

TABLE 3—DESTINATION ENTRY SERVICE STANDARD DAY RANGES FOR MAIL TO THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Mail class	Destination entry (at appropriate facility)			
	DDU (days)	SCF (days)	ADC (days)	NDC (days)
<b>CONTIGUOUS UNITED STATES</b>				
Periodicals .....	1	1	1-2	1-2
Standard Mail .....	2	3	5	.....
Package Services .....	1	2	3	.....

TABLE 4—DESTINATION ENTRY SERVICE STANDARD DAY RANGES FOR MAIL TO THE STATES OF ALASKA AND HAWAII, AND THE TERRITORIES OF GUAM, PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Mail class	Destination entry (at appropriate facility)									
	DDU (days)	SCF (days)			ADC (days)			NDC (days)		
		Alaska	Hawaii & Guam	Puerto Rico & USVI	Alaska	Hawaii & Guam	Puerto Rico & USVI	Alaska	Hawaii & Guam	Puerto Rico & USVI
<b>ALASKA, HAWAII &amp; GUAM, PUERTO RICO &amp; USVI</b>										
Periodicals .....	1	1-2	1	1-2	1-3 (AK) 7 (JNU) 7 (KTN)	1 (HI) .... 7 (GU) ..	1-2	1-2	6-7	5-6
Standard Mail .....	2	3	3	3-4	10 .....	10 .....	9	.....	.....	.....
Package Services .....	1	2	2	2-3	8 .....	8 .....	7	.....	.....	.....

AK = Alaska 3-digit ZIP Codes 995-997; JNU = Juneau AK 3-digit ZIP Code 998; KTN = Ketchikan AK 3-digit ZIP Code 999; HI = Hawaii 3-digit ZIP Codes 967 and 968; GU = Guam 3-digit ZIP Code 969.

**Neva R. Watson,**  
*Attorney, Legislative.*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[Docket No. EPA-R05-RCRA-2009-0762; FRL-9121-2]

**Michigan: Final Authorization of State Hazardous Waste Management Program Revision**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is granting Michigan final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA published a proposed rule on October 9, 2009, at 74 FR 52161 and provided for public comment. The public comment period ended on November 16, 2009. We received comments from one commenter. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization

and authorizing the State's changes through this final action. This final rule authorizes Michigan for new regulations which they have not been previously authorized for.

**DATES:** The final authorization will be effective on March 2, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-RCRA-2009-0762. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some of the information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy. You may view and copy Michigan's application from 9 a.m. to 4 p.m. (local time), at the following addresses: U.S. Environmental Protection Agency, Region 5, 77 West Jackson Blvd., Chicago, Illinois, contact: Judith Greenberg, (312) 886-4179; or Michigan Department of Natural Resources and Environment, Waste and Hazardous Materials Division, Constitution Hall, 4th Floor, 525 West Allegan Street,

Lansing, Michigan (mailing address P.O. Box 30241, Lansing, Michigan 48909), contact Ronda Blayer, (517) 373-9548.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judith Greenberg, Michigan Regulatory Specialist, RCRA Programs Section (LR-8J), Land and Chemicals Division, U.S. Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois 60604, (312) 886-4179, or e-mail [greenberg.judith@epa.gov](mailto:greenberg.judith@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Why are revisions to State programs necessary?**

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

### B. What decisions have we made in this rule?

We conclude that Michigan's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Michigan final authorization to operate its hazardous waste program with the changes described in the authorization application. Michigan has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Michigan, including issuing permits, until the State is granted authorization to do so.

### C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Michigan subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Michigan has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

1. Do inspections and require monitoring, tests, analyses, or reports;
2. Enforce RCRA requirements and suspend or revoke permits; and
3. Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Michigan is being authorized by today's action are already effective and are not changed by today's action.

### D. Proposed Rule

On October 9, 2009 (74 FR 52161), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Michigan's hazardous waste program and opened our decision to public comment. The agency received comments from one individual who

questioned whether EPA impermissibly adopted rules promulgated pursuant to non-HSWA authority and rules promulgated as "less stringent than HSWA," including the RCRA Burden Reduction Initiative (Revision Checklist 213). The commenter argued that, through RCRA, Congress has barred EPA and authorized States from promulgating regulations that are less stringent than HSWA. HSWA changed many aspects of hazardous waste management under RCRA. The legislative history of HSWA (98 Cong. Senate Report 284, HSW Leg. Hist. 30, pages 6-7) explains, in part:

"These amendments also recognize that safe disposal, storage and treatment opportunities are limited and that the most effective way to protect human health and the environment is to minimize the opportunities for exposure by reducing or eliminating the generation of hazardous waste as expeditiously as possible. Rather than creating a rigorous regulatory program, provisions are included to encourage generators to voluntarily reduce the quantity and toxicity of all wastes. The amendments do not authorize the EPA or any other organization or person to intrude into the production process or production decisions of individual generators. Taken as a whole, the reported bill emphasizes two concepts. First, wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Second, waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment."

After passage of HSWA, EPA distinguished rules promulgated by EPA pursuant to the new HSWA authority from rules promulgated pursuant to the authority that pre-dated, but was not supplanted by, HSWA: EPA referred to the latter as "non-HSWA" rules. The issue of which authority, HSWA or non-HSWA, EPA exercises in each EPA rulemaking is distinguishable from EPA's determination of whether a new authority is "more stringent" or "less stringent" than the regulations that had been promulgated earlier and are being revised. EPA explains the authority it is using, HSWA or non-HSWA, in each rulemaking. That explanation is generally found in the **Federal Register** notice for each proposed and final rule in the discussion of how the regulatory changes will be administered and enforced in the State.

Regulations determined to be "more stringent" under HSWA or non-HSWA authority are regulations which each State must adopt to retain authorization for its hazardous waste program. HSWA regulations are not all "more stringent" than the regulations promulgated under RCRA before HSWA. Nor did Congress

require all HSWA regulations to be more stringent; nothing in the statute, and no language in the legislative history, directs EPA to promulgate only "more stringent" provisions under HSWA authority.

Since the passage of HSWA, EPA has been highly selective when designating which new regulations will apply directly in every State immediately upon the effective date of the new regulations. When new regulations are promulgated under HSWA authority, those regulations characterized by EPA as more stringent apply directly in all States, including States with authorized hazardous waste programs, and such regulations are implemented and enforced directly and immediately by EPA until the State is authorized to implement and enforce those regulations. Once those regulations are authorized as a part of the State hazardous waste program, they become the Federally enforceable requirements in that State.

The commenter questioned whether it was permissible for EPA to allow a State to adopt rules promulgated by EPA as "less stringent than HSWA." EPA exercises discretionary authority as provided by Congress in section 2002 of RCRA, 42 U.S.C. 6912, to regulate hazardous waste to protect human health and the environment and, barring explicit language in the statute, nothing in the act or amendments thereto prohibits EPA from promulgating new regulations that are "less stringent" or "neutral" relative to regulations that were promulgated earlier. If EPA promulgates new regulations to replace existing regulations, the newer regulations are, upon their effective date, the Federal requirements against which a State program is compared when reviewing a revision to an authorized State hazardous waste program. The "less stringent" requirements are the Federal requirements under RCRA in States without authorized hazardous waste programs. Those newer regulations which are less stringent than former regulations, may be, but are not required to be, adopted by States to retain an authorized hazardous waste program.

