

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

Public Hearing for the Administrative Rules Part 1. General Provisions, Part 8 Emission Limitations and Prohibitions – Oxides of Nitrogen, and Part 9 Emission Limitations and Prohibitions – Miscellaneous

Wednesday, May 22, 2024

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
- Annette Switzer – AQD
- John Olson – AQD
- Kaitlyn DeVries – Environmental Support Division (ESD)
- Jim Ostrowski – ESD (Virtual)
- Dale Shaw – Information Management Division (IMD)
- Aimee Crouch – IMD

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In-person and Zoom Public Meeting

Wednesday, May 22, 2024 – 1:00 p.m.

MS. DEVRIES: Right. Good afternoon, everybody. Thank you for joining us today. We're here for the Rules hearing. I want to welcome you all here today. My name is, Kaitlyn DeVries, I'm with the Michigan Department of Environment, Great Lakes, and Energy, hereinafter EGLE. I see a few people still coming in, so thank you. I'll be serving as the hearing officer for today's public hearing on the proposed administrative Part 1, 8, and 9 rule revisions, specifically 2024 - 11 EQ Part 1. General Provisions; 2024 - 13 EQ Part 8. Emission Limitations and Prohibitions -

Oxides of Nitrogen or NO_x; and 2024 - 14 EQ Part 9. Emission Limitation and Prohibitions - Miscellaneous.

We'll be accepting comments on the proposed submittal of these revised rules to the US Environmental Protection Agency for the inclusion in Michigan State Implementation Plan. Annette Switzer is representing EGLE's Director Phillip as a decision maker and we also have other EGLE staff including Tracey McDonald, Marissa Vaerten, and Cari DeBruler in today. So, you'll hear from them a few times.

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

MS. VAERTEN: The Air Quality Division, hereinafter 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 1. General Provisions; Part 8. Emission Limitations and Prohibitions - Oxides of Nitrogen; and Part 9. Emission Limitations Prohibitions - Miscellaneous. The AQD is proposing to update 13 rules and establish seven new rules.

The Part 1 proposed rule set revises and adds additional definitions needed to support revisions done in subsequent rule parts developed to fulfill the federal Clean Air Act. The proposed rules add additional definitions to further support and clarify the Michigan Air Pollution Control rules, as well as revise existing definitions for carcinogens and exemptions for volatile organic compounds and toxic air contaminant definitions to align with the United States Environmental Protection Agency's regulatory definitions and toxics research findings.

MR. MCDONALD: The Part 8 proposed rule set contains rules developed to fulfill requirements of Section 182 b 2 of the Federal Clean Air Act for sources of oxides of nitrogen, commonly referred to as NO_x sources. Michigan must create new rules setting emission standards and operational requirements for specific types of NO_x emission sources within the nonattainment areas to address a change to a moderate classification under the provisions of the national ambient air quality standards. These rules are often referred to as NO_x reasonably available control technologies or NO_x RACT and predominantly affect combustion sources such as boilers, engines, turbines, and process heaters.

Additionally, existing Part 8 rules addressing the NO_x State Implementation Plan, or SIP Call Federal Program will be modified to address minor improvements suggested by representatives of the United States Environmental Protection Agency.

The changes to the Part 8 rules are expected to have a beneficial impact on public health in the ozone nonattainment areas and will work towards lowering NOx emissions to meet the National Ambient Air Quality Standard for Ozone.

MS. VAERTEN: The Part 9 proposed rule set revises and adds additional adopted standards to support revisions pending or completed in other rule parts developed to fulfill the ozone requirements under the federal Clean Air Act. The proposed revisions also consist of updates to reference prices to align with what is currently offered by the respective sources, including the AQD; and revisions to the publication dates referenced, the physical and web addresses listed in the rule to reflect the current information and availability of these reference materials from their respective agencies.

MS. DEVRIES: Can you speak up a little bit? They're having a hard time hearing you on the Owl. Yeah, if you could repeat that, we're going to speak up a little bit more. Thanks for letting us know that you can't hear us. Hopefully that will help.

MS. VAERTEN: The Part 9 proposed rule set revises and adds additional adopted standards to support revisions pending or completed in other rule parts developed to fulfill the ozone requirements under the federal Clean Air Act. The proposed revisions also consist of updates to reference prices to align with what is currently offered by the respective sources, including the AQD; and revisions to the publication dates referenced, the physical and web addresses listed in the rule to reflect the current information and availability of these reference materials from their respective agencies. 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.

Notice of this public hearing was published in three newspapers of general circulation, the Lansing State Journal, the Mining Journal, and the Oakland Press on April 22nd, 2024. This public hearing was also posted in EGLE's Environmental Calendar on April 19th, 2024. Copies of the Notice of Public Hearing, Regulatory Impact Statement, and proposed rules have been made available on the AQD rules website and the Michigan Office of Administrative Hearings and Rules website. Is it better? Okay.

