responding to questions or comments during the hearing. The hearing is being recorded and your comments will become part of the information the department will consider when finalizing the proposed rules. The public comment period for the proposed rules ends today, October 26th, 2022 at 5:00 PM. If you have written comments or materials you would like to submit, please email them to McDonaldT@michigan.gov by 5:00 PM today.

Following the public hearing, we will review the written and verbal comments received during the comment period. Once the review is done, an agency report will be prepared. The agency report will explain any additional changes EGLE may make to the proposed rules as of a result of the comments received. It'll also summarize who is in favor of the draft rules and who is opposed to them. The proposed rules and the agency report will be submitted to the Michigan Office of Administrative Hearings and Rules, or MOAHR, and the Joint Committee on Administrative Rules, or JCAR. JCAR is a bipartisan legislative committee made up of five House and five Senate members that provide legislative oversight of the rulemaking process. The agency report will be available on EGLE and MOAHR's website or by contacting the AQD office. Once approved, the rules would be filed with the Secretary of State and will take effect immediately. You can follow along the rulemaking process step by step, by going...I'm sorry. You can follow along the rulemaking process step by step, by going to Michigan Office of Administrative Hearings and Rules website.

MS. DIXON:

Thanks so much, Cari. So, I will now begin calling the names of those who have indicated they would like to make a statement. So just as a reminder, please state your name, your city, and any affiliation that you might have. And as Cari did state, we're going to be limiting to about five minutes for comments. And we might be able to come back to people, but we will start at least with five minutes for now. So, we're going to start with Nicholas Georges who is here in the room with us. So, Nicholas, as soon as you're ready, you can go ahead and start your comment.

MR. GEORGES:

Certainly, Nicholas Georges from Washington DC with the Household and Commercial Products Association. HCPA supports the longstanding commitment by EGLE to adopt regulatory provisions that are consistent with other states that have adopted more stringent VOC limits for consumer products than the federal regulation. The proposed amendments align with the Ozone Transport Commission Phase Four Model Rule. And by adopting regulations consistent with these model rules, Michigan, similar to 16 other states and the District of Columbia, can achieve improvements in air quality without imposing impediments to interstate commerce. HCPA submitted written comments to EGLE, and while we support the rule making, there are two modifications we would like to request and bring to your attention today.

The first request is that regarding the proposed rule become effective at least one year after the date of publication of the final rules. HCPA represents a number of companies which only sell products nationwide and thus already comply with the new limits because they're complying with California's more stringent regulation.

However, HCPA also represents a number of companies that sell on a regional basis and for various reasons have multiple products for different markets here within the United States. While these companies already have product that can comply with the new limits that will be coming into force, supply chains have to be changed around. And so different complexities within supply chain mean different amounts of time are necessary, which is why we request one year. In the case of say, a contract manufacturer who manufactures a product for a marketer who then has to sell to a national distributor that sells to a regional distributor, you have a number of different channels that have to be turned around before compliant product meets market. In short, if supply chain was an easy thing to switch on and off, we wouldn't have had to experience the issues during COVID, and thus again, why we request at least a year length. Thus, sufficient time is needed so that we can get the products that are compliant in the hands of the consumers and workers here in Michigan.

The second request is that we ask for an exclusion for solid air freshness, which use at least 98% paradichlorobenzene. We supplied a significant amount of information to EGLE staff on paradichlorobenzene, which led to the exclusion for toilet/urinal care products, and we request this also be granted for solid air fresheners for the reasons found within our written comments. So, I won't go into those in detail since we've already supplied those comments. But overall, I do want to emphasize and thank staff for their availability and willingness throughout the rule making process to keep us informed and discuss the overall rule as well as our concerns. They've been very accommodating and I can't thank them enough for the time for that. So, with that, I'm going to close my arguments... statements. And thank you. Yeah, arguments. We're back to the legal part here.

