

COMPLIANCE WITH FEDERAL AND STATE ADMINISTRATIVE RULES FOR COAL ASH

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House Bill 6269 as introduced
Sponsor: Rep. Gary Howell
Committee: Natural Resources
Revised 9-28-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6269 would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act (NREPA) to add required compliance regulations found in the Michigan Administrative Code and Code of Federal Regulations regarding coal ash.

Currently under Part 115, a person is generally required to gain a construction permit from the Department of Environmental Quality (DEQ) before establishing a disposal area. [The Department of Agriculture and Rural Development has authority over liming material, including permitting construction of a disposal area for liming material.] Part 115 also grants the DEQ authority to promulgate administrative rules to carry out the responsibilities imposed upon the department in NREPA.¹

Construction permit fee

To obtain a construction permit, a person must submit an application and a fee. The application fee currently varies depending on the kind of disposal area that will be constructed. The bill would add a fee of \$1,000 for a new *coal ash impoundment* and a fee of \$750 for a vertical or *lateral expansion* of a coal ash impoundment. [No fee is listed for a coal ash *landfill*.]

Coal ash impoundment would be defined as a natural topographic depression, man-made excavation, or diked area (which is an embankment or barrier, similar to a ditch, that can be made of earth or rock) that is *not* a landfill and that is designed to hold an accumulation of coal ash and liquids for treatment, storage, or disposal. A coal ash impoundment in existence before October 14, 2015 that receives waste after the effective date of this bill, *and* that does not have a permit pursuant to Part 31 (Water Resources Protection) of NREPA, is a waste pile pursuant to Rule 299.4129 of the Michigan Administrative Code. Additionally, a coal ash impoundment that has a permit pursuant to Part 31 *and* that does not receive coal ash after the effective date of this bill is not subject to Part 115.

¹ MCL 324.11538

Lateral expansion would refer to a horizontal expansion of the solid waste boundary of any of the following:

- A landfill, other than a coal ash landfill, if the expansion is beyond the limit established in a construction permit or engineering plans approved by the Solid Waste Control Agency before January 11, 1979.
- A **coal ash landfill**, if the expansion is beyond the limit established in a construction permit issued after the effective date of this bill or the horizontal limits of coal ash in place on or before October 14, 2015. **Coal ash landfill** would refer to a landfill that is used for the disposal of coal ash and may also be used for the disposal of inert materials and construction material used for purposes meeting the definition of *beneficial use*.²
- A coal ash impoundment, if the expansion is beyond the limit established in a construction permit or the horizontal limits of coal ash in place on or before October 14, 2015.

Coal ash would mean any of the following:

- Material recovered from system for the control of air pollution from, or the noncombusted residue remaining after, the combustion of coal or coke (which is a fuel derived from coal), including coal bottom ash, fly ash, boiler slag, fuel gas desulfurization materials, or fluidized-bed combustion ash.
- Residuals removed from coal ash impoundments.

DEQ Administrative Code

The bill also would add a new section to ensure compliance with DEQ Administrative Rules, found in the Michigan Administrative Code (“**Part 115 Rules**”). A *new* coal ash landfill or lateral expansions of a coal ash landfill would have to comply with the requirements of Rules 299.4304, 299.4305, and 299.4307 through 299.4317.³ However, a lateral expansion of a coal ash landfill would *only* be subject to 299.4307(4)(b), and *not* (a), (c), or (d). This condition would mean that a lateral expansion of a coal ash landfill could only use a composite liner.

Part 115 Rules would be defined as Rules 299.4101 through 299.4922 of the Michigan Administrative Code.

² MCL 324.11502(6), “**Beneficial use**” means any of the following uses: (a) To stabilize, neutralize, solidify, or otherwise treat waste for ultimate disposal at a facility licensed under this part or part 111. (b) To treat wastewater, wastewater treatment sludge, or wastewater sludge in compliance with part 31 or the federal water pollution control act, 33 USC 1251 to 1387 at a private or publicly owned wastewater treatment plant. (c) To stabilize, neutralize, solidify, cap, or otherwise remediate hazardous substances or contaminants as part of a response activity in compliance with part 201, part 213, or the comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601 to 9657, or a corrective action in compliance with part 111 or the solid waste disposal act, 42 USC 6901 to 6992k. (d) As construction material at a landfill licensed under this part.