Section 3009 of RCRA, 42 U.S.C. 6929, bars a State from imposing less stringent requirements than those authorized under Subchapter III of RCRA respecting the same matter governed by such regulations. There is no bar prohibiting a State from imposing more stringent requirements and there is no bar prohibiting a State from adopting Federal requirements which are promulgated by EPA as less stringent or neutral requirements as compared to

regulations that were promulgated by EPA earlier. If a State adopts and is authorized for those “less stringent” Federal regulations, the Federally enforceable RCRA requirements in the State are those newly authorized requirements.

Finally, the commenter questioned whether the RCRA Burden Reduction initiative impermissibly removed the manifest notification required to be sent to each State with the shipment of waste-derived fertilizers citing to sections 3002 and 3009 of RCRA, 42 U.S.C. 6922 and 6929. Section 3002(a)(5) of RCRA, 42 U.S.C. 6922(a)(5), directs the Administrator to promulgate regulations to establish standards applicable to generators as may be necessary to protect human health and the environment regarding the use of a manifest system and any other reasonable means necessary to assure that all hazardous waste generated is designated for treatment, storage, or disposal in, and arrives at, treatment, storage, or disposal facilities (except where waste was generated) for which a permit was issued. Pursuant to section 3009 of RCRA, 42 U.S.C. 6929 (and as is explained in more detail in the RCRA Burden Reduction Initiative Final Rule (71 FR 16862)), no regulation adopted under RCRA can be construed to prohibit any State from requiring that the State be provided with a copy of each manifest used in connection with hazardous waste generated in that State or transported to a treatment, storage, or disposal facility within that State. The Burden Reduction Initiative (BRI), which became effective as an optional

rule on May 4, 2006, streamlines EPA’s information collection requirements to ensure that only information actually needed and used to implement the RCRA program is collected while retaining the goals of protecting human health and the environment. EPA promulgated all of the rules included in Michigan’s revisions pursuant to the authority granted to EPA by Congress under RCRA. Those rules, including the BRI rule, were finalized after full consideration of all comments submitted in a timely manner. By adopting the rules promulgated by EPA, Michigan revised its hazardous waste program to be equivalent to and consistent with the Federal program. Pursuant to 42 U.S.C. 6926(b), EPA has the authority to authorize State programs that are equivalent to and consistent with the Federal program.

Changes in manifest requirements made to earlier Federal requirements by the BRI generally concern notice under the land disposal regulations at 40 CFR part 268. The BRI does not prohibit any State from requiring a copy of a manifest. States were not required to adopt the BRI and States that do not adopt the BRI can require a copy of the manifest. A State is not barred from adopting the BRI by section 3009 of RCRA.

EPA believes the Agency has the necessary authority to promulgate the rules in the Federal program, including those in this revision to Michigan’s authorized hazardous waste program. Moreover, EPA believes that Michigan has the necessary authority to adopt the rules that are included in this revision

of the Michigan authorized hazardous waste program.

#### E. What has Michigan previously been authorized for?

Michigan initially received final authorization on October 16, 1986, effective October 30, 1986 (51 FR 36804–36805), to implement the RCRA hazardous waste management program. We granted authorization for changes to Michigan’s program on November 24, 1989, effective January 23, 1990 (54 FR 48608); on January 24, 1991, effective June 24, 1991 (56 FR 18517); on October 1, 1993, effective November 30, 1993 (58 FR 51244); on January 13, 1995, effective January 13, 1995 (60 FR 3095); on February 8, 1996, effective April 8, 1996 (61 FR 4742); on November 14, 1997, effective November 14, 1997 (62 FR 61775); on March 2, 1999, effective June 1, 1999 (64 FR 10111); on July 31, 2002, effective July 31, 2002 (67 FR 49617); on March 9, 2006, effective March 9, 2006 (71 FR 12141), and on January 7, 2008 (73 FR 1077), effective January 7, 2008.

#### F. What changes are we authorizing with this action?

On September 26, 2008, Michigan submitted a complete program revision application seeking authorization of its changes in accordance with 40 CFR 271.21. We have determined that Michigan’s hazardous waste management program revision satisfies all requirements necessary to qualify for final authorization. Therefore, we are granting Michigan final authorization for the following program changes:

Description of Federal requirement	Revision checklist <sup>1</sup>	Federal Register date and page	Analogous State authority
Non-wastewaters from Dyes and Pigments.	206, 206.1	February 24, 2005, 70 FR 9138; as amended on June 16, 2005, 70 FR 35032.	R 299.9311, R 299.9413, and R 299.9627, effective September 11, 2000. R 299.9204(2) and (2)(o)–(o)(v)(B), R 299.9222, and R 299.11003(1)(i), (j), and (u), and (2), effective March 17, 2008.
Uniform Hazardous Waste Manifest.	207, 207.1	March 6, 2005, 70 FR 10776; as amended on June 16, 2005, 70 FR 35037.	R 299.9601(1) and (2)(c) and (e), effective December 16, 2004. R 299.9102(z), R 299.9105(m) and (n); R 299.9207(3)(b)(i)–(ii); R 299.9304(1), (1)(a) and (b), and (6); R 299.9305(1), (1)(d) and (d)(i) and (e); R 299.9306(11) and (12); R 299.9307(3); R 299.9309(2)(c); R 299.9310(2) and (2)(c) and (3); R 299.9405(2)(f) and (g) and (3)(d) and (f); R 299.9409(1)–(3) and (5); R 299.9608(1), (2), and (5)–(8); R 299.9610(2) and (5); and R 299.11003(1)(k) and (l) and (n), effective March 17, 2008.
Methods Innovation; SW–846 ...	208, 208.1	June 14, 2005, 70 FR 34538; as amended on August 1, 2005, 70 FR 44150.	R 299.9211(1)(a) and (4), effective February 15, 1989. R 299.9630 and R 299.9631, effective June 21, 1994. R 299.9812(4), R 299.9813(4), and R 299.9814(5), effective October 15, 1996. R 299.9212(1)(a), R 299.9230(2) and (3), R 299.9311, R 299.9413, R 299.9508(1)(b), R 299.9627, and R 299.9637, effective September 11, 2000. R 299.9601(1), (2)(h) and (3), R 299.9619(1) and (8), and R 299.9809(2)(b), effective December 16, 2004.

