

1 financial assurance:

2 (a) ~~Financial assurance established for a type III landfill or~~
 3 ~~a preexisting unit at a type II landfill and until April 9, 1997,~~
 4 ~~existing and new type II landfills shall be in the form of~~ **Subject**
 5 **to section 11523b, financial assurance for a landfill described in**
 6 **this subdivision shall be** a bond in an amount equal to \$20,000.00
 7 per acre of licensed landfill within the solid waste boundary.
 8 However, the **total** amount of the bond shall not be less than
 9 \$20,000.00 or more than ~~\$1,000,000.00.~~ **\$2,000,000.00.** Each bond
 10 shall provide assurance for the maintenance of the ~~finished~~
 11 landfill site **or a portion thereof** for a period of 30 years ~~after~~
 12 **beginning when the department approved a closure certification as**
 13 **described in section 11523a(5)(b) for** the landfill or ~~any approved~~
 14 ~~portion is completed.~~ **portion thereof, respectively.** In addition to
 15 this bond, **the owner or operator of a landfill described in this**
 16 **subdivision shall maintain** a perpetual care fund. ~~shall be~~
 17 ~~maintained under section 11525.~~ **All of the following landfills are**
 18 **subject to this subdivision, unless the owner or operator of the**
 19 **landfill, by written notice to the department, elects to provide**
 20 **financial assurance under subdivision (b):**

21 (i) A preexisting unit at a type II landfill.

22 (ii) A type II landfill that stopped receiving waste and was
 23 certified as closed before April 9, 1997.

24 (iii) A type III landfill that stopped receiving waste before
 25 the effective date of the amendatory act that added this
 26 subparagraph.

27 (iv) A type III landfill that received waste on or after the
 28 effective date of the amendatory act that added this subparagraph.
 29 However, such a landfill is not subject to this subdivision but is



1 subject to subdivision (b) upon the issuance of a new license for
 2 the landfill on or after the date 2 years after the effective date
 3 of the amendatory act that added this subparagraph.

4 (b) Financial assurance for a type II **or type III** landfill
 5 that is an existing unit **not subject to subdivision (a)** or a new
 6 unit **or for a landfill, otherwise subject to subdivision (a), whose**
 7 **owner or operator elects to be subject to this subdivision** shall be
 8 in an amount equal to the cost, in current dollars, of hiring a
 9 third party, to conduct closure, postclosure maintenance and
 10 monitoring, and if necessary, corrective action. ~~An A license~~
 11 application for a type II landfill that is ~~an existing unit or new~~
 12 ~~unit~~ **subject to this subdivision** shall demonstrate financial
 13 assurance in ~~accordance~~ **compliance** with section 11523a. **A license**
 14 **application for a type III landfill shall demonstrate financial**
 15 **assurance in compliance with section 11523a if the application is**
 16 **filed 2 or more years after the effective date of the amendatory**
 17 **act that added subsection (2).**

18 (c) Financial assurance ~~established~~ for an existing coal ash
 19 impoundment shall be ~~in the form of a~~ bond in an amount equal to
 20 \$20,000.00 per acre within the impoundment boundary. However, the
 21 **total** amount of the bond shall not be less than \$20,000.00 or more
 22 than \$1,000,000.00. The bond shall provide assurance for the
 23 maintenance of the ~~finished~~ coal ash impoundment **or a portion**
 24 **thereof** for a period of 30 years after the coal ash impoundment or
 25 any approved portion is completed. In addition to the bond, **the**
 26 **owner or operator of an existing coal ash impoundment shall**
 27 **maintain** a perpetual care fund. ~~shall be maintained under section~~
 28 ~~11525.~~ For applications for a license to operate submitted to the
 29 department after ~~the date that is 2 years after the effective date~~



1 ~~of the amendatory act that added section 11511a, December 28, 2020,~~
 2 an applicant that demonstrates that it meets the requirements of R
 3 299.9709 of the Michigan Administrative Code may utilize the
 4 financial test under that rule for an amount not exceeding 95% of
 5 the closure, postclosure, and corrective action cost estimate.

6 (d) Financial assurance established for a **licensed** solid waste
 7 **processing and** transfer facility ~~, or incinerator, processing~~
 8 ~~plant, other solid waste handling or disposal facility, or a~~
 9 ~~combination of these utilized in the disposal of solid waste shall~~
 10 ~~be in the form of a bond in an amount equal to 1/4 of 1% of the~~
 11 ~~construction cost of the facility, but shall not be less than~~
 12 ~~\$4,000.00, and shall be a bond in the amount of \$20,000.00. The~~
 13 **financial assurance** shall be continued in effect for a period of 2
 14 years after the disposal area is closed.

15 (2) The department shall not issue an approval under a general
 16 permit for a materials utilization facility unless the applicant
 17 has filed, as a part of the application for the approval, evidence
 18 of adequate financial assurance, subject to the following, as
 19 applicable:

20 (a) Financial assurance established for a materials recovery
 21 facility that requires a general permit shall be a bond in the
 22 amount of \$20,000.00 and maintained in effect until after the
 23 facility has ceased accepting material, removed all managed
 24 material from the site, and had its closure certification approved
 25 by the department as described in section 11525b(3)(a).

26 (b) The amount of financial assurance established for a
 27 composting facility with a general permit shall be \$20,000.00. The
 28 financial assurance shall be maintained in effect until after the
 29 facility has ceased accepting compostable materials, has removed



1 any finished or partially finished compost from the facility, and
 2 has had its closure certification approved by the department as
 3 described in section 11525b(3) (a) .

4 (c) An innovative technology facility shall submit to the
 5 department a detailed written estimate, in current dollars, of the
 6 cost for the owner or operator to hire a third party to close the
 7 facility, including the cost to dispose of any remaining waste
 8 material, or otherwise contain and control any remaining waste
 9 residues. The department shall approve, approve with modifications,
 10 or disapprove the closure cost estimate in writing. The financial
 11 assurance shall be continued in effect until the facility has
 12 ceased accepting material, removed all managed material from the
 13 site, and had its closure certification approved by the department
 14 as described in section 11525b(3) (a) .

