



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING



REBECCA A. HUMPHRIES
DIRECTOR

August 31, 2010

Mr. Gregory J. Patten, Senior Regulatory Specialist
Barr Engineering
c/o Enbridge Energy, Limited Partnership
455 Leggitt Road
Marshall, Michigan 49068

Dear Mr. Patten:

SUBJECT: Approval for Emergency Disposal of Crude Oil Impacted Vegetation; Enbridge Energy, Limited Partnership (Enbridge); Kalamazoo River Oil Spill

This letter affirms the August 24, 2010, e-mail from Ms. Elizabeth Browne, Assistant Chief, Environmental Resource Management Division (ERMD), Department of Natural Resources and Environment (DNRE), granting approval for emergency disposal of crude oil impacted vegetation generated during the remediation of the Enbridge Kalamazoo River oil spill.

On August 24, 2010, the ERMD received your August 23, 2010, letter on behalf of Enbridge requesting authorization to dispose of nonhazardous crude oil impacted vegetation or vegetation mixed with soil or debris (spill cleanup materials, sorbent materials, soiled personal protection equipment, etc.), hereafter referred to as "Material," into licensed municipal solid waste landfills. The vegetation would otherwise be banned from disposal in a landfill under Section 11514(2)(d) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

Under R 299.4112 of the administrative rules promulgated under Part 115 (Part 115 Rules), the DNRE may approve the emergency disposal of waste that poses a threat or substantial nuisance to the public or the environment. The approval must specify the type and quantity of the waste and the manner and location of its disposal. The maximum duration for an approval is 90 days.

The Material is being generated from remediation activities required by a U.S. Environmental Protection Agency (U.S. EPA) removal administrative order under Section 311(c) of the federal Clean Water Act (Order) and is, therefore, determined to pose a threat or substantial nuisance to the public or the environment. This approval for emergency disposal is based upon Enbridge's compliance with the Order and associated work plans, which include requirements for waste removal, characterization, and disposal, as approved and overseen by the U.S. EPA.

This approval is further based upon the following conditions:

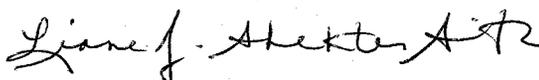
1. The maximum quantity of Material approved for emergency disposal is 40,000 tons.
2. Republic's C&C Landfill in Marshall and Waste Management of Michigan, Inc.'s Westside Recycling and Disposal Facility in Three Rivers are approved for emergency disposal of the Material. These disposal areas are not required to accept the Material.
3. Enbridge shall ensure that the Material is not a regulated hazardous waste.
4. The Material shall not contain free liquids at the time of disposal. The Material may be solidified either at the site of generation or at the approved landfill using appropriate products or the wastes listed in R 299.4119(3)(c) of the Part 115 Rules.
5. This approval for emergency disposal expires on November 21, 2010.

Enbridge must request approval from the ERMD prior to exceeding the quantity limitation or time frame specified above or if alternate disposal locations are needed.

Additionally, we are providing you with the enclosed ERMD Waste Characterization and Disposal Considerations document to assist Enbridge with evaluating disposal options for other wastes generated during the remediation activities. Contact persons for the solid waste, hazardous waste, and liquid industrial waste program areas are also provided if you have questions about Michigan's requirements.

Should you require further information, please contact Mr. Fred Sellers, Kalamazoo District Supervisor, ERMD, at 269-567-3595; sellersf@michigan.gov; or DNRE, 7953 Adobe Road, Kalamazoo, Michigan 49009; or you may contact Mr. Duane Roskoskey, Solid Waste Technical Support Unit, Solid Waste and Land Application Section, ERMD, at 517-335-4712; roskoskeyd@michigan.gov; or DNRE, P.O. Box 30241, Lansing, Michigan 48909-7741.

Sincerely,



Liane J. Shekter Smith, P.E., Chief
Environmental Resource Management Division
517-373-9523

Enclosure

cc/enc: Mr. Eric Shafer, Waste Management of Michigan, Inc.
Mr. Gene Klisiak, Republic
Mr. Ralph Dollhopf, U.S. EPA, Region 5
Ms. Elizabeth Browne, DNRE
Mr. Steve Sliver, DNRE
Mr. Fred Sellers, DNRE – Kalamazoo
Mr. Duane Roskoskey, DNRE

Department of Natural Resources and Environment
 Environmental Resource Management Division
 Waste Characterization and Disposal Considerations

Program Area	Part 115 ¹ – for solid waste that has been characterized as nonhazardous	Part 111 ² – for all hazardous waste	Part 121 ³ – for liquid waste that has been characterized as nonhazardous
Contacts	Duane Roskoskey roskoskeyd@michigan.gov Phone: 517-335-4712 Steve Sliver slivers@michigan.gov Phone: 517-373-1976	Jack Schinderle schinderlej@michigan.gov Phone: 517-373-8410 De Montgomery montgomeryd1@michigan.gov Phone: 517-373-7973	Jeanette Noechel noechelj@michigan.gov Phone: 586-753-3846 Jack Schinderle schinderlej@michigan.gov Phone: 517-373-8410
General Information		For this spill cleanup, Enbridge needs to obtain 1 Site ID Number. Any other generator must obtain 1 unique Site ID Number.	For this spill cleanup, Enbridge needs to obtain 1 Site ID Number. Any other generator must obtain 1 unique Site ID Number.
Use of Solvent-Based Degreasers		Material derived from, or impacted by, use of solvent degreasers should be segregated and evaluated to determine whether the material is "listed" hazardous waste.	