³ These Rules are within Part 3 of the Solid Waste Management DEQ Administrative Rules and pertain to various **Type III Landfill** specifications, including, but not limited to, designs, location restrictions, leachate standards, and operating requirements. Rule 299.4105 defines **Type III Landfill** as a sanitary landfill that is not a municipal solid waste landfill or hazardous waste landfill, but includes construction and demolition waste landfills, industrial waste landfills, and landfills that accept waste other than household waste, municipal solid waste incinerator trash, or hazardous waste from conditionally exempt small quantity generators.

Additionally, a new coal ash landfill or coal ash impoundment, or lateral expansion of such, would have to comply with the location requirements set forth in Rules 299.4411 through 299.4413 and 299.4415 through 299.4418.⁴ The bill would add a caveat, though, requiring that the landfill or impoundment maintain a permanent minimum clearance from the bottom of the primary liner of not less than 5 feet to the natural groundwater level.

The DEQ could not issue a construction permit for a new coal ash landfill or new coal ash impoundment, or lateral expansion of such, unless both of the following apply:

- The landfill, impoundment, or expansion, respectively, complies with Rule 299.4306.
- The owner or operator has provided to the DEQ a detection monitoring program in a Hydrogeological Monitoring Plan that complies with Rules 299.4440 through 299.4445 and 299.4905 through 299.4908, as applicable. The constituents monitored in the program would include boron, calcium, chloride, fluoride, iron, pH, sulfate, and the total dissolved solids. They would be analyzed by methods specified in “Standard Methods for the Examination of Water and Wastewater, 19th edition,” as published by the United States Environmental Protection Agency (EPA). However, the bill would also allow the elements to instead be monitored by other methods approved by the director or his or her designee.

Disposal construction and operating application and fees

Currently under NREPA, a person is generally required to dispose of solid waste at a disposal area licensed under Part 115. The bill would add that waste placement in existing landfill units would have to be consistent with past operating practices or modified practices to ensure good management. Additionally, *existing coal ash impoundments* would be exempt from the licensing requirements of Part 115 until two years after the date of enactment of this bill.

Existing coal ash impoundment would refer to coal ash impoundments that effectively have a permit pursuant to Part 31, that received coal ash before October 14, 2015, and that, as of the effective date of this bill, have not initiated elements of closure (including dewatering, stabilizing residuals, or placing an engineered cover), or is otherwise closed pursuant to its Part 31 permit or pursuant to Rule 299.4309 and is therefore capable of receiving coal ash in the future.

Under NREPA, an applicant is currently required at the time of application for a license for a disposal area to submit to a health officer or the DEQ a certification under the seal of a licensed professional engineer verifying that the construction of the disposal area has proceeded according to the approved plans. The bill would add that any applicant for a license for an *existing coal ash impoundment* is exempt from this requirement. However, when applying for a license, an applicant would still be required to submit documentation in the applicant’s possession or control regarding the construction of the impoundment.

⁴ These Rules are within Part 4 of the Solid Waste Management DEQ Administrative Rules and pertain to *Type II Landfill* location restrictions. Rule 299.4105 defines *Type II Landfill* as a sanitary landfill that is a municipal solid waste landfill and includes a municipal solid waste incinerator ash landfill.

Currently, an application fee of \$2,500 is submitted with Type III landfill operating license applications and is then deposited in the Perpetual Care Account of the Solid Waste Management Fund. However, the bill would add separate operating licensure fees for both coal ash landfills and coal ash impoundments. On the first business day of each state fiscal year that a coal ash landfill or impoundment holds an operating license, and until it achieves closure, the owner or operator would be required to pay the DEQ a \$13,000 fee. If, after the effective date of this bill, a coal ash landfill or impoundment obtains its first operating license, the owner or operator would be required to pay the DEQ a \$13,000 fee on the first business day following receipt of its operating license. These fees collected by the DEQ would be deposited in the Coal Ash Care Fund, described below.

If an application for an operating license is returned to the applicant as administratively incomplete, the bill would require the DEQ to refund the entire fee. If a permit is denied or an application is withdrawn, the DEQ would have to refund half of the \$2,500 fee back to the applicant. An applicant for a license may resubmit the application and the refunded portion of the fee, plus additional information as needed to address the reasons for denial, without having to pay an additional application fee, but only if the resubmission is within 12 months after the license denial or withdrawal.

