

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4456**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11509, 11510, 11511, 11511a, 11511b, 11512,
11513, 11514, 11514b, 11515, 11516, 11517, 11518, 11519, 11519b,
11520, and 11521b (MCL 324.11509, 324.11510, 324.11511, 324.11511a,
324.11511b, 324.11512, 324.11513, 324.11514, 324.11514b, 324.11515,
324.11516, 324.11517, 324.11518, 324.11519, 324.11519b, 324.11520,
and 324.11521b), sections 11509, 11510, 11512, 11513, 11515, 11516,
and 11518 as amended and sections 11511a and 11519b as added by
2018 PA 640, section 11511 as amended by 2011 PA 215, section
11511b as amended by 2016 PA 437, section 11514 as amended by 2008
PA 394, section 11514b as added by 2018 PA 688, sections 11517 and
11519 as amended by 1996 PA 358, and section 11521b as added by

2014 PA 24, by designating sections 11509 to 11520 as subpart 2 and section 11521b as subpart 3 of part 115, and by adding sections 11512b, 11512d, 11512f, and 11512h; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 115 SOLID WASTE MANAGEMENT

SUBPART 2 DISPOSAL AREAS

Sec. 11509. (1) ~~Except as otherwise provided in section 11529,~~
~~a-This section and sections 11510 to 11512 apply to disposal areas~~
other than the following:

(a) A solid waste processing and transfer facility described
in section 11513(1) or (2).

(b) An incinerator that does not comply with the construction
permit and operating license requirements of this subpart, as
allowed under section 11540.

(2) A person shall not establish a disposal area except as
authorized by a construction permit issued by the department
pursuant to part 13. ~~In addition, a person shall not establish a~~
~~disposal area contrary to an approved solid waste management plan,~~
~~or contrary to a permit, license, or final order issued pursuant to~~
~~this part.~~ A person proposing the establishment of a disposal area
shall ~~apply~~ **submit the application** for a construction permit to ~~the~~
~~department through the~~ **appropriate local** health officer. ~~If~~
However, if the disposal area is located in a county or city that
does not have a certified health department, the application shall
be ~~made-submitted~~ directly to the department. **An application for a**
construction permit shall be accompanied by engineering plans.

(3) ~~(2) The application for a construction permit shall~~
~~contain the name and residence of the applicant, the location of~~

~~the proposed disposal area, the design capacity of the disposal area, and other information specified by rule. A person may apply to construct more than 1 type of disposal area at the same facility under a single permit. The~~ **An application for a construction permit for a landfill** shall be accompanied by an ~~engineering plan and a construction permit application fee~~ **-. A construction permit application for a landfill shall be accompanied by a fee in an amount that is the sum of all of the following fees, as applicable:** **in the following amount:**

(a) For a new ~~sanitary landfill, a fee equal to the following amount:~~ **the following:**

(i) For a ~~municipal solid waste~~ **type II** landfill, ~~\$1,500.00.~~ **\$3,000.00.**

(ii) ~~For~~ **Except as provided in subparagraph (iii),** for an industrial waste landfill, ~~\$1,000.00.~~ **\$2,000.00.**

(iii) For a type III landfill limited to low hazard industrial waste, ~~\$750.00.~~ **\$1,500.00.**

(b) For a lateral expansion of a ~~sanitary landfill, a fee equal to the following amount:~~ **the following:**

(i) For a ~~municipal solid waste~~ **type II** landfill, ~~\$1,000.00.~~ **\$2,000.00.**

(ii) ~~For~~ **Except as provided in subparagraph (iii),** for an industrial waste landfill, ~~\$750.00.~~ **\$1,500.00.**

(iii) For a type III landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, ~~\$500.00.~~ **\$1,000.00.**

(c) For a vertical expansion of an existing ~~sanitary landfill, a fee equal to the following amount:~~ **the following:**

(i) For a ~~municipal solid waste~~ **type II** landfill,

1 ~~\$750.00.~~ **\$1,500.00.**

2 (ii) ~~For~~ **Except as provided in subparagraph (iii),** for an
3 industrial waste landfill, ~~\$500.00.~~ **\$1,000.00.**

4 (iii) For an industrial waste landfill limited to low hazard
5 industrial waste, construction and demolition waste, or other
6 nonindustrial waste, ~~\$250.00.~~ **\$500.00.**

7 (d) For a new coal ash impoundment, ~~a fee of~~ **\$1,000.00.**

8 (e) For a lateral or vertical expansion of a coal ash
9 impoundment, ~~a fee of~~ **\$750.00.**

10 **(4)** ~~(3) The~~ **An** application for a construction permit for a
11 ~~solid waste transfer facility, a solid waste processing plant,~~
12 ~~either disposal area, or a combination of these,~~ **that is not a**
13 **landfill** shall be accompanied by ~~a~~ **an application** fee in the
14 following amount:

15 (a) For a new ~~facility~~ **disposal area** for municipal solid
16 waste, or a combination of municipal solid waste and waste listed
17 in subdivision (b), ~~\$1,000.00.~~ **\$2,000.00.**

18 (b) For a new ~~facility~~ **disposal area** for industrial waste, or
19 construction and demolition waste, ~~\$500.00.~~ **\$1,000.00.**

20 (c) For the expansion of an existing ~~facility~~ **disposal area**
21 for any type of waste, ~~\$250.00.~~ **\$500.00.**

22 **(5)** ~~(4)~~ If an application is returned to the applicant as
23 administratively incomplete, ~~the department shall refund the entire~~
24 ~~fee.~~ **the applicant may, within 1 year after the application is**
25 **returned, resubmit the application, together with the additional**
26 **information as needed to address the reasons for being incomplete,**
27 **without paying an additional application fee.** If a permit is denied
28 or an application is withdrawn, ~~the department shall refund 1/2 the~~
29 ~~amount specified in subsection (3) to the applicant. An~~ **an**

1 applicant for a construction permit, within ~~12 months~~ **1 year** after
2 ~~a~~**the** permit denial or **application** withdrawal, may resubmit the
3 application, ~~and the refunded portion of the fee,~~ together with the
4 additional information as needed to address the reasons for denial
5 **or withdrawal**, without ~~being required to pay~~ **paying** an additional
6 application fee.

7 **(6)** ~~(5) An~~ **Subject to section 11510(2)(d),** an application for
8 a modification to a construction permit or for renewal of a
9 construction permit ~~which~~ **that** has expired shall be accompanied by
10 a fee of \$250.00. ~~Increases in final elevations that do not result~~
11 ~~in an increase in design capacity or a change in the solid waste~~
12 ~~boundary shall be considered a modification and not a vertical~~
13 ~~expansion.~~ **\$500.00.**

14 **(7)** ~~(6)~~ **A person may apply for a single permit to construct**
15 **more than 1 type of disposal area at the same facility.** A person
16 who applies to permit more than 1 type of disposal area at the same
17 facility shall pay a fee equal to the sum of the applicable fees
18 listed in this section **for each type of disposal area.**

19 **(8)** ~~(7)~~ The department shall deposit permit application fees
20 collected under this section in the solid waste staff account of
21 the solid waste management fund. ~~established in section 11550.~~

22 **(9)** The department shall not approve an application for a
23 construction permit for a new type II landfill that is not
24 contiguous to an already permitted type II landfill or for a new
25 municipal solid waste incinerator unless the approval is requested
26 by the county board of commissioners and the department determines
27 that the landfill or incinerator is needed for the planning area.
28 The county board of commissioners' request shall include a
29 demonstration that materials utilization options have been

1 exhausted. The department's determination of need shall be based on
 2 public health, solid waste disposal capacity, and economic issues
 3 that would arise without the new site.