To ensure today's hearing is conducted in a fair manner, we'll follow these steps. First, we'll 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 and spell it, your city, and any group or association you may represent.

After we have called on those who requested to comment during registration, we'll open it up to all others.

To make a comment at this time, you can click the raise hand icon on your Zoom tool bar to indicate if you would like to make a comment. If you are joining by telephone only, you can type pound two in your phone to raise your hand. Excuse me. Please remember as you begin your comments to state your name, spell it please and any group or association you may represent. When all the comments have been completed, we'll ask if anyone would like to make a statement. Each person will be given three to five minutes to make comments we'll indicate when we have about a minute left. Please begin wrapping up your comments and end within the allotted. If 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 only. The hearing's 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 the comments will become part of the information the department will consider with finalizing the proposed rules. The public comment period for the proposed rules ends today, May 22nd, 2024 at 5:00 PM. If you have written comments or materials you would like to submit, please email to McDonaldt@michigan.gov by 5:00 PM or Marissa.

Following the public hearing, we'll review the written and verbal comments received during the comment period. Once this review is done, an agency report will be prepared. The agency report will explain any additional changes EGLE may make to the proposed as a result of comments received. It'll also summarize who is in favor of the draft rules and who is opposed to them. The proposed rules and 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 websites or by contacting the AQD office. Once approved, the rules will be filed with Secretary of State and will take effect immediately. You can follow along the rulemaking process, step by step by going to the Michigan Office of Administrative Hearings and Rules' website.

MS. DEVRIES: Thank you, Cari. We did not have at the beginning of this session any names that have indicated that they'd like to make a statement, but if any of those listening online would like to make a statement, please use the raise hand icon in your Zoom toolbar and that will raise your hand, I'll unmute you, and you will be able to take a comment. Do you have a hand raised? If so, Michele, I'm going to unmute you then. Please state your name, affiliation and spell your name please for the record so we can document you here. Okay. You should be able to unmute yourself.

MS. BUCKLER: Yep. Thank you. Hi, this is Michele. M-I-C-H-E-L-E, Buckler, B-U-C-K-L-E-R. I'm with Detroit Diesel Corporation. So I have a general comment and then a specific comment. The general comment is that it would be much easier if the definitions in Rule 336.1840 could be moved to the beginning of the Part 8 rules because you're looking for those definitions as you're reading through the rules and you're having to find them kind of midway through. So, it gets a little confusing because we're used to going back to the beginning of the rules and now we have to find them in middle, I know it's kind of specific to the RACT.

The second comment is we have a, and I'm not, I wrote it out in the letter, but in Rule 336.1841 subpart three it reads, this is on emergency engines, engines may utilize the following exemptions from all provisions of this rule except subrule six D. If an exemption is utilized, all applicable requirements of Rule 1846 must be met. All provisions of this rule apply if the engine's not usually function below. So if an emergency engine is in place and you're within the non-attainment area, effectively it puts you into, for lack of a better term, case by case RACT, correct? Excuse me, for all NOx emitting sources, and that seems very punitive in you have an emergency engine for emergency purposes, but it's sitting there. Most of the time it runs 30 minutes a month or 10 minutes a month just to test itself and only running during a power out. So to upgrade an engine that size that would be governed by this rule, I mean that's a quarter of a million dollars or more that you would have to invest for something that's rarely used. Otherwise, you go, you're a large source and now you will end up taking a limit under a hundred tons, unless I'm reading this wrong, if I'm in the non-attainment area for ozone, I have an emergency engine. I have, let's say I have a plant wide applicable limit of 200 tons of NOx per year. If I don't replace that engine, then it causes me to go back through a permitting exercise and take a limit of a hundred tons per year and look at every NOx emitting source, even if it's a small hot water, like a hot water heater or a larger hot water heater if you're an investment facility. So that's my point. I don't know if that was the case, but it seems like a catch all and it seems unfairly viewed. That is my comment, I'm going to send this in letter form too.

MS. DEVRIES: Thank you, Michele for your comment. You did break up a little bit on the end there, so if you wanted to clarify that last sentence, go ahead.

MS. BUCKLER: I'll send it in web form.

MS. DEVRIES: Okay, perfect. Thank you so much Michele. If anybody else would like to make a comment, please go ahead and raise your hand and I will unmute you. As a reminder, the raise hand icon is in your Zoom toolbar. Otherwise just raise your hand if you'd like to make a comment and we will be here to listen. I'm not seeing any more hands, but go ahead and raise it if you'd like.