Hydrogeological programs and federal compliance

The DEQ would not be able to issue a license to a *coal ash landfill or a coal ash impoundment* unless the applicant provided an approved hydrogeological monitoring program that complies with the Michigan Administrative Code Rules 299.4440 through 299.4445,⁵ if applicable, and Rules 299.4905 through 299.4908.⁶

The DEQ also would not be able to issue a license to a *coal ash landfill* unless an applicant provided the DEQ with a run-on and run-off control system plan that complies with 40 CFR §257.81(c)(1)⁷ and was prepared and sealed by a registered professional engineer. This plan would be revised at least every 5 years in compliance with 40 CFR §257.81(c)(4).⁸

⁵ These Rules are within Part 4 of the Solid Waste Management DEQ Administrative Rules and pertain to Type II Landfill groundwater monitoring and corrective action.

⁶ These Rules are within Part 9 of the Solid Waste Management DEQ Administrative Rules and pertain to landfill hydrologic monitoring plans and groundwater monitoring.

⁷ Title 40 (Protection of Environment), Section 257 (Part 257 - Criteria for Classification of Solid Waste Disposal Facilities and Practices) 81(c)(1): Subpart D (Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments), Operating Criteria, Run-on and run-off controls for Coal Combustion Residual (CCR) landfills: “Content of the plan. The owner or operator must prepare initial and periodic run-on and run-off control system plans for the CCR unit according to the timeframes specified in paragraphs (c)(3) and (4) of this section. These plans must document how the run-on and run-off control systems have been designed and constructed to meet the applicable requirements of this section. Each plan must be supported by appropriate engineering calculations. The owner or operator has completed the initial run-on and run-off control system plan when the plan has been placed in the facility's operating record as required by § 257.105(g)(3).”

⁸ “Frequency for revising the plan. The owner or operator of the CCR unit must prepare periodic run-on and run-off control system plans required by paragraph (c)(1) of this section every five years. The date of completing the initial plan is the basis for establishing the deadline to complete the first subsequent plan. The owner or operator may complete any required plan prior to the required deadline provided the owner or operator places the completed plan into the facility's operating record within a reasonable amount of time. In all cases, the deadline for completing a subsequent plan is based on the date of completing the previous plan. For purposes of this paragraph (c)(4), the owner

The DEQ would further be unable to issue a license to a *coal ash impoundment* unless the applicant provided the DEQ an inflow design flood control system plan that complies with 40 CFR §257.82(c)(1)⁹ and was prepared and sealed by a registered professional engineer. This plan would be revised at least every 5 years in compliance with 40 CFR §257.82(c)(4).¹⁰

Finally, the DEQ could not issue a license for a coal ash impoundment that is not a low-hazard-potential coal ash impoundment unless the applicant provided the DEQ with an emergency action plan that complies with 40 CFR §257.74(a)(3).¹¹

Foreign solid waste

Currently under NREPA, a person is prohibited from accepting for disposal solid waste or municipal solid waste incinerator ash that is not generated in the United States, unless it is explicitly authorized in the approved county solid waste management plan.

The bill would add that the above general prohibition would not apply to coal ash that is accepted for disposal at a captive facility that, after the effective date of this bill, accepts only nonhazardous industrial waste generated only by the owner of the landfill or coal ash impoundment or its corporate affiliates.

Inspections

Upon receipt of a license application, the DEQ, or a health officer or an authorized representative of a health officer, is currently required to inspect the site and cannot license a landfill facility operating without an approved hydrogeologic monitoring program. The bill would include that a coal ash impoundment also could not be licensed without an approved hydrogeologic monitoring program.

The DEQ also may currently revoke a license or issue a timetable or schedule for compliance for the *facility or operation*. The bill would amend these abilities to state that the DEQ may do any of the following:

or operator has completed a periodic run-on and run-off control system plan when the plan has been placed in the facility's operating record as required by § 257.105(g)(3)."

⁹ Hydrologic and hydraulic capacity requirements for CCR surface impoundments: "Inflow design flood control system plan - (1) Content of the plan. The owner or operator must prepare initial and periodic inflow design flood control system plans for the CCR unit according to the timeframes specified in paragraphs (c)(3) and (4) of this section. These plans must document how the inflow design flood control system has been designed and constructed to meet the requirements of this section. Each plan must be supported by appropriate engineering calculations. The owner or operator of the CCR unit has completed the inflow design flood control system plan when the plan has been placed in the facility's operating record as required by § 257.105(g)(4)."