4 (10) As used in this section, "contiguous" means either of the
 5 following:

6 (a) On the same property. The property may be divided by
 7 either of the following:

8 (i) The boundary of a local unit of government.

9 (ii) A public or private right-of-way if access to and from the
 10 right-of-way for each piece of the property is opposite the access
 11 for the other piece of the property so that movement between the 2
 12 pieces of the property is by crossing the right-of-way.

13 (b) On 2 or more properties owned by the same person if the
 14 properties are connected by a right-of-way that the owner controls
 15 and to which the public does not have access.

16 Sec. 11510. (1) Before ~~the submission of~~ **submitting** a
 17 construction permit application **under section 11509** for a new
 18 disposal area, ~~the applicant~~ **a person** shall request a **local** health
 19 officer or the department to provide an advisory analysis of the
 20 proposed disposal area. ~~However, the applicant, not less than~~
 21 **Beginning** 15 days after the request, and notwithstanding an
 22 analysis result, **the person** may file an application for a
 23 construction permit.

24 (2) Upon receipt of a construction permit application, the
 25 department shall do all of the following:

26 (a) Immediately notify the clerk of the municipality in which
 27 the disposal area is located or proposed to be located, the local
 28 soil erosion and sedimentation control agency **under part 93**, each
 29 division within the department and the department of natural

resources that has responsibilities in land, air, or water management, **the regional planning agency**, and the designated ~~regional solid waste management planning agency~~ **for the planning area.**

(b) Publish a notice in a newspaper **or by electronic media** having major circulation **or viewership** in the vicinity of the proposed disposal area. The ~~required published~~ notice shall contain ~~a~~ **all of the following:**

(i) **A** map indicating the location of the proposed disposal area. ~~and shall contain a~~

(ii) **A** description of the proposed disposal area. ~~and the~~

(iii) **The** location where the complete application package may be reviewed and where copies may be obtained.

(c) Indicate in the ~~public, departmental, and municipality~~ **notice** ~~notices under subdivisions (a) and (b)~~ that the department ~~shall~~ **will** hold a public hearing in the area of the proposed disposal area if a written request is submitted by the applicant, ~~or a municipality, or a designated planning agency~~ within 30 days after the date of publication of the notice, or by a petition submitted to the department containing a number of signatures equal to not less than 10% of the number of registered voters of the municipality where the proposed disposal area is to be located who voted in the last gubernatorial election. The petition shall be validated by the clerk of the municipality. **The department shall hold the** public hearing ~~shall be held~~ after the department makes a preliminary review of the application and all pertinent data and before a construction permit is issued or denied.

(d) Conduct a consistency review ~~of the plans of~~ the proposed disposal area, **including the site, plans, and application**, to

determine if ~~it complies~~ **they comply** with ~~this part and the rules promulgated under this part.~~ **115.** The review shall be made **conducted** by persons qualified in hydrogeology and, ~~sanitary if the disposal area is a landfill,~~ landfill engineering. A written acknowledgment ~~The department shall not issue a construction permit unless the persons conducting the review acknowledge~~ that the application package ~~is in compliance~~ **complies** with the requirements of **part 115.** ~~this part and rules promulgated under this part by the persons qualified in hydrogeology and sanitary landfill engineering shall be received before a construction permit is issued. If the consistency review of the site and the plans and the application meet the requirements of this part and the rules promulgated under this part, the department shall issue a~~ **The** construction permit that may contain a stipulation specifically applicable to the site and operation. ~~Except as otherwise provided in section 11542, an~~ **An** expansion of the area of a disposal area, an enlargement in capacity of a disposal area, **a change in the solid waste boundary,** or an alteration of a disposal area to a different type of disposal area than had been specified in the previous construction permit application constitutes a new proposal for which a new construction permit, **rather than a modification of a construction permit,** is required. The upgrading of a disposal area type required by the department to comply with ~~this part or the rules promulgated under this part~~ **115** or to comply with a consent order does not require a new construction permit.

(e) Notify the Michigan aeronautics commission if the disposal area is a ~~sanitary~~ landfill that is a new site or a lateral expansion or vertical expansion of an existing unit proposed to be located within 5 miles of a runway or a proposed runway extension

1 contained in a plan approved by the Michigan aeronautics commission
2 of an airport licensed and regulated by the Michigan aeronautics
3 commission. The department shall make a copy of the application
4 available to the Michigan aeronautics commission. If, ~~after a~~
5 ~~period of time for review and comment not to exceed~~ **not more than**
6 60 days **after receiving notification from the department**, the
7 Michigan aeronautics commission informs the department ~~that it~~
8 ~~finds~~ that operation of the proposed disposal area would present a
9 potential hazard to air navigation and presents the basis for its
10 findings, the department may either recommend appropriate changes
11 in the location, construction, or operation of the proposed
12 disposal area or deny the application for a construction permit.
13 The department shall give an applicant an opportunity to rebut a
14 finding of the Michigan aeronautics commission that the operation
15 of a proposed disposal area would present a potential hazard to air
16 navigation.

17 (3) The Michigan aeronautics commission shall notify the
18 department and the owner or operator of a landfill if the Michigan
19 aeronautics commission is considering approving a plan that would
20 provide for a runway or the extension of a runway within 5 miles of
21 ~~a~~ **the** landfill.

22 Sec. 11511. (1) The department shall notify the clerk of the
23 municipality in which the disposal area is proposed to be located
24 and the applicant of its approval or denial of an application for a
25 construction permit **under section 11509** within 10 days after the
26 final decision is made.

27 (2) A construction permit ~~shall expire~~ **expires** 1 year after
28 the date of issuance, unless development under the construction
29 permit is initiated within that year. A construction permit that

1 has expired may be renewed upon payment of a permit renewal fee **of**
 2 **\$500.00** and submission of any additional relevant information the
 3 department may require.

4 ~~(3) Except as otherwise provided in this subsection, the~~
 5 ~~department shall not issue a construction permit for a disposal~~
 6 ~~area within a planning area unless a solid waste management plan~~
 7 ~~for that planning area has been approved pursuant to sections 11536~~
 8 ~~and 11537 and unless the disposal area complies with and is~~
 9 ~~consistent with the approved solid waste management plan. The~~
 10 ~~department may issue a construction permit for a disposal area~~
 11 ~~designed to receive ashes produced in connection with the~~
 12 ~~combustion of fossil fuels for electrical power generation in the~~
 13 ~~absence of an approved county solid waste management plan, upon~~
 14 ~~receipt of a letter of approval from whichever county or counties,~~
 15 ~~group of municipalities, or regional planning agency has prepared~~
 16 ~~or is preparing the county solid waste management plan for that~~
 17 ~~planning area under section 11533 and from the municipality in~~
 18 ~~which the disposal area is to be located.~~

19 Sec. 11511a. (1) A new coal ash landfill, a new coal ash
 20 impoundment, or a new lateral expansion of a coal ash landfill or
 21 **coal ash** impoundment shall comply with the requirements of R
 22 299.4304, R 299.4305, and R 299.4307 to R 299.4317 of the ~~part 115~~
 23 ~~rules, MAC~~, except that the minimum design standard for a new coal
 24 ash landfill, a new coal ash impoundment, or a new lateral
 25 expansion of a coal ash landfill or **coal ash** impoundment pursuant
 26 to R 299.4307(4) of the ~~part 115 rules shall be MAC is~~ solely R
 27 299.4307(4)(b) of the ~~part 115 rules MAC~~ and not R 299.4307(4)(a),
 28 (c), or (d) of the ~~part 115 rules MAC~~.

