

# Washtenaw County Environmental Council

Tuesday, March 26, 2024

5:00PM - 6:30PM

Remote Meeting via Zoom

Join by Zoom: <https://zoom.us/join>

Join by phone: 1-312-626-6799

Meeting ID: 891 2705 8352

Passcode: 591312

## AGENDA

- I. Call to Order
- II. Attendance
- III. Land Acknowledgement
- IV. Approval of the Agenda
- V. Approval of Minutes of February 26th Meeting
- VI. Public Comment/Citizen Participation: (up to 4 minutes per speaker)
  - A. Council Responses to Citizen Participation
  - B. Acknowledgement of any written Citizen Participation
- VII. Presentation: *Proposed and Recommended Updates to the Washtenaw County Pollution Prevention Regulation*. Presenter: Kristen Schweighoefer, MPH, RS. Environmental Health Director, [Washtenaw County Health Department](#)
  - A. Council responses and discussion.
- VIII. Regular Business
  - A. Washtenaw County Climate Action Plan & Sustainability/Resilience Office
    - 1. Staffing Status. *Andrew DeLeeuw*, Deputy County Administrator
    - 2. Council Discussion
  - B. Council Membership: Open seats
    - 1. Updates on applications for the two open seats: Water Protection, Renewable Energy Provider. *Andrew DeLeeuw*, Deputy County Administrator
  - C. Chair's Report
    - 1. April Meeting Update & Reminders
    - 2. Bylaws Approval by BOC.
- IX. Council Officer Elections
  - A. The Council will be electing a Chairperson, Vice Chairperson, and Second Vice Chairperson. Proposed election guidelines are in the Agenda packet.
- X. New Business
- XI. Communications and Reports
  - A. Councilmembers
  - B. Staff

C. Committees and Committee Reports

1. Outreach Committee Report (also see Agenda Packet Item #6)
2. Advisory & Recommendations Committee Report (also see Agenda Packet Item #5)

XII. Adjourn

**Next Meetings**

Tuesday, April 23, 2024

Tuesday, May 28, 2024

## MEETING PACKET

### Contents

1. Draft Minutes, WCEC February 27, 2024 Meeting
  2. WCEC Amended Bylaws, effective March 2024
  3. Slide Presentation. From Washtenaw County Public Health Department's Environmental Health Officer, Kristen Schweighoefer
  4. Draft WCEC Election Guidelines
  5. Draft Recommendations for County Action from the WCEC Advisory & Recommendations Subcommittee
  6. Outreach Committee Report. From Avni Rao, Outreach Committee Chair
- 

### 1. Draft Minutes, WCEC February 27, 2024 Meeting

2. WCEC Amended Bylaws, effective March 2024. Approved by the WCEC on February 27, 2024 and approved by the Washtenaw County Board of Commissioners on March 20, 2024, the effective date.

- **Summary of Significant Changes:**

- Article 3: Addition of "just transition" as part of mission and update reflecting approved BOC priorities
- Article 6:
  - Adds an Expectation for Council Members to belong to or contribute to a Committee
  - Section #1: adds a Youth seat and a Labor seat as dedicated seats on the board, rather than as suggested designations for those positions.
- Article 7:
  - Adds as Second Vice Chairperson who "presides over meetings in the absence of both the Chairperson and the Vice Chairperson, and carries out other tasks as agreed upon with the Chair."
- Article 8:
  - Increases quorum from 5 to 7.
  - States that we can meet in person or virtually, and sets an expectation of at least one in-person meeting annually.
- Article 10: Addition of Land Acknowledgement to the regular order of business at meetings
- Article 11: Requires current Council Bylaws to be posted on Council's webpage.

- **Text of Amended Bylaws:**

---

### **3. Slide Presentation. From Washtenaw County Public Health Department's Environmental Health Officer, Kristen Schweighoefer**

#### **4. Draft WCEC Election Guidelines and Information**

1. The WCEC is electing three officers for one year terms:  
Chairperson  
Vice Chairperson  
Second Vice Chairperson
2. Nominations including self-nominations may be made from the floor.
3. If requested by the current Chair, a County staff member may run the election for Chair.
4. Duties of Officers (from the Bylaws):
  - i) Chairperson: The Chairperson ("Chair") shall preside at meetings, plan and organize the Council's work and perform other duties as described by these Bylaws. The Chair may authorize expenditures up to \$100, which will be reported to the Council at the next meeting by the Treasurer. Expenditures exceeding \$100 are approved by a vote of the Council.  
  
The Chair also develops the agenda, appoints or approves members wishing to perform outreach or speak on behalf of the Council to the community for the County's environmental and climate work via tabling and other community events, is responsible for excusing absences, and for scheduling meetings and approving meeting cancellations as necessary.
  - ii) Vice Chairperson: The Vice-Chairperson presides over meetings in the absence of the Chairperson and carries out other tasks as agreed upon with the Chair.
  - iii) Second Vice Chairperson: The Second Vice Chairperson presides over meetings in the absence of both the Chairperson and the Vice Chairperson, and carries out other tasks as agreed upon with the Chair.

#### **5. Draft Recommendations for County Action from the WCEC Advisory & Recommendations Subcommittee**

##### **WCEC Recommendations & Advisory Committee**

##### ***DRAFT: Recommendations to County Departments and the Board of Commissioners Regarding Light Pollution Abatement and Mitigation***

After a review of the recommendations for light pollution reduction by County operations that were made by the Michigan Dark Skies initiative in their February 27, 2024 [presentation](#) to the WCEC, the WCEC Recommendations and Advisory Committee recommends that the WCEC consider sending the following memo to the Board of Commissioners, Washtenaw County Facilities Management, and the Washtenaw

County Road Commission, advising them to approve and implement the listed practices in order to reduce light pollution and mitigate its harms.

Questions and asks by the Recommendations Committee, for the full WCEC:

- Are these the best/correct County divisions or departments to send this memo to? Are there additional entities that should receive the memo?
- What is the potential negative impact of this task on County departments? Is this a realistic ask?
- Amendments, additions or suggestions regarding this first advisory memo to County entities/departments?
- Approval of the draft memo (below)

The Michigan Dark Skies initiative further recommended that the County 1) raise public awareness regarding light pollution and 2) promote dark-sky practices among Townships and municipalities. The Recommendations Committee recommends that these be noted in the Council's archives for possible future action.

---

**DRAFT MEMO to County Departments (as noted) and to the Board of Commissioners**

DATE: tbd

FROM: Washtenaw County Environmental Council

TO: Washtenaw County Board of Commissioners  
Washtenaw County Facilities Management  
Washtenaw County Road Commission

RE: Light Pollution Abatement and Mitigation for County Operations

On February 23, 2024, representatives of [Michigan Dark Skies](#) - Dr. Sally Oey of the University of Michigan and John Mirsky of the Ann Arbor Energy and Environmental Commissions - made a presentation, *Light Pollution and Solutions*, to the Washtenaw County Environmental Council (WCEC).

Michigan Dark Skies is a University of Michigan-based collaborative that works to raise public awareness and advocates for environmentally aware lighting in Michigan that promotes public health and safety, eliminates wasted energy, protects biodiversity, and restores ecosystems.

The science is clear: Light pollution is increasing - at 10% plus per year. It harms wildlife and is a significant safety hazard - and contributes to significant energy waste that can be reduced by adopting best practices. The full presentation by Michigan Dark Skies, which documents the risks and harms, is [here](#) (scroll down).

