

Part 111 Rule Revisions Adopted

The Michigan Department of Environmental Quality (MDEQ), Waste Management Division's revisions to the administrative rules governing hazardous waste generation, storage, and disposal became effective September 11, 2000. According to a summary of the revisions prepared by MDEQ, these revisions, which were originally proposed on October 14, 1999, are necessary to "allow the state to maintain its authorization to administer its own state [hazardous waste] program, and to stay equivalent with, and at least as stringent as, the [federal Resource Conservation and Recovery Act] program." In addition, MDEQ states that the revisions will "improve the overall quality of the rules, both in terms of clarification of existing requirements and areas of program coverage, and [will] reduce some of the regulatory barriers to the regulated community by streamlining processes and providing flexibility." The revised rules and a summary of the changes are available on MDEQ Waste Management Division's web page at www.deq.state.mi.us/wmd/.

Among other things, the revisions to the hazardous waste rules:

- Require owners of hazardous waste treatment, storage, or disposal facilities to execute and file a notice with the office of the register of deeds stating that the property has been used to manage hazardous waste and is subject to the corrective action requirements of Part 111 of the Natural Resources and Environmental Protection Act (NREPA). The owner must also provide a copy of that notice to any new owner or operator of the property. MDEQ states that this rule change was necessary because MDEQ "has become aware of a number of recent property transactions at [hazardous waste facilities] where such transactions did not follow the notification requirements" and, therefore, the new owners may not have been "fully informed of their corrective action responsibilities under Part 111 of Act 451, which run with the property in perpetuity."
- Clarify that the environmental cleanup standards established under Part 201 of NREPA apply to closure and postclosure activities conducted at hazardous waste facilities under Part 111. MDEQ states, however, that "[a]s a practical matter," this new rule "will have no impact on the regulated community as the Department is already applying the environmental protection standards established pursuant to the provisions of Part 201 of [NREPA] in administering the closure and postclosure portions of the state program. This approach is consistent with the manner in which the corrective action portion of the state program is administered and has been formally recognized in writing by the U.S. EPA."
- Provide for "corrective action management units" (CAMU) under the Part 111 program in a manner that is similar to the federal regulations promulgated at 40 C.F.R. Part 264, Subpart S. A CAMU is defined as "an area within a facility that is used only for managing remediation wastes in implementing corrective action or cleanup at the facility." The new Part 111 rule, however, differs from the federal regulations in that it allows any hazardous waste management unit, including container units or tanks, to be designated a CAMU. The application of the federal counterpart is limited to surface impoundments, waste piles, land treatment units, or landfills. MDEQ states that the basis for this deviation "is that the Department does not believe that such a limitation is warranted since there may be situations

where it is desirable to designate a container unit or a tank unit as a CAMU” and that the “inclusion of this rule will provide some much needed flexibility with respect to how cleanups may be conducted under the corrective action portion of the state program.”

This article was prepared by Jeffrey L. Woolstrum, a partner in our Environmental Department, and previously appeared in the November, 2000 edition of the Michigan Environmental Compliance Update, a monthly newsletter prepared by the Environmental Department and published by M. Lee Smith Publishers.