15 (3) ~~(2) The owner or operator of a landfill may post a cash~~
 16 ~~bond with the department instead of other bonding mechanisms to~~
 17 ~~fulfill the remaining financial assurance requirements of this~~
 18 ~~section. An owner or operator of a disposal area **materials**~~
 19 **management facility** who elects to post cash as a bond shall accrue
 20 interest on that bond **quarterly** at the annual rate of 6%, ~~to be~~
 21 ~~accrued quarterly,~~ except that the interest rate payable to an
 22 owner or operator shall not exceed the rate of interest accrued on
 23 the state common cash fund for the quarter in which an accrual is
 24 determined. Interest shall be paid to the owner or operator upon
 25 release of the bond by the department. Any interest greater than 6%
 26 shall be deposited in the state treasury to the credit of the
 27 general fund. ~~and shall be appropriated to the department to be~~
 28 ~~used by the department for administration of this part. An owner or~~
 29 **operator who uses a certificate of deposit as a bond shall receive**



1 any accrued interest on that certificate of deposit upon release of
2 the bond by the department.

3 (4) ~~(3)~~—An owner or operator of a disposal area that is not a
4 landfill who has accomplished closure in a manner approved by the
5 department and in accordance with this part and the rules
6 promulgated under this part, may request a 50% reduction in the
7 bond during the 2-year period after closure. At the end of the 2-
8 year period, the owner or operator may, **not less than 2 years after**
9 **closure of the disposal area**, request that the department terminate
10 the bond **required under this section**. ~~The department shall approve~~
11 ~~termination of the bond within~~ **Within** 60 days after the request is
12 made, **the department shall approve or deny the request in writing.**
13 **The department shall approve the request** if all waste and waste
14 residues have been removed from the disposal area and closure ~~is~~
15 **has been certified by a licensed professional engineer and approved**
16 **by the department.**

17 (5) ~~(4)~~—The department may utilize a bond required under this
18 section for the closure and postclosure monitoring and maintenance
19 of a disposal area if the owner or operator ~~fails to comply with~~
20 **violates** the closure and postclosure monitoring and maintenance
21 requirements of ~~this part and the rules promulgated under this part~~
22 **115** to the extent necessary to correct such violations. At least 7
23 days before utilizing the bond, the department shall issue a notice
24 of violation or other order that alleges violation of ~~this part or~~
25 ~~rules promulgated under this part~~ **115** and **shall** provide an
26 opportunity for a hearing. This subsection does not apply to a
27 perpetual care fund. ~~bond.~~

28 (6) ~~(5)~~—~~Under the~~ **The** terms of a surety bond, **irrevocable**
29 letter of credit, insurance policy, or perpetual care fund bond ~~7~~



1 **shall require** the issuing institution ~~shall-to~~ notify both the
2 department and the owner or operator at least 120 days before the
3 expiration date or ~~any~~ cancellation of the bond. If the owner or
4 operator does not extend the effective date of the bond, or
5 establish alternate financial assurance within 90 days after
6 receipt of an expiration or cancellation notice from the issuing
7 institution, all of the following apply:

8 (a) The department may draw on the bond.

9 (b) In the case of a perpetual care fund bond, the issuing
10 institution shall deposit the proceeds into the standby trust or
11 escrow account unless the department agrees to the expiration or
12 cancellation of the perpetual care fund bond.

13 (7) ~~(6)~~—The department shall not issue a construction permit
14 or a new license to operate a disposal area to an applicant that is
15 the subject of a bankruptcy action commenced under title 11 of the
16 United States Code, 11 USC 101 to 1532, or any ~~other predecessor or~~
17 successor statute.

18 ~~(7) A person required under this section to provide financial~~
19 ~~assurance in the form of a bond for a landfill may request a~~
20 ~~reduction in the bond based upon the amount of the perpetual care~~
21 ~~fund established under section 11525. A person requesting a bond~~
22 ~~reduction shall do so on a form consistent with this part and~~
23 ~~provided by the department. The department shall grant this request~~
24 ~~unless there are sufficient grounds for denial and those reasons~~
25 ~~are provided in writing. The department shall grant or deny a~~
26 ~~request for a reduction of the bond within 60 days after the~~
27 ~~request is made. If the department grants a request for a reduced~~
28 ~~bond, the department shall require a bond in an amount such that~~
29 ~~for type III landfills, and type II landfills that are preexisting~~



1 ~~units, the amount of the perpetual care fund plus the amount of the~~
 2 ~~reduced bond equals the maximum amount required in a perpetual care~~
 3 ~~fund in section 11525(2).~~

4 ~~(8) The department shall release the bond required by this~~
 5 ~~section if the amount of the perpetual care fund exceeds the amount~~
 6 ~~of the financial assurance required under subsection (1).~~

7 **(8) An owner or operator of a landfill that utilizes a**
 8 **financial test as financial assurance for the landfill may utilize**
 9 **a financial test for other types of materials management facilities**
 10 **that are located on the permitted landfill site.**

11 **(9) The department may utilize a bond required under this**
 12 **section for a facility subject to approval under a general permit**
 13 **for bringing the facility into compliance with part 115, including,**
 14 **but not limited to, removing managed material from the facility,**
 15 **cleanup at the facility, and fire suppression or other emergency**
 16 **response at the facility, including reimbursement to any local unit**
 17 **of government that incurred emergency response costs. Not less than**
 18 **7 days before utilizing the bond, the department shall issue a**
 19 **notice of violation or order that alleges violation of part 115 and**
 20 **shall provide the owner or operator an opportunity for a hearing.**

21 **(10) ~~(9) Prior to~~ Before** closure of a landfill, if money is
 22 disbursed from the perpetual care fund, ~~then~~ the department may
 23 require a corresponding increase in the amount of bonding ~~required~~
 24 ~~to be provided~~ if necessary to meet the requirements of this
 25 section.

26 **(11) ~~(10)~~** If an owner or operator of a disposal area fulfills
 27 the financial assurance requirements of ~~this part~~ **115** by obtaining
 28 a bond, including, but not limited to, a perpetual care fund bond,
 29 and the surety company, insurer, trustee, bank, or financial or



1 other institution that issued or holds the bond becomes the subject
2 of a bankruptcy action **commenced under title 11 of the United**
3 **States Code, 11 USC 101 to 1532, or any successor statute** or has
4 its authority to issue or hold the bond ~~or to act as an escrow~~
5 ~~agent or trustee~~ suspended or revoked, the owner or operator shall,
6 within 60 days after receiving notice of that event, establish
7 alternate financial assurance under this part.