29 (2) A new coal ash landfill, ~~or a new~~ **coal ash** impoundment, or

1 a new lateral expansion of a coal ash landfill or coal ash
2 impoundment shall comply with the location requirements of R
3 299.4411 to R 299.4413 and R 299.4415 to **R 299.4418** of the ~~part 115~~
4 ~~rules, MAC~~, except that a new coal ash landfill or coal ash
5 impoundment or a new lateral expansion of a coal ash landfill or
6 coal ash impoundment shall maintain a permanent minimum clearance
7 from the bottom of the primary liner of not less than 5 feet to the
8 natural groundwater level.

9 (3) The department shall not issue a construction permit for a
10 new coal ash landfill or new coal ash impoundment or a new lateral
11 expansion of a coal ash landfill or coal ash impoundment unless all
12 of the following apply:

13 (a) The landfill, impoundment, or expansion, respectively,
14 complies with subsections (1) and (2), as applicable.

15 (b) The landfill, impoundment, or expansion, respectively,
16 complies with R 299.4306 of the ~~part 115 rules~~. **MAC**.

17 (c) The owner or operator has provided to the department a
18 detection monitoring program in a hydrogeological monitoring plan
19 that complies with R 299.4440 to R 299.4445 and R 299.4905 to R
20 299.4908 of the ~~part 115 rules~~, **MAC**, as applicable. **However, R**
21 **299.4440(3) and R 299.4440(6) of the MAC do not apply to coal ash**
22 **impoundments or coal ash landfills.** The waiver described in R
23 299.4440(2) of the ~~part 115 rules~~ **MAC** is not available to coal ash
24 impoundments or coal ash landfills. **Groundwater sampling related to**
25 **coal ash impoundments or coal ash landfills shall not be field**
26 **filtered.** The constituents monitored in the detection monitoring
27 program shall include all of the following:

28 (i) Boron.

29 (ii) Calcium.

(iii) Chloride.

(iv) Fluoride.

(v) Iron.

(vi) pH.

(vii) Sulfate.

(viii) Total dissolved solids.

~~(d) R 299.4440(3) and 299.4440(6) of the part 115 rules do not apply to coal ash impoundments or coal ash landfills.~~

~~(e) Groundwater sampling related to coal ash impoundments or coal ash landfills shall not be field filtered.~~

(d) ~~(f)~~ The landfill, impoundment, or expansion, respectively, complies with 1 of the following, **if applicable**:

(i) Section 11519b(2) and (4). ~~, if applicable.~~

(ii) A schedule, approved by the department, of remedial measures, including a sequence of actions or operations, that leads to compliance with ~~this part 115~~ within a reasonable time period but not ~~more than 2 years after the effective date of the amendatory act that added this section.~~ **later than December 28, 2020.**

(4) The constituents listed in this section shall be analyzed by methods ~~specified~~ **identified** in "Standard Methods for the Examination of Water and Wastewater, ~~19th~~ **20th** Edition," ~~published by the United States Environmental Protection Agency,~~ **(jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation)** or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), and V (2015) or by other methods approved

1 by the director or his or her designee.

2 Sec. 11511b. (1) A person may submit to the department a
3 project abstract for an RDDP. If, based on the project abstract,
4 the ~~director~~**department** determines that the RDDP will provide
5 beneficial data on alternative landfill design, construction, or
6 operating methods, the person may apply for a construction permit
7 under section 11509, including the renewal or modification of a
8 construction permit, authorizing the person to establish the RDDP.

9 (2) An RDDP is subject to the same requirements, including,
10 but not limited to, permitting, construction, licensing, operation,
11 closure, postclosure, financial assurance, fees, and sanctions as
12 apply to other type II landfills or landfill units under ~~this part~~
13 ~~and the rules promulgated under this part 115~~, except as provided
14 in this section.

15 (3) An extension of the processing period for an RDDP
16 construction permit is not subject to the limitations under section
17 1307.

18 (4) An application for an RDDP construction permit shall
19 include, in addition to the applicable information required in
20 other type II landfill construction permit applications, all of the
21 following:

22 (a) A description of the RDDP goals.

23 (b) Details of the design, construction, and operation of the
24 RDDP as necessary to ensure protection of ~~human~~**the environment,**
25 **natural resources, and the public** health, ~~and the environment.~~
26 **safety, and welfare.** The design shall be at least as protective of
27 ~~human~~**the environment, natural resources, and the public** health,
28 ~~and the environment~~**safety, and welfare** as other designs that are
29 required under ~~this part and rules promulgated under this part.115.~~

1 (c) A list and discussion of the types of waste that will be
2 disposed of, excluded, or added, including the types and amount of
3 liquids that will be added under subsection (5) and how the
4 addition will benefit the RDDP.

5 (d) A list and discussion of the types of compliance
6 monitoring and operational monitoring that will be performed.

7 (e) Specific means to address potential nuisance conditions,
8 including, but not limited to, odors and health concerns as a
9 result of human contact.

10 (5) The department may authorize the addition of liquids,
11 including, but not limited to, septage waste or other liquid waste,
12 to solid waste in an RDDP if the applicant has demonstrated that
13 the addition is necessary to accelerate or enhance the
14 biostabilization of the solid waste and is not merely a means of
15 disposal of the liquid. ~~The department may require that the septage~~
16 ~~waste, or any other liquid waste, added to an RDDP originate within~~
17 ~~the county where the RDDP is located or any county contiguous to~~
18 ~~the county where the RDDP is located.~~ **liquids.** If an RDDP is
19 intended to accelerate or enhance biostabilization of solid waste,
20 the construction permit application shall include, in addition to
21 the ~~requirements of~~ **information required under** subsection (4), all
22 of the following:

23 (a) An evaluation of the potential for a decreased slope
24 stability of the waste caused by any of the following:

25 (i) Increased presence of liquids.

26 (ii) Accelerated degradation of the waste.

27 (iii) Increased gas pressure buildup.

28 (iv) Other relevant factors.

29 (b) An operations management plan that incorporates all of the

1 following:

2 (i) A description of and the proportion and expected quantity
3 of all components that are needed to accelerate or enhance
4 biostabilization of the solid waste.

5 (ii) A description of any solid or liquid waste that may be
6 detrimental to the biostabilization of the solid waste intended to
7 be disposed of or to the RDDP goals.

8 (iii) An explanation of how the detrimental waste described in
9 subparagraph (ii) will be prevented from being disposed of in cells
10 approved for the RDDP.

11 (c) Parameters, such as moisture content, stability, gas
12 production, and settlement, that will be used by the department to
13 determine the beginning of the postclosure period for the RDDP
14 under subsection (10).

15 (d) Information to ensure that the requirements of subsection
16 (6) will be met.

17 (6) An RDDP shall meet all of the following requirements:

18 (a) Ensure that added liquids are evenly distributed and that
19 side slope breakout of liquids is prevented.

20 (b) Ensure that daily cover practices or disposal of low
21 permeability solid wastes does not adversely affect the free
22 movement of liquids and gases within the waste mass.

23 (c) Include all of the following:

24 (i) A means to monitor the moisture content and temperature of
25 the waste.

26 (ii) A leachate collection system of adequate size for the
27 anticipated increased liquid production rates. The design's factor
28 of safety shall take into account the anticipated increased
29 operational temperatures and other factors as appropriate.

