

	<b>OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION POLICY AND PROCEDURE</b>		DEPARTMENT OF ENVIRONMENTAL QUALITY
<b>Original Effective Date:</b> November 13, 2009	<b>Subject:</b> Responding to Illegal Disposal of Hazardous Waste and Liquid Industrial Waste in Solid Waste Landfills		<b>Category:</b>
<b>Revised Date:</b>	<b>Division/Office and Program Names:</b> OWMRP - Hazardous Waste Program/Solid Waste Program		<input checked="" type="checkbox"/> Internal/Administrative <input type="checkbox"/> External/Non-Interpretive <input type="checkbox"/> External/Interpretive
<b>Reformatted Date:</b> January 9, 2013	<b>Number:</b> OWMRP-111-115-121-21	<b>Page</b> 1 of 5	

*A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory; does not affect the rights of, or procedures and practices available to, the public; and does not have the force and effect of law.*

**INTRODUCTION, PURPOSE, OR ISSUE:**

This Policy and Procedure provides guidance to encourage consistent compliance and enforcement responses by staff of the Office of Waste Management and Radiological Protection (OWMRP) to violations of Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), Michigan Compiled Laws (MCL) 324.11101 *et seq.* (Part 111); Part 115, Solid Waste Management, of the NREPA, MCL 324.11501 *et seq.* (Part 115); Part 121, Liquid Industrial Wastes, of the NREPA, MCL 324.12101 *et seq.* (Part 121), and the Hazardous Materials Transportation Act (HMTA), 1998 PA 138, MCL 29.471 *et seq.*, regarding the illegal disposal of hazardous waste and liquid industrial waste (LIW) in solid waste landfills. In general, the goal will be to intervene in time to prevent illegal transport or disposal or ensure proper disposal of rejected hazardous waste or LIW. Where prohibited waste has been placed in a solid waste landfill, the goal will be to compel the excavation and removal of all prohibited waste from the landfill and require proper disposal or to ensure proper management of the prohibited waste. The specific responses to complaints of illegal waste transport and disposal will vary depending upon the nature of each case.

**AUTHORITY:**

Part 111 and the rules promulgated under Part 111 specify the requirements for proper management of hazardous waste.

Part 115 and the rules promulgated under Part 115 specify the requirements for proper operation of solid waste landfills. Hazardous waste and liquid industrial waste, with the exception of leachate recirculated under R 299.4308(2), are prohibited from disposal in Type III solid waste landfills by R 299.4315(8)(c). Regulated hazardous waste, as defined at R 299.4104(t), and liquid industrial waste, except for leachate or gas condensate approved for recirculation under R 299.4432, are prohibited from disposal in Type II solid waste landfills by R 299.4430(2)(a).

Part 121 specifies the requirements for proper management of liquid industrial waste.

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION  
POLICY AND PROCEDURE

Number: OWMRP-111-115-121-21

Subject: Responding to Illegal Disposal of Hazardous Waste  
and Liquid Industrial Waste in Solid Waste Landfills

Page 2 of 5

In addition to Parts 111 and 121 of the NREPA, the HMTA regulates the transportation of hazardous waste and LIW by highway. Subsection 29.477(4) of the HMTA requires motor carriers under the jurisdiction of the HMTA to comply with all applicable provisions of the NREPA.

**PROCEDURES:**

In order to provide effective and consistent responses to illegal transport and disposal of hazardous waste and LIW, the following procedures shall be followed:

**I. TIMELY RESPONSE**

- A. A timely response to these incidents is critical to ensure that all necessary information and evidence is gathered. A timely response by staff may include an immediate inspection of the generator or the receiving landfill to collect information first-hand. The following circumstances, when reported contemporaneously, will generally warrant a prompt response:
1. Hazardous waste or LIW is being staged for loading at the generator's site prior to potential illegal transportation or disposal;
  2. Hazardous waste or LIW is being loaded on an unregistered or unpermitted vehicle prior to potential illegal transportation or disposal;
  3. Hazardous waste or LIW is being transported on a highway or public roadway by a transporter without meeting the registration and permitting requirements of the HMTA or without meeting the requirements for a site identification number or proper manifest;
  4. Hazardous waste or LIW is discovered in an unregistered or unpermitted vehicle at the landfill gate, inspection pad, or working face; or
  5. Hazardous waste or LIW has been unloaded at a solid waste disposal facility.

The first available field staff person, regardless of their regulatory program assignment, should immediately conduct a complaint inspection. The situation on-site that caused the complaint should be documented by careful observation and written documentation before conditions change. The purpose of the initial complaint inspection is to collect information and copies of pertinent documents, take photos or video, conduct preliminary interviews, and temporarily intervene to prevent illegal waste transport, unloading, mixing, or burial (if already unloaded) until appropriate staff can become involved.

A list of items to consider during the inspection and follow-up investigation is listed in Appendix A of this Policy and Procedure.

