



ALERTS

MDEQ To Re-examine Up To 4,000 Sites For Vapor Intrusion Risk

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Consistent with an emerging nationwide trend, the Michigan Department of Environmental Quality (MDEQ) is proposing to step up its investigation of vapor intrusion (VI) issues at known sites of contamination. This initiative is in response to new information MDEQ believes indicates that much lower concentrations of VI chemicals of concern may be harmful to human health. Volatile compounds include fuel oils, degreasing solvents, dry-cleaning fluids, paint thinner, printing inks, and other chemical mixing formulations.

MDEQ and the Michigan Department of Health & Human Services (DHHS) will work together to review and prioritize sites for VI risk in what MDEQ representatives have called a data-driven process. A significant issue these departments are working through is to have the same criteria consistently applied by both MDEQ, which favors a risk management approach, and DHHS, which favors a more conservative, zero-risk approach.

While it is unclear exactly how many sites will be investigated or possibly reopened as a result of the initiative, MDEQ estimates that as many as 4,000 sites are of interest. MDEQ has been identifying these sites using a variety of data sources, including Baseline Environmental Assessments (BEAs) conducted to protect purchasers of contaminated property; other likely targets are leaking underground storage tanks (LUST), dry cleaners, and manufacturing and repair facilities that use metal degreasers. This renewed focus on VI may impact “due care” plans at properties that MDEQ considered closed with residual contamination.

The Michigan [Governor’s executive budget recommendation](#) for fiscal year 2018-2019 proposes \$4.9 million to establish this joint program to

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address VI, \$2.7 million of which would be allocated to MDEQ to fund its cooperative VI review project with DHHS.

Current and former owners, lessees, operators, and other responsible parties of sites impacted or potentially impacted with contaminants that could pose a VI risk should consider re-evaluating their remediation and due care obligations in light of MDEQ's new initiative.

For more information on this emerging issue, contact the Barnes & Thornburg attorney with whom you work, or one of the following: Lydia Barbash-Riley at Lydia.Barbash-Riley@btlaw.com or (616) 742-3945; Charles Denton at Charles.Denton@btlaw.com or (616) 742-3974; Tammy Helminski at Tammy.Helminski@btlaw.com or (616) 742-3926; or Dave Gillay at David.Gillay@btlaw.com or (317) 231-7474.

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