1 (iii) A means to monitor the depth of leachate on the liner.

2 (iv) An ~~integrated~~ active gas collection **and control** system.

3 The system shall be of adequate size for the anticipated methane
4 production rates and to control odors. The system ~~shall~~**must** be
5 operational before the addition of any material to accelerate or
6 enhance biostabilization of the solid waste.

7 (7) The owner or operator of an RDDP for which a construction
8 permit has been issued shall submit a report to the ~~director~~
9 **department** at least once every 12 months on the progress of the
10 RDDP in achieving its goals. The report shall include a summary of
11 all monitoring and testing results, as well as any other operating
12 information specified by ~~the director in the~~ permit or in a
13 subsequent permit modification or operating condition.

14 (8) A permit for an RDDP shall specify the term of the permit,
15 which shall not exceed 3 years. However, the owner or operator of
16 an RDDP may apply for and the department may grant an extension of
17 the term of the permit, subject to all of the following
18 requirements:

19 (a) The application to extend the term of the permit must be
20 received by the department at least 90 days before the expiration
21 of the permit.

22 (b) The application shall include a detailed assessment of the
23 RDDP showing the progress of the RDDP in achieving its goals, a
24 list of problems with the RDDP and progress toward resolving those
25 problems, and other information that the ~~director~~**department**
26 determines is necessary to accomplish the purposes of ~~this part~~
27 **115.**

28 (c) If the department fails to make a final decision within 90
29 days ~~of~~**after** receipt of an administratively complete application

1 for an extension of the term of a permit, the term of the permit is
2 extended for 3 years.

3 (d) An individual extension shall not exceed 3 years, and the
4 total term of the permit with all extensions shall not exceed 21
5 years.

6 (9) If the ~~director~~**department** determines that the overall
7 goals of an RDDP, including, but not limited to, protection of
8 ~~human~~**the environment, natural resources, and the public** health, ~~or~~
9 ~~the environment,~~**safety, and welfare**, are not being achieved, the
10 ~~director~~**department** may order immediate termination of all or part
11 of the operations of the RDDP or may order other corrective
12 measures.

13 (10) The postclosure period for a facility authorized as an
14 RDDP begins when the department determines that the unit or portion
15 of the unit where the RDDP was authorized has reached a condition
16 similar to the condition that non-RDDP landfills would reach ~~prior~~
17 ~~to~~**before** postclosure. The parameters, such as moisture content,
18 stability, gas production, and settlement, to attain this condition
19 shall be specified in the permit. The ~~perpetual-landfill~~ care fund
20 ~~required under section 11525~~ shall be maintained for the period
21 after final closure of the landfill as specified under section
22 ~~11525~~**11523(1) (a) .**

23 (11) The ~~director~~**department** may authorize the conversion of
24 an RDDP to a full-scale operation if the owner or operator of the
25 RDDP demonstrates to the satisfaction of the ~~director~~**department**
26 that the goals of the RDDP have been met and the authorization does
27 not constitute a less stringent permitting requirement than is
28 required under subtitle D of the solid waste disposal act, 42 USC
29 6941 to 6949a, **and regulations promulgated thereunder.**

~~(12) As used in this section, "RDDP" means a research, development, and demonstration project for a new or existing type II landfill unit or for a lateral expansion of a type II landfill unit.~~

Sec. 11512. (1) **This section applies to disposal areas as provided in section 11509(1).**

(2) A person shall **not** dispose of solid waste at a disposal area ~~licensed under this part unless a person is permitted unless~~ **the disposal area is licensed under this section. However, a person authorized** by state law or rules promulgated by the department to **do so may** dispose of the solid waste at the site of generation. Waste placement in existing landfill units shall be consistent with past operating practices or modified practices to ensure good management.

(3) ~~(2) Except as otherwise provided in this section, or in section 11529, a person shall not conduct, manage, maintain, or operate a disposal area within this state except as authorized by an operating license issued by the department pursuant to part 13. In addition, a person shall not conduct, manage, maintain, or operate a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued under this part. A person who intends to conduct, manage, maintain, or operate a~~ **The owner or operator of the** disposal area shall submit a license application to the department through a certified health department. Existing coal ash impoundments are exempt from the licensing requirements of this part through ~~the date that is 2 years after the effective date of the amendatory act that added section 11511a.~~ **December 28, 2020.** If the disposal area is located in a county or city that does not have a certified

1 health department, the application shall be made directly to the
 2 department. A person authorized by ~~this part~~ **115** to operate more
 3 than 1 type of disposal area at the same facility may apply for a
 4 single license.

5 ~~(4) (3) The application for a license shall contain the name~~
 6 ~~and residence of the applicant, the location of the proposed or~~
 7 ~~existing disposal area, the type or types of disposal area~~
 8 ~~proposed, evidence of bonding, and other information required by~~
 9 ~~rule. In addition, an~~ **An applicant for a license** for a type II **or**
 10 **type III** landfill shall submit evidence of financial assurance
 11 ~~adequate to meet~~ **that meets** the requirements of section 11523a, the
 12 maximum waste slope in the active portion, an estimate of remaining
 13 permitted capacity, and documentation ~~on~~ **of** the amount of waste
 14 received at the disposal area during the previous license period or
 15 expected to be received, whichever is greater. ~~The application~~
 16 ~~shall be accompanied by a fee as specified in subsections (7), (9),~~
 17 ~~and (10).~~

18 ~~(5) (4) At the time of~~ **An** application for a license for a
 19 disposal area ~~, the applicant shall submit to a health officer or~~
 20 ~~the department~~ **other than an existing coal ash impoundment shall**
 21 **include** a certification under the seal of a licensed professional
 22 engineer verifying that the construction of the disposal area has
 23 proceeded according to the approved plans. ~~Any~~ **An** applicant for a
 24 license for an existing coal ash impoundment ~~is exempt from the~~
 25 ~~preceding requirement of this subsection but, when applying for a~~
 26 ~~license,~~ shall submit **with the application** documentation in the
 27 applicant's possession or control regarding the construction of the
 28 impoundment. If construction of ~~the disposal area or a portion of~~
 29 ~~the disposal area~~ **a landfill** is not complete, the ~~department shall~~

~~require owner or operator shall submit~~ additional construction certification of that portion of the ~~disposal area during intermediate progression of the operation, as specified in section 11516(5).~~ **landfill under section 11516(3).**

(6) ~~(5)~~—An applicant for an operating license, within 6 months after a license denial, may resubmit the application, together with additional information or corrections as are necessary to address the reason for denial, without being required to pay an additional application fee.

(7) ~~(6) In order to~~ **To** conduct tests and assess operational capabilities, the owner or operator of a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit may operate the incinerator without an operating license, upon notice to the department, for a period not to exceed 60 days.