Description of Federal requirement	Revision checklist <sup>1</sup>	Federal Register date and page	Analogous State authority
Mercury Containing Equipment	209	August 5, 2005, 70 FR 45508	R 299.9203(1)(e); R 299.9212(1)(a) and (a)(iv) and (2)(a) and (b); R 299.9227(3)(c) and (6); R 299.9504(4)(a) and (b), (15) and (21); R 299.9615; R 299.9808(8) and (10); R 299.11001; R 299.11002; R 299.11003(1)(h), (i), (j), (m), (p), (r), (t), (u), (v); and R 299.11005(1), (2), (4), (5) and (7), effective March 17, 2008.
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures—"Headworks Exemption".	211	October 4, 2005, 70 FR 57769	R 299.9109(g), (i), and (j), effective September 11, 2000. R 299.9101(r); R 299.9228(1)(c)–(f); (2), (2)(h) and (i), (4)(a) and (d), (5)(b), and (11); R 299.9503(1)(j); and R 299.11003(1)(w), effective March 17, 2008.
NESHAP: Final Standards for Hazardous Waste Combusters (Phase I Final Replacement Standards and Phase II).	212	October 12, 2005, 70 FR 59402.	R 299.9203(1)(c)(i) and (c)(i)(D) and (E), (c)(ii) and (c)(ii)(A)–(O), (c)(iv) and (c)(iv)(A)–(G), (c)(vi), and (c)(vii), effective March 17, 2008. R 299.9508(1) and (1)(b), effective September 11, 2000. R 299.9601(2)(i), effective December 16, 2004. R 299.9504(4), (12), (13), (20) and (21); R 299.9519(5)(k), (l) and (l)(i)–(iv) and (6); R 299.9521(3)(c) and (6); R 299.9623(2) and (3); R 299.9624 (rescinded); R 299.9625 (rescinded); R 299.9626 (rescinded); R 299.9640(1), (2), (4) and (5); R 299.9808(4), (5)(b) and (d), (8) and (10); R 299.11001(1) and (3); and R 299.11003(1)(v), effective March 17, 2008.
Burden Reduction Initiative .....	213	April 4, 2006, 71 FR 16862 ....	R 299.9618, effective December 28, 1985. R 299.9631 and R 299.9632(1) and (3), effective June 21, 1994. R 299.9617(1) and (3), effective October 15, 1996. R 299.9311, R 299.9413, R 299.9508(1)(a), (b) and (d) and (5), R 299.9627, and R 299.9638(1) and (4), effective September 11, 2000. R 299.9502(7); R 299.9601(2)(b), (d), and (f)–(h), (3) and (9); R 299.9614(1)(a) and (2); R 299.9619(1) and (8); R 299.9626(10); and R 299.9703(5), effective December 16, 2004. R 299.9204(1)(u)(v)(A)–(C) and (10)(i); R 299.9504(1), (3), (14), (17), (19) and (20); R 299.9519(5)(m); R 299.9605(1) and (4); R 299.9607(1) and (4); R 299.9609(1)(a) and (5); R 299.9612(1) and (2); R 299.9613(1), (3)–(5) and (7); R 299.9615(1) and (7); R 299.9623(4) and (11); R 299.9629(10); R 299.9710(6) and (16); R 299.9808(8) and (10); and R 299.11003(1)(h), (m), (n), (p), (r), (u) and (v), effective March 17, 2008.
Corrections to Errors in the Code of Federal Regulations.	214	July 14, 2006, 71 FR 40254 ...	Michigan Compiled Laws 324.11148, effective September 1, 1998. R 299.9618, effective December 28, 1985. R 299.9702 and R 299.9704, effective April 20, 1988. R 299.9628(1) and (4), effective November 19, 1991. R 299.9217, R 299.9630, R 299.9631, and R 299.9632(1) and (3), effective June 21, 1994. R 299.9214(2) and (3), R 299.9617(1) and (3), R 299.9812(3), (4) and (7), R 299.9813(3), (6) and (7), and R 299.9814(4), (5) and (8), effective October 15, 1996. R 299.9210(2), R 299.9312(1) and (3), R 299.9616(1) and (4), and R 299.9634, effective September 22, 1998. R 299.9206(1)(b)–(d) and (2)–(5), R 299.9230(1)(a)(iii), (2) and (3), R 299.9311, R 299.9413, R 299.9605(1) and (4), R 299.9627, R 299.9638(1) and (4), R 299.9701, R 299.9708(6), R 299.9709, R 299.9803(1)(d) and (e), (5) and (6), and R 299.9804, effective September 11, 2000. R 299.9106(b), (j), (m) and (w), R 299.9109(g) and (p), R 299.9202(2), R 299.9220, R 299.9601(2)(b), (g) and (h), and (3) and (9), R 299.9614(1)(a) and (2), R 299.9619(1) and (8), R 299.9635(12)(d), (d)(ii) and (f), R 299.9639(5)(f), R 299.9703(8)(a), R 299.9706, R 299.9809(1)(f), (2)(b)(ii) and (3), and R 299.9815(2)(a), effective December 16, 2004.

Description of Federal requirement	Revision checklist <sup>1</sup>	Federal Register date and page	Analogous State authority
Cathode Ray Tubes Rules .....	215	July 28, 2006, 71 FR 42928 ...	R 299.9104(p), R 299.9204(1)(x), (2)(f)(ii), (2)(g) and (g)(iii)(A) and (B) and (vi), (2)(k), (3) and (3)(b), (7)(f) and (8)(a), R 299.9212(1)(c), (6)(a) and (9), R 299.9222, R 299.9224, R 299.9225, R 299.9228(4)(a), (5)(b) and (11), R 299.9309(1) and (4), R 299.9503(1)(c), R 299.9504(1)(e) and (g) and (17), R 299.9519(4) and (9)(a), R 299.9605(1) and (4), R 299.9612, R 299.9613(1), (4), (5) and (7), R 299.9615(1) and (7), R 299.9623(4) and (5), R 299.9705(5) and (6), R 299.9710(3)(a) and (e), (6), (10) and (17)(a), R 299.9808(4), (8) and (10), and R 299.11003(1)(h)–(k), (m), (n), (p), (q), (t), (u), (v), (w) and (x), effective March 17, 2008. R 299.9102(b), (w), (x) and (y), R 299.9109(x) and (y), R 299.9204(1)(z)(i)–(iv), R 299.9230, R 299.9231, and R 299.11003(1)(i), effective March 17, 2008.

<sup>1</sup> Revision Checklists generally reflect changes to Federal regulations pursuant to a particular **Federal Register** notice; EPA publishes these checklists as aids to States to use for development of their authorization revision application. See EPA's RCRA State Authorization Web Page at <http://www.epa.gov/epawaste/laws-regs/state/index.htm>.

EQUIVALENT STATE-INITIATED CHANGES

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9101(a) "Aboveground tank" .....	10/15/1996 .....	Words "is able to be" changed to "and can be."
MAC R 299.9101(b) "Act" .....	12/16/2004 .....	Words "Act No. 451 of the Public Acts of 1994, as amended, being 324.101 et seq. of the Michigan Compiled Laws" changed to "1994 PA 451 § 324.101."
MAC R 299.9101(c) "Act 138" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(d) "Act 181" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(e) "Act 207" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(f) "Act 218" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(g) "Act 236" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(h) "Act 300" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(i) "Act 306" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(j) "Act 368" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(k) "Act 399" .....	12/16/2004 .....	Same as above.
MAC R 299.9101(o) "Administrator" .....	12/16/2004 .....	Words "United States EPA" changed to "EPA."
MAC R 299.9101(x) "Authorized representative" .....	6/21/1994, renumbered as (x) effective 3/17/2008.	Word "of" changed to "who has" and word "responsibility" changed to "responsibilities."
MAC R 299.9101(x) "Boiler" .....	12/16/2004, renumbered as (z) effective 3/17/2008.	Words "the provisions of" deleted.
MAC R 299.9102(a) "CERCLA" .....	6/21/1994, renumbered as (c) effective 3/17/2008.	Term added; term is used elsewhere in the rules.
MAC R 299.9102(e) "Closed portion" .....	10/15/1996, renumbered as (h) effective 3/17/2008.	Word "that" changed to "the" and word "which" changed to "that."
MAC R 299.9102(g) "Commingling" .....	10/15/1996, renumbered as (j) effective 3/17/2008.	Term added; term is used in Part 3 of the rules.
MAC R 299.9102(h) "Component" .....	10/15/1996, renumbered as (k) effective 3/17/2008.	Word "the" inserted.
MAC R 299.9102(g) "Confined aquifer" .....	6/21/1994, renumbered as (l) effective 3/17/2008.	Words "that is," "it is" and "that" inserted, word "of" changed to "that have a" and word "containing" changed to "contains."
MAC R 299.9102(k) "Consolidation" .....	10/15/1996, renumbered as (n) effective 3/17/2008.	Term added; term is used in Part 3 of rules.
MAC R 299.9102(n) "Constituent" .....	12/16/2004, renumbered as (o) effective 3/17/2008.	Words "the provisions of" deleted.
MAC R 299.9102(m) "Construction permit" .....	10/15/1996, renumbered as (p) effective 3/17/2008.	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9102(m) "Corrosion expert" .....	6/21/1994, renumbered as (v) effective 3/17/2008.	Words "such as" deleted and word "the" inserted.
MAC R 299.9103(b) "Element" .....	12/16/2004 .....	Word "constituent" deleted.
MAC R 299.9103(c)(i) "Elementary neutralization unit" ...	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9103(e) "EPA acknowledgment of consent" .....	10/15/1996, renumbered as (g) effective 12/16/2004.	Word "which" inserted.
MAC R 299.9103(g) "EPA identification number" (deleted).	12/16/2004 .....	Term deleted (replaced with term "Site identification number").
MAC R 299.9103(h) "EPA region" .....	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9103(i) "Equivalent method" .....	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9103(m) "Existing portion" .....	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9103(n) "Existing tank system" .....	12/16/2004 .....	Word "will" changed to "shall."

## EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9103(q) "Federal hazardous materials transportation act".	6/21/1994, renumbered as (x) effective 12/16/2004.	Public Law citation changed from "89-670" to "93-633."
MAC R 299.9103(s) "Facility mailing list" .....	12/16/2004 .....	Words "in accordance with the provisions of" changed to "pursuant to."
MAC R 299.9103(v) "Floodplain" .....	6/21/1994, renumbered as (bb) effective 12/16/2004.	Word "which" changed to "that."
MAC R 299.9103(x) "Freeboard" .....	6/21/1994, renumbered as (ff) effective 12/16/2004.	Word "therein" changed to "in the tank or surface impoundment dike."
MAC R 299.9103(y) "Free liquids" .....	6/21/1994, renumbered as (gg) effective 12/16/2004.	Word "which" changed to "that" and word "under" changed to "at."
MAC R 299.9103(bb) "Final closure" .....	12/16/2004 .....	Words "in accordance with the provisions of" changed to "pursuant to" and words "the provisions of" deleted.
MAC R 299.9104(f) and (f)(i)-(viii) "Hazardous waste management unit".	10/15/1996 .....	Word "is" changed to "means."
MAC R 299.9104(g) "Hazardous waste number" .....	6/21/1994 .....	Word "which" changed to "that."
MAC R 299.9104(m) "Inactive portion" .....	6/21/1994 .....	Word "which" changed to "that."
MAC R 299.9104(o) "In-ground tank" .....	6/21/1994, renumbered as (t) effective 9/11/2000.	Word "specified" inserted, word "whereby" changed to "and which has," words "the tank" changed to "its," word "is" deleted, word "that" changed to "the," and word "tank" changed to "devise."
MAC R 299.9105(c) "Landfill cell" .....	10/15/1996, renumbered as (d) effective 12/16/2004.	Word "which" changed to "that."
MAC R 299.9105(q) "Military munitions" .....	12/16/2004 .....	Words "any of the following" inserted.
MAC R 299.9106(c) "On-site treatment facility" .....	10/15/1996 .....	Words "which is" and "and" inserted and word "those" changed to "the."
MAC R 299.9106(e) "Operating license" .....	12/16/2004 .....	Words "pursuant to" changed to "under."
MAC R 299.9106(h) "Partial closure" .....	12/16/2004 .....	Words "in accordance with" changed to "pursuant to."
MAC R 299.9106(r) "Primary exporter" .....	12/16/2004 .....	Words "in accordance with" changed to "pursuant to."
MAC R 299.9106(u)(ii) "Processing" .....	12/16/2004 .....	Word "the" deleted.
MAC R 299.9107(i) "Remedial action plan" .....	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9107(q) "Scrap metal" .....	12/16/2004 .....	Word "can" changed to "may."
MAC R 299.9107(s) "Site identification number" .....	12/16/2004 .....	New term added to replace removal of "EPA identification number."
MAC R 299.9107(z) "Speculative accumulation" .....	12/16/2004 .....	Word "it" changed to "material," words "can show" changed to "shows that," and words "requirements are met" inserted.
MAC R 299.9107(bb) "Staging pile" .....	12/16/2004 .....	Words "in accordance with the requirements of" changed to "pursuant to."
MAC R 299.9107(dd) "Sump" .....	9/11/2000, renumbered as (ee) effective 12/16/2004.	Word "subsequent" changed to "later."
MAC R 299.9108(a) "Tank" .....	6/21/1994 .....	Word "which" changed to "that" and word "and" added.
MAC R 299.9108(c) "Thermal treatment" .....	6/21/1994, renumbered as (d) effective 9/11/2000.	Word "which" changed to "that" word "the" changed to "all of the."
MAC R 299.9108(g) "Totally enclosed treatment facility" .....	9/11/2000 .....	Word "thereof" deleted and words "of a hazardous waste" added.
MAC R 299.9108(k) "Treatment" .....	6/21/1994, renumbered as (m) effective 9/11/2000.	Word "which" changed to "that" and word "the" changed to "all of the."
MAC R 299.9108(n) "Trial burn" .....	6/21/1994, renumbered as (p) effective 9/11/2000.	Word "under" deleted and words "pursuant to the" inserted.
MAC R 299.9108(o) "Trial operation" .....	6/21/1994, renumbered as (q) effective 9/11/2000.	Word "under" deleted and words "that is" and "pursuant to" inserted.
MAC R 299.9109(b) "Underground tank" .....	6/21/1994 .....	Word "specified" inserted, word "the" changed to "and which has its," and words "of which is" deleted.
MAC R 299.9109(g) "Uppermost aquifer" .....	6/21/1994, renumbered as (n) effective 9/11/2000.	Word "this" changed to "the."
MAC R 299.9109(l) "Vessel" .....	6/21/1994, renumbered as (ee) effective 9/11/2000.	Words "includes every description of" changed to "means" and word "which" changed to "that."
MAC R 299.9109(n) "Waste" .....	6/21/1994, renumbered as (gg) effective 9/11/2000.	Words "that is" added.
MAC R 299.9109(hh) "Waste management area" .....	9/11/2000 .....	Word "then" inserted and word "one" changed to "1."
MAC R 299.9109(p) and (p)(i)-(iii) "Wastewater treatment unit".	6/21/1994, renumbered as (ii) and (ii)(i)-(ii) effective 9/11/2000.	Word "which" changed to "that," word "under" changed to "pursuant to the provisions of," and words "or 'tank system' specified" inserted.
MAC R 299.9109(q) "Water (bulk shipment)" .....	6/21/1994, renumbered as (jj) effective 9/11/2000.	Word "which" changed to "that."
MAC R 299.9109(r) "Well" .....	6/21/1994, renumbered as (kk) effective 9/11/2000.	Words "which is" added.

## EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9109(kk) "Wetland" .....	10/15/1996, renumbered as (ll) effective 9/11/2000.	Words "No. 203 of the Public acts of 1979, as amended, being § 281.701 et seq. of the Michigan Compiled Laws" deleted and words "part 303 of the" inserted, and word "those" changed to "the."
MAC R 299.9109(t) "Zone of engineering control" .....	6/21/1994, renumbered as (mm) effective 9/11/2000.	Word "that" deleted and words "which is" and "and which" inserted.
MAC R 299.9201(1) and (2) .....	9/22/1998 .....	Modified to reflect the fact that sections 47 and 4 of the former Hazardous Waste Management Act, 1979 PA 64, as amended (Act 64) have been recodified in sections 48 and 3 of Part 111, Hazardous Waste Management, of Act 451, respectively.
MAC R 299.9202(1)(b), (v)(A) and (B); (2) and (2)(e); (3); (4); and (5).	10/15/1996 .....	Word "which" changed to "that."
MAC R 299.9202(1)(b)(i), (iv) .....	10/15/1996 .....	Words "one of the materials" changed to "a material."
MAC R 299.9202(1)(b)(i)(B) and (ii) .....	9/11/2000 .....	Word "products" changed to "product," word "are" changed to "is," word "wastes" changed to "waste," words "they are" changed to "it is," and word "their" changed to "its."
MAC R 299.9202(1)(b)(v) .....	10/15/1996 .....	Word "other" changed to "is another."
MAC R 299.9202(1)(b)(v)(A) .....	10/15/1996 .....	Words "which are" inserted, words "these constituents" deleted, and word "which" inserted.
MAC R 299.9202(1)(b)(vi) .....	12/16/2004 .....	Words "in accordance with" changed to "pursuant to."
MAC R 299.9202(6)(a) .....	12/16/2004 .....	Reference to R 299.9107 corrected.
MAC R 299.9202(7) .....	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9203(1) and (1)(b); (2) and (2)(b); (4)(b); (5)(a) and (b); and (6).	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9203(4)(c)(iii) and (6)(a) .....	12/16/2004 .....	Word "one" changed to "1."
MAC R 299.9203(4)(c)(iii)(B) .....	9/11/2000 .....	Words "by the person claiming the exclusion" inserted.
MAC R 299.9203(4)(c)(iii)(C)(2) .....	12/16/2004 .....	Word "EPA" changed to "site."
MAC R 299.9203(4)(e) .....	3/17/2008 .....	Words "1 or more" changed to "either or both."
MAC R 299.9204(1), (4) and (6) .....	10/15/1996 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9204(1)(b), (n), (u)(iv); (2)(a), (i) and (l); (7) and (7)(c)(ii), (d), and (e)(iii)(B); (8); (9); (10)(b), (g)(i) and (vii) and (j); and (11).	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9204(1)(f) and (g) .....	12/16/2004 .....	Reference to R 299.9107 corrected.
MAC R 299.9204(1)(h)(iv) .....	6/21/1994 .....	Word "constituting" changed to "that constitutes."
MAC R 299.9204(1)(i) and (j) .....	10/15/1996 .....	Word "that" changed to "which" and word "which" inserted.
MAC R 299.9204(1)(k) .....	10/15/1996 .....	Word "if" inserted, words "provided it is shipped" deleted, words "the residue" inserted, words "is shipped," and word "is" inserted.
MAC R 299.9204(1)(n) .....	12/16/2004 .....	Word "U.S." deleted and "subsequent to" changed to "after."
MAC R 299.9204(2)(b) .....	10/15/1996 .....	Word "soils" changed to "soil."
MAC R 299.9204(2)(g)(ix) .....	3/17/2008 .....	Based on a petition from the United States Postal Service (USPS), ink generated by the USPS in its automated facer canceled systems was added to the list of wastes not considered hazardous wastes for the purposes of Part 111 of Act 451 and its rules provided the requirements of subrule (g) of the rule are met.
MAC R 299.9204(2)(h) .....	12/16/2004 .....	Words "of this subrule" deleted.
MAC R 299.9204(2)(h)(ii) .....	12/16/2004 .....	Word "will" changed to "shall."
MAC R 299.9204(7)(f) .....	3/17/2008 .....	Revised to be consistent with the new language in R 299.9308(1).
MAC R 299.9205(1)(c); (2)(b)(i) and (b)(vi)–(x) and (d); (3)(a) and (b); (4)(a)(i), (ii), and (v), (xi), (b)(i) and (ii); (5)(a), (e), and (g)–(i).	12/16/2004 .....	Words "the provisions of" deleted.
MAC R 299.9205(2) .....	12/16/2004 .....	Words "(7), (8), and (9)" changed to "(6) and (7)" and words "the provisions of" deleted.
MAC R 299.9205(2)(b)(ii) and (iii) .....	10/15/1996 .....	Word "which" changed to "that," words "permitted or licensed" changed to "in compliance with the applicable requirements," words "pursuant to the provisions" deleted, and words "act 641, act 245, or act 348" changed to "parts 31, 55 and 115 of the act."
MAC R 299.9205(2)(b)(xi) .....	12/16/2004 .....	Words "in accordance with the provisions of" changed to "pursuant to" and "the provisions of" deleted.
MAC R 299.9205(4)(a)(ix)(C)(2) .....	12/16/2004 .....	Word "EPA" changed to "site."

## EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9205(4)(a)(xii) and (4)(b)(iv) .....	12/16/2004 .....	Words “Except as otherwise noted in this paragraph” inserted, words “in accordance with the provisions of” changed to “pursuant to” and new sentence allowing municipal household waste collection programs to accumulate conditionally exempt small quantity generator waste on-site for not more than 1 year.
MAC R 299.9205(4)(a)(xiii) .....	12/16/2004 .....	Words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9205(4)(a)(xiv) .....	12/16/2004 .....	Word “one” changed to “1.”
MAC R 299.9205(4)(b)(iv) .....	12/16/2004 .....	Word “in accordance with the provisions of” changed to “pursuant to,” words “except for a municipal household waste collection program” inserted, and word “in” inserted.
MAC R 299.9212(1)(d) and (6)(a) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9212(3)(h) .....	12/16/2004 .....	Words “the provisions of” deleted and word “are” changed to “is.”
MAC R 299.9212(7) .....	12/16/2004 .....	Words “the provisions of” deleted and word “will” changed to “shall.”
MAC R 299.9227(4) .....	3/17/2008 .....	Word “all” changed to “both.”
MAC R 299.9227(5)(l) .....	3/17/2008 .....	Word “MAC” deleted.
MAC R 299.9228(1) and (1)(a); (2)(a), (d), (e), (f)(i)(A) and (B), (g); (3); (4)(c)(iii)(B); and (5)(d) and (e); (8); and (9).	12/16/2004 .....	Words “in accordance with” deleted, words “pursuant to” inserted, word “then” inserted, word “subrule” inserted, words “shall be complied with” deleted, and words “the requirements of” deleted.
MAC R 299.9303(1)–(4) .....	12/16/2004 .....	Word “EPA” deleted and word “site” inserted, words “in accordance with the provisions of” changed to “pursuant to” and word “to” inserted.
MAC R 299.9306(1) and (5) .....	12/16/2004 .....	Words “(4), (5), and (6)” changed to “(4), (5), (6), (7), (8), (9), and (10)” and words “a construction permit or” inserted.
MAC R 299.9306(1)(a), (a)(ii)–(iii), (d) and (f) .....	12/16/2004 .....	Words “in accordance with” changed to “pursuant to.”
MAC R 299.9306(1)(a)(i) .....	12/16/2004 .....	Words “the provisions of” deleted and language added regarding alternatives to the 50-foot setback requirement for certain container storage in situations where the generator is unable to comply with this provision or the appropriate authority determines that an alternative arrangement would be more protective of human health and the environment.
MAC R 299.9306(1)(d)(ii) and (4)(i)(iii)(B) .....	12/16/2004 .....	Word “EPA” changed to “site.”
MAC R 299.9306(2) .....	12/16/2004 .....	Words “construction permit or an operating” inserted, and word “the provisions of” deleted.
MAC R 299.9306(4) .....	12/16/2004 .....	Words “the provisions of” deleted and words “a construction permit or” inserted.
MAC R 299.9306(4)(b)(i)–(iii) and (4)(k) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9306(4)(e) .....	12/16/2004 .....	Words “the provisions of” and “the requirements of” deleted.
MAC R 299.9306(5) .....	12/16/2004 .....	Words “a construction permit or” inserted, words “the provisions of” deleted, and words “the requirements of” deleted.
MAC R 299.9306(7)(g) .....	3/17/2008 .....	Word “with” deleted.
MAC R 299.9307(1) .....	12/16/2004 .....	Words “in accordance with” changed to “pursuant to.”
MAC R 299.9307(4) .....	3/17/2008 .....	Words “the data submitted under R 299.9308(1)” inserted and words “each biennial report” deleted.
MAC R 299.9307(5) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9307(7) .....	12/16/2004 .....	Words “subrules (2) and (4)” changed to “subrule (4).”
MAC R 299.9308(1) and (2) .....	3/17/2008 .....	Wording modified to reflect how information typically required in a biennial report is actually collected in Michigan.
MAC R 299.9309(2)(a) and (b) .....	12/16/2004 .....	Word “EPA” changed to “site.”
MAC R 299.9309(2)(g)(i) and (ii) and (2)(i) .....	12/16/2004 .....	Words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9310(1) .....	12/16/2004 .....	Words “the requirements of” deleted.
MAC R 299.9310(2)(a) .....	12/16/2004 .....	Word “EPA” changed to “site.”
MAC R 299.9401(1) and (5) (renumbered from (6) to (5)).	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9401(4) .....	12/16/2004 .....	Words “the requirements of” deleted.
MAC R 299.9401(6) (renumbered from (7) to (6)) .....	12/16/2004 .....	Words “in accordance with” changed to “pursuant to.”
MAC R 299.9402 .....	12/16/2004 .....	Words “an EPA” changed to “site” and words “from the administrator” deleted.
MAC R 299.9404(2)(b)(i) .....	3/17/2008 .....	Word “EPA” changed to “site.”

## EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9405	10/15/1996	Entire rule modified to provide more consistency with the regulations codified in 49 CFR.
MAC R 299.9405(3)(b)(i)	3/17/2008	Word “EPA” changed to “site.”
MAC R 299.9410(1)(f)	9/11/2000	Word “whether” changed to “if.”
MAC R 299.9410(2)	12/16/2004	Word “EPA” changed to “site.”
MAC R 299.9410(3)(a)–(c)	12/16/2004	Words “the provisions of” deleted.
MAC R 299.9501(3) and (4)	10/15/1996	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9502(1) and (1)(b); (2) and (2)(a), (b)(i) and (i)(C), (E) and (ii); (3)(a); (5); (6); (8); (9); (10); and (13).	12/16/2004	Words “the provisions of” deleted.
MAC R 299.9502(2)(b)(i)(A), (B) and (E)	12/16/2004	Words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9502(3)	12/16/2004	Word “the” deleted.
MAC R 299.9502(10)	12/16/2004	Words “the provisions of” deleted and words “in accordance with” changed to “pursuant to.”
MAC R 299.9502(11)(c)	12/16/2004	Word “regulations” changed to “regulation.”
MAC R 299.9503(1), (2), (3), and (4)	10/15/1996	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9503(1)(a)	10/15/1996	Words “parts 31, 55, and 115 of the” and words “641, act 348, or act 245” deleted.
MAC R 299.9503(1)(f)	10/15/1996	Words “as applicable” inserted and words “both of” deleted.
MAC R 299.9503(1)(i)(x)	3/17/2008	Reference to R 299.9603(1)(b) to (f) corrected.
MAC R 299.9503(4)(c)	10/15/1996	Words “part 31, 111, or 201 of the” inserted and words “307, act 64, act 245” deleted.
MAC R 299.9504(1)(b)–(c), (2), and (16)	12/16/2004	Word “by” changed to “pursuant to.”
MAC R 299.9504(1)(d), (2), (3), and (14)	12/16/2004	Words “by the provisions of” changed to “pursuant to.”
MAC R 299.9504(1)(f), (18), and (19)	12/16/2004	Words “the requirements of” deleted.
MAC R 299.9504(1)(h)	3/17/2008	Provision added so that the agency can see how public comments were addressed and how applications were revised earlier in the construction permit application process.
MAC R 299.9504(4)(b) and (11)(b)	12/16/2004	Words “the provisions of” deleted.
MAC R 299.9504(4)(b)(ii)	12/16/2004	Word “R 299.9623” changed to “40 C.F.R. § 264.343.”
MAC R 299.9504(5)(a)	10/15/1996	Word “all” changed to “any.”
MAC R 299.9504(5)(a)(v) and (b)	10/15/1996	Subrule (b) deleted and new subrule (5)(a)(v) added to provide clarification regarding the prohibition of dilution as a form of treatment for any hazardous wastes rather than just toxicity characteristic wastes.
MAC R 299.9504(5)(c)–(f)	12/16/2004	Word “whether” changed to “if.”
MAC R 299.9504(6)(a), (7)(a), (8)(a), (9) and (10)	12/16/2004	Words “in the provisions of” changed to “pursuant to.”
MAC R 299.9504(8)(c)	12/16/2004	Words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9506(2)	6/21/1994	Word “under” changed to “pursuant to the provisions of.”
MAC R 299.9506(2)(a)	6/21/1994	Word “such” changed to “the,” words “that are” inserted, words “all of” inserted, and word “this” changed to “the.”
MAC R 299.9506(2)(a)(i), (ii), (iii)(B), (c), (d) and (f); and (6)(a), (b), and (b)(i)(D).	9/11/2000	Word “one” changed to “1,” word “two” changed to “2,” word “three” changed to “3,” word “five” changed to “5,” word “ten” changed to “10,” word “when” changed to “if,” word “method” changed to “methods,” words “subsequent to” changed to “following.”
MAC R 299.9506(2)(a)(ii)(C) and (6)(a)(iii)	6/21/1994	Word “under” changed to “pursuant to.”
MAC R 299.9506(4)(d)	9/22/1998	Modified to reflect the fact that the former Environmental Response Act, 1982 PA 307 (Act 307), has been recodified in Part 201, Environmental Response, of Act 451.
MAC R 299.9506(6)	6/21/1994	Words “that is” inserted.
MAC R 299.9506(6)(f)	6/21/1994	Word “such” changed to “the,” words “include consideration of” changed to “consider” and word “factors” inserted.
MAC R 299.9506(8)	9/11/2000	Word “264.100” deleted.
MAC R 299.9508(1)(c), (g) and (i)	10/15/1996	Words “part 111 of” inserted, and words “section 22(3)” changed to “section 23(3).”
MAC R 299.9509(1) and (2)	9/22/1998	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9510(1)	9/22/1998	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.

## EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9513(1) and (3)(b) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9514(2) .....	12/16/2004 .....	Word “when” changed to “if.”
MAC R 299.9514(2)(b) .....	12/16/2004 .....	Word “might” changed to “may.”
MAC R 299.9514(2)(c) .....	12/16/2004 .....	Word “by” changed to “pursuant to.”
MAC R 299.9514(4) .....	9/22/1998 .....	Modified to correct references to the provisions of R 299.9511 which have also been modified.
MAC R 299.9516(8) .....	10/15/1996 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9517(1) and (2)(b) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451
MAC R 299.9518(1) and (2)(a) and (b) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451 and subrule (2)(a) has been modified to reflect the fact that section 22 of the former Act 64 has been recodified in section 23 of Part 111 of Act 451.
MAC R 299.9519(1); (3)(a); (5); (6)(a)(v) and (b); (9)(c); (10)(d); (12); and (13).	12/16/2004 .....	Words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9519(2) .....	12/16/2004 .....	Words “the provisions of” deleted and words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9519(3)(c) and (d) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9519(3)(e) .....	3/17/2008 .....	Word “R 299.9521” changed to “R 299.9522.”
MAC R 299.9519(11)(a) .....	10/15/1996 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9520(4) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451 and the fact that section 48 of the former Act 64 has been recodified in section 51 of Part 111 of Act 451.
MAC R 299.9521(3) and (3)(a) .....	10/15/1996 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9522(1)–(3) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9601(2); (4); and (5) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9601(2)(p) .....	12/16/2004 .....	Provision added requiring interim status facilities to comply with R 299.9639 for disposal of corrective action management unit-eligible waste in hazardous waste landfills.
MAC R 299.9601(3)(b) .....	12/16/2004 .....	Words “the provisions of” changed to “pursuant to.”
MAC R 299.9601(7) .....	10/15/1996, renumbered as (8) effective 9/11/2000.	Word “47” changed to “48” and words “part 111 of” inserted.
MAC R 299.9602(1)(a) and (c) and (2) .....	9/22/1998 .....	Modified to reflect the fact that the former Water Resources Commission Act, 1929 PA 245 (Act 245), has been recodified in Part 31, Water Resources Protection, of Act 451.
MAC R 299.9602(1)(b) .....	9/22/1998 .....	Modified to reflect the fact that the former Air Pollution Control Act, 1956 PA 345 (Act 348), has been recodified in Part 55, Air Pollution Control, of Act 451.
MAC R 299.9603(1)(b) .....	9/22/1998 .....	Modified to reflect the fact that the former Act 245 has been recodified in Part 31 of Act 451.
MAC R 299.9603(1)(c) .....	9/22/1998 .....	Modified to reflect the fact that the former Shorelands Protection and Management Act, 1970 PA 245, has been recodified in Part 323, Shorelands Protection and Management, of Act 451.
MAC R 299.9603(2) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9603(3)(c) .....	9/22/1998 .....	Modified to reflect the fact that the former Act 348 has been recodified in Part 55 of Act 451.
MAC R 299.9604(2) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 of Part 111 of Act 451.
MAC R 299.9607(2)(b) .....	12/16/2004 .....	Word “EPA” changed to “site.”
MAC R 299.9607(3) .....	12/16/2004 .....	Words “the requirements of” deleted.
MAC R 299.9608(6) .....	12/16/2004, renumbered as (4) effective 3/17/2008.	Words “the provisions of” deleted.
MAC R 299.9609(1) .....	3/17/2008 .....	Words “or in an alternate location approved by the director or the director’s designee” inserted.
MAC R 299.9610(1) .....	3/17/2008 .....	Revised to reflect how information typically required in a biennial report is actually collected in Michigan.
MAC R 299.9610(2)(a) and (c) .....	12/16/2004 .....	Word “EPA” changed to “site.”

## EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9610(4) .....	12/16/2004 .....	Words “in accordance with the provisions of” changed to “pursuant to.”
MAC R 299.9611(1) .....	6/21/1994 .....	Words “that is” inserted.
MAC R 299.9611(3)(a) and (a)(i)–(iii) .....	6/21/1994 .....	Modified to clarify provisions for groundwater monitoring waivers to allow owners or operators the ability to monitor an entire TSDF for environmental effects, thereby allowing the integration of site-wide corrective action remediation programs into hazardous waste management unit monitoring programs at a more economical cost.
MAC R 299.9611(3)(a)(iii) and (5) .....	10/15/1996 .....	Modified to reflect the recodification of the former Act 64 into Part 111 of Act 451.
MAC R 299.9611(3)(b) .....	6/21/1994 .....	Word “under” changed to “pursuant” and word “this” changed to “the.”
MAC R 299.9612(1)(c) .....	9/11/2000 .....	Word “one” changed to “1” and word “then” inserted.
MAC R 299.9612(1)(c)(i) .....	6/21/1994 .....	Word “this” changed to “the.”
MAC R 299.9612(1)(c)(iii) .....	9/11/2000 .....	Words “whether or not” changed to “if.”
MAC R 299.9612(1)(d) and (f) .....	9/22/1998 .....	Modified to reflect the fact that the former Act 245 and Act 307 have been recodified in Parts 31 and 201 of Act 451, respectively.
MAC R 299.9612(1)(e) .....	9/11/2000 .....	Word “whether” changed to “if.”
MAC R 299.9612(1)(g) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 64 in Part 111 of Act 451 and the fact that sections 47 and 48 of the former Act 64 have been recodified in sections 48 and 51 of Part 111 of Act 451, respectively.
MAC R 299.9613(2) .....	3/17/2008 .....	Word “more” changed to “less.”
MAC R 299.9619(3), (6)(a)(iv) and (c), and (7) .....	12/16/2004 .....	Words “in accordance with the provisions of” changed to “pursuant to” and words “the provisions of” deleted.
MAC R 299.9619(5), (5)(a) and (b) .....	9/11/2000 .....	Subrule added in order to provide for alternative leachate collection and removal system design and operating practices if certain conditions are met.
MAC R 299.9619(6)(a)(iii) .....	9/11/2000 .....	Revised to clarify that in order to provide a minimum base for root penetration, the top component of the additional material shall consist of not less than 15 centimeters of topsoil. Thus, the total thickness of the protective layer shall not be less than 60 centimeters, depending upon the implications of the maximum depth of frost penetration.
MAC R 299.9621(1)(c)(vi) .....	10/15/1996 .....	Modified to provide a more accurate test method by which owners and operators will be required to determine the permeability of the clay base of the land-based unit.
MAC R 299.9629(1), (3)(a) and (b), (6), (8)(a)–(c), (9), and (11) .....	12/16/2004 .....	Words “in accordance with” changed to “pursuant to.”
MAC R 299.9629(1)(a) and (b), (3), (3)(a)(i)–(v), and (b)(i)–(iii) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9703(2)–(4) and (6) .....	9/11/2000 .....	Word “one” changed to “1” and “ten” changed to “10.”
MAC R 299.9703(9) .....	12/16/2004 .....	Words “265.90(f), and 265.110(d)” inserted and word “and” deleted.
MAC R 299.9705(1) and (1)(a) and (b) .....	3/17/2008 .....	Amended to clarify requirements regarding surety bonds used to demonstrate financial assurance for closure and postclosure.
MAC R 299.9708(5), (9), (9)(c), (10), (10)(a)–(b), and (11) .....	9/11/2000 .....	Words “party or parties” changed to “person or persons.”
MAC R 299.9710(4), (5), and (9)(b)(i) .....	9/11/2000 .....	Word “one” changed to “1.”
MAC R 299.9710(9)(b)(i) .....	9/11/2000 .....	Words “and/or” changed to “or” and words “or both” inserted.
MAC R 299.9710(9)(e) .....	9/11/2000 .....	Words “in the case of corporations that are” changed to “a corporation is” and word “then” inserted.
MAC R 299.9710(14) .....	9/11/2000 .....	Word “R 299.9613(2)” changed to “R 299.9613(3).”
MAC R 299.9712(1) .....	9/22/1998 .....	Modified to reflect the recodification of the former Act 46 in Part 111 of Act 451.
MAC R 299.9801(1)(b) and (7) .....	6/21/1994 .....	Word “combination” changed to “combining.”
MAC R 299.9801(8) .....	12/16/2004 .....	Words “the provisions of” deleted.
MAC R 299.9802 (entire rule rescinded) .....	10/15/1996 .....	Rule rescinded because hazardous waste being burned for energy recovery is now subject to regulation under R 299.9808.
MAC R 299.9803(6)(a) .....	9/11/2000 .....	Words “whether or not” changed to “if.”