¹⁰ "Frequency for revising the plan. The owner or operator must prepare periodic inflow design flood control system plans required by paragraph (c)(1) of this section every five years. The date of completing the initial plan is the basis for establishing the deadline to complete the first periodic plan. The owner or operator may complete any required plan prior to the required deadline provided the owner or operator places the completed plan into the facility's operating record within a reasonable amount of time. In all cases, the deadline for completing a subsequent plan is based on the date of completing the previous plan. For purposes of this paragraph (c)(4), the owner or operator has completed an inflow design flood control system plan when the plan has been placed in the facility's operating record as required by § 257.105(g)(4)."

¹¹ Structural integrity criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment, relating to Emergency action plans (EAP).

- Revoke a license.
- Deny a license to a coal ash impoundment that has not been previously licensed under Part 115.
- Issue a timetable or schedule to provide for compliance for the *landfill or coal ash impoundment*, to ultimately lead to compliance within a reasonable time period but not more than 1 year.

Solid waste management plan exception

The DEQ is currently prohibited from issuing an operating license for a new disposal area within a planning area unless a solid waste management plan has been approved pursuant to MCL 324.11536 and 324.11537 within Part 115. Additionally, *the DEQ may issue an operating license for a disposal area designed to receive ashes produced in connection with the combustion of fossil fuels for electrical power generation* in the absence of an approved county solid waste management plan. Under the bill, the previous emphasized sentence would be replaced with the exception that this requirement would *not prohibit the issuance of a license for a captive facility that is a coal ash impoundment or a coal ash landfill*.

Restrictive covenants

Certain requirements and specifications currently apply to landfills and their facilities when an instrument imposes a restrictive covenant upon the land. The bill would add a new section to apply almost all of the same requirements and specifications on coal ash impoundments and their disposal areas.

The bill also would add that an industrial waste landfill could accept industrial waste of different types and from different generators, but could not accept hazardous waste generated by conditionally exempt small quantity generators.

DEQ Administrative Code and federal compliance

The bill would require that *existing* coal ash impoundments comply with the DEQ Administrative Rule 299.4311 within the Part 115 Rules. Additionally, the owner or operator would have to ensure that the impoundment is not in violation of Part 31 (Water Resources Protection) or Part 55 (Air Pollution Control) of NREPA and does not create a nuisance.

Placement of coal ash and associated liquids into an existing coal ash impoundment or one that is licensed under this part would be permitted and conducted consistent with good management practices, as further described below.

A license issued by the DEQ for the operation of a coal ash impoundment or landfill would have to include the following requirements from 40 CFR Part 257, Subpart D (Standards for the disposal of coal combustion residuals in landfills and surface impoundments):

- Recordkeeping and maintaining an operating record.
- Making the operating record public via the internet.
- Dust control.
- Run-on/run-off control.

- Regular and annual inspections.
- Groundwater monitoring.
- Corrective action.
- Closure and postclosure care.

Duties of an owner or operator and closure of a licensed coal ash landfill or impoundment

The owner or operator of a licensed coal ash *landfill or impoundment* would be required to do both of the following:

- Maintain a fugitive dust plan that complies with 40 CFR 257.80(b)¹² and was prepared and sealed by a registered professional engineer.
- Once per year, prepare or have prepared a fugitive dust control report in compliance with 40 CFR 257.80(c).¹³

The owner or operator also would be required to maintain both an up-to-date operating record in compliance with 40 CFR 257.105 (Recordkeeping Requirements) and publicly accessible internet site in compliance with 40 CFR 257.107 (Publicly Accessible Internet Site Requirements).

If the required detection monitoring program (described above under **DEQ Administrative Code**) confirmed a statistically significant increase over background for 1 or more of the constituents listed above, then the owner or operator would have to comply with Rule 299.4441 of the Part 115 Rules. This would include, as applicable, conducting assessment monitoring of the constituents listed above as well as the following 19 constituents: antimony; arsenic; barium; beryllium; cadmium; chromium; cobalt; copper; lead; lithium; nickel; mercury; molybdenum; selenium; silver; thallium; vanadium; zinc; and radium 226 and 228 combined. These additional constituents would have to be analyzed by methods specified in “Standard Methods for the Examination of Water and Wastewater, 19th edition” (published by the EPA), or by other methods approved by the director or his or her designee.

The owner or operator would be required to comply with Rules 299.4442 through 299.4445 of the Part 115 Rules, as applicable, but only if obligated to prepare a response action plan.

Coal ash impoundments or landfills could be closed as a Type III Landfill pursuant to the applicable Rules or by removal of coal ash from the impoundment.