8 (12) **Two or more owners or operators may demonstrate all or a**
9 **portion of required financial assurance for materials management**
10 **facilities that are not landfills with a risk pooling financial**
11 **mechanism approved by the department that meets all of the**
12 **following requirements:**

13 (a) **The mechanism is administered by a surety company,**
14 **insurer, surety, bank, or other financial institution that has**
15 **authority to issue such a mechanism and is regulated and examined**
16 **by a state or federal agency.**

17 (b) **The mechanism is irrevocable and renews automatically**
18 **unless, not less than 120 days before the automatic renewal date,**
19 **the insurer, surety, bank, or other financial institution notifies**
20 **the department and the owners or operators of the covered**
21 **facilities that the mechanism will not be renewed, and the**
22 **department agrees in writing to termination of the mechanism.**

23 (c) **The amount of financial assurance available for any single**
24 **covered facility is not less than would be available for that**
25 **facility if it was covered alone under a bond.**

26 (d) **The addition or deletion of facilities covered under the**
27 **mechanism requires written agreement of the director.**

28 (13) **The department shall access and use funds under a**
29 **mechanism approved under subsection (12) subject to the provisions**



1 **for bonds under subsection (9).**

2 Sec. 11523a. (1) ~~Effective April 9, 1997, the~~ **The** department
 3 shall not issue a license to operate a ~~type II~~ landfill **that is**
 4 **subject to section 11523(1)(b)** unless the applicant demonstrates
 5 that ~~for any new unit or existing unit at the facility,~~ the
 6 combination of the ~~perpetual~~ **landfill** care fund established under
 7 section ~~11525, bonds,~~ **11525d** and the financial capability of the
 8 applicant as evidenced by a financial test ~~,~~ provides financial
 9 assurance in an amount not less than that required by this section.
 10 An applicant may utilize a financial test for an amount ~~up to, but~~
 11 ~~not exceeding,~~ **more than** 70% of the closure, postclosure, and
 12 corrective action cost estimate. **For applications for a license to**
 13 **operate submitted after 2 years after the effective date of the**
 14 **amendatory act that added subsection (3)(c), an applicant may**
 15 **utilize a financial test for an amount more than 70% but not more**
 16 **than 95% of the closure, postclosure, and corrective action cost**
 17 **estimate if the owner or operator demonstrates that the owner or**
 18 **operator passes a financial test under and otherwise meets the**
 19 **requirements of R 299.9709 of the Michigan Administrative Code.**

20 (2) An applicant may demonstrate compliance with this section
 21 by submitting **to the department** evidence ~~, with a form consistent~~
 22 ~~with this part and provided by the department,~~ that the applicant
 23 has financial assurance for any existing unit or new unit in an
 24 amount equal to or ~~greater~~ **more** than the sum of the following
 25 standardized costs:

26 (a) A standard closure cost estimate. The standard closure
 27 cost estimate shall be based upon the sum of the following costs in
 28 ~~1996~~ **2018** dollars, adjusted for inflation and partial closures, if
 29 any, as specified in subsections (4) and (5):



1 (i) A base cost of ~~\$20,000.00~~ **\$40,000.00** per acre to construct
2 a compacted soil final cover using on-site material.

3 (ii) A supplemental cost of ~~\$20,000.00~~ **\$40,000.00** per acre, to
4 install a synthetic cover liner, if required by rules under this
5 part.

6 (iii) A supplemental cost of ~~\$5,000.00~~ **\$10,000.00** per acre, if
7 low permeability soil must be transported from off-site to
8 construct the final cover or if a bentonite geocomposite liner is
9 used instead of low permeability soil in a composite cover.

10 (iv) A supplemental cost of ~~\$5,000.00~~ **\$9,000.00** per acre, to
11 construct a passive gas collection system in the final cover ~~7~~
12 ~~unless an active gas collection system has been installed at the~~
13 ~~facility.~~ **or a supplemental cost of \$15,000.00 per acre for an**
14 **active gas collection and control system, for those areas without a**
15 **gas collection and control system already installed.**

16 (b) A standard postclosure cost estimate. The standard
17 postclosure cost estimate shall be based upon the sum of the
18 following costs, adjusted for inflation as specified in section
19 ~~11525(2)~~: **11525(3)** :

20 (i) A final cover maintenance cost of ~~\$200.00~~ **\$400.00** per acre
21 per year.

22 (ii) A leachate disposal cost of ~~\$100.00~~ **\$400.00** per acre per
23 year.

24 (iii) A leachate transportation cost of ~~\$1,000.00~~ **\$4,000.00** per
25 acre per year, if leachate is required to be transported off-site
26 for treatment.

27 (iv) **An active gas collection and control system maintenance**
28 **cost of \$900.00 per acre per year for active gas collection and**
29 **control systems subject to the requirements of standards of**



1 performance for new stationary sources, 40 CFR part 60.

2 (v) An active gas collection and control system maintenance
3 cost of \$500.00 per acre per year for landfills not subject to the
4 requirements of standards of performance for new stationary
5 sources, 40 CFR part 60.

6 (vi) A passive gas collection system maintenance cost of \$35.00
7 per acre per year.

8 (vii) ~~(iv)~~ A groundwater monitoring cost of ~~\$1,000.00~~ **\$2,000.00**
9 per monitoring well per year.

10 (viii) ~~(v)~~ A gas monitoring cost of ~~\$100.00~~ **\$200.00** per
11 monitoring point per year, for monitoring points used to detect
12 landfill gas at or beyond the facility property boundary.

13 (c) ~~The A~~ corrective action cost estimate, if any. The
14 corrective action cost estimate shall be a detailed written
15 estimate, in current dollars, of the cost of hiring a third party
16 to perform corrective action in ~~accordance~~ **compliance** with this
17 part 115.

18 (3) Instead of using some or all of the standardized costs
19 specified in subsection (2), an applicant may ~~estimate~~ **use** the site
20 ~~specific~~ **site-specific** costs of closure or postclosure maintenance
21 and monitoring. A ~~site-specific~~ **site-specific** cost estimate shall
22 be a written estimate, in current dollars, of the cost of hiring a
23 third party to perform the activity. For the purposes of this
24 subsection, a parent corporation or a subsidiary of the owner or
25 operator is not a third party. ~~Site-specific~~ **Site-specific** cost
26 estimates shall ~~be based on~~ **comply with** the following, **as**
27 **applicable:**

28 (a) For closure, **be based on** the cost to close the largest
29 area of the landfill ~~ever~~ requiring a final cover at any time



1 during the active life, when the extent and manner of its operation
 2 would make closure the most expensive, in ~~accordance~~ **compliance**
 3 with the approved closure plan. The closure cost estimate ~~may~~ **shall**
 4 not incorporate any salvage value ~~that may be realized by~~ **from** the
 5 sale of structures, land, equipment, or other assets associated
 6 with the facility at the time of final closure.

7 (b) For postclosure, **be based on** the cost **at any given time** to
 8 conduct postclosure maintenance and monitoring in ~~accordance~~
 9 **compliance** with the approved postclosure plan **for the next 30 years**
 10 **of the postclosure period, or for the remainder of the postclosure**
 11 **period if the remainder is less than 30 years. However, the**
 12 **applicant shall submit to the department an estimate of the**
 13 **postclosure maintenance and monitoring cost** for the entire
 14 postclosure period.