To abate and mitigate light pollution, assist in achieving the goals of the County's climate action plan, *Resilient Washtenaw*, and save the county money, we recommend the following best practices be adopted and implemented by County operations:

- Perform, if not already accomplished, an audit of outdoor lighting on County properties, assessing lighting per the ANSI standards in the following bullet.
- Enact a policy for outdoor lighting, adopting the ANSI standards of the Illuminating Engineering Society (IES) for all County facilities including Road Commission and Washtenaw County Facilities

Management. {er ANSI standards, this would involve a higher standard than is often recommended by DTE and would include:

- Fully shielded fixtures
  - No light trespass at property line
  - Lighting limited to need/hours of operation
  - Brightness limits on specific uses, for example facade and canopy lighting
  - Warm colors, which reduce disability glare, vision problems, and are worse for wildlife and ecosystems (CCT<2700K)
  - Amortization
- Instruct the Resilience Office to Include Light Pollution Control specifics aligned with the above policy recommendation in implementation plans for Resilient Washtenaw.

Sincerely,

Washtenaw County Environmental Council

## 6. Outreach Committee Report. From Avni Rao, Outreach Committee Chair

**Event Summary:**  
**A2 Climate Teach-In**  
Sunday, March 10th, 2024



- Spoke to Teach-In attendees at the networking session for ~1h
- Wildflower seed packet giveaway
- Raised awareness about WCEC and Resilient Washtenaw
- Things that went well:
  - Connecting with community members
  - Answering questions + giving updates on Resilient Washtenaw Progress
- Takeaways:
  - Bolster our council's communication with citizens BETWEEN EVENTS
  - Continue attending such events because even those that are climate aware don't know about the work we are doing

# Washtenaw County Environmental Council

Tuesday, February 27, 2024

## DRAFT FEBRUARY MINUTES

1. Call to Order by Chair Deatruck
  - 5:01 PM
2. Attendance
  - Present: Anne Brown, Andrew Comai, Michelle Deatruck, Gay MacGregor, Yousef Rabhi, Avni Rao, Tim Redmond, Katie Scott, Annie Somerville, Benjamin VanGessel, Hudson Villeneuve
  - Absent: Kris Olsson, Elizabeth Ratzloff
3. Approval of the Agenda
  - Moved by: Gay MacGregor
  - Seconded by: Avni Rao
  - Approved by: Unanimous Voice Vote
4. Approval of Meeting Minutes
  - a. January 30, 2024
    - Moved by: Tim Redmond
    - Seconded by: Gay MacGregor
    - Approved by: Unanimous Voice Vote
5. Citizen Participation: (up to 4 minutes per speaker)
  - a. Council Responses to Citizen Participation
  - b. Acknowledgement of any written Citizen Participation
6. Presentation: Light Pollution, Biodiversity and Emissions.
  - a. *Presenters:* Dr. Sally Oey and John Mirsky, Michigan Dark Skies
    - i. Council Discussion/Q&A
      - Is it just visible light or are there other parts of the EM spectrum that is harmful?
      - Are there warm LEDs available that are energy efficient?
      - Strategy for approaching farmers on lighting?
      - Has dark skies identified any bad actors? AKA any large light emitters within the county that could be a good starting point for mitigation?
      - Do motion activated lights (presence sensing for pedestrians at cross walks) covered in any ANSI standards. Do these ANSI standards mesh with occupational safety standards?
      - Can you share any one pagers or informational materials with the outreach committee to share at events?
      - Council to send any other questions to Michelle.
7. Regular Business
  - a. Washtenaw County Climate Action Plan & Sustainability/Resilience Office
    - i. Staffing Status. *Andrew DeLeeuw*, Deputy County Administrator

- Currently in the middle of the hiring process for the positions. Great applicant pool and the hiring committee is exceptional.
- Extended posting to ensure that we had as many great candidates as possible. Wanted to make sure that the candidate pool was diverse.
- Should have another update by March, the process is moving fast.
- First position is resiliency officer, program manager will come next and the resiliency officer will have a role in hiring that person.
- ii. Council Discussion
  - Michelle is very impressed with the work Andrew has been doing to manage and move the interview process along.
- b. Council Membership: Open seats
  - i. Updates on applications for the two open seats: Water Protection, Renewable Energy Provider. *Andrew DeLeeuw*, Deputy County Administrator
    - Application Open seats extended until March 18<sup>th</sup>.
    - Shared link with WCEC in Chat- <https://www.washtenaw.org/3542/Apply-for-a-Board-Committee-or-Commissioner>
- c. Chair's Report: Proposed Upcoming Meeting Topics & Schedule
  - i. Chair will be asking Council approval for either the March or April meeting to be 2 hours if needed, with at least 10 days notice.
  - ii. March Council Officer Election Updates
    - In March and April the topics will include Washtenaw County Public Health on their updated pollution prevention work. They would like input and feedback.
    - Other topics to be considered are a presentation from SEMCOG on their climate action regional plan and its impact on Washtenaw County. MDOT is proposing a US-23 expansion, presentation on the impacts for Washtenaw County and resilient Washtenaw.
    - Chair makes motion to extend March or April meeting by 30 minutes to make the full meeting two hours.
      - Moved by: Liz Ratzloff
      - Seconded by: Avni Rao
      - Discussion:
        - Commissioner Scott would like for the meeting to be March as she won't be at the April meeting.
      - Approved by: Unanimous Voice Vote
    - Ben would like to include WATS in the SEMCOG meeting presentation.

## 8. New Business

- a. Bylaws Update Proposal. *Michelle Deatrick, WCEC Chair*  
Chair will be asking for a motion to approve.
  - Moved by: Gay MacGregor
  - Seconded by: Katie Scott
  - Discussion:

- Article 8, Section 7: Commissioner Rabhi believes all meetings should take place in person and will be voting yes on these bylaws in WCEC but will not vote yes at the board meeting when this is on the agenda. This is consistent with his voting on other Commission bylaws.
- Approved by: Voice Vote with one abstention.

9. Communications and Reports

- 1) Councilmembers
- 2) Staff
- 3) Committees and Committee Reports
  - Visibility Committee
    1. First tabling event is March 10<sup>th</sup> at the Climate Teach-In. Tabling taking place 4:30 – 5:15 PM
  - (ii) Advisory and Recommendations Committee
    1. passed a resolution in the fall approving this committee which will take topics we engage with during meetings to make a set of recommendations to the County.
    2. Limited to four members for this committee
    3. The Chair is appointing 3 people right now, and if the bylaws change is approved by the BOC, Chair will be able to appoint more members.
    4. Appointees thus far: Gay MacGregor, Hudson Villeneuve (Chair)

10. Adjourn

6:31 PM

**Next Meetings**

Tuesday, March 26, 2024

Tuesday, April 23, 2024

DRAFT

REVISED BYLAWS OF  
The Washtenaw County Environmental Council  
Adopted by the Environmental Council On May 28, 2019  
Approved by the Board of Commissioners On June 5, 2019  
Amended by the Board of Commissioners On September 15, 2021  
Amendments Adopted by the Environmental Council On February 27, 2024  
Amendments Approved by the Board of Commissioners On \_\_\_\_\_

**Article 1  
NAME**

The name of this council is the Washtenaw County Environmental Council  
("Council" or "WCEC".)

**Article 2  
ENABLING AUTHORITY**

The Council was established by Resolution 18-191 on November 28th, 2018.

**Article 3  
VISION AND MISSION**

**Vision:**

A vibrant, sustainable, equitable and net-zero Washtenaw County.