(8) ~~(7)~~—The application for a type II landfill operating license shall be accompanied by the following fee for the 5-year term of the operating license, ~~calculated in accordance with~~ **subject to subsection (8)÷(9):**

(a) Landfills receiving less than 100 tons per day,
~~\$250.00.~~ **\$500.00.**

(b) Landfills receiving 100 tons per day or more, but less than 250 tons per day, ~~\$1,000.00.~~ **\$1,500.00.**

(c) Landfills receiving 250 tons per day or more, but less than 500 tons per day, ~~\$2,500.00.~~ **\$4,000.00.**

(d) Landfills receiving 500 tons per day or more, but less than 1,000 tons per day, ~~\$5,000.00.~~ **\$6,500.00.**

(e) Landfills receiving 1,000 tons per day or more, but less than 1,500 tons per day, ~~\$10,000.00.~~ **\$12,500.00.**

(f) Landfills receiving 1,500 tons per day or more, but less than 3,000 tons per day, ~~\$20,000.00.~~**\$22,500.00.**

(g) Landfills receiving ~~greater~~**more** than 3,000 tons per day, ~~\$30,000.00.~~**\$33,000.00.**

(9) ~~(8)~~ Type II landfill application fees shall be based on the average amount of waste **in tons** projected to be received daily during the license period. Application fees for license renewals shall be based on the average amount of waste received **daily** in the previous calendar year **based on a 365-day calendar year.**

Application fees shall be adjusted in the following circumstances:

(a) If a landfill accepts more ~~waste than projected,~~**than the amount of waste on which the application fee was based,** a supplemental fee equal to the difference shall be submitted with the next license application.

(b) If a landfill accepts less ~~waste than projected,~~**than the amount of waste on which the application fee was based,** the department shall credit the applicant an amount equal to the difference with the next license application.

~~(c) A type II landfill that measures waste by volume rather than weight shall pay a fee based on 3 cubic yards per ton.~~

(c) ~~(d)~~ A landfill used exclusively for municipal solid waste incinerator ash that measures waste by volume rather than weight shall pay a fee based on 1 cubic yard per ton.

~~(e) If an application is submitted to renew a license more than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/2 the application fee.~~

~~(f) If an application is submitted to renew a license more than 6 months but less than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/4 the~~

1 ~~application fee.~~

2 (10) ~~(9)~~ The operating license application for a type III
3 landfill shall be accompanied by a fee of ~~\$2,500.00.~~ **\$5,000.00.**

4 (11) ~~(10)~~ An application for an operating license ~~by~~ **for** a
5 coal ash landfill shall be accompanied by a fee of \$13,000.00. ~~On~~
6 **By** the anniversary of the issuance of the operating license, while
7 the operating license remains in effect, the coal ash landfill
8 owner or operator shall pay the department a fee of \$13,000.00. If
9 the anniversary of the issuance of the operating license falls on a
10 legal holiday, the annual fee shall be paid ~~on~~ **by** the next business
11 day.

12 (12) ~~(11)~~ An application for an operating license by a coal
13 ash impoundment shall be accompanied by a fee of \$13,000.00. On the
14 anniversary of the issuance of the operating license, while the
15 operating license remains in effect, the coal ash impoundment owner
16 or operator shall pay the department a fee of \$13,000.00. If the
17 anniversary of the issuance of the operating license falls on a
18 legal holiday, the annual fee shall be paid on the next business
19 day.

20 (13) ~~(12)~~ The department shall deposit the fees collected
21 under subsections ~~(10) and (11)~~ **and (12)** in the coal ash care fund
22 ~~established~~ **created** in section 11550.

23 (14) ~~(13)~~ Upon receipt of a license application for either a
24 coal ash impoundment or a coal ash landfill, the department shall
25 do all of the following:

26 (a) Immediately send notice to the clerk of the municipality
27 where the disposal area is located and the designated regional
28 solid waste management planning agency.

29 (b) Publish a notice in a newspaper having major circulation

1 in the vicinity of the disposal area.

2 **(15)** ~~(14)~~—The notices under subsection ~~(13)~~—**(14)** shall meet
3 all of the following requirements:

4 (a) Include a map indicating the location of the disposal area
5 and a description of the disposal area.

6 (b) Specify the location where the complete application
7 package may be reviewed and where copies may be obtained.

8 (c) Indicate that the department will accept comments for 45
9 days after the date of publication of the notice.

10 (d) Indicate that the department shall hold a public meeting
11 in the area of the disposal area if, within 15 days after the date
12 of publication of the notice, any of the following occur:

13 (i) A written request for a public meeting is submitted to the
14 department by the applicant or a municipality.

15 (ii) The department determines that there is a significant
16 public interest in or known public controversy over the application
17 or that for any other reason a public meeting is appropriate.

18 **(16)** ~~(15)~~—A public meeting referred to in subsection ~~(14)~~—**(d)**
19 **(15) (d)** shall be held after the department makes a preliminary
20 review of the application and all pertinent data and before an
21 operating license is issued or denied. During its review, the
22 department shall consider input provided at the public meeting.

23 **(17)** ~~(16)~~—If an application is returned to the applicant as
24 administratively incomplete, the department shall refund the entire
25 fee. An applicant for a license, within 12 months after a license
26 denial or withdrawal of a license application, may resubmit the
27 application with the additional information as needed to address
28 the reasons for denial, without being required to pay an additional
29 application fee.

1 **(18) ~~(17)~~** The operating license application for a solid waste
 2 processing plant, ~~solid waste~~ **and** transfer facility **that manages**
 3 **more than 200 cubic yards at any time, or** other disposal area, ~~or~~
 4 ~~combination of these entities~~ **that is not a landfill or surface**
 5 **impoundment** shall be accompanied by a fee ~~equal to \$500.00.~~ **of**
 6 **\$1,000.00.**

7 **(19) ~~(18)~~** Except as provided in subsection ~~(12)~~, **(13)**, the
 8 department shall deposit operating license application fees
 9 collected under this section in the perpetual care account of the
 10 solid waste management fund. ~~established in section 11550.~~

11 **(20) ~~(19)~~** A person who applies for an operating license for
 12 more than 1 type of disposal area at the same facility shall pay a
 13 fee equal to the sum of the applicable application fees listed in
 14 this section.

15 **(21)** The department shall not license a landfill or coal ash
 16 impoundment unless the landfill or coal ash impoundment has an
 17 approved hydrogeologic monitoring program and the owner or operator
 18 has provided the department with the monitoring results. The
 19 department shall use this information in conjunction with other
 20 information required by part 115 to determine a course of action
 21 regarding licensing of the facility consistent with section 4005 of
 22 subtitle D of the solid waste disposal act, 42 USC 6945, and with
 23 part 115. In deciding a course of action, the department shall
 24 consider, at a minimum, the environment, natural resources, the
 25 public health, safety, and welfare, and other public or private
 26 alternatives. If a landfill or coal ash impoundment violates part
 27 115, the department may do any of the following:

28 (a) Revoke the landfill's or coal ash impoundment's license.

29 (b) If the disposal area is a coal ash impoundment that has

1 not been previously licensed under this part, deny a license.

2 (c) Issue a timetable or schedule of corrective action,
3 including a sequence of actions or operations, that leads to
4 compliance with part 115 within a reasonable time period but not
5 more than 1 year.

6 (22) A type II landfill does not require a separate solid
7 waste processing and transfer facility permit or license to
8 solidify industrial waste sludges on-site if that activity meets
9 all of the following requirements:

10 (a) Occurs in containers or tanks as specified in part 121.

11 (b) Complies with part 55.

12 (c) Is approved by the department as part of the facility's
13 operations plan.

14 (23) An existing industrial waste landfill may accept any of
15 the following:

16 (a) Industrial waste.

17 (b) Solid waste that originates from an industrial site and is
18 not a hazardous waste regulated under part 111.

19 (24) The owner or operator of a landfill shall annually submit
20 a report to the department and the county and municipality in which
21 the landfill is located that specifies the tonnage and type of
22 solid waste received by the landfill during the year itemized, to
23 the extent possible, by county, state, or country of origin and the
24 amount of remaining disposal capacity at the landfill. Remaining
25 disposal capacity shall be calculated as the permitted capacity
26 less waste in place for any area that has been constructed and is
27 not yet closed plus the permitted capacity for each area that has a
28 permit for construction under part 115 but has not yet been
29 constructed. The report shall be submitted within 45 days after the

1 end of each state fiscal year. By January 31 of each year, the
2 department shall submit to the legislature a report summarizing the
3 information obtained under this subsection.