EQUIVALENT STATE-INITIATED CHANGES—Continued

State requirement	Effective date(s) of State-initiated modification	Description of change
MAC R 299.9803(6)(b)	9/11/2000	Word “then” inserted and word “six” changed to “6” and last two sentences corrected to insert missing wording.
MAC R 299.9808(1)	9/11/2000	Words “and (3)” changed to “to (4).”
MAC R 299.9808(2) and (3)(c)	12/16/2004	Words “regulation under” deleted.
MAC R 299.9808(2)(a)	12/16/2004	Words “under the provisions of” changed to “pursuant to.”
MAC R 299.9808(2)(c)	12/16/2004	Words “the provisions of” deleted and words “under the provisions of” changed to “pursuant to.”
MAC R 299.9808(3)(c)	12/16/2004	Words “the provisions of” deleted.
MAC R 299.9808(5)	12/16/2004, renumbered as (6) effective 3/17/2008.	Words “the requirements of” deleted.
MAC R 299.9808(8), (8)(a)(ii) and (8)(c)	12/16/2004, renumbered as (9), (9)(a)(ii) and (9)(c), effective 3/17/2008.	Words “the provisions of” deleted.
MAC R 299.9809(1)(a)	12/16/2004	Words “except a mixture of used oil and halogenated hazardous waste listed under R 299.9213 or R 299.9214” inserted.
MAC R 299.9809(2)(c)	12/16/2004	Word “are” deleted.
MAC R 299.9809(2)(n)	9/11/2000	Word “then” inserted.
MAC R 299.9809(2)(o)	9/11/2000	Word “when” inserted.
MAC R 299.9815(3)(a)(i) and (e)(i) and (ii)	12/16/2004	Word “EPA” changed to “site.”
MAC R 299.9819	12/16/2004	Words “the requirements of” deleted and word “R 299.9401(7)” changed to “R 299.9401(6).”
MAC R 299.11003(1)(b)	9/11/2000	Adoption by reference of 40 CFR Part 63, subparts EEE and LLL added.
MAC R 299.11004(5)	3/17/2008	Updated address where to obtain a document.
MAC R 299.11007(2)	12/16/2004	Updated address where to obtain a document.
MAC R 299.11008(2)	12/16/2004	Updated address where to obtain a document.

**G. Where are the revised State rules different from the Federal rules?**

The most significant differences between the State rules we are authorizing and the analogous Federal rules are summarized below. It should be noted that this summary does not describe every difference or every detail regarding the differences that are described. Members of the regulated community are advised to read the complete rules to ensure that they understand the requirements with which they will need to comply.

There are aspects of the Michigan program which are more stringent than the Federal program. All of these more stringent requirements are or will become part of the Federally enforceable RCRA program when authorized by the EPA and must be complied with in addition to the State requirements which track the minimum Federal requirements. These more stringent requirements are found at (references are to the Michigan Administrative Code):

Michigan does not allow containment buildings, making the State requirements more stringent than the Federal requirements at 40 CFR part 264 subpart DD, 40 CFR 265 subpart DD, and 40 CFR part 264 appendix I, Tables 1 and 2.

Michigan’s regulations at R 299.9601(1), (2)(b), (2)(c), (2)(h), (2)(i), and (3); R 299.9608(1), (6) and (8); R 299.9615; and R 299.9702(1) are more stringent than the Federal analogs at 40 CFR Sections 265.56(b), 265.71, 265.72, 265.142(a), 265.174, 265.190(a), 265.193, 265.194, 265.197, 265.201, and 265.340(b)(1) since the State requires compliance with standards equivalent to 40 CFR part 264 rather than 40 CFR part 265.

Michigan’s regulations at R 299.11002(1) and (2) are more stringent than the Federal analogs at 40 CFR Section 260.11(d) and (d)(1) since the State adopts updated versions of the “Flammable and Combustible Liquids Code.”

**H. Who handles permits after the authorization takes effect?**

Michigan will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to

implement and issue permits for HSWA requirements for which Michigan is not yet authorized.

**I. How does today’s action affect Indian Country (18 U.S.C. 1151) in Michigan?**

Michigan is not authorized to carry out its hazardous waste program in Indian Country within the State, as defined in 18 U.S.C. 1151. This includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Michigan;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

EPA will continue to implement and administer the RCRA program in Indian Country. It is EPA’s long-standing position that the term “Indian lands” used in past Michigan hazardous waste approvals is synonymous with the term “Indian Country.” *Washington Dep’t of Ecology v. U.S. EPA*, 752 F.2d 1465, 1467, n.1 (9th Cir. 1985). See 40 CFR 144.3 and 258.2.

**J. What is codification and is EPA codifying Michigan’s hazardous waste program as authorized in this rule?**

Codification is the process of placing a State’s statutes and regulations that comprise a State’s authorized hazardous

waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. Michigan's rules, up to and including those revised October 19, 1991, have previously been codified through incorporation-by-reference effective April 24, 1989 (54 FR 7421, February 21, 1989); as amended effective March 31, 1992 (57 FR 3724, January 31, 1992). We reserve the amendment of 40 CFR part 272, subpart X, for the codification of Michigan's program changes until a later date.

#### K. Statutory and Executive Order Reviews

This final rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law (see **SUPPLEMENTARY INFORMATION**, Section A. Why are Revisions to State Programs Necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

##### 1. Executive Order 18266: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB.

##### 2. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### 3. Regulatory Flexibility Act

This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

##### 4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

##### 5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have Federalism

implications (*i.e.*, substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government).

##### 6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

##### 7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

##### 8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

##### 9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

##### 10. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

##### 11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

##### 12. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Because this rule proposes authorization of pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

##### 13. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 17, 2010.

**Walter W. Kovalick, Jr.,**

*Acting Regional Administrator, Region 5.*

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