**Mission:**

To develop environmental policy and organizational recommendations for Washtenaw County government in order to:

- Achieve net-zero emissions for County operations by 2030 and Countywide by 2035.
- Reduce overall county contributions to climate change.
- Protect and improve the County's air, land, water, food network, and both mental and public health as related to the environment.
- Prioritize environmental justice, a just transition with no worker or community left behind, and intergenerational justice related to the environment.

**Article 4  
BACKGROUND**

The Board of Commissioners voted to strengthen and ramp up County sustainability efforts in its July 2017 Resolution upholding the Paris Climate Accord and committing the County to form an "Environmental Stewardship Committee" – a commitment now fulfilled in the establishment of the Washtenaw County Environmental Council., the approval of the County's climate plan, *Resilient Washtenaw*, and the approval of a funded Resilience Office. In 2017 and 2018, other environmental measures approved by the Board of Commissioners included: a ban on County purchases of Nestle brand bottled water, a ban on County purchases of certain single use plastics including plastic straws; resolutions

opposing the Nexus and Rover fracked gas pipelines, which cross the County; and the first financial commitment to support the Washtenaw County Food Policy Council.

The 2018 Board of Commissioners passed a 2019-2022 Quadrennial Budget [2019-2022 Budget] which establishes the County's internal environmental task force – the Environmental Infrastructure Workgroup (EIW). According to the 2019-2022 Budget, the EIW will 1) provide support, information and advice to the Environmental Council, and 2) provide input to the Office of Infrastructure Management as the OIM develops its 2019 Energy and Environmental Infrastructure Policy, which is an updated comprehensive strategy addressing the County's energy use and environmental impact as they relate to infrastructure.

On November 28, 2018, the County Board of Commissioners unanimously passed the "Resolution Upholding the Washtenaw County Board of Commissioners' Commitment to Environmental Justice and Establishing the Board of Commissioners' Environmental Council," which established this Council.

On December 7, 2022, following a unanimous recommendation by the WCEC, the County Board of Commissioners unanimously passed a Resolution approving the County's climate action plan, Resilient Washtenaw.

On December 15, 2023, the County Board of Commissioners passed a 2024-2027 Quadrennial Budget which includes funding to staff a County Resilience Office with two full-time permanent staff members.

## **Article 5 DUTIES**

The Council is responsible to the Board of Commissioners. The Council does not have regulatory authority. The Council is charged with the following duties:

1. Develop comprehensive, integrated environmental policies to recommend to the County Board of Commissioners.
2. Develop a proposal and timetable for the County's development of a plan to reach net-zero (neutral) emissions by 2035.
3. Work with County Administration, consultants, the County Resilience Office and staff, and/or other appropriate County departments on environmental issues and to develop and implement Resilient Washtenaw for the County to achieve net-zero emissions.
4. Act in an advisory capacity, without regulatory or legislative authority, to County departments, committees, and the Board of Commissioners on environmental issues.
5. Work collaboratively with other commissions, boards, councils and committees on environmental issues.

6. Create committees, including standing committees, to help conduct the work of the Environmental Council.
7. Work to develop and maintain input and dialogue with the wider Washtenaw County community, including serving as ambassadors to the community for the County's environmental and climate work when approved or appointed by the Council Chair, sharing that work via tabling and other community outreach events.
8. Uphold the mission of the Council and of environmental policies approved by the Board of Commissioners.

## **Article 6 MEMBERSHIP**

1. The Council will be comprised of up to 15 members, appointed by the Board of Commissioners. No more than one (1) member may reside outside the County. Members are to represent the following perspectives and/or groups.
  - a. County Commissioners (1-3 members)
    - i. 1 of these Commissioners may be appointed to act as WCEC Liaison to the Board of Commissioners
  - b. Community Groups (2 members)
  - c. Sustainable Energy Producers, private or non-profit sector (1 member)
  - d. Land Use and Preservation (1 member)
  - e. Sustainable Agriculture (1 member)
  - f. Racial Equity and Environmental Issues (1 member)
  - g. Water Protection (1 member)
  - h. Vehicle Emission Reduction Issues (1 member)
  - i. Public Health Issues (1 member)
  - j. Infrastructure Energy Reduction Issues (1 member)
2. The Council is responsible for recommending member appointments to the County Board of Commissioners, which will appoint WCEC members.
3. Council members will be appointed for staggered two-year terms as follows:

### Even years:

- Sustainable Agriculture
- Water Protection
- Vehicle Emission Reduction Issue
- Infrastructure Energy Reduction issues
- Youth
- Labor
- Commissioners (1-3 members)

### Odd years:

- Community Groups (2 members)
- Sustainable Energy Producers (private or non-profit sector)
- Land Use and Preservation

- Racial Equity and Environmental Issues
  - Public Health Issues
4. Any vacancy on the Council occurring in the middle of a term shall be filled for the remainder of that term in the same manner as for full-term appointments.
  5. Council members are expected to attend meetings to ensure full community representation on the Council. Absences excused by the Chair (for illness, death in the family, vacation, business trip or emergency) will not affect a member's status. However, missing three consecutive meetings and/or more than three absences without reasonable excuse in a 12-month period shall constitute cause to recommend resignation to the Washtenaw County Board of Commissioners and replacement of the appointee.
  6. Council members are expected to commit to membership on one Council committee, or else to commit to assist in the work of one of those committees.

## **Article 7**

### **OFFICERS**

1. Duties of Officers
  - a. Chairperson: The Chairperson ("Chair") shall preside at meetings, plan and organize the Council's work and perform other duties as described by these Bylaws.

The Chair may authorize expenditures up to \$100, which will be reported to the Council at the next meeting by the Treasurer. Expenditures exceeding \$100 are approved by a vote of the Council.
  - b. Vice Chairperson: The Vice-Chairperson presides over meetings in the absence of the Chairperson and carries out other tasks as agreed upon with the Chair.
  - c. Second Vice Chairperson: The Second Vice Chairperson presides over meetings in the absence of both the Chairperson and the Vice Chairperson, and carries out other tasks as agreed upon with the Chair.
2. Officer Elections

Officers will be elected by the Council in the first quarter of each year, and will serve one-year terms or until their successors are elected if no successor(s) have been elected at the one-year point. Officer vacancies between usual elections will be filled by election for the remainder of the term.

## **Article 8**

## **MEETINGS**

1. The Council will hold regularly scheduled meetings, publicly announced in advance, in accordance with the Open Meetings Act. All regularly scheduled meetings will include at least 10 days notice. The Chair, or any five Council members may call special meetings, in accordance with the Open Meetings Act. At least 18 hours public notice shall be given for special meetings.
2. Support for meeting organization; minute taking and distribution; website and social media; press and other communications; and publicizing meetings per the Open Meetings Act is provided by County Administration.
3. Meetings are open to all community members. The public has the right to speak during one public comment period at each meeting, limited to four (4) minutes per speaker.
4. The Chair may cancel a meeting if there is no business on the agenda, if it is clear that a quorum will not be present, or if weather, emergency, or other circumstances warrant. The Chair shall give notice of cancellation to members of the Council and any staff at least 18 hours prior to the scheduled meeting time, when practicable. The Chair shall cause public notice of the cancellation to be posted as soon as practicable. Canceled regular meetings may be rescheduled in the same manner as special meetings.
5. A quorum of Council members, which shall consist of the lesser of 7 5 members or no less than 51% of current members, must be present for decisions to occur.
6. The Council will make decisions by voting. Passage of a motion requires a simple majority of those present and voting who serve as voting members of the Council.
7. Council meetings may be held in person or virtually, and are generally expected to be held in person at least once per year. Virtual as well as in-person meetings must be accessible to the public and provide a public comment opportunity.
8. Staff will report expenditures to the board as part of the agenda for the regular meetings.

