

Michigan Office of Administrative Hearings and Rules

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**AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

1. Agency Information

Agency name:

Environment, Great Lakes and Energy

Division/Bureau/Office:

Materials Management Division

Name of person completing this form:

Ronda Blayer

Phone number of person completing this form:

517-284-6555

E-mail of person completing this form:

blayerr@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

David Fiedler

2. Rule Set Information

MOAHR assigned rule set number:

2018-12 EQ

Title of proposed rule set:

Hazardous Waste Management

3. Purpose for the proposed rules and background:

The purpose of the rules is to maintain federal authorization to administer the state's Hazardous Waste Management Program (Program) under Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 111) in lieu of the federal Program under the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (RCRA); to improve the overall quality of the rules in terms of clarification of existing requirements and areas of program coverage; and to reduce some of the burdens on the regulated community by providing streamlined and flexible requirements. The rules address federal revisions required to maintain authorization and those that authorized states have the option of incorporating into their rules for consistency purposes. The revisions address generator improvement, import/export, and electronic manifesting requirements. The rules also address revisions based on DEQ and public recommendations relating to hazardous waste identification and listing, aerosol cans as universal waste, adoption by reference updates, and typographical corrections.

4. Summary of proposed rules:

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These rules are necessary for EGLE to maintain its authorization from the U.S. Environmental Protection Agency to administer the state's Hazardous Waste Management Program (Program) in lieu of the federal Program under the Resource Conservation and Recovery Act of 1976, as amended; to improve rule clarity; and to reduce some of the regulatory burdens by providing flexible requirements. The federal revisions relate to the definition of solid waste, import/export, generator improvement, and e-manifest requirements. The rules also include state initiated revisions regarding identification and listing, universal waste, reference updates, and typographical corrections.

5. List names of newspapers in which the notice of public hearing was published and publication dates:

Marquette Mining Journal – September 11, 2019; Lansing State Journal – September 11, 2019; Detroit News – September 11, 2019; and Detroit Free Press – September 11, 2019

6. Date of publication of rules and notice of public hearing in Michigan Register:

10/24/2019

7. Date, time, and location of public hearing:

10/16/2019 01:30 PM at ConCon Conference Room, Constitution Hall, Atrium South , 525 W Allegan Street, Lansing, MI 48933

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

https://dtmb.state.mi.us/ARS_Public/Transaction/RFRTransaction?TransactionID=31

9. List of the name and title of agency representative(s) attending public hearing:

The following staff from the EGLE, Material Management Division attended the public hearing: Ronda Blayer, Rules Hearing Officer; Vickie Terry, Section Secretary; C.J. Ludwick, Management and Tracking Unit; and Rich Conforti, Management and Tracking Unit Supervisor.

10. Persons submitting comments of support:

Michael Carlson, MEC Environmental Consulting; Bill Lievens, Michigan Manufacturing Association; Rick Powals, Environmental GEO-Technologies, LLC and Phil Tannian, U.S. Ecology.

11. Persons submitting comments of opposition:

None

12. Identify any changes made to the proposed rules based on comments received during the public comment period:

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	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for change	Rule number & citation changed
1	Phil Tannian, U.S. Ecology		Definition of “EPA Acknowledgeme nt of Consent (AOC)” Written document dated 10-24- 2019, page 7	Make definition consistent with federal definition	R 299.9103(i)
2	Phil Tannian, U.S. Ecology		Definition of “Primary exporter” Written document dated 10-24- 2019, page 17	Updated consistent with the federal definition and the remainder of the rule re lettered as two of the subrules had the same letter assigned.	R 299.9106(s)

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3	Michael Carlson, MEC Environmental Consulting; and Bill Lievens, Michigan Manufacturing Association		<p>Aerosol cans and Management of Broken Universal Waste Lamps</p> <p>MEC Environmental Consulting letter dated September 11, 2019 and MMA Letter dated October 23, 2019</p>	<p>Revised to be consistent with the federal provisions for electric lamps, including the management of broken lamps as universal wastes, and aerosol cans as universal wastes. The state had identified electric lamps as universal wastes prior to the federal program. Thus, the current rules were modified by incorporating by reference the newer federal requirements. Similarly, the state proposed aerosol cans as universal wastes prior to the federal program finalizing its proposal to also identify aerosol cans as universal wastes. However, during the rules process, the federal provisions were finalized. So, the state-specific requirements have been replaced by incorporating by reference the new federal requirements.</p>	R 299.9228

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4	Phil Tannian, U.S. Ecology		Changes to catchline Written document dated 10-24- 2019, page 102	Catchline was modified to use federal terms (e.g., “shipments” became “movements” and “and disposal” was added after the word “recovery.”	R 299.9314
5	Phil Tannian, U.S. Ecology		Manifest clarification Written document dated 10-24- 2019, page 109	Revised to clarify where the term “CD” needed to be placed on the manifest.	R 299.9405 (2)(f) and (3) (d)
6	Phil Tannian, U.S. Ecology		Duplicate shall Written document dated 10-24- 2019, page 114	A duplicate “shall” was removed from R 299.9511(5)(b).	R 299.9511 (5)(b)
7	Phil Tannian, U.S. Ecology		Changing the term tracking Written document dated 10-24- 2019, page 123	Revised by changing the term “tracking” to movement consistent with the federal language.	R 299.9608 (4)

13.Date report completed:

2/21/2020