¹ Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

² Part 111, Hazardous Waste Management, of the NREPA.

³ Part 121, Liquid Industrial Wastes, of the NREPA.

Program Area	Part 115 ¹ – for solid waste that has been characterized as nonhazardous	Part 111 ² – for all hazardous waste	Part 121 ³ – for liquid waste that has been characterized as nonhazardous
<p>Processing Recovered Oil, Oil/Water Mixture</p> <p>Processing – Solidifying Oil-Soaked Sorbents, Draining Oil-Soaked Sorbents, Thermal Treatment of Oil-Contaminated Sediments and Soils, etc.</p>	<p>Thermal treatment can be done off-site and be exempt from county Solid Waste Management Plan, permitting and licensing.</p> <p>R 299.4104(r)(ii) – exempts from “processing” the thermal treatment of contaminated soil if permitted under Part 55⁴.</p> <p>R 299.4110(j)(iii) – exempts from solid waste regulation the thermal treatment of contaminated soil if permitted under Part 55. The disposal of treatment residues must be approved by the DNRE.</p> <p>Other off-site treatment must be at a licensed disposal area and consistent with the county Solid Waste Management Plan(s).</p> <p>ERMD Chief is delegated authority to approve under MCL 324.11506(1)(h) and R 299.4112 the emergency disposal of waste at a location that is not licensed, at a location not authorized by the applicable county Solid Waste Management Plan, and in a manner that is not in accordance with Part 115.</p> <p>Cannot contain free liquids per MCL 324.11514(3)(e).</p> <p>Can be solidified at the landfill and not be “processed” if requires the addition of small quantities of sorbent material to individual loads within the active portion, per R 299.4104(r)(xii).</p>	<p>Crude oil and crude oil contaminated soil and water is not regulated as hazardous waste when sent for reclamation to recover the crude oil.</p> <p>Oil/water separation subject to federal Clean Water Act is not regulated by Part 111, including treatment tanks or containers.</p> <p>Other treatment exemptions are available and a consult with Part 111 staff is advised.</p> <p>On-site treatment can generally be accommodated through exemptions or emergency permit; consult with Part 111 staff.</p> <p>Exemption is available for wipes, absorbents, and textiles that are laundered.</p>	<p>Material that is liquid or dripping and is not hazardous waste must be transported using a credentialed hauler and manifest to a properly designated facility.</p> <p>On-site processing or solidification does not need a permit.</p> <p>Material that is transported off-site requires a credentialed hauler and manifest to a Part 111 or Part 121 designated facility.</p>

⁴ Part 55, Air Pollution Control, of the NREPA.

Program Area	Part 115 ¹ – for solid waste that has been characterized as nonhazardous	Part 111 ² – for all hazardous waste	Part 121 ³ – for liquid waste that has been characterized as nonhazardous
<p>Landfill Disposal – Oil-Soaked Sorbents and Contaminated Sediments and Soils</p>	<p>Landfill must be authorized under applicable county solid waste management plans.</p> <p>ERMD Chief is delegated authority to approve under MCL 324.11506(1)(h) and R 299.4112 the emergency disposal of waste at a location that is not licensed, at a location not authorized by the applicable county Solid Waste Management Plan, and in a manner that is not in accordance with Part 115.</p>	<p>Hazardous waste may not be disposed in a solid waste landfill.</p>	<p>Requires processing to stabilize/remove liquids prior to landfill disposal.</p>
<p>Disposal of Dead Fish and Other Animals</p>	<p>Per R 299.4110(f), exempt from Part 115 if managed in accordance with the Bodies of Dead Animals Act, 1982 PA 239, as amended (BODA), administered by Michigan Department of Agriculture. Fish that have died due to lack of oxygen can be buried in accordance with BODA or composted in accordance with the fish waste exemption issued under Part 115.</p> <p>Manage oil-soaked fish and animals the same as oil-soaked sorbents and soils as described above.</p>		<p>Material that is liquid and transported off-site requires a credentialed hauler and manifest to a Part 111 or Part 121 designated facility.</p>

Program Area	Part 115 ¹ – for solid waste that has been characterized as nonhazardous	Part 111 ² – for all hazardous waste	Part 121 ³ – for liquid waste that has been characterized as nonhazardous
<p>Disposal of Oil-Contaminated Vegetation</p>	<p>More than a <i>de minimis</i> amount of yard clippings are prohibited from disposal in a landfill or incinerator, per MCL 324.11514(2)(d) and (4), and used oil is prohibited from disposal in a landfill per MCL 324.11514(a).</p> <p>An approval for composting the material would be needed under R 299.4119 and R 299.4121. Yard clippings composting facilities under MCL 324.11521 could not properly manage oil-contaminated vegetation.</p> <p>ERMD Chief is delegated authority to approve under MCL 324.11506(1)(h) and R 299.4112 the emergency disposal of waste at a location that is not licensed, at a location not authorized by the applicable county Solid Waste Management Plan, and in a manner that is not in accordance with Part 115.</p>		<p>Material that is liquid and transported off-site requires a credentialed hauler and manifest to a Part 111 or Part 121 designated facility.</p>