

MDEQ Amends Air Rules Without 'Streamlining' Provisions

The Michigan Department of Environmental Quality (MDEQ) revised portions of the Air Quality Division (AQD) regulations effective April 10, 2000. These revisions were first proposed in September 1998.

AQD revised its Rule 602(1) to allow AQD to set new emission limits for volatile organic compound (VOC) emissions in a renewable operating permit (ROP) that do not exist under any other regulation or permit. Previously, ROPs could contain only emission limits originally established in an applicable regulation or pre-existing permit. AQD did not adopt other proposed changes to Rule 602 that would have established enhanced procedures for developing alternative emission rates or compliance measures to allow streamlining and simplifying of VOC emission limits. Those revisions were withdrawn due to objections from the United State Environmental Protection Agency.

The revisions also included changes to AQD Rules 1701 and 1702 to establish a time limit of 30 days for filing "contested case" challenges to certain AQD decisions, including certain permit decisions, and to clarify requirements for parties to be represented by authorized agents in contested case hearings.

AQD adopted a definition of "demolition waste materials," to clarify the applicability of AQD Rule 285(gg), which exempts wood chipping, hogging and flaking operations not involving demolition waste materials from the requirement to obtain an air use permit to install. AQD also adopted an unusual definition of "Act," which excludes several provisions of Part 55 of the Natural Resources and Environmental Protection Act (Mich. Comp. Laws s 324.5510 et seq.), the AQD's organic statute. This new definition of the term "Act" was not part of the original proposed rule package and was not explained by AQD in its response to public comments on the proposed rule package. Finally, AQD rescinded Rule 320 (concerning compliance plans for certain requirements that were submitted by January 18, 1981) and 1703 (concerning resolutions of disputes before the now defunct Michigan Air Pollution Control Commission), which were considered obsolete. (2000 M.R. __.)

This article was prepared by S. Lee Johnson, a partner in our Environmental Department, and previously appeared in the June, 2000 edition of the Michigan Environmental Compliance Update, a monthly newsletter prepared by the Environmental Department and published by M. Lee Smith Publishers.