## **Article 9**

## **ETHICS AND CONFLICTS OF INTEREST**

1. Members of the Council must abstain from discussion or voting on any matter in which that member has a real or apparent conflict of interest. Decisions regarding conflicts of interest shall be evaluated on a case-by-case basis with reasonable application to the principles in this Article. A conflict of interest shall at a minimum include, but is not necessarily limited to, discussing, voting on, or otherwise acting on a matter in which a member, or any person in the member's immediate family, the member's partner, or an entity with which the member has family or business ties has a direct financial or beneficial interest.
2. A member of the Council shall neither solicit nor accept gratuities, favors, or anything of monetary value from persons or entities in a position to receive financial benefit from a decision of the Council.
3. A member of the Council shall not obtain, for the member or for any person with whom the member has family or business ties, any financial or beneficial interest in a matter which may be affected by a decision of the Council. This restriction shall apply during the member's tenure and for one year thereafter.
4. With regard to Council decisions or potential decisions, Council members shall disclose the general nature of any potential conflict, real or apparent, unless such disclosure violates a confidence. These disclosures shall be made prior to discussion and voting when possible and shall be recorded in the minutes of the proceedings. If a member believes that a potential conflict warrants abstention, the member may choose to abstain from discussion and voting on a matter. A member who has a conflict and cannot vote shall leave the meeting or the area of the meeting until action on the matter is concluded, whether that conflict has been disclosed or not.
5. When a question has arisen as to whether a member is ineligible to participate in discussion or vote on a matter because of a potential conflict of interest, and the member has not chosen to abstain of his or her own volition, the Council may determine that the member is ineligible due to a conflict of interest by a vote of a majority of other members present. After such a determination, the ineligible member shall not participate in discussion of, or vote on, the matter.
6. Members shall not act, hold themselves out, or permit themselves to be perceived as official representatives or spokespersons for the Council without authorization from the Council or the Chair. When communicating for personal purposes on matters that may be related to the Council's business, members shall clearly indicate that their statements are made in a personal capacity and do not necessarily reflect the views of the Council. Whenever a member is asked to speak on behalf of the Council, the member will ask approval of the Council or Chair in advance.
7. To maintain public confidence in the objectivity of the Council and to avoid the appearance of bias or prejudice, a member shall not speak or appear before the Council on behalf of or as a representative of a potential or actual petitioner. A

member should avoid speaking or appearing before another entity on behalf of or as a representative of a potential or actual petitioner.

## **Article 10**

### **AGENDA AND ORDER OF BUSINESS**

1. An agenda for each meeting of the Council shall be developed by the Chair in consultation with the members of the Council. To the extent practicable, agenda, resolutions, and materials for regular meetings shall be made available to the public and members of the Council at least 48 hours before the meeting's scheduled start time. Members wishing to add an agenda item or a speaker to the agenda should contact the Chair with the request. Approved meeting minutes and resolutions shall also be made available to the public.
2. The order of business at regular meetings shall generally be as follows.
  - a. Call to Order
  - b. Roll Call
  - c. Land Acknowledgement
  - d. Approval of the Agenda
  - e. Approval of Minutes of Past Meetings
  - f. Public Comment
  - g. Special Presentations
  - h. Regular Business
  - i. New Business
  - j. Communications and Reports
    - i. Council
    - ii. Staff
    - iii. Finance Report
    - iv. Committees
  - k. Adjournment

## **Article 11**

### **AMENDMENT OF BYLAWS**

1. Amendments to these Bylaws may be approved at any regular meeting by vote of two-thirds of the voting members currently serving on the Council. Proposed amendments must have been submitted in writing at the previous regular meeting to be considered.
2. Prior to submission of amendments to the Bylaws at the regular meeting, proposed amendments must be submitted to the Chair who will submit them to the Office of the County Corporation Counsel. Reasonable time must be allowed for Corporation Counsel's response.
3. After adoption by the Council, the amended bylaws are not effective until approved by the Board of Commissioners.

4. After approval by the Board of Commissioners, Bylaws will be made accessible to the public including via posting or a link on the WCEC's webpage on the County website.



# Washtenaw County Pollution Prevention Program



# Purpose of Today's Discussion

---

The Washtenaw County Health Department is presenting to you the proposed and recommended updates to the Washtenaw County Pollution Prevention Regulation as a result of our program review during the regulation pause beginning April 2022.

# History of the Pollution Prevention Program

---

- Washtenaw County adopted the Community Right-To-Know Regulation in 1986.
- This Regulation was amended and renamed the Pollution Prevention Regulation in 1992, with its last update in 1994.
- Original regulation was intended to
  - Reduce catastrophic releases of substances that would be lethal to surrounding populations.
  - Minimize the likelihood of chronic disease or acute injury from substances released into the air, groundwater and surface water.

# Foundation of Pollution Prevention Regulation

---

- Program was designed to:
  - Prevent adverse environmental effects, which are extremely costly to both industry and the community
  - Allow access to information to emergency response personnel and the general public regarding chemicals in their communities
  - Consolidate a number of environmental health program areas into one inspectional package, reducing burden on regulated parties

*And it will continue to do these things...*

# Review Process

---

- Spent time reviewing our regulation, state requirements, engaging partners, regulated community, stakeholders and staff through surveys, virtual meetings and in person meetings.
  - Owners of businesses being regulated
  - Employees of businesses being regulated
  - General public
  - Michigan Department of Environment, Great Lakes and Energy
  - Local Emergency Planning Commission
  - HazMat/Fire Response
  - Washtenaw County Water Resources Department
  - Washtenaw County Emergency Management
  - Washtenaw County Environmental Commission
  - Other Community Partners

# Feedback We Received

---

- Online reporting & fee payment strongly desired
- Streamline fee collection – one annual fee versus multiple fees per year
- Value in local inspections, even by facilities who get inspected by other agencies
- Biggest spill/contaminant risk as determined by the facilities is during loading/unloading of chemicals from delivery/pickup
- Require secondary containment for all outdoor storage of chemicals
- Need mechanism to identify new/existing facilities that should be in the program

# Feedback We Received

---

- More information sharing with partner agencies desired
- Much of the information we require is also reported to EGLE and the Local Emergency Planning Commission (LEPC)
- More education for smaller facilities desired
- Reduce inspections for those that have certain qualifications and mechanisms in place

# What changes did we make?

---

- Increased reporting/regulation of minimum volume of chemical from 5 gallons to 56 gallons
  - Extremely hazardous substances are still required to be reported at lower volumes
- Inspection frequency fixed at once every three (3) years
  - Additional inspections can occur based on complaint, determination of the health officer or upon facility request
- Storage
  - Secondary containment shall be required for above ground storage of liquid chemicals in containers sized 55 gallons or greater no later than three (3) years from the date of adoption of this regulation. Lesser quantities are not prohibited from being stored outside of a building.