4 (25) The owner or operator of a licensed processing and
5 transfer facility, within 45 days after the end of each state
6 fiscal year, shall submit to the department on a form and in a
7 medium provided by the department, a report on the amount of
8 materials managed at the facility during that state fiscal year.

9 Sec. 11512b. (1) A landfill that accepts waste with the
10 potential to generate gas must be designed to prevent the migration
11 of explosive gases generated by the waste.

12 (2) A landfill that accepts municipal solid waste must be
13 designed with an active gas collection and control system. Except
14 as otherwise provided for in this section or approved by the
15 department, the active gas collection and control system shall
16 include all of the following features:

17 (a) Vertical gas extraction wells that meet all of the
18 following requirements:

19 (i) Are installed throughout the landfill with a maximum radius
20 of influence of 150 feet per well and lesser radii for wells
21 located near the perimeter of the landfill. The radii of influence
22 of adjacent wells shall overlap. Alternate well spacings may be
23 used for portions of a site or the entire site if approved by the
24 department after a site-specific demonstration.

25 (ii) Have target depths of at least 75% of the waste depth at
26 the well location. However, the wells should not extend closer than
27 10 feet above the leachate collection system.

28 (iii) Are constructed of pipe that meets all of the following
29 requirements:

1 (A) Is at least 6 inches in diameter.

2 (B) Is manufactured from polyvinylchloride, high-density
3 polyethylene, chlorinated polyvinyl chloride, or an alternate
4 material approved by the department.

5 (C) Is designed to convey projected amounts of gas; withstand
6 installation, static, and settlement forces; and withstand planned
7 overburden and traffic loads.

8 (D) When constructed, is slotted or otherwise perforated and
9 is screened in the lower 2/3 to 3/4 of its length in the borehole.
10 The department may approve alternative perforated screened length
11 requirements based on waste thickness or other factors.

12 (iv) Has boreholes that meet all of the following requirements:

13 (A) Are 36 inches in diameter. The department may approve
14 alternate diameter boreholes as part of a design prepared by a
15 licensed professional engineer and approved by the department.

16 (B) Are backfilled around the perforated pipe with 3/4- to 3-
17 inch washed stone or an alternate material if approved by the
18 department after a site-specific demonstration.

19 (C) The top 10 feet are sealed in a manner approved by the
20 department.

21 (b) Horizontal gas extraction wells that are properly sloped
22 to drain accumulated liquids and designed to withstand expected
23 overburden pressures.

24 (c) A flow control valve and sampling access port on each gas
25 extraction well.

26 (d) A gas header system that meets all of the following
27 requirements:

28 (i) The entire gas header system is designed with a loop to
29 allow alternative flow paths for the gas as soon as practicable

1 during both the interim and final development phases of
2 construction.

3 (ii) The slope on the header pipe over the waste mass is at
4 least 2% wherever possible. The slope outside of the waste mass
5 shall allow efficient removal of condensate and prevents sags.

6 (iii) The header and lateral pipes meet both of the following
7 requirements:

8 (A) Are manufactured from polyethylene or another material
9 approved by the department.

10 (B) Are designed to convey projected amounts of gas and
11 liquids; withstand installation, static, and settlement forces; and
12 withstand planned overburden and traffic loads.

13 (e) A blower, header, and laterals designed so that a vacuum
14 of at least 10 inches of water column is available at the well
15 located furthest from the blower. An available header vacuum of
16 less than 10 inches of water column at the well located furthest
17 from the blower complies with this subdivision if the owner or
18 operator of the landfill demonstrates to the department that the
19 available vacuum is adequate to meet performance criteria.

20 (f) A drip leg or equivalent installed immediately before the
21 blower to separate condensate from gas while preserving the suction
22 at the wells when under maximum operating vacuum.

23 (g) An approved secondary containment method for condensate
24 and liquid transfer piping if the piping is located outside of the
25 limits of the waste and installed after the effective date of the
26 amendatory act that added this section.

27 (h) The ability to collect and manage all condensate, measure
28 volumes of liquid removed from the gas extraction wells, and
29 collect samples of landfill gas.

1 (i) A control device to which collected landfill gas is routed
2 that meets all of the following requirements:

3 (i) Operates at all times gas is routed to it.

4 (ii) Is designed and operated to meet the requirements of part
5 55 or the new source performance standards under 40 CFR part 60.

6 (iii) Operates backup blower or control equipment required under
7 subdivision (j).

8 (j) Available backup equipment to effectively control landfill
9 gas emissions during an equipment breakdown.

10 (k) The active gas collection and control system shall not be
11 inoperable or unable to maintain a vacuum required by subdivision
12 (e) for more than 5 consecutive days.

13 (3) A landfill that has a potential to generate gas shall have
14 and comply with a gas migration monitoring plan. The plan shall
15 include at least 1 gas monitoring probe on each side of the
16 landfill. The plan shall be based on all of the following factors:

17 (a) Soil conditions.

18 (b) Hydrogeologic conditions surrounding the landfill.

19 (c) Hydraulic conditions surrounding the landfill.

20 (d) The location of landfill structures and property
21 boundaries.

22 (4) A landfill that accepts industrial waste or other
23 nonmunicipal solid waste with the potential to generate gas and
24 that does not utilize an active gas collection and control system
25 shall be designed with a system that allows gas venting from the
26 entire landfill surface. The owner or operator of the landfill
27 shall perform an analysis to determine the spacing needed between
28 gas venting trenches for an effective system. The system shall be
29 designed with a continuous layer, which may be utilized as part of

1 the infiltration layer that protects the final cover liner from the
2 waste and minimizes the effect of settlement. The continuous layer
3 shall meet all of the following requirements:

4 (a) Be located below the capping layer.

5 (b) Allow surficial venting from the waste final surface.

6 (c) Consist of at least 1 foot of granular soil with hydraulic
7 conductivity of at least 1.0×10^{-3} cm/sec and a series of flexible,
8 perforated pipes connected to a series of outlets or an alternative
9 design approved by the department as providing equivalent
10 performance.

11 Sec. 11512d. (1) The owner or operator of a landfill with an
12 active gas collection and control system or a venting system shall
13 install monitoring ports and conduct monitoring as specified by the
14 department to determine the effectiveness of the system.

15 (2) The owner or operator of a landfill with an active gas
16 collection and control system shall sample each gas extraction well
17 for nitrogen or oxygen and for methane, pressure, temperature,
18 liquid level, and, if existing wellheads allow flow measurement,
19 flow. The owner or operator shall monitor gas flow to the control
20 device, methane content at the control device, and other parameters
21 as specified in an approved monitoring plan.

22 (3) The owner or operator of a landfill shall sample each gas
23 extraction well monthly for the parameters, other than liquid
24 level, listed in subsection (2). Except as provided in this
25 subsection, the liquid level in each well shall be monitored at
26 least semi-annually. If for 2 consecutive monitoring events the
27 liquid level in a well exceeds 50% but does not exceed 75% of the
28 screened interval length, the owner or operator shall submit to the
29 department for review a liquids removal evaluation and corrective

1 action report for the well, unless the well has a functional,
2 operated liquid pump. If the liquid level in a well exceeds 75% of
3 the screened interval length during a monitoring event, then the
4 liquid level monitoring frequency for that well shall be increased
5 to quarterly. If the liquid level in a well exceeds 75% of the
6 screened interval length for 2 consecutive monitoring events, the
7 owner or operator of the landfill shall install a liquids pump,
8 unless the department approves an alternative corrective action
9 plan. If the liquid level in a well did not exceed 50% for the
10 immediately preceding 2 consecutive monitoring events, the owner or
11 operator may petition the department for a decreased monitoring
12 frequency. However, decreased monitoring shall be conducted at
13 least annually. For the purposes of the petition, the 2 consecutive
14 monitoring events may include monitoring conducted before the
15 effective date of the amendatory act that added this section.