15 (c) For costs for operation and maintenance of an on-site
 16 wastewater treatment facility managing leachate at a landfill that
 17 are substituted for the standardized leachate disposal and
 18 transportation costs of this section, **be based on an engineering**
 19 **evaluation of total wastewater flow and include utilities,**
 20 **staffing, and incidental costs to maintain and ensure compliance**
 21 **with all applicable permits.**

22 (4) The owner or operator of a landfill subject to this
 23 section shall, during the active life of the landfill and during
 24 the postclosure care period, annually adjust the financial
 25 assurance cost estimates and corresponding amount of financial
 26 assurance for inflation. ~~Cost estimates~~ **The standard closure cost**
 27 **estimate and corrective action cost estimate** shall be adjusted for
 28 inflation by multiplying the cost estimate by an inflation factor
 29 derived from the most recent United States Department of the



1 Interior, Bureau of Reclamation ~~composite index~~ **Composite Index**
 2 published by the United States Department of Commerce or another
 3 index that is more representative of the costs of closure and
 4 postclosure monitoring and maintenance as ~~determined appropriate~~
 5 **approved** by the department. The owner or operator shall document
 6 the adjustment on a form consistent with ~~this part 115~~ as ~~prepared~~
 7 **provided or approved** by the department and shall place the
 8 documentation in the operating record of the facility.

9 (5) The owner or operator of a landfill subject to this
 10 section may request that the department authorize a reduction in
 11 the approved cost estimates and corresponding financial assurance
 12 for the landfill. ~~by submitting a form consistent with this part~~
 13 ~~and provided by the department certifying~~ **Within 60 days after**
 14 **receiving the financial assurance reduction request under this**
 15 **subdivision, the department shall approve or deny the request in**
 16 **writing. A denial shall state the reasons for the denial. A**
 17 **financial assurance reduction request shall certify** completion of
 18 any of the following activities:

19 (a) Partial closure of the landfill. The current closure cost
 20 estimate for partially closed portions of a landfill unit may be
 21 reduced by 80%, if the maximum waste slope on the unclosed portions
 22 of the unit does not exceed 25%. The percentage of the cost
 23 estimate reduction approved by the department for the partially
 24 closed portion shall be reduced 1% for every 1% increase in the
 25 slope of waste over 25% in the active portion. An owner or operator
 26 requesting a reduction in financial assurance for partial closure
 27 shall ~~enclose~~ **submit** with the request a certification under the
 28 seal of a licensed professional engineer ~~that certifies of~~ both of
 29 the following:



1 (i) That a portion of the licensed landfill unit has reached
 2 final grades and has had a final cover installed in compliance with
 3 the approved closure plan and ~~rules promulgated under this part~~
 4 **115.**

5 (ii) The maximum slope of waste in the active portion of the
 6 landfill unit at the time of partial closure.

7 (b) Final closure of the landfill. An owner or operator
 8 requesting a cost estimate reduction for final closure shall submit
 9 **with the request** a certification under the seal of a licensed
 10 professional engineer that closure of that landfill unit has been
 11 fully completed in ~~accordance~~**compliance** with the approved closure
 12 plan for the landfill. Within 60 days of receiving a certification
 13 under this ~~subsection,~~**subdivision,** the department shall perform a
 14 consistency review of the submitted certification and do 1 of the
 15 following:

16 (i) Approve the certification and notify the owner or operator
 17 that he ~~or she may reduce~~ the closure cost estimate **may be reduced**
 18 to zero.

19 (ii) Disapprove the certification and provide the owner or
 20 operator with a detailed written statement of the reasons ~~why~~ the
 21 department has determined that closure certification has not been
 22 conducted in ~~accordance~~**compliance** with ~~this part, the rules~~
 23 ~~promulgated under this part,~~**115** or an approved closure plan.

24 (c) Postclosure maintenance and monitoring. The owner or
 25 operator of a landfill unit who has completed final closure of the
 26 unit may request a reduction in the postclosure cost estimate and
 27 corresponding financial assurance for 1 year or more of postclosure
 28 maintenance and monitoring if the landfill has been monitored and
 29 maintained in ~~accordance~~**compliance** with the approved postclosure



1 plan. ~~The department shall, within~~ **Within** 60 days ~~of~~ **after**
 2 receiving a cost estimate reduction request, **the department shall**
 3 grant written approval or issue a written denial stating the reason
 4 for denial. ~~The~~ **If the** department shall ~~grant~~ **grants** the request,
 5 ~~and~~ the owner or operator may reduce the postclosure cost estimate
 6 to reflect the number of years remaining in the postclosure period.
 7 ~~unless the~~ **The** department ~~denies~~ **shall deny** the request ~~and the~~
 8 ~~written denial states that~~ **if** the owner or operator has not
 9 performed the specific tasks consistent with ~~this part, rules~~
 10 ~~promulgated under this part~~ **115** and an approved **postclosure** plan.
 11 **The department shall not grant a request under this subdivision to**
 12 **reduce the postclosure cost estimate and the corresponding**
 13 **financial assurance to below the maximum required perpetual care**
 14 **fund amount specified in section 11525(3) unless the owner or**
 15 **operator has demonstrated within the past 5-year period that the**
 16 **landfill is on target to achieve functional stability as described**
 17 **in section 11517 within the time remaining in the postclosure**
 18 **period.**

19 (6) The owner or operator of a landfill subject to this
 20 section may request a reduction in the amount of ~~one~~ **1** or more of
 21 the financial assurance mechanisms in place. If the combined value
 22 of the remaining financial assurance mechanisms equals the amount
 23 required under this section, the department shall approve the
 24 request.