# Additional changes

---

- Fees

- Instead of separate reporting fee and inspection fee, change to one program fee due annually
- Ability for facilities to submit payments online using existing software
- Shift to June due date for fees/reporting to align with other state requirements

- Reporting

- No more paper forms! All reporting will utilize an online, secure system (Tyler Energov)

# What do these changes mean for our regulated community?

---

- Regulation still applies to all toxic, hazardous, or polluting substances which are manufactured, used, or stored by a party within Washtenaw County
- 2,102 businesses in P2 database
  - Previously: 1,134 active facilities
  - Proposed: 621 regulated facilities
    - Removes the 438 facilities that have less than 55 gallons
    - Exempts ~75 facilities based on type of material stored and new exemption list

# Who does the updated regulation exempt?

---

- A party who manufactures, uses, or stores any toxic, hazardous, or polluting substance at a workplace in a combined volume or quantity of less than fifty-six (56) gallons or 450 pounds;
  - Smaller quantities may require reporting if they are on the extremely hazardous substance list, 40 CFR 355
- Substances contained in foods, drugs, cosmetics, tobacco products and consumer products held for retail sale
- Agricultural operators
- Boxed or bagged salt
- Retail/automotive/service stations – fuel only
- Oil containing electrical equipment
- Manufactured items
- Self-contained fuel supply used to propel a vehicle
- As exempted by the Health Officer

# Reporting

---

- Each year, all active facilities must submit their status sheet
  - Includes hazardous material inventory
- Staff review status sheets and update database with any changes
- Reporting will be done through our EnerGov software or paper forms are available for those that cannot enter information electronically
- May be able to accept the same report as submitted to EGLE in lieu of our forms to streamline process for businesses

# Inspections

---

- 621 facilities will be inspected every 3 years on a routine and ongoing basis.
- Inspections may also occur if there is a complaint or a request by the facility.
  - Items not corrected at the time of inspection may require a follow up inspection.
- Inspections will be completed through our existing software system, new since the pause.

# Categories of Information Reviewed During Inspections

---

- Employee hazard communication
- Waste management
- Underground storage tank management
- Emergency planning
- Community Right to Know – Hazardous Materials Reporting
- Illicit discharges
- Chemical storage and housekeeping
- General comments

# Enforcement

---

- Violations may be corrected on site or a follow up inspection may be conducted.
- Rare for enforcement relation to violations.
- Most formal enforcement for the pollution prevention regulation is for facilities that fail to pay required program fees. This results in significant investment of staff time, court fees and limited ability to collect outstanding fees.

# Programmatic Updates

---

## Old Structure

- Fees based on 5 categories of chemical quantity
- Fee structure and inspection frequency often changed depending on inspection results and chemical storage quantities
- Fees charged separately for status sheets and inspections – some years fees are significantly higher than others

## New Structure

- Fees based on 3 categories of chemical quantity
- One inspection structure, regardless of chemical quantity or inspection results
- Set annual fee charged to cover cost of all services

# Fees

---

- When reviewing existing fees charged and structure, significant changes needed to be made.
- Our smallest facilities were paying less than the cost to administer the program.
- Our largest facilities were paying more than the current level of effort required to administer the program.
- If County General Fund is allocated, the fee increase impacts for the smallest facilities can be reduced.

# Budget, Fees and Staffing

---

- Assumptions: 621 total number of facilities
- 1 year budget for FY 2025 is forecasted at \$253,043
- Budget assumes 1.75FTE in staff
- Budget assumes zero County General Fund – a completely fee driven program
- Annual fees would decrease if there was an annual County General Fund contribution allocated to the program

# Previous Structure/New Fee, No General Fund

| Gallons   | Previous Reporting Fee (Annual) | Previous Inspection Fee if paid Annually (Frequency) | Previous Total Per Year | # Facilities | New Fee, with no GF Support |
|-----------|---------------------------------|------------------------------------------------------|-------------------------|--------------|-----------------------------|
| 56-137    | \$66                            | \$199 (1/4)                                          | \$116                   | 140          | \$300                       |
| 138-500   | \$66                            | \$397 (1/4)                                          | \$165                   | 221          | \$300                       |
| 501-2750  | \$131                           | \$796 (1/2)                                          | \$529                   | 176          | \$300-\$500                 |
| 2751-5500 | \$131                           | \$1,590 (1/2)                                        | \$926                   | 36           | \$500-800                   |
| 5501+     | \$131                           | \$2,653 (1/2)                                        | \$1,458                 | 48           | \$800                       |

## 2 Fee Structure Options

---

### Option 1 – No General Fund Support

| Gallons     | Fee   | # Facilities | Program Revenue |
|-------------|-------|--------------|-----------------|
| 56-999      | \$300 | 372          | \$111,600       |
| 1,000-5,000 | \$500 | 170          | \$85,000        |
| 5,001+      | \$800 | 79           | \$63,200        |

**Total Annual Revenue = \$259,800**

**Total Cost of Program = \$253,043**

### Option 2 – General Fund Support

| Gallons     | Fee   | # Facilities | Program Revenue |
|-------------|-------|--------------|-----------------|
| 56-999      | \$150 | 372          | \$55,800        |
| 1,000-5,000 | \$350 | 170          | \$59,500        |
| 5,001+      | \$800 | 79           | \$63,200        |

**Total Annual Revenue = \$178,500**

**Total Cost of Program = \$253,043**

**GF required = \$74,543 or ~30% of the program cost**

# Next Steps and Draft Timeline

---

- Bring updated regulation, program and fees to the Board of Health (January & March 2024)
- Bring updated regulation, program and fees to Environmental Council (March 2024)
- Bring updated regulation, program and fees to Working Session of Board of Commissioners (May 1, 2024)
- Bring updated regulation, program and fees to BOC for public hearing and vote during 2<sup>nd</sup> or 3<sup>rd</sup> quarter of 2024
- Provide communication and education to regulated community in 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2024
- Implement soft relaunch of updated regulation in 4<sup>th</sup> quarter of 2024

# Internal Next Steps

---

- Once approved, create inspection report in software system
  - Status sheets
  - Review active facilities
- Reach out to all facilities no longer in the program
- Hire and train staff on new regulation, process
- Find facilities who have not been in the program before
- Create educational information on new program highlights, push out information
- Engage partners and stakeholders on new regulation

# Feedback and Request

---

- Please provide any feedback on the proposed changes.
- Request the Washtenaw County Environmental Council vote to recommend the changes made to the Pollution Prevention Program of 2024 for Board of Commissioners review and approval.
  - We would like your feedback on the fee structure paths and whether or not to request general fund support of 30% of the cost of the program moving forward.

# For More Information

---

**Jaclyn Bates, REHS**

Environmental Health Program Administrator

(734) 222-3858

[batesj@washtenaw.org](mailto:batesj@washtenaw.org)

**Kristen Schweighoefer, MPH, RS**

Environmental Health Director

(734) 222-3968

[schweighoeferk@washtenaw.org](mailto:schweighoeferk@washtenaw.org)

[washtenaw.org/envhealth](http://washtenaw.org/envhealth)



# Washtenaw County Pollution Prevention Regulation

## *Resolution Adopting the Amended Washtenaw County Pollution Prevention Regulation Governing the Identification and Disclosure of Toxic, Hazardous, or Polluting Substances*

DATE, 2024

WHEREAS, on April 2, 1986, the Washtenaw County Board of Commissioners adopted the Washtenaw County Health Department Community Right-To-Know Regulation (the Regulation); and

WHEREAS, on February 21, 1990, and October 21, 1992, the Board of Commissioners adopted amendments to the Regulation and retitled the Regulation to the Washtenaw County Pollution Prevention Regulation; and

WHEREAS, on August 3, 1994, the Board of Commissioners adopted amendments to the Regulation; and

WHEREAS, the Washtenaw County Health Department (the Department) is aware that a great variety of toxic, hazardous, and polluting substances are manufactured, used, and stored within the County; and

WHEREAS, the Department is aware that unless proper precautions are taken, such substances can cause disease, shorten life, and create environmental health hazards, both with respect to the general public and with respect to the emergency personnel working in the County on environmental and other emergencies; and

WHEREAS, the Department has a duty to continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including those aimed at the prevention and control of environmental health hazards; and

WHEREAS, it is necessary to make technical amendments to the Regulation to clarify the practices currently in place to implement the Regulation; and

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby adopts the amended Washtenaw County Pollution Prevention Regulation as attached hereto and made a part hereof.

