

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Environment, Great Lakes and Energy

2. Bureau:

Materials Management Division

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Hazardous Waste Management

5. Rule numbers or rule set range of numbers:

R 299.9101 - R 299.11107

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The purpose of the proposed rules is to maintain federal authorization to administer the state's Hazardous Waste Management Program (State Program) under the federal Resource Conservation and Recovery Act (RCRA) of 1976, as amended by the 1984 Hazardous and Solid Waste Amendments; to improve the overall quality of the rules in terms of consistency, clarification of existing requirements and areas of program coverage; and to reduce some of the regulatory burdens on the regulated community by providing flexible requirements and additional options for exemption from full management as a hazardous waste.

The proposed rules address federal revisions that are required for EGLE to maintain its authorization, as well as revisions for consistency purposes.

The federal revisions relate to the safe management of recalled airbags, pharmaceutical wastes, and the modernization of the test methodology for ignitable liquids.

The proposed rules also address revisions based on EGLE and public recommendations. These revisions pertain to exemptions from hazardous waste rules, the commingling of hazardous wastes, groundwater monitoring, and consistency within these rules and other state programs, where possible.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

The overall authority for promulgation of the State Program rules is provided to the Director. The federal statutory basis and regulatory basis for the proposed rules are Section 3006 of RCRA and Title 40 of the Code of Federal Regulations (40 CFR), Parts 260-266, 270, 271, 273, and 279, respectively. State authorities are listed below in Item A.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Sections 11115a, 11123, 11127, 11128, 11132a, 11137, 11140, and 11153 of Part 111 Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Executive Reorganization Order Nos. 1995-16, 2009-31, and 2011-1, Michigan Compiled Laws (MCL) 324.99903, 324.99919, and 324.99921.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Yes, promulgation of these rules is mandated under NREPA, regarding the incorporation and adoption of the governing federal regulations, which are outlined in the requirements for program authorization in 40 CFR Part 271, Requirements for Authorization of State Hazardous Waste Programs.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed rules do not conflict with any similar state or federal rules, or duplicate similar state rules. The proposed rules do not duplicate similar federal rules, except to the extent required for Michigan to maintain its federal delegation as an authorized state.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed rule revisions do not exceed similar regulations or standards at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The rules do incorporate changes based on public input. Specifically, there are changes to address comments on expanded regulatory exemptions for certain leather wastes such as gloves and aprons. There are also changes to allow for more descriptive labelling of containers and tanks of hazardous waste and the commingling of hazardous wastes.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules were last amended on August 3, 2020. The rules are continually under review to maintain our federal authorization. As part of the authorization process, EGLE must ensure that the rules are consistent with, equivalent to, and at least as stringent as the Federal Program. The rules are also reviewed relative to other state regulations and their impact on the rules.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

There are no changes or developments that demonstrate there is no continued need for the rules, or any portions of the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No