16 (4) The owner or operator of a landfill required to have an
17 active landfill gas collection and control system shall operate the
18 system so that the methane concentration is 500 parts per million
19 or less above background at the surface of the landfill.

20 (5) Not later than 180 days after initial waste receipt in a
21 portion of a landfill, the owner or operator of the landfill shall
22 commence surface monitoring for methane at all of the following
23 locations:

24 (a) Where visual observations, such as of distressed
25 vegetation or cracks or seeps in the cover, indicate elevated
26 concentrations of landfill gas.

27 (b) At each penetration of daily, interim, or final landfill
28 cover.

29 (c) Around the perimeter of the active gas collection and

1 control system.

2 (d) Along a pattern that traverses the landfill at no more
3 than 30-meter intervals, unless the owner or operator establishes
4 an alternative traversing pattern that is approved by the
5 department after a site-specific demonstration.

6 (6) The owner or operator of a landfill shall conduct
7 monitoring under subsection (5) in compliance with a surface
8 monitoring design plan approved by the department that includes a
9 topographical map showing the monitoring route and the rationale
10 for any site-specific deviations from the 30-meter intervals under
11 subsection (5) (d). The department may approve a surface monitoring
12 design plan that excludes steep slopes or other dangerous areas
13 from the surface monitoring.

14 (7) The owner or operator of a landfill shall do all of the
15 following:

16 (a) Submit gas monitoring results to the department upon
17 request.

18 (b) Prepare field records of all monitoring activities under
19 this section in sufficient detail to document whether the sampling
20 plan has been complied with.

21 (c) Retain the field records required under subdivision (b) in
22 an operating record at the landfill or in an alternative location
23 approved by the department until the end of the long-term care
24 period for the landfill.

25 (d) Make the field records available for department inspection
26 on request.

27 Sec. 11512f. (1) The owner or operator of a type II landfill
28 shall submit to the department revised engineering plans and
29 reports required by this section in compliance with the following

1 schedule:

2 (a) If, on the effective date of the amendatory act that added
3 this section, the landfill has an active gas collection and control
4 system and is subject to monthly wellhead monitoring pursuant to
5 the new source performance standards under 40 CFR part 60, the
6 owner or operator shall submit revised engineering plans that
7 incorporate the approved new source performance standard plans
8 within 90 days after the effective date of the amendatory act that
9 added this section. The revised plans need not require upgrading of
10 the initial active gas collection and control system in previously
11 constructed areas unless it is necessary to correct surface
12 emissions of methane at concentrations exceeding 500 parts per
13 million above background that cannot be corrected within 1
14 quarterly monitoring period by following the procedures of 40 CFR
15 60.765(c)(4)(i) to (iv), to correct a nuisance odor violation, or
16 to maintain vacuum requirements at the wellhead located farthest
17 from the blower. The design requirements of section 11512b(2) apply
18 to lateral extensions, lateral expansions, and all new units at the
19 facility.

20 (b) If, on the effective date of the amendatory act that added
21 this section, the landfill has an active gas collection and control
22 system and is not subject to monthly wellhead monitoring pursuant
23 to the new source performance standards under 40 CFR part 60, the
24 owner or operator shall submit revised plans within 1 year after
25 the effective date of the amendatory act that added this section.
26 The revised plans need not require upgrading of the initial system
27 in previously constructed areas unless it is necessary to correct
28 surface emissions exceeding 500 parts per million of methane above
29 background that cannot be corrected within 1 quarterly monitoring

1 period by following the procedures of 40 CFR 60.765(c)(4)(i) to
2 (iv), to correct a nuisance odor violation, or to maintain vacuum
3 requirements at the well located furthest from the blower. The
4 design requirements of section 11512b(2) apply to lateral
5 extensions and all new units at the landfill.

6 (c) If, on the effective date of the amendatory act that added
7 this section, the landfill does not have an active gas collection
8 and control system, the owner or operator shall submit revised
9 plans for an active gas collection and control system within 1 year
10 after detecting surface methane emissions at concentrations
11 exceeding 500 parts per million above background that cannot be
12 corrected within 1 quarterly monitoring period by following the
13 procedures of 40 CFR 60.765(c)(4)(i) to (iv) or within 1 year after
14 the department documents a nuisance odor violation, unless an
15 extension of the deadline is approved by the department. The
16 revised plans need not include upgrading of the initial system in
17 all previously constructed areas. The revised plans shall address
18 the areas causing the surface emissions exceedance or nuisance odor
19 violation plus all future lateral extensions at the landfill. The
20 design requirements of section 11512b(2) apply to the proposed
21 active gas collection and control system. Construction of the
22 system shall be completed within 180 days after the department
23 approves the revised engineering plans, unless an extension is
24 approved by the department.

25 (d) If the landfill is a new unit or lateral expansion, the
26 owner or operator must submit engineering plans and reports for an
27 active gas collection and control system before the department
28 issues a solid waste disposal area construction permit.

29 (2) The design plans and engineering reports for a type II

1 landfill required by part 115 shall be sufficient to demonstrate
2 compliance with 40 CFR 60.759. The engineering reports shall
3 include a monitoring plan that is sufficient to demonstrate
4 compliance with section 11512d. The department shall incorporate
5 the design plans and engineering reports into the landfill's solid
6 waste disposal area construction permit and solid waste disposal
7 area operating license.

8 (3) Within 45 days after the end of each state fiscal year,
9 the owner or operator of a type II landfill shall update
10 engineering plans to show the as-built location of all active gas
11 collection and control system components, unless no changes have
12 been made. The update shall include plan views and details for any
13 changes proposed but not previously approved. The plan views shall
14 include proposed wells and collection headers to collect landfill
15 gas from the landfill in future final stages as well as as-built
16 locations for all components above grade and currently functioning
17 below grade.

18 (4) The owner or operator of a type II landfill shall submit
19 plans to the department before beginning an active gas collection
20 and control system expansion project. Repairs, changes, or
21 installations are not considered to be an expansion project if they
22 are minor and necessary for proper maintenance of the existing
23 active gas collection and control system. The plans shall identify
24 gas extraction well locations, include a schedule of extraction
25 well depths, and identify gas well pump locations, compressed air
26 and pump force main locations, header and lateral vacuum pipe
27 locations, condensate drip leg and sump locations, and any other
28 relevant infrastructure, as well as construction details for these
29 items. If, during construction, conditions require that any of the

1 approved or proposed extraction well locations deviate more than 50
2 feet from the proposed location or more than 25% from the proposed
3 depth, the owner or operator shall submit to the department 1 of
4 the following:

5 (a) A statement from a licensed professional engineer that the
6 gas wells installed will provide adequate control of landfill gas
7 emissions and meet the intent of the design.

8 (b) A schedule for installing additional gas collectors to
9 meet the design requirements included with the approved engineering
10 plans.