25 ~~(7) An owner or operator requesting that the department~~
 26 ~~approve a financial assurance reduction under subsection (5) or (6)~~
 27 ~~shall do so on a form consistent with this part and provided by the~~
 28 ~~department. The department shall grant written approval or, within~~
 29 ~~60 days of receiving a financial assurance reduction request, issue~~



1 ~~a written denial stating the reason for the denial.~~

2 Sec. 11523b. (1) The owner or operator of a landfill or coal
3 ash impoundment may establish a trust fund or escrow account to
4 fulfill the requirements of sections 11523 and 11523a. ~~The trust~~
5 ~~fund or escrow account shall be executed on a form provided by the~~
6 ~~department.~~

7 ~~(2) Payments into a trust fund or escrow account shall be made~~
8 ~~annually over the term of the first operating license issued after~~
9 ~~the effective date of this section. The first payment into a trust~~
10 ~~fund or escrow account shall be made prior to licensure and shall~~
11 ~~be at least equal to the portion of the financial assurance~~
12 ~~requirement to be covered by the trust fund or escrow account~~
13 ~~divided by the term of the operating license. Subsequent payments~~
14 ~~shall be equal to the remaining financial assurance requirement~~
15 ~~divided by the number of years remaining until the license expires.~~

16 ~~(3) If the owner or operator of a landfill or coal ash~~
17 ~~impoundment establishes a trust fund or escrow account after having~~
18 ~~used one or more alternate forms of financial assurance, the~~
19 ~~initial payment into the trust fund or escrow account shall be at~~
20 ~~least the amount the fund would contain if the fund were~~
21 ~~established initially and annual payments made according to~~
22 ~~subsection (2).~~

23 **(2)** ~~(4)~~All earnings and interest from a trust fund or escrow
24 account shall be credited to the fund or account. However, the
25 custodian may be compensated for reasonable fees and costs for ~~his~~
26 ~~or her~~ **the custodian's** responsibilities as custodian. The custodian
27 shall ensure the filing of all required tax returns for which the
28 trust fund or escrow account is liable and shall disburse funds
29 from earnings to pay ~~lawfully due~~ taxes owed by the trust fund or



1 escrow account, without permission of the department.

2 (3) ~~(5)~~—The custodian shall annually, 30 days preceding the
3 anniversary date of establishment of the fund, furnish to the owner
4 or operator and to the department a statement confirming the value
5 of the fund or account as of the end of that month.

6 (4) ~~(6)~~—The owner or operator may request that the department
7 authorize the release of funds from a trust fund or escrow account.
8 The department shall grant the request if the owner or operator
9 demonstrates that the value of the fund or account exceeds the
10 owner's or operator's financial assurance obligation. A payment or
11 disbursement from the fund or account shall not be made without the
12 prior written approval of the department.

13 (5) ~~(7)~~—The owner or operator shall receive all interest or
14 earnings from a trust fund or escrow account upon its termination.

15 (6) **If an owner or operator of a disposal area fulfills the**
16 **financial assurance requirements of part 115 by establishing a**
17 **trust fund or escrow account and the custodian has its authority to**
18 **act as a custodian suspended or revoked, the owner or operator**
19 **shall, within 60 days after receiving notice of the suspension or**
20 **revocation, establish alternative financial assurance under part**
21 **115.**

22 (7) ~~(8)~~—As used in this section, "custodian" means the trustee
23 of a trust fund or escrow agent of an escrow account.

24 Sec. 11525. **(1) This section applies only to landfills subject**
25 **to section 11523(1) (a) .**

26 (2) ~~(1)~~—The owner or operator of a landfill or coal ash
27 impoundment shall establish and maintain a perpetual care fund for
28 a period of 30 years after final closure of the landfill or coal
29 ash impoundment as specified in this section. A perpetual care fund



1 may be established as a trust, an escrow account, or a perpetual
 2 care fund bond and may be used to demonstrate financial assurance
 3 for ~~type II and type III landfills and coal ash impoundments under~~
 4 ~~sections 11523 and 11523a.~~ **a landfill or coal ash impoundment.**

5 (3) ~~(2)~~ Except as otherwise provided in this section, the
 6 owner or operator of a landfill shall increase the amount of ~~his or~~
 7 ~~her~~ **the** perpetual care fund 75 cents for each ton or portion of a
 8 ton ~~or 25 cents for each cubic yard or portion of a cubic yard of~~
 9 solid waste that is disposed of in the landfill ~~after June 17, 1990~~
 10 until the fund reaches the maximum required fund amount. As of July
 11 1, ~~1996,~~ **2018**, the maximum required fund amount for a landfill or
 12 coal ash impoundment is ~~\$1,156,000.00.~~ This amount shall be
 13 ~~annually adjusted for inflation and rounded to the nearest~~
 14 ~~thousand.~~ **\$2,257,000.00.** The department shall **annually** adjust ~~the~~
 15 ~~maximum required fund~~ **this** amount for inflation annually by
 16 multiplying the amount by an inflation factor derived from the most
 17 recent United States Department of the Interior, Bureau of
 18 Reclamation ~~composite index~~ **Composite Index** published by the United
 19 States Department of Commerce or another index more representative
 20 of the costs of closure and postclosure monitoring and maintenance
 21 as ~~determined appropriate~~ **approved** by the department. **The**
 22 **department shall round the resulting amount to the nearest thousand**
 23 **dollars.** Increases to the amount of a perpetual care fund required
 24 under this subsection shall be calculated based on solid waste
 25 disposed of in the landfill as of the end of the state fiscal year
 26 and shall be made within 30 days after the end of each state fiscal
 27 year.

28 (4) ~~(3)~~ The owner or operator of a landfill or coal ash
 29 impoundment ~~that is used for the disposal of the following~~



1 ~~materials~~ shall increase the amount of the perpetual care fund 7.5
 2 cents for each ton ~~or cubic yard~~ or portion of a ton ~~or cubic yard~~
 3 of the following ~~materials~~ that are disposed of in the landfill or
 4 coal ash impoundment after ~~the effective date of the amendatory act~~
 5 ~~that added section 11511a~~ **December 28, 2020** until the fund reaches
 6 the maximum required fund amount under subsection (2):

7 (a) Coal ash, wood ash, ~~or cement kiln dust~~, **or a combination**
 8 **thereof**, that is disposed ~~of in a landfill that~~ **if the disposal**
 9 **area** is used only for the disposal of ~~coal ash, wood ash, or cement~~
 10 ~~kiln dust, or a combination of these materials, or that is~~ **these**
 11 **materials or these materials are** permanently segregated in a
 12 ~~landfill.~~ **the disposal area.**

13 (b) Wastewater treatment sludge or sediments from wood pulp or
 14 paper producing industries that is disposed of in a landfill ~~that~~
 15 **if the landfill** is used only for the disposal of ~~wastewater~~
 16 ~~treatment sludge and sediments from wood pulp or paper producing~~
 17 ~~industries, or that is~~ **these materials or these materials are**
 18 permanently segregated in a ~~the~~ landfill.

19 (c) Foundry sand or other material that is approved by the
 20 department for use as daily cover at **the landfill if it is** an
 21 operating landfill, **foundry sand** that is disposed of in a landfill
 22 ~~that~~ **if the landfill** is used only for the disposal of foundry sand,
 23 or **foundry sand** that is permanently segregated in a landfill.