## Article I - Scope

**Section 1.1 - Regulated Items:** This Regulation shall apply to all toxic, hazardous, or polluting substances which are manufactured, used, or stored by a party within Washtenaw County.

**Section 1.2 - Exemptions:** This Regulation shall not apply to:

- A party who manufactures, uses, or stores any toxic, hazardous, or polluting substance at a workplace in a combined volume or quantity of less than fifty-six (56) gallons or 450 pounds; provided, however, that the Washtenaw County Health Department may require reporting of toxic, hazardous, or polluting substances in lesser quantities if these substances are specified on the extremely hazardous substance list, 40 CFR 355.
- Substances contained in foods, drugs, cosmetics, tobacco products, and consumer products held for retail or wholesale;
- Agricultural operators;
- Boxed or bagged salt;
- Retail automotive service stations (fuel only);
- Oil-containing electrical equipment;
- Manufactured items;
- Self-contained fuel supply used to propel a vehicle;
- As exempted by the Health Officer.

## Article II - Definitions

As used in this Regulation, the following definitions shall apply:

- "Agricultural operator" means a party who is engaged in farming.
- "Board" shall mean the Board of Commissioners of Washtenaw County.
- "CAS" shall mean the identification number assigned by the Chemical Abstract Service to chemical substances.
- "Chemical name" means the scientific designation of a substance in accordance with the nomenclature systems developed by either the International Union of Pure and Applied Chemistry or the Chemical Abstract Service.
- "Common name" means any designation or identification, such as a trade name or number or code name or brand name, used by a party to identify a substance other than by its chemical name.
- "Container" means any receptacle either formed or flexible covering liquid, solid, or gaseous substance, including, but not limited to, bag, barrel, bottle, box, can, cylinder, drum, carton, stationary or mobile storage tank, vessel, or vat.
- "Emergency" means an intended or unintended release of a toxic, hazardous, or polluting substance from its container or containers if the release meets one or more of the following criteria:
  1. The release constitutes a substantial threat to the health or life of a person or persons or constitutes a substantial threat to the environment.
  2. The release was not made pursuant to previously obtained license or permission from any government agency regulating discharges of toxic, hazardous, or polluting

substances and was in an amount substantially greater than the amount the party ordinarily releases in the routine course of manufacture, use, or storage of the substance and said discharge may pose a threat to the public health or environment.

3. A release which would require notification to the Director of the Department of Environment, Great Lakes, and Energy (EGLE).
- “Employee” means any person who works with or without compensation in a workplace.
  - “Environment” means the air, water, and land outside of a workplace.
  - “Facility” means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of liquid industrial and/or hazardous waste and/or polluting materials and/or the party that owns or controls the facility.
  - “Health Officer” means the Director of the Washtenaw County Health Department or their designated representative.
  - “Manufactured items” means any solid article, other than a container holding solid or liquid polluting material(s) which is formed to specific shape during manufacture, and which does not leach or otherwise release polluting materials to the groundwaters or surface waters of the state under normal conditions of use or storage.
  - “Maximum storage inventory” means the maximum volume or quantity of a toxic, hazardous, or polluting substance that is, has been, or may be present in the workplace during a specified calendar year.
  - “Oil” includes petroleum, gasoline, fuel oil, grease, sludge, oil refuse, and oil mixed with waste.
  - “Party” means any person, firm, corporation, partnership, association, or other entity (whether for-profit or not-for-profit) who or which has at least one (1) workplace within the County of Washtenaw.
  - “Polluting material” means any compound or product that contains 1% or more, by weight, of any of the following materials based on their safety data sheet:
    - Oil.
    - Bulk salt (over five tons).
    - Toxic, hazardous, or polluting substances as defined in this regulation.
  - “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any toxic, hazardous, or polluting substances into the environment at or above state or federal reporting requirements.
  - “Retail automotive service stations (fuel only)” means that portion of property where liquids that are used as motor fuels are stored and dispensed from equipment into the fuel tanks of motor vehicles.
  - “Retail sale” means the sale or purchase of any toxic, hazardous, or polluting substance that is received individually packaged and sealed for distribution to the ultimate consumer.
  - “Salt” means sodium chloride, potassium chloride, calcium chloride, magnesium chloride, and solutions or mixtures of these compounds.
  - “Secondary containment” means a containment system designed and operated to prevent the release of hazardous waste or hazardous constituents to the environment, for all new and existing systems. Secondary containment systems must be:
    1. Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the system; and
    2. Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

- “Substance” means any element, chemical, compound, combination, or any mixture thereof, whether organic or inorganic.
- “Toxic, hazardous, or polluting substance” means any substance (or mixture containing such substance in concentrations of 1.0 % or more, or 0.1% for carcinogens, mutagens, or teratogens) which is defined and regulated by any of the following:
  1. 29 CFR Part 1910 Subpart Z, Toxic and Hazardous Substances, also known as the Worker Right-To-Know Act, which is administered by the Occupational Safety and Health Administration (OSHA). A substance is deemed toxic, hazardous, or polluting under this Regulation if a Safety Data Sheet (SDS) is required.
  2. 40 CFR 355, List of Extremely Hazardous Substances. This list is generated by the Environmental Protection Agency (EPA) under SARA Title III, section 302.
  3. 40 CFR 372.65, Subpart D - Specific Toxic Chemical Listings. This is a list generated by the Environmental Protection Agency (EPA) under Sec. 313 of SARA Title III. It is also known as the Toxic Chemical Release Inventory (TCRI).
  4. Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, Part 31, and the rules promulgated there under.
  5. Polluting Materials. This list is generated by the Michigan Department of Environment, Great Lakes, and Energy (EGLE). This list is located under R324.2009 of the Michigan Administrative Code.
  6. 40 CFR part 261, Appendix VIII, and 40 CFR 261.3. These are RCRA listed wastes and waste generating processes. Included are wastes that meet the criteria of: a) Ignitability; b) Corrosivity; c) Reactivity; or d) Toxicity Characteristic.
  7. Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, Part 121, Liquid Industrial By-Products.
- “Work area” means any area within a workplace, whether outdoors or inside a structure, where substances are stored, used, or manufactured, (and includes, but is not limited to, areas where substances are handled, mixed, processed, packaged, or re-packaged); and where employees, licensees, invitees, or other persons may be present. The term “work area” does not include principal and secondary residences and also does not include lawns or fields upon which fertilizers, pesticides, or herbicides are applied.
- “Workplace” means an entire establishment or business, at one geographic location, containing one or more work areas.
- “Vehicle” means a private passenger automobile, a truck, an airplane, a watercraft, or a railroad locomotive.

### **Article III - Duties of Parties**

**Section 3.1 - Reporting:** Any party who manufactures, uses, or stores any toxic, hazardous, or polluting substance at any workplace in this County on or after the effective date of this Regulation shall compile and submit the following information, referred to as the status sheet, to the Health Officer:

- An inventory of all toxic, hazardous, or polluting substances manufactured, used, or stored at the workplace. The inventory shall include, but not be limited to, a listing of the common name, the chemical name, the storage location, and the maximum storage inventory for the applicable calendar year.