At this time, I'm not seeing any more hands. We are going to be here until two o'clock, so if you think of a comment that you'd like to make still feel free to raise your hand using the raise hand icon in your Zoom toolbar. Otherwise, I'm going to go ahead and mute our line, but we are going to be on until two o'clock, so again, if you have a comment, please raise your hand.

I see that Caroline raised your hand. I'm going to go ahead and unmute you. Caroline, if you could state your name and spell it for us and your affiliation, that would be great. So, you should be able to go ahead and unmute yourself.

MS. LIETHEN: Thank you. Very informal. I just wanted to call in to listen. It looks like I'm interrupting some of your fun conversations, so won't talk too long. I'm finalizing written comment that will be coming to you shortly, but just thanks so much to Trace and Marissa for all of your hard work and to everyone else as well, and I guess I just didn't want to be awkward and lurk. So anyway, yeah, written comment coming shortly. I don't think it will be anything too crazy for you and have a great rest of your day. Get some sunshine. Thank Caroline.

MS. DEVRIES: Caroline, what's your last name?

MS. LIETHEN: I'm sorry, you don't have to enter this. This is nothing official, but my last name is spelled L-I-E-T-H-E-N.

MS. DEVRIES: Thank you, Caroline. We appreciate you taking the time to jump on with us today, and if you do want to make a comment verbally, you can, we'll be here until two.

MS. LIETHEN: Okay. Well, I don't want to interrupt any of your conversation, but yeah, just shout out to Trace and Marissa. You guys are great and appreciate all the whole team's hard work, so all right, I'm off.

MS. DEVRIES: Thanks, Caroline. Perfect. I see another raised hand. So, Kathryn, go ahead and I'm going to allow you to unmute yourself. So go ahead and state your name and if you could spell it for us and your affiliation and then go ahead and make your comment.

MS. ROSS: Hi, thank you. Can you hear me?

MS. DEVRIES: We can.

MS. ROSS: Okay, great. This is Kathryn Ross or Kate Ross and I'm with Consumers Energy. It's K-A-T-H-R-Y-N, Ross, R-O-S-S. We did submit comments yesterday, but I'm chiming in because of Michele's previous comment earlier and taken some time to reread that as it's something we had not thought of. And I do want to ask for clarification based on Michele's previous comment that the listing a bunch of exemptions, especially in Rule 841, I had not thought of how they might be pulled into 846 because is the way it's worded and as I'm rereading it, it does stay in subparagraph three of 841. You may utilize the exemption from all the provisions of the rule except for six D. Six D in that same rule is the requirements that you show the record keeping, you must keep to show the exemption as I'm reading that. So it's kind of like the exempt units are still subject to the provisions of 841, but then the next statement in there is if an exemption is utilized, all applicable requirements of 846 must be met. And I had not clicked into that, that 846 might pull in exempt emergency generators and or other exempt

equipment because when you read 846, sorry, I'm scrolling down to that one that basically, sorry, still getting there. Says if you have one or more emission units that are not subject to any RACT requirements described in 841 through 845 and meet the following requirements, well, I was thinking engines are already in 841, so therefore I didn't think about them being pulled into 846, potentially kind of in that loop cycle that Michele was referring to. And it seems very confusing on whether that is a possibility or not and to have to then address smaller emission units, whether it's engines, boilers or whatever, because they get pulled in because of larger miscellaneous sources that were not covered by rules that are already written earlier in the rule set is just not the clearest. I guess, and I don't even know if I'm reading that right now, now that Michele's brought that up. I thought we were set on what emission units we were looking at and what was subject to this and what was exempt, and now I'm not sure if we have that clarity. So I guess I would emphasize Michele's previous comment, if you can provide clarity and not pull in emission units that were previously exempted under the rules in 841 through 845 because of their size or because of other exemptions that would be the beneficial route and have only other large sources that have not been covered in these rules addressed by 846. Thank you for your consideration of that. That was not in our previously submitted comment, so thanks.

MS. DEVRIES: Great. Thank you so much for that comment. Just as a reminder, we are here still until two, so if anybody else on the line has a comment, please use the raise hand icon in your Zoom toolbar and I will unmute you.

It's 1:59. If anybody has any last comments, please feel free to use that raise hand icon on your Zoom toolbar.

We are happy to still take any comments that anyone may have. Okay. I'm not seeing any, so thank you everyone for your comments and your cooperation today. 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 public comment period ends today, May 22nd, 2024 at 5:00 PM. If you have any questions regarding the proposed rules, please let me know and an AQD staff member can assist you with that. Annette, are you okay if we close the hearing?

MS. SWITZER: Yes.

MS. DEVRIES: Okay. The hearing is now closed. Thank you again for attending today.