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION  
POLICY AND PROCEDURE

Number: OWMRP-111-115-121-21

Subject: Responding to Illegal Disposal of Hazardous Waste  
and Liquid Industrial Waste in Solid Waste Landfills

Page 3 of 5

If the responsible parties persist in loading, moving without a manifest, burying, or other inappropriate management activities, OWMRP field staff should immediately notify district Environmental Investigation Section (EIS) staff, by telephone.

- B. Information collected in the initial response will be used to support a determination by the appropriate program staff of violations and the need for follow-up inspections or corrective measures. Initial responders dealing with counterpart program issues should advise facility representatives during the complaint response that the preliminary inspection is focused on collecting information and regulatory program experts will review the findings to evaluate the facility conditions and circumstances and determine if any violations occurred, or if there is the need for further investigation or corrective measures.
- C. In the event that the initial reporting of the incident(s) is not timely (i.e., its is discovered long after burial that a waste was in fact a hazardous waste), the appropriate program staff should plan and conduct the necessary follow-up inspections or meetings with the responsible parties and proceed as outlined under Sections II and III of this policy.

## II. CORRECTIVE ACTIONS

In the event that hazardous waste or LIW is unloaded and/or buried in a solid waste landfill, the District Supervisor should request a work plan from the receiving facility detailing the corrective actions to be taken. The waste volumes, characterization information, and location within the landfill shall be considered in the evaluation of corrective action alternatives. If the waste is to be excavated, the work plan must include information regarding the plan for proper disposal of the waste. Part 111 staff may need to provide compliance assistance to the landfill in regards to generator status notification, manifesting, obtaining a site identification number, etc. If hazardous waste is to be managed in-place the facility should submit a Corrective Measures Study and if required, a Corrective Measures Implementation Plan for the waste that meets the requirements of Part 111.

## III. ENFORCEMENT CONSISTENCY REVIEW

- A. Findings should be discussed with counterpart staff and the District Supervisor before any decision is communicated to the responsible parties regarding necessary corrective measures. Field program staff should share their findings with district EIS staff so that EIS staff can determine the potential impact on current investigations and whether an investigator should be assigned to the case.
- B. If the complaint and inspection information indicate that hazardous waste or LIW was illegally transported, delivered to a solid waste landfill, or disposed of, the District Supervisor should arrange for a conference call between the appropriate district staff and the Enforcement Section Chief; the Field Operations Section Chief; and the Hazardous Waste Section, Management and Tracking Unit Chief, prior to approval of a

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION  
POLICY AND PROCEDURE

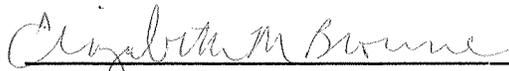
Number: OWMRP-111-115-121-21

Subject: Responding to Illegal Disposal of Hazardous Waste  
and Liquid Industrial Waste in Solid Waste Landfills

Page 4 of 5

work plan. The purpose of this meeting is to determine the appropriate corrective measures and the appropriate enforcement response.

OFFICE CHIEF APPROVAL:



Elizabeth M. Browne, Chief  
Office of Waste Management and Radiological Protection



Date

OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION  
POLICY AND PROCEDURE

Number: OWMRP-111-115-121-21  
Subject: Responding to Illegal Disposal of Hazardous Waste  
and Liquid Industrial Waste in Solid Waste Landfills

Page 5 of 5

APPENDIX A

Investigating reports of illegal transportation or disposal of hazardous waste or LIW

The following points are intended to provide guidance to staff investigating instances of improper transport/disposal of hazardous waste or LIW:

WHO

Generator: Owner/operator name, address, generator status, contact information, names and titles/job descriptions of employees involved in the incident and the nature of their involvement.

Transporter: Owner/operator name, address, registration, permit, and financial responsibility status, contact information, names and titles/job descriptions of employees involved in the incident and the nature of their involvement.

Disposal facility: Owner/operator name, address, operating license status, contact information, names and titles/job descriptions of employees involved in the incident and the nature of their involvement.

WHAT

Waste: Characterization, process generating the waste, volume, physical properties, and appearance.

Corrective action(s): What are the reasonable options for corrective action? Can the material be excavated safely? What are the consequences of leaving it in place? What additional monitoring or closure requirements apply?

WHERE

Location of hazardous or LIW within the landfill (if already unloaded).

WHEN

Date(s) of waste generation.

Date(s)/time(s) of transport.

Date(s)/time(s) of arrival at landfill

Date/time of discovery of improper activity

Date/time of report to the DEQ

HOW and WHY

What went wrong? Characterization? Process change? Labeling? Human error, negligence, or knowing violation/criminal intent?

What are the landfills screening procedures for prohibited waste? Were they followed? Did they work?

Document the chain of events that led to the improper transport/disposal.

What needs to be corrected by the generator, transporter, or landfill to prevent this from happening again?