- The names, titles, business addresses, email addresses, and telephone numbers of two (2) persons in the party's organization with authority to make decisions for the party in the event of any emergency involving the substance.
- The party's plan for notification of emergency personnel and other personnel in the event of an emergency involving the substance, including names and contact information of persons to be notified and the contents, if known, of emergency messages to be delivered.
- Information that may help emergency personnel identify which containers in the workplace may or do contain the substance.
- For each such workplace, a plan view showing the location of such containers in the workplace.
- The party's intended plan for consuming or ultimately removing the substance from the workplace, including, but not limited to consumption of the substance in the process of manufacturing products, shipment in the ordinary course of business to retailers or wholesalers of the substance, shipment to a workplace of the party located outside the County, discharge of the substance into the local sanitary sewer system, loss of the substance by evaporation, etc.

**Section 3.2 - Reporting Timeframe:** Status sheet information must be submitted to the Health Officer by the following deadlines:

- A first status sheet for each substance accurate as of the date a party first manufactures, uses, or stores a toxic, hazardous, or polluting substance within ten (10) calendar days after a party first manufactures, stores, or uses the toxic, hazardous, or polluting substance at a workplace.
- An updated status sheet accurate as of March 1 of each year shall be filed as of June 1 of each year and shall include, but not be limited to, the maximum storage inventory for the prior calendar year.

**Section 3.3 - Storage Practices:** All parties shall store all toxic, hazardous, or polluting substances according to practices and procedures which will assuredly prevent contamination of air, soil, groundwater, and surface water, and which will assuredly prevent accidental release and in a manner that will limit risk to human and environmental health. Parties shall so store such substances even if their storage is only short-term, pending their use or disposal of such substances or pending completion of the manufacturing process and shipment of the manufactured substance in the ordinary course of business.

**Section 3.4 - Secondary Containment:** Secondary containment is required for above ground storage of liquid chemicals in containers sized 55 gallons or greater no later than three (3) years from the date of adoption of this Regulation. Lesser quantities are prohibited from being stored outside of a building.

**Section 3.5 - Emergency Notification:** Every party covered by this Regulation, in the event of an emergency, shall immediately notify 911, the Washtenaw County Office of Emergency Management, and the Health Officer. Any releases must also be reported to Michigan's Pollution Emergency Alert System (PEAS) hotline. All emergency and release notifications shall include the following information, to the extent known to the party:

- The common name or chemical name of all toxic, hazardous, or polluting substances involved in the emergency;
- An estimate of the quantity of each such substance that was, or may have been, released during the emergency;
- The time and duration of the emergency;
- The actions taken by the party to respond to and contain the released material; and

- Any advice regarding medical attention necessary for exposed individuals.

#### **Article IV - Duties of the Health Officer**

**Section 4.1 - Inspections:** The Health Officer shall conduct inspections of those workplaces within Washtenaw County subject to this Regulation. These inspections shall be for the purpose of, but not limited to, determining:

- That all required inventories and status sheets have been completed accurately and have been submitted to the Health Officer as required in Article III;
- That adequate and appropriate safety, containment, and clean-up equipment is readily available;
- That proper storage practices and procedures are being followed as required in Sections 3.3 and 3.4;
- The maximum storage inventory of the calendar year in which the inspection occurs; and
- Compliance with this Regulation.

**Section 4.2 - Inspection Frequency:** Inspections shall be conducted at a frequency as determined by the Health Officer but shall occur at least once every three (3) years. Inspections may be conducted more frequently, including but not limited to, the following conditions:

- Noncompliance with this Regulation, including reporting requirements under Article III and fee payments under Article VI;
- Changes to storage conditions or modifications to the workplace without prior review and approval of the Health Officer;
- Increases in the maximum storage inventory since the most recent inspection;
- Not adequately addressing any releases to avoid public health or environmental health hazards;
- Follow up on uncorrected violations;
- Complaints; and
- As determined by the Health Officer.

Nothing in this section shall prohibit the Health Officer from conducting site visits as necessary.

**Section 4.3 - Reinspections:** The Health Officer shall conduct reinspections of those workplaces which have been found to be in violation of this Regulation. These reinspections shall be conducted as necessary to verify correction of such violations.

**Section 4.4 - Emergency Notification:** The Health Officer, upon learning of an emergency discharge of a toxic, hazardous, or polluting substance, shall notify the Washtenaw County Office of Emergency Management.

#### **Section 4.5 - Reporting of Violations**

The Health Officer, in proper cases, shall report suspected violations of state or federal law to appropriate state or federal agencies.

**Section 4.6 - Record Maintenance:** The Health Officer shall maintain the following information:

- Inventories and status sheets filed pursuant to Article III of this Regulation,
- Reports from on-site inspections,
- Variances and applications for variances, as provided under Article VIII of this Regulation.

**Section 4.7 - Record Accessibility for Emergency Personnel:** The Washtenaw County Health Department shall provide access of Pollution Prevention records to the Washtenaw County Office of Emergency Management and other emergency response agencies as deemed necessary to control or mitigate a release.

**Section 4.8 - Record Accessibility for the Public:** The Health Officer shall keep on file a copy of all inventories and status sheets received, and make them readily available to the public, upon request, during regular business hours and at a reasonable cost for duplication; provided, however, that the plan view and information regarding the location of toxic, hazardous, or polluting materials containers shall not be available to the public.

**Section 4.10 - Confidentiality Protections:** The Health Officer shall adopt necessary practices to protect information identified pursuant to Article V hereof as a trade secret from improper use or dissemination beyond the purposes of this Regulation, except that trade secret information may be released when deemed necessary to properly protect health, safety, or property in an emergency.

**Section 4.11 - Power to Establish Policy and Guidelines:** The Health Officer is hereby granted the authority to establish policies and guidelines, not in conflict with the purpose and intent of this Regulation, for the purpose of carrying out the responsibilities herein delegated to the Health Officer by law.

## **Article V - Trade Secrets**

This Regulation shall not be construed as limiting any rights, obligations, or remedies regarding trade secrets existing under applicable law, except as is necessary to achieve the objectives of this Regulation and as expressly provided below.

**Section 5.1:** A party may withhold the chemical name (but not the common name) of a toxic, hazardous, or polluting substance from inventories and the status sheets required by Article III provided that the party shall:

- Establish that the substance is a trade secret by showing:
  1. That the specific substance has not been published or disseminated or has not otherwise become a matter of general public knowledge; and
  2. That the substance has competitive value in regard to the portion or phase of any scientific or technical information design, process, procedure, or formula which shall be substantially harmed by disclosure; and
  3. That the specific substance cannot be discovered lawfully by analytical techniques, laboratory procedures, or other means available to any potential competitor, including reverse engineering; and
  4. The substance is not required to be disclosed to the public under any federal or state law.
- Establish that the substance is not a suspected or recognized carcinogen, mutagen, teratogen, or cause of significant irreversible damage to human organs or body systems, as demonstrated through human, animal, and other experimental media; and
- Identify the substance on the inventory and status sheet by a generic chemical classification that would provide sufficient information upon which a health professional could render

recommendations for adequate safeguards to prevent exposure to the toxic, hazardous, or polluting substance; and

- Provide the withheld information on a confidential basis to a treating physician/nurse who states, (in writing, except in an emergency situation), that a patient's health problems may be related to exposure to the substance. A statement to this effect with the name and phone number of the person or persons authorized, on a 24-hour a day basis, to disclose the withheld information shall be included on the status sheet.

