

**Part 115 Inert and Compost Rules
Meeting Summary
April 1, 2009**

Participants		
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1. Handouts:
 - Agenda
 - Draft Part 115 Meeting Summary from March 16, 2009
 - Part 115 Inert and Composting Rules Presentation
 - Compost-Inert Ad Hoc Committee Members List
 - Rule 115 (R 299.4115. Criteria for Designating Inert Materials Appropriate for General Reuse) Comments from Chuck Barbieri
 - Part 201 Generic Residential Metals Criteria
 - Act 307 Type B Cleanup Criteria for Groundwater and Soil (Revision 3)
2. Welcome and Introductions. Asked if attendees received the email list. Working on putting information on the Web site to reduce email sizes.
3. Previous Meeting Summary. Does it work okay for everyone? Nothing noted as being lacking in the summary.
4. Budget issues may come up in the future. Senate not taking up again until May 6, 2009.
5. EAC Recommendations on Land Application of Waste and Part 201 Criteria Background. We are not here to have a debate about criteria but have everyone understand that. Hand out from March 16, 2009, meeting the EAC Recommendations and also placed on Web site. Power point is on Web site as well. Use generic residential Part 201 criteria.
6. Patty Brandt gave a presentation on the Part 201 generic residential criteria. She started out giving an explanation of the differences between the current inert criteria (Type B) and the Part 201 generic residential criteria. The risk level changed from 1 in a million to 1 in 100,000. The non-cancer risk exposure timeframe changed from 70 years to 30 years for residential exposures. Pathways changed in the Part 201 criteria (i.e. groundwater volatilization to indoor air, soil volatilization to indoor air, and soils leaching to groundwater subject to dermal contact. Patty went over the some of the equations used to develop the criteria and explained that it was not appropriate to change just one input parameter because it may be linked to numerous other parameters. Copies of the 3 criteria tables in the presentation were handed out. It was explained that the most restrictive criteria controls when determining the criteria for inert for general reuse. We do not want to create a facility from the beneficial use of waste.
7. Inert for general reuse (Rule 115) - A handout containing a comparison between the current Type B criteria and the Part 201 generic residential criteria was discussed. In general carcinogens go up by factor of 10. It was noted that many of the leachable metals criteria went down due calculating GSI criteria based on the most restrictive receiving water hardness values (i.e. 50mg/l often seen in the UP). According to the EAC recommendations

the DEQ can vary from the Part 201 criteria if they determine underlying exposure criteria assumptions do not reflect circumstances of the land application. Biosolids program versus Part 201 – no recommendations to use those standards. We discussed that this is not appropriate for the inert for general reuse rule but could be used in Rule 116 related to site specific uses. We all decided that this could be very complicated to do. All or nothing deal of understanding EAC recommendations correctly. Regulatory impact statement to address barriers to more waste utilization. Need to look at fate of constituents for materials that will be used in Michigan. Iron and manganese have issues and needs to fix if going to use Part 201. Chuck Barbieri offered proposed changes to this rule that would assist in determining when leaching test were required (handout). Common goals of beneficial reuse and protecting the environment. Many of the rules contain a condition that the wastes will be used in a manner that does not cause nuisance conditions. The work group questioned what was expected from the department as to the generator's obligation to ensure this condition is met.

Required follow up: Chuck Barbieri will redraft his proposed language related to when leaching tests would be required. DEQ will check with their legal staff on the nuisance requirement.

8. Liability (Rule 109) – Much of the discussion in this meeting was related to this issue. We explained that the purpose of this rule was to ensure that generators and “brokers” hire by the generator must manage wastes in a manner that does not create a facility under Part 201. The workgroup pointed out that it is not illegal under Part 201 to create a facility, but it lays out your obligations once one is created. We were questioned what gives Part 115 the authority to require this provision when Part 201 does not have this requirement. We explained that the Part 115 statute (i.e. 324.1107(3)) gives the director the authority to exempt from regulation wastes in a manner approved from the department. In addition to the requirement of not creating a facility during storage or processing the work group was interested in the department's thoughts as to under what conditions the generator of a waste would be exempted from liability under parts 115 and 201. This is related to the possibility of a broker or end user misusing a waste that causes the creation of a facility or nuisance conditions.

Required follow up: The DEQ will draft language in an attempt to lay out conditions that that the department feels will protect the generator from liability.

9. Site specific inert (Rule 116) - Land or Resource use controls may make Part 201 criteria not applicable. Move forward with Part 201 criteria per EAC recommendations. If the DEQ goes forward with site specific, have to look at institutional controls. Even though only a hand full of past approvals used this rule a lot of discussion revolved around site specific reuse that might involve using engineering controls to provide protection. As written, this rule says only sites owned by units of government can use engineering controls. The workgroup pointed out that the EAC recommendation on this

matter said that engineering controls could be used where “the controlling entity is durable” and gave an example of a governmental unit.

Required follow-up: The DEQ will get together with the author of the EAC recommendations to determine what was the intent of this requirement.

10. Inert instead of a virgin material (Rule 117) – The discussion on this rule revolved around the various products that are sold in Michigan (i.e. Milorganite) that potentially contain higher levels of contaminants than would be allowed under the proposed rules. It was explained that many of these fertilizers and soil conditioners are made from hazardous wastes and solid wastes that are produced out of Michigan. Many of the states do not regulate the production of these materials. It was pointed out that the Michigan Department of Agriculture regulates these materials but they mainly look at the claims made related to N, P, and K and do not require the generators of these materials to consider the “tag along” contaminants even though they have the ability to require contaminant testing.
11. Petitions to classify wastes (Rule 118) – Discussion on this rule revolved around required testing of the various wastes. We discussed that the generator was liable for all constituents contained in the wastes that they produced. It is up to the generator to use their knowledge of the process that generated the wastes to determine the potential for any contaminant to be present in their wastes. Over the years the DEQ has seen numerous characterizations of many waste streams and believes that they sufficient knowledge of flue gas desulfurization sludge, foundry sands and paper mill sludge to be able to recommend that a specific list of constituents need to be tested. We discussed other potential testing methods or models that could be used to predict mobility of contaminants. These include column leaching procedures and the Industrial Waste Evaluation Model (IWEM) developed by the EPA.
Required follow up: Duane will check with EPA to see if the IWEM can be used to determine isolation distance requirements for the GSI pathway and whether the model can assist in addressing the aesthetic criteria (Al, FE, and Mn).
12. Next Meetings – Part 115 Proposed Agenda (Rules are listed in order of importance):
 - April 17 – Rules 120a through d, 102 a-d, 103 p
 - May 6 – Rules 121a through k, 101, 102, 103, 104, 105
 - May 29 – Rules 126, 127, 129, 103 m and q