

State Budget Office
Office of Regulatory Reinvention
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REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file a RFR with the Office of Regulatory Reinvention (ORR) before initiating any changes or additions to the rules. Submit copy to the ORR at orr@michigan.gov.

1. Agency Information

Agency name:	Department of Environmental Quality (DEQ)
Division/Bureau/Office:	Waste Management and Radiological Protection Division
Agency contact person name, e-mail, phone:	Ronda L. Blayer, blayer@michigan.gov , 284-6555

2. Rule Set Information

Title of proposed rule set:	Hazardous Waste Management
Rule number(s) or range of numbers:	R 299.9101 et seq.
Included in agency's annual regulatory plan as rule to be processed in current year?	Yes

3. Estimated timetable for completion, or statutory deadline, if applicable:

RFR approval:	January 2018
ORR and Legislative Service Bureau (LSB) informal reviews:	April 2018
Public hearing:	July 2018
Response to comments and DEQ/ORR approval of changes after hearing:	August 2018
LSB and ORR formal certifications:	October 2018
Rules effective:	November 2018

4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

<p>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.</p> <p>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.</p> <p>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.</p>

5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

<p>The federal statutory and regulatory basis for the rules are Section 3006 of the RCRA, as amended, and Title 40 of the Code of Federal Regulations, Parts 260-266, 268, 270, 271, 273, and 279, respectively. The state statutory basis for the rules is Sections 11115a, 11115b, 11118a, 11123, 11127, 11128, 11130, 11132a, 11137, 11138, 11140, 11141, and 11153 of Act 451, being Michigan Compiled Law (MCL) 324.11115a, 324.11115b, 324.11118a, 324.11123, 324.11127, 324.11128, 324.11130, 324.11132a,</p>
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324.11137, 324.11138, 324.11140, 324.11141, and 324.11153 and Executive Reorganization Order Nos. 1995-16, 2009-31, and 2011-1, being MCL 324.99903, 324.99919, and 324.99921.

6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

The rules do not conflict with similar state or federal rules, or duplicate similar state rules. The rules do not duplicate similar federal rules except to the extent required to maintain authorization.

There are two areas where the proposed revisions are more stringent than the federal regulation: state-only listed wastes and generator labelling. As discussed in Item 9 below, the DEQ continues to review of these listings relative to potential harm to human health and the environment, and presence in industry. The federal Program has been amended to only require the use of the words “Hazardous Waste” and a caution indicator on hazardous waste containers/tanks until prior to shipment when they must also include the applicable hazardous waste number(s). This represents a departure from the old federal requirements and the existing long-standing state requirements. In an effort to bridge the old and the new and the state and federal Programs, and provide inspectors with the information necessary to do their jobs, the rules continue to require that labels include the hazardous waste number, except for satellite accumulation areas when the hazardous waste name may be used in lieu of the number.

The changes covered by this document pertain to rules only. However, the applicable governing statutory references are as follows: Part 111, MCL 324.11101 et seq. (state Program) and 42 United States Code §6921 to §6939g (federal Program).

7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?

No.

8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:

The rules will be promulgated under the full rulemaking process.

9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.

Recommendation RM-3 recommended that the state-only listed wastes be reviewed for continued listing. Some of these wastes were reviewed and deleted as part of previous rule sets. However, this is a continuing process whereby the DEQ assesses the need for continued listing for those remaining wastes that it has reviewed since the last set of rule revisions. The DEQ intends to continue this process until it has reviewed all of the remaining wastes. Given the number of remaining wastes and the scope of the review necessary for each waste, this process is likely to span several sets of rule revisions.

10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.

No.

11. Reviewed by the following Departmental Regulatory Affairs Officer:

Dave Fiedler

↓ To be completed by the ORR ↓

Date RFR received:

Based on the information in this RFR, the ORR concludes that there are sufficient policy and legal bases for approving the RFR.

ORR assigned rule set number:	2018-012 EQ
Date of approval:	3/15/18

Based on the information in this RFR, the ORR is not approving the RFR at this time.

Date of disapproval:	
Explanation:	