**Section 5.2:** Any party who wishes to avail itself of the provisions of Section 5.1, to avoid disclosing the chemical name of a substance on an inventory and/or status sheet shall deliver to the Health Officer a trade secret request sheet each time an inventory or status sheet is required to be delivered. That trade secret request sheet shall contain, for each substance the party wants treated as a trade secret, the following:

- A statement of the information the party deems to be a trade secret, protected under Section 5.1; and
- A true statement that the conditions of Section 5.1, subsections 1-4 have been satisfied; and
- The chemical name that, but for Section 5.1, would have been required on the status sheet and on the inventory.

**Section 5.3:** No officer, employee, agent or contractor of any Washtenaw County department, division, bureau, board, or commission shall knowingly and intentionally disclose to anyone in any manner unless authorized by law, any trade secret information, except as is required to administer or enforce the provisions of this Regulation. Any person who violates this provision may be fined, suspended, or removed from office or employment, or subject to any other applicable proceedings and penalties for violation of trade secret protections provided for under existing law.

**Section 5.4:** Notwithstanding any other provision of this Regulation, the Health Officer is authorized to disclose trade secret information when such action is necessary to properly protect health, safety or property in an emergency situation.

**Section 5.5:** Within sixty (60) days of receipt of a trade secret request sheet pursuant to Section 5.2 of this Article, the Health Officer shall consider the evidence to determine if the party has supported the claim that the specific chemical identity is a trade secret pursuant to Section 5.1 of this Article. The Health Officer shall notify said party in writing of the determination regarding the party's trade secret request.

**Section 5.6:** If the trade secret request is denied, that party is then required to comply with the full provisions of this Regulation within ten (10) working days of receipt of the decision of the Health Officer.

**Section 5.7:** The Health Officer may revoke any trade secret designation upon the basis of new information showing that the original facts requested in Section 5.1 have changed; provided, however, that public disclosure of the claimed trade secret shall not be made until ten (10) calendar days after the holder of the trade secret is notified of the proposed revocation, unless the holder of the trade secret files an appeal of the revocation pursuant to Section 8.2, below, in which event public disclosure would be stayed pending the decision of the appropriate appeals board of Washtenaw County. If the appropriate appeals board of Washtenaw County upholds the proposed revocation, public disclosure

shall not be made until ten (10) calendar days after receipt by the holder of the claimed trade secret of the written findings and decisions of the appropriate appeals board of Washtenaw County.

## **Article VI - Fees**

**Section 6.1 - Fees:** Each party subject to this regulation shall pay an annual fee to the Health Officer with the submission of a toxic, hazardous, or polluting materials status sheet. The annual fee shall be paid by June 1 of each year.

**Section 6.2 - Reinspection Fee:** For each reinspection in which violations are found to persist, the reinspected party shall pay a reinspection fee to the Health Officer.

**Section 6.3 - Optional Service Fees:** Other fees may be assessed by the Health Officer for requested, non-mandated services, such as on-site consultations and plan reviews.

**Section 6.4 - Fee Amounts:** The fee amounts shall be determined by a schedule to be approved and amended as necessary by the Washtenaw County Board of Commissioners.

## **Article VII - Remedies and Penalties:**

The Health Officer shall have the authority to issue citations for any violations of this Regulation. Any person who fails to comply with any provision of this Regulation shall be liable for monetary civil penalties of not more than One Thousand (\$1,000.00) Dollars for each violation or day that the violation continues. The citation shall be written and cite with particularity the section of this Regulation alleged to have been violated and the right to appeal.

1. Not later than twenty (20) days after receipt of the citation, the alleged violator may petition the appropriate appeals board of Washtenaw County for an administrative hearing to affirm, dismiss, or modify the citation. This hearing shall be held thirty (30) days after the receipt of the petition. The decision of the appropriate appeals board of Washtenaw County shall be final, unless within sixty (60) days of the decision a review is granted.
2. The person aggrieved by the decision may petition the Washtenaw County Circuit Court for review no later than sixty (60) days following receipt of the final decision.

A civil penalty becomes final if a petition for an administrative hearing is not received within the time specified in this section. Notwithstanding the existence or pursuit of any other remedy, the Health Officer may maintain an action in the name of Washtenaw County in a court of competent jurisdiction for any injunction or other appropriate process against any party to enforce this Regulation.

## **Article VIII - Variances and Appeals**

The appropriate appeals board of Washtenaw County shall hear appeals and may grant individual variances from provisions of this Regulation by a concurring vote of the majority of its members where it is determined that no substantial health or environmental hazard is likely to occur from the requested variance and unnecessary hardship might result from strict compliance with this Regulation.

**Section 8.1 - Variances:** A request for a variance shall be in writing and shall contain a detailed description of the variance sought. The request for a variance, together with a fee as determined by the

schedule to be approved and amended as necessary by the Washtenaw County Board of Commissioners, shall be filed with the Health Officer.

**Section 8.2 - Appeals:** A notice of appeal shall be in writing and shall specify the particular grounds on which it is based. The notice of appeal, together with a fee determined by the schedule to be approved and amended as necessary by the Washtenaw County Board of Commissioners shall be filed with the Health Officer.

**Section 8.3 - Hearing:** Opportunity for a hearing shall be given at the next scheduled meeting of the appropriate appeals board of Washtenaw County following receipt of a notice of appeal or request for a variance, unless such notice or request is received within less than fourteen (14) calendar days of the time of such a meeting, in which event a hearing shall be provided at a subsequent or special meeting of the appropriate appeals board of Washtenaw County. Notice of a hearing shall be published at least five (5) calendar days prior to the date of the hearing in a newspaper of general circulation in Washtenaw County. Notice shall also be made to the township or municipality in which the party's relevant workplace is located and to adjacent property owners as determined by the Health Officer. The appropriate appeals board of Washtenaw County shall furnish the applicant/appellant with a written report of its findings and decision within sixty (60) days of the date of such hearing.

#### **Article IX - Jurisdiction**

The Health Officer and their designated representative shall have jurisdiction throughout Washtenaw County, including all cities, villages, townships and charter townships, in the administration of this Regulation and any amendments hereafter adopted, unless otherwise specifically stated herein.

#### **Article X - Falsification**

It shall be unlawful for a party, or any officer, director, or employee of a party, to knowingly, or recklessly, or negligently fail to comply with the provisions of this Regulation, or to misrepresent, falsify, conceal, destroy, or fail to retain information necessary to comply with this Regulation. The dissolution of a corporation shall not discharge its directors, officers, or employees from liability for such conduct.

#### **Article XI - Waiver of Rights Invalid**

Any waiver of the rights or benefits of this Regulation is against public policy and is null and void.

#### **Article XII - Severability**

**Section 12.1:** If any provision, section, or word of this Regulation, or the enforcement thereof, is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Regulation. To this end, each of the provisions and sections of this Regulation are severable.

**Section 12.2:** If this Regulation or the enforcement of this Regulation is held to be invalid for any geographical area, such a holding shall not affect the validity or enforceability of this Regulation in any other area of Washtenaw County.

### **Article XIII - Implementation**

The effective date of this Regulation is **DATE**.

### **Article IX - Short Name**

This Regulation, which was previously referred to as the “Washtenaw County Pollution Prevention Regulation of 1992,” may now be referred to as the “Washtenaw County Pollution Prevention Regulation of 2024.”

DRAFT