24 (5) ~~(4)~~ The owner or operator of a landfill that is used only
 25 for the disposal of a mixture of 2 or more of the materials
 26 described in subsection ~~(3) (a)~~ **(4) (a)** to (c) or in which a mixture
 27 of 2 or more of these materials are permanently segregated shall
 28 increase the amount of the perpetual care fund 7.5 cents for each
 29 ton ~~or cubic yard~~ or portion of a ton ~~or cubic yard~~ of these



1 materials that are disposed of in the landfill. ~~after July 1, 1996.~~

2 (6) ~~(5)~~—The amount of a perpetual care fund is not required to
3 be increased for materials that are regulated under part 631.

4 (7) ~~(6)~~—The owner or operator of a landfill may increase the
5 amount of the perpetual care fund above the amount otherwise
6 required by this section at his or her discretion.

7 (8) ~~(7)~~—The custodian of a perpetual care fund trust or escrow
8 account shall be a bank or other financial institution that has the
9 authority to act as a custodian and whose account operations are
10 regulated and examined by a federal or state agency. Until the
11 perpetual care fund trust or escrow account reaches the maximum
12 required fund amount, the custodian of ~~a~~**the** perpetual care fund
13 trust or escrow account shall credit any interest and earnings of
14 the perpetual care fund trust or escrow account to the perpetual
15 care fund trust or escrow account. After the perpetual care fund
16 trust or escrow account reaches the maximum required fund amount,
17 any interest and earnings shall be distributed as directed by the
18 owner or operator. ~~The agreement governing the operation of the~~
19 ~~perpetual care fund trust or escrow account shall be executed on a~~
20 ~~form consistent with this part and provided by the department.~~ The
21 custodian may be compensated from the fund for reasonable fees and
22 costs incurred ~~for his or her~~**in discharging the custodian's**
23 responsibilities. ~~as custodian.~~ The custodian of a perpetual care
24 fund trust or escrow account shall make an accounting to the
25 department within 30 days following the close of each state fiscal
26 year.

27 (9) ~~(8)~~—The custodian of a perpetual care fund shall not
28 disburse any funds to the owner or operator of a landfill or coal
29 ash impoundment for the purposes of the perpetual care fund except



1 upon the prior written approval of the department. However, the
 2 custodian shall ensure the filing of all required tax returns for
 3 which the perpetual care fund is liable and shall disburse funds to
 4 pay ~~lawfully due~~ taxes owed by the perpetual care fund without
 5 permission of the department. The owner or operator of the landfill
 6 or coal ash impoundment shall provide notice of requests for
 7 disbursement and **the department's** denials and approvals to the
 8 custodian of the perpetual care fund. Requests for disbursement
 9 from a perpetual care fund shall be submitted not more frequently
 10 than semiannually. The owner or operator of a landfill or coal ash
 11 impoundment may request disbursement of funds from a perpetual care
 12 fund ~~whenever~~ **if** the amount of money in the fund exceeds the
 13 maximum required fund amount **under subsection (3), unless a**
 14 **disbursement for that reason has been approved by the department**
 15 **within the preceding 180 days.** The department shall approve the
 16 disbursement if the total amount of financial assurance maintained
 17 meets the requirements of ~~sections 11523 and 11523a. As used in~~
 18 ~~this subsection, "maximum required fund amount" means:~~ **section**
 19 **11523(1) (a) or (c), as applicable.**

20 ~~(a) For those landfills or coal ash impoundments containing~~
 21 ~~only those materials specified in subsection (3), an amount equal~~
 22 ~~to 1/2 of the maximum required fund amount specified in subsection~~
 23 ~~(2).~~

24 ~~(b) For all other landfills, an amount equal to the maximum~~
 25 ~~required fund amount specified in subsection (2).~~

26 **(10)** ~~(9)~~ If the owner or operator of a landfill or coal ash
 27 impoundment ~~refuses or~~ fails to conduct closure, postclosure
 28 monitoring and maintenance, or corrective action as necessary to
 29 protect the public health, safety, or welfare, or the environment



1 or fails to request the disbursement of money from a perpetual care
 2 fund when necessary to protect the public health, safety, or
 3 welfare, or the environment, or fails to pay the solid waste
 4 management program administration fee or the surcharge required
 5 under section 11525a, then the department may draw on the perpetual
 6 care fund and may expend the money for closure, postclosure
 7 monitoring and maintenance, and corrective action, as necessary.
 8 The department may **also** draw on a perpetual care fund for
 9 administrative costs associated with actions taken under this
 10 subsection.

11 (11) ~~(10)~~ Upon approval by the department of a request to
 12 terminate financial assurance for a landfill or coal ash
 13 impoundment under section 11525b, any money in the perpetual care
 14 fund for that landfill or coal ash impoundment shall be disbursed
 15 by the custodian to the owner of the landfill or coal ash
 16 impoundment unless ~~a contract~~ **an agreement** between the owner and
 17 the operator provides otherwise.

18 (12) ~~(11)~~ The owner of a landfill or coal ash impoundment
 19 shall provide notice to the custodian of the perpetual care fund
 20 for that landfill or coal ash impoundment if there is a change of
 21 ownership of the landfill. The custodian shall maintain records of
 22 ownership of a landfill or coal ash impoundment during the period
 23 of existence of the perpetual care fund.

24 (13) ~~(12)~~ This section does not relieve an owner or operator
 25 of a landfill or coal ash impoundment of any liability that ~~he or~~
 26 ~~she~~ **the owner or operator** may have under this part or as otherwise
 27 provided by law.

28 (14) ~~(13)~~ This section does not create a cause of action at
 29 law or in equity against a custodian of a perpetual care fund other



1 than for errors or omissions related to investments, accountings,
 2 disbursements, filings of required tax returns, and maintenance of
 3 records required by this section or the applicable perpetual care
 4 fund.

5 ~~(14) As used in this section, "custodian" means the trustee or~~
 6 ~~escrow agent of any of the following:~~

7 ~~(a) A perpetual care fund that is established as a trust or~~
 8 ~~escrow account.~~

9 ~~(b) A standby trust or escrow account for a perpetual care~~
 10 ~~fund bond.~~

11 (15) A perpetual care fund that is established as a trust or
 12 escrow account may be replaced with a perpetual care fund that is
 13 established as a perpetual care fund bond that complies with this
 14 section. Upon such replacement, the ~~director~~ **department** shall
 15 authorize the custodian of the trust or escrow account to disburse
 16 the money in the trust or escrow account to the owner of the
 17 landfill or coal ash impoundment unless ~~a contract~~ **an agreement**
 18 between the owner and operator specifies otherwise.