¹² Also within Subpart D, “Operating Criteria,” “Air criteria,” which requires multiple standards as described in that section.

¹³ Annual CCR fugitive dust control report. The owner or operator of a CCR unit must prepare an annual CCR fugitive dust control report that includes a description of the actions taken by the owner or operator to control CCR fugitive dust, a record of all citizen complaints, and a summary of any corrective measures taken. The initial annual report must be completed no later than 14 months after placing the initial CCR fugitive dust control plan in the facility's operating record. The deadline for completing a subsequent report is one year after the date of completing the previous report. For purposes of this paragraph (c), the owner or operator has completed the annual CCR fugitive dust control report when the plan has been placed in the facility's operating record as required by § 257.105(g)(2).

Duties of an owner or operator and closure of a licensed coal ash impoundment

The owner or operator of a licensed coal ash *impoundment* would also have to comply with both of the following:

- The inspection requirements of 40 CFR 257.83, as applicable.¹⁴
- The requirements of 40 CFR 257.74(a)(2) relating to periodic hazard potential classification assessments.¹⁵ The assessment reports would be prepared and sealed by a registered professional engineer.

The owner or operator would further be required to do all of the following:

- Maintain on site a history of construction that complies with 40 CFR 257.74(c)(1)(i) through (xi), which lists required information to be kept with the design and construction plans.
- Comply with 40 CFR 257.74(d) regarding periodic structural stability assessments. The assessment reports would be certified by a professional engineer pursuant to Rule 299.4910(9) of the Part 115 Rules.
- Comply with 40 CFR 257.74(e) regarding periodic safety factor assessments. The assessment reports also would be certified by a professional engineer pursuant to Rule 299.4910(9).

Additionally, the owner or operator would have to begin to implement closure, as described in Rule 299.4309 of the Part 115 Rules within 6 month after the final placement of coal ash within the impoundment and would have to diligently pursue the closure in compliance with 40 CFR 257.102(f)(1) and (2) (Criteria for conducting the closure or retrofit of CCR units; Completion of closure activities).

Under the bill, financial assurance established for an existing coal ash impoundment would be \$20,000 per acre within the impoundment boundary in the form of a bond. However, the bond amount could not be less than \$20,000 or more than \$1 million. The bond would provide assurance for the maintenance of the finished coal ash impoundment for a period of 30 years after the impoundment or any approved portion is completed. In addition to the bond, a perpetual care fund would be maintained. If an impoundment were closed before two years after the effective date of the bill, and the DEQ accepted the certification of closure, then the owner would not be required to provide financial assurance or pay into a perpetual care fund.

Duties of an owner or operator and closure of a licensed coal ash landfill

The owner or operator of a licensed coal ash *landfill* also would be required to comply with the inspection requirements described in 40 CFR 257.84, as applicable.¹⁶ Additionally, within one year after the effective date of the bill, the owner or operator would have to assess whether the landfill is located in an unstable area, as defined in Rule 299.4409 of

¹⁴ Also within Subpart D, "Operating Criteria," "Inspection requirements for CCR surface impoundments."

¹⁵ *Id.*, "Structural integrity criteria for new CCR surface impoundments and any lateral expansion of a CCR surface impoundment."

¹⁶ *Id.*, "Inspection requirements for CCR landfills," which requires multiple standards as described in that section.

the Part 115 Rules.¹⁷ If the owner or operator determines that the landfill or unit is located in an unstable area, the owner or operator would have to stop placing coal ash into the landfill or unit and proceed to close the landfill or unit in compliance with Part 115 and the Part 115 Rules.

The owner or operator also would be required to place landfill cover materials that are described in Rule 299.4304 over the entire surface of each portion of the final list within 6 months after the final placement of coal ash within the landfill or landfill unit.

Closure by removal of coal ash would be complete when the owner or operator certifies either of the following:

- Compliance with the requirements of 40 CFR 257.102(c) (Criteria for conducting the closure or retrofit of CCR units, Closure by removal of CCR).
- Testing confirms that constituent concentrations remaining in the coal ash impoundment or landfill unit and any concentrations of soil or groundwater affected by any releases do not exceed the applicable standards, as adopted by the DEQ under Part 115, and the DEQ accepts the certification, *or*, if the constituent concentrations do exceed those standards, the DEQ had approved a remedial action plan consistent with Rules 299.4444 and 299.4445 of the Part 115 Rules.

Upon completion of the closure by removal, the financial assurance and perpetual care fund would be terminated, the owner or operator would not be required to provide financial assurance or contribute to a perpetual care fund, and any claim to the assurance fund by the DEQ would be terminated and released.