MS. DIXON:

Thank you so much for your comments, Nicholas. So just to remind folks, I don't have anybody else with their hand raised, but if you would like to make a comment, just use that raised hand icon at the bottom of your screen. We did have somebody calling in earlier, but I see that they're not on right now. So, we do have another person that would like to make a comment. Okay, so Rita, you should be able to unmute yourself and then just remember to state your name and your location and that and the affiliation for the record.

MS. LOOF:

Yes, good morning. Rita Loof. I'm the Director of Environmental Affairs for RadTech International. And RadTech is the trade association for the ultraviolet electron beam light emitting diode industry, or UVEBLED for short. Our organization represents over 800 members nationwide, involved in a myriad of markets ranging from solar panel manufacturing to fingernail polish. And we do have various members with business and located in Michigan. Unlike conventional inks and coatings, UVEBLED products do not evaporate. Instead, they are specifically formulated to react to UV light, or a beam of electrons, or an energy source. The nature of the process is such that virtually no volatile organic compounds, or VOCs, are generated. Additionally, UVEBLED processes are all electric and do not produce combustion contaminants such as nitrogen oxides, sulfur oxides, and greenhouse gases.

With UVEVLED technology, facilities can achieve emission reductions above and beyond those required by even the most stringent of regulations such as the South Coast Air Quality Management District regulations, where I'm located. We are concerned that some of the EPA's control technique guidelines have not been updated since 1978 and thus the information is not accurate by current application methods and standards in 2022. Basing the RACT demonstration on the EPA CTGs may not capture the current state of our technology, which has greatly advanced the promulgation of the CTGs. As an example, the CTG for Wood Furniture Manufacturing Operations promulgated in 1996, assumes that energy curable materials have a VOC content of 458 grams per liter. But currently our materials are typically less than 50 grams per liter in VOC content and in many cases exceed the current EGLE rule limits.

We would hope that EGLE would take the approach of incentivizing these materials, just like California has done and the South Coast Air Quality Management District has done. Our materials are typically well below 50 grams per liter in VOC content, which is minimal compared to existing and proposed limits. We would respectfully request that UVEVLED materials be exempted from the rule requirements. An exemption would be an incentive for businesses to voluntarily choose UVEBLED technology resulting in additional emission reductions in Michigan. We know that record keeping requirements are very burdensome on businesses. And in the case of UVEBLED operations are not crucial because these materials are well below the limits of most rules. So, we would encourage you to offer regulatory flexibility to our industry so that in turn we can help you meet your air quality goals. Thank you so much.

MS. DIXON:

Thank you so much for your comment. We'll give folks just a couple more minutes to see if anybody else has any comments for right now. Just remember, use that raise hand icon button at the bottom of your screen. Hold on one second. Okay. Doug Raymond, I think you wanted to make a comment. And you should be able to unmute yourself and make your comment whenever you're ready.

MR. RAYMOND:

Okay. Can you hear me?

MS. DIXON:

I sure can go right ahead. Just remember to say your name and where you're calling from and your affiliation, please.

MR. RAYMOND:

This is Doug Raymond. I'm from Ohio and I am representing the National Aerosol Association. And I just wanted to reiterate what Nicholas said about the one year effective date. The National

Aerosol Association has smaller manufacturers and they sell their products basically regionally. So, for something like this, we would need the amount of time to be able to change the products and change them out. I'm sure they have compliant products, but we would need the time for them to get them into circulation and make sure that the other ones are taken out and not sent to Michigan. That's the only comments I have. Thank you very much.

MS. DIXON:

Thank you, Doug, for your comments. We really appreciate it.

I had a note that we have at least one more person that would like to make a comment that has stepped away for a second. So, once we have another hand raise, we'll go ahead and call that person's name.

Thank you for your comments and cooperation. We appreciate that you have shown an interest in these proposed rule revisions by taking the time to be here today. As previously mentioned, the comment period ends today, October 26th, 2022. If you have any questions regarding the proposed rules, please let me know and an AQD staff member can assist you. The hearing is now closed. Thank you again.

(Proceedings concluded at 3:00 p.m.)