19 (16) An owner or operator of a landfill or coal ash
 20 impoundment ~~who~~ **that** uses a perpetual care fund bond to satisfy the
 21 requirements of this section shall also establish a standby trust
 22 or escrow account. All payments made under the terms of the
 23 perpetual care fund bond shall be deposited by the custodian
 24 directly into the standby trust or escrow account in ~~accordance~~
 25 **compliance** with instructions from the ~~director~~ **department**. The
 26 standby trust or escrow account must meet the requirements for a
 27 trust or escrow account established as a perpetual care fund under
 28 subsection ~~(1)~~, **(2)**, except that until the standby trust or escrow
 29 account is funded pursuant to the requirements of this subsection,



1 the following are not required:

2 (a) Payments into the standby trust or escrow account as
3 specified in subsection ~~(2)~~-(3).

4 (b) Annual ~~accounting valuations~~ **accountings** as required in
5 subsection ~~(7)~~-(8).

6 (17) As used in this section, "custodian" means the trustee or
7 escrow agent of any of the following:

8 (a) A perpetual care fund that is established as a trust or
9 escrow account.

10 (b) A standby trust or escrow account for a perpetual care
11 fund bond.

12 Sec. 11525a. (1) The owner or operator of a landfill or coal
13 ash impoundment shall pay a surcharge as follows:

14 (a) ~~For~~ **Except as provided in subdivision (b),** for a landfill
15 or coal ash impoundment that is not a captive facility, ~~12~~ **36** cents
16 for each ~~cubic yard-ton~~ or portion of a ~~cubic yard-ton~~ of solid
17 waste or municipal solid waste incinerator ash that is disposed of
18 in the landfill or coal ash impoundment before October 1, 2023.

19 (b) **For a landfill or coal ash impoundment that is not a**
20 **captive facility, 12 cents per ton or portion of a ton of foundry**
21 **sand, slag from metal melting, baghouse dust, furnace refractory**
22 **brick, pulp and paper mill material, paper mill ash, wood ash, coal**
23 **bottom ash, mixed wood ash, flue gas desulfurization sludge,**
24 **contaminated soil, cement kiln dust, lime kiln dust, and other**
25 **industrial waste that weighs at least 1 ton per cubic yard, as**
26 **determined by the generator.**

27 (c) ~~(b)~~ For a type III landfill or coal ash impoundment that
28 is a captive facility and annually receives the following amount of
29 waste, the following annual corresponding surcharge ~~amount~~ **for each**



1 **state fiscal year, based on the amount of waste received during**
 2 **that fiscal year:**

3 (i) 100,000 or more ~~cubic yards~~**tons** of waste, \$3,000.00.

4 (ii) 75,000 or more but less than 100,000 ~~cubic yards~~**tons** of
 5 waste, \$2,500.00.

6 (iii) 50,000 or more but less than 75,000 ~~cubic yards~~**tons** of
 7 waste, \$2,000.00.

8 (iv) 25,000 or more but less than 50,000 ~~cubic yards~~**tons** of
 9 waste, \$1,000.00.

10 (v) Less than 25,000 ~~cubic yards~~**tons** of waste, \$500.00.

11 (2) ~~The~~**Within 30 days after the end of each quarter of a**
 12 **state fiscal year, the** owner or operator of a landfill or coal ash
 13 impoundment that is not a captive facility shall pay the surcharge
 14 under subsection (1) (a) ~~within 30 days after the end of each~~**for**
 15 **waste received during that** quarter of the state fiscal year. ~~The~~
 16 **Within 30 days after the end of a state fiscal year, the** owner or
 17 operator of a type III landfill or coal ash impoundment that is a
 18 captive facility shall pay the surcharge under subsection (1) (b) ~~by~~
 19 ~~January 31 of each~~**for waste received during that state fiscal**
 20 year.

21 (3) The owner or operator of a landfill or coal ash
 22 impoundment who is required to pay the surcharge under subsection
 23 (1) shall pass through and collect the surcharge from any person
 24 who generated the solid waste or who arranged for its delivery to
 25 the solid waste hauler or **solid waste processing and** transfer
 26 facility, notwithstanding the provisions of any ~~contract or~~
 27 agreement to the contrary or the absence of any ~~contract or~~
 28 agreement.

29 (4) Surcharges collected under this section shall be forwarded



1 to the state treasurer for deposit in the solid waste staff account
2 of the solid waste management fund. ~~established in section 11550.~~

3 Sec. 11525b. (1) The owner or operator of **a materials**
4 **utilization facility for which financial assurance is required**
5 **under section 11523 or of** a disposal area shall provide continuous
6 financial assurance coverage until released from these requirements
7 by the department under the provisions of ~~this part 115.~~

8 (2) **Upon transfer of a materials utilization facility for**
9 **which financial assurance is required under section 11523 or of a**
10 **disposal area, the former owner or operator shall continue to**
11 **maintain financial assurance until the financial assurance is**
12 **replaced by the new owner or operator or until the materials**
13 **utilization facility or disposal area is released from the**
14 **financial assurance obligation at the end of the postclosure**
15 **period.**

16 (3) ~~(2) The~~ **If the** owner or operator of a landfill or coal ash
17 impoundment ~~who~~ has completed postclosure maintenance and
18 monitoring in accordance with ~~this part, rules promulgated under~~
19 ~~this part,~~ **compliance with part 115** and approved postclosure plan,
20 **the owner or operator** may request that financial assurance required
21 by sections 11523 and 11523a be terminated. A person requesting
22 termination of ~~bonding and~~ financial assurance **under this**
23 **subsection** shall submit to the department a statement that the
24 landfill or coal ash impoundment has been monitored and maintained
25 in accordance with ~~this part, rules promulgated under this part,~~
26 **compliance with part 115** and the approved postclosure plan for the
27 postclosure period specified in section 11523 and shall certify
28 that the landfill or coal ash impoundment is not subject to
29 corrective action under section ~~11515.~~ **11512(21). For other**



1 materials management facilities with financial assurance, the owner
 2 or operator of the facility shall submit to the department a
 3 statement that the facility has been maintained in compliance with
 4 part 115 and has removed all managed material from the facility.

5 Within 60 days ~~of~~**after** receiving a statement under this
 6 subsection, the department shall perform a consistency review of
 7 the submitted statement and do 1 of the following:

8 (a) Approve the statement, notify the owner or operator that
 9 he or she is no longer required to maintain financial assurance,
 10 return or release all financial assurance mechanisms, and, if the
 11 perpetual care fund is established as a trust or escrow account,
 12 notify the custodian of the perpetual care fund that money from the
 13 fund shall be disbursed as provided in section ~~11525(10)~~**11525(11)**.