Financial assurance

Currently, the DEQ cannot issue a license to operate a type II landfill unless the applicant demonstrates that for any new or existing unit at the facility, the combination of the perpetual care fund, bonds, and the financial capability of the applicant as evidenced by a financial test, provides financial assurance.

Additionally, an applicant may currently utilize a financial test for an amount up to, but not exceeding 70% of the closure, postclosure, and corrective action cost estimate. The bill would eliminate this clause.

The owner or operator of a landfill may also currently request that financial assurance be terminated if postclosure maintenance and monitoring has been completed. The bill would include an owner or operator of a coal ash impoundment.

¹⁷ “Unstable area” means a location that is susceptible to natural or human-induced events or forces which are capable of impairing the integrity of some or all of the landfill structural components that are responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas that are susceptible to mass movements, and karst terrains.

Trust funds and escrow accounts

The owner or operator of a landfill may currently establish a trust or escrow account to fulfill the financial assurance requirements, and the bill would add that an owner or operator of a coal ash impoundment may do so as well.

Perpetual care fund

The owner or operator of a landfill is currently required to establish and maintain a perpetual care fund for 30 years after final closure of the landfill, as well financial assurance for type II landfills. Many obligations are imposed to facilitate this requirement. The bill would include an owner or operator of a coal ash impoundment, as well as type III landfills, in many of these requirements. Some of these obligations include the following:

- The maximum required fund amount of \$1,156,000.
- Increasing the amount of the fund by 7.5 cents per ton or cubic yard, or portion thereof, for certain materials that are disposed of, but only until the fund reaches the maximum required fund amount.
- Having prior written approval of the DEQ to disburse any funds to the owner or operator, as well as providing notice of requests, denials, or change in ownership to the custodian of the fund.
- Enabling the DEQ to withdraw from the fund if the owner or operator does not take the necessary actions to protect the environment or public health, safety, or welfare.
- Disbursement of the fund upon approval by the DEQ to terminate financial assurance.
- Ability to use a perpetual care fund bond.

Surcharges

The owner or operator of a landfill is currently required to pay a surcharge in specific amounts based on the kind of facility and how much cubic yards of waste is collected. The bill would add coal ash impoundments to these requirements and clearly separate the required surcharges based on whether the landfill or coal ash impoundment is a captive facility.

Solid waste management plan

The bill would add to the current solid waste management plan regulations that an existing captive type III landfill or existing captive coal ash impoundment, or both, would be considered consistent with and included in the solid waste management plan for the county or region in which the disposal area is located if it continues to accept waste generated only by the owner of the landfill or coal ash impoundment and it meets any of the following requirements:

- The disposal area was issued a construction permit and licensed for operation under Part 115.
- The disposal area met local land use law requirements when initially sited or constructed.

Additionally, a permitted, licensed, or otherwise lawfully operating disposal area that is in existence on the date of approval of the plan for the planning area where the disposal area is located would be considered to be consistent with the plan and included in the plan. However, if the disposal area is subject to an action for violation or a civil or criminal

violation, then it would be included in the plan only if the director of the DEQ or the planning agency determines that it is consistent with the plan or should be included in the plan.

Solid Waste Management Fund

Currently, the Solid Waste Management Fund is created within the state treasury and consists of both a solid waste staff account and a perpetual care account. Money is expended from either account, upon appropriation, only for specific purposes.

Additionally, the DEQ is required to prepare and submit a report that details the activities of the previous fiscal year funded by the staff account. Included in this report is the percentage and number of construction permit applications and operating license applications determined to be administratively complete for which a final decision was made within *120* days of receipt for construction permits and *90* days of receipt for operating licenses as required in Part 115. However, the bill would lessen these time periods to *30* days, as required under Part 13 (MCL 324.1305).

The amount of revenue in the staff account at the end of the fiscal year is also required to be in the report, and the bill would add that the revenue in the newly created Coal Ash Care Fund also be listed.

Coal Ash Care Fund

Finally, the bill would create the Coal Ash Care Fund within the state treasury in the same fashion as the Solid Waste Management Fund. Additionally, money from the Coal Ash Care Fund would be expended in the same manner as money expended from the Solid Waste Staff Account within the Solid Waste Management Fund.

MCL 324.11502 et al.

FISCAL IMPACT:

A fiscal analysis is in progress.

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Austin Scott

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.