14 (b) Disapprove the statement and provide the owner or operator
 15 with a detailed written statement of the reasons why the department
 16 has determined that postclosure maintenance and monitoring and
 17 corrective action, if any, have not been conducted in ~~accordance~~
 18 ~~with this part, the rules promulgated under this part, or an~~
 19 **compliance with part 115 or the approved postclosure plan.**

20 **Sec. 11525d. (1) This section applies only to landfills**
 21 **subject to section 11523(1) (b) .**

22 (2) The owner or operator of a landfill shall establish and
 23 maintain a landfill care fund as specified in this section. A
 24 landfill care fund may be established as a trust, an escrow
 25 account, or a landfill care fund bond and may be used to
 26 demonstrate financial assurance for landfills under section 11523a.

27 (3) The owner or operator of a landfill may increase the
 28 amount of the landfill care fund above the amount otherwise
 29 required by this section at his or her discretion.



1 (4) The custodian of a landfill care fund trust or escrow
2 account shall be a bank or other financial institution that has the
3 authority to act as a custodian and whose account operations are
4 regulated and examined by a federal or state agency. Any interest
5 and earnings on the fund shall be distributed as directed by the
6 owner or operator of the landfill. The custodian may be compensated
7 from the fund for reasonable fees and costs incurred for the
8 custodian's responsibilities as custodian. The custodian of a
9 landfill care fund trust or escrow account shall make an accounting
10 to the department within 30 days following the close of each state
11 fiscal year.

12 (5) The custodian of a landfill care fund trust or escrow
13 account shall not disburse any funds to the owner or operator of a
14 landfill for the purposes of the landfill care fund and the issuer
15 or holder of a landfill care fund bond shall not reduce the amount
16 of the bond except upon the prior written approval of the
17 department. However, the custodian shall ensure the filing of all
18 required tax returns for which the landfill care fund is liable and
19 shall disburse funds to pay taxes owed by the landfill care fund,
20 without permission of the department. The owner or operator of the
21 landfill shall provide notice of requests for disbursement from a
22 landfill care fund trust or escrow account or reduction of a
23 landfill care fund bond and the department's denials and approvals
24 to the custodian of the landfill care fund trust or escrow account
25 or the issuer or holder of the landfill care fund bond. Requests
26 for disbursement from a landfill care fund trust or escrow account
27 or a reduction of a landfill care fund bond shall be submitted not
28 more frequently than semiannually. The owner or operator of a
29 landfill may request disbursement of funds from a landfill care



1 fund trust or escrow account or a reduction of a landfill care fund
2 bond. The department shall approve the request if the total amount
3 of financial assurance maintained meets the requirements of section
4 11523a.

5 (6) If the owner or operator of a landfill fails to conduct
6 closure, postclosure monitoring and maintenance, or corrective
7 action as necessary to protect the public health, safety, or
8 welfare, or the environment, or fails to request the disbursement
9 of money from a landfill care fund when necessary to protect the
10 public health, safety, or welfare, or the environment, or fails to
11 pay the surcharge required under section 11525a, then the
12 department may also draw on the landfill care fund and may expend
13 the money for closure, postclosure monitoring and maintenance, and
14 corrective action, as necessary. The department may draw on a
15 landfill care fund for administrative costs associated with actions
16 taken under this subsection.

17 (7) Upon approval by the department of a request to terminate
18 financial assurance for a landfill under section 11525b, any money
19 in the landfill care fund for that landfill shall be disbursed by
20 the custodian to the owner of the landfill unless an agreement
21 between the owner and the operator of the landfill provides
22 otherwise.

23 (8) The owner of a landfill shall provide notice to the
24 custodian of the landfill care fund for that landfill if there is a
25 change of ownership of the landfill. The custodian shall maintain
26 records of ownership of a landfill during the period of existence
27 of the landfill care fund.

28 (9) This section does not relieve an owner or operator of a
29 landfill of any liability the owner or operator may have under part



1 115 or as otherwise provided by law.

2 (10) This section does not create a cause of action at law or
3 in equity against a custodian of a landfill care fund other than
4 for errors or omissions related to investments, accountings,
5 disbursements, filings of required tax returns, and maintenance of
6 records required by this section or the applicable landfill care
7 fund.

8 (11) A perpetual care fund and any other bond that is utilized
9 by a landfill to demonstrate financial assurance under part 115 and
10 that is in existence on the effective date of the amendatory act
11 that added this section is considered a landfill care fund under
12 this section for purposes of demonstrating compliance with section
13 11523a until the issuance of a new license for the landfill on or
14 after the date 2 years after the effective date of the amendatory
15 act that added this section. A landfill owner or operator may
16 replace a perpetual care fund or a bond with a landfill care fund
17 that complies with this section at any time without a license
18 modification and without the issuance of a new license. Upon such
19 replacement, the department shall authorize the custodian of a
20 perpetual care fund trust or escrow account to disburse the money
21 in the trust or escrow account to the owner of the landfill unless
22 an agreement between the owner and operator of the landfill
23 specifies otherwise.

24 (12) An owner or operator of a landfill that uses a landfill
25 care fund bond to satisfy the requirements of this section shall
26 also establish a standby trust or escrow account. All payments made
27 under the terms of the landfill care fund bond shall be deposited
28 by the custodian directly into the standby trust or escrow account
29 in compliance with instructions from the department. The standby



1 trust or escrow account must meet the requirements for a trust or
2 escrow account established as a landfill care fund under subsection
3 (2), except that, until the standby trust or escrow account is
4 funded pursuant to the requirements of this subsection, annual
5 accountings of the standby trust or escrow account are not
6 required.

7 (13) As used in this section, "custodian" means the trustee or
8 escrow agent of any of the following:

9 (a) A landfill care fund that is established as a trust or
10 escrow account.

11 (b) A standby trust or escrow account for a landfill care fund
12 bond.

13 Sec. 11525f. If the owner or operator of a materials
14 management facility is required to establish a bond under another
15 state statute or a federal statute, the owner or operator may
16 request the department to allow the bond to meet the requirements
17 of part 115. The department shall approve a bond established under
18 another state statute or a federal statute if the bond provides
19 equivalent funds and access by the department as other financial
20 instruments under part 115.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect
24 unless all of the following bills of the 100th Legislature are
25 enacted into law:

26 (a) House Bill No. 5812.

27 (b) House Bill No. 5813.

28 (c) House Bill No. 5815.

29 (d) House Bill No. 5816.



1 (e) House Bill No. 5817.