11 (5) Within 180 days after completion of construction of
12 portions of the active gas collection and control system, the owner
13 or operator shall submit to the department a documentation report
14 by a construction quality assurance officer or other department-
15 approved designee of the landfill owner or operator that the
16 construction complies with part 115 and the engineering plans
17 approved by the department. All of the following information shall
18 accompany the documentation report:

19 (a) A daily activity log, containing all of the information
20 required by R 299.4921(3) of the MAC.

21 (b) Landfill gas well logs that include all of the following:

22 (i) Observations of the depth, composition, degree of decay,
23 temperature, and moisture content of the waste.

24 (ii) Details of the construction of the well including borehole
25 size and depth, pipe size and type, perforated length, aggregates
26 utilized, soils utilized, and the location and types of seals
27 utilized.

28 (c) An as-built engineering plan view of the active gas
29 collection and control system with the location of existing wells

1 and headers and the location of newly installed wells, headers, and
2 other active gas collection and control system infrastructure.

3 Sec. 11512h. (1) The owner or operator of a type II landfill
4 shall begin operating and monitoring an active gas collection and
5 control system in compliance with the following schedule:

6 (a) If the landfill is described in section 11512f(1) (a),
7 within 90 days after the date of approval of the revised
8 engineering plans.

9 (b) If the landfill is described in section 11512f(1) (b),
10 within 1 year after the effective date of the amendatory act that
11 added this section.

12 (2) The owner or operator of a type II landfill without an
13 active gas collection and control system shall begin surface
14 emission scans within 1 year after the effective date of the
15 amendatory act that added this section.

16 (3) The owner or operator of a type II landfill shall install
17 an active gas collection and control system in compliance with the
18 following schedule:

19 (a) If the landfill is a new unit, a lateral expansion, or a
20 lateral extension and if the approved design plan includes an
21 active gas collection and control system, the initial active gas
22 collection and control system must be installed before waste is
23 accepted. An initial active gas collection and control system may
24 include horizontal collectors installed directly above the leachate
25 collection system or vacuum applied to the leachate collection
26 risers, or both. The initial active gas collection and control
27 system shall be operated upon detection of landfill gas pressure in
28 a landfill cell, as determined by any of the following:

29 (i) Surface emission scans detecting methane at concentrations

1 exceeding 500 parts per million above background that cannot be
2 corrected within 1 quarterly period by following the procedures of
3 40 CFR 60.765(c) (4) (i) to (iv).

4 (ii) Positive pressure in leachate collection riser pipes.

5 (iii) Nuisance odors.

6 (iv) Visual evidence of gas emissions, such as stressed
7 vegetation or gas bubbling through the cover.

8 (b) If, on the effective date of the amendatory act that added
9 this section, the landfill has an active gas collection and control
10 system and is not subject to monthly wellhead monitoring, gas
11 extraction wells at locations as shown in the approved engineering
12 plans shall be installed as soon as practicable, but not later than
13 180 days after engineering plan approval, unless an extension is
14 approved by the department.

15 (c) If the landfill does not have an active gas collection and
16 control system, gas extraction wells at locations as shown in the
17 approved engineering plans shall be installed as soon as
18 practicable, but not later than 180 days after engineering plan
19 approval, unless an extension is approved by the department.

20 (4) After waste placement and operation of the initial
21 collection devices, if a location is identified to have methane
22 emissions at concentrations exceeding 500 parts per million above
23 background, the owner or operator of the landfill shall comply with
24 40 CFR 60.765(c) (4) (i) to (iv). If a location is identified to have
25 methane emissions at concentrations exceeding 500 parts per million
26 above background 3 times within a quarterly monitoring period, the
27 owner or operator shall, within 120 days, install additional
28 extraction devices in compliance with the approved engineering
29 plans. The department may approve an alternative remedy or

1 **deadline.**

2 Sec. 11513. ~~(1) A person shall not accept for disposal solid~~
3 ~~waste or municipal solid waste incinerator ash that is not~~
4 ~~generated in the county in which the disposal area is located~~
5 ~~unless the acceptance of solid waste or municipal solid waste~~
6 ~~incinerator ash that is not generated in the county is explicitly~~
7 ~~authorized in the approved county solid waste management plan.~~

8 ~~(2) Subsection (1) does not apply to coal ash that is accepted~~
9 ~~for disposal at a captive facility that, after the effective date~~
10 ~~of the amendatory act that added this subsection, accepts only~~
11 ~~nonhazardous industrial waste generated only by the owner of the~~
12 ~~landfill or coal ash impoundment or its corporate affiliates.~~

13 ~~(3) The department shall take action to enforce this section~~
14 ~~within 30 days of obtaining knowledge of a violation of this~~
15 ~~section.~~

16 **(1) Subject to subsection (4), unless the person has notified**
17 **the department, a person shall not operate a solid waste processing**
18 **and transfer facility that does not at any time have on-site more**
19 **than 50 cubic yards of solid waste and that is not designed to**
20 **accept waste from vehicles with mechanical compaction devices.**
21 **Notification shall be given upon initial operation and,**
22 **subsequently, within 45 days after the end of each state fiscal**
23 **year. The subsequent notices shall report the amount of solid waste**
24 **managed at the facility during the preceding state fiscal year.**

25 **(2) Subject to subsection (4), unless the person has**
26 **registered the facility with the department, a person shall not**
27 **operate a solid waste processing and transfer facility that at any**
28 **time has on-site more than 50 cubic yards and does not at any time**
29 **have on-site more than 200 cubic yards of solid waste and that is**

1 not designed to accept waste from vehicles with mechanical
2 compaction devices. The term of a registration is 5 years. The
3 person shall submit an application to renew a registration at least
4 90 days before the expiration of the current registration. An
5 application for registration under this subsection shall contain
6 the name and mailing address of the applicant, the location of the
7 proposed or existing solid waste processing and transfer facility,
8 and other information required by part 115. The application shall
9 be accompanied by a fee of \$750.00. In addition, within 45 days
10 after the end of each state fiscal year, the person shall submit to
11 the department a report on the amount of materials managed at the
12 facility during that state fiscal year.

13 (3) An application for registration submitted under subsection
14 (2) shall be accompanied by an operations plan and site map. The
15 department shall review operations and the operations plan for
16 existing solid waste disposal areas to ensure compliance with
17 operating requirements. If the department determines that an
18 existing solid waste disposal area is noncompliant, the department
19 may issue a schedule of remedial measures that will lead to
20 compliance within a reasonable period of time not to exceed 1 year
21 from the determination of deficiency.

22 (4) For a disposal area in operation before the effective date
23 of the amendatory act that added this subsection, both of the
24 following apply:

25 (a) Except as provided in subdivision (b), the disposal area
26 shall follow its existing licensing renewal schedule.

27 (b) For a disposal area described in subsection (1) or (2),
28 the operator shall submit to the department the notification or
29 application for registration required under those subsections

1 within 1 year after the effective date of the amendatory act that
2 added this subsection.

3 Sec. 11514. ~~(1) Optimizing recycling opportunities, including~~
4 ~~electronics recycling opportunities, and the reuse of materials~~
5 ~~shall be a principal objective of the state's solid waste~~
6 ~~management plan. Recycling and reuse of materials, including the~~
7 ~~reuse of materials from electronic devices, are in the best~~
8 ~~interest of promoting the public health and welfare. The state~~
9 ~~shall develop policies and practices that promote recycling and~~
10 ~~reuse of materials and, to the extent practical, minimize the use~~
11 ~~of landfilling as a method for disposal of its waste. Policies and~~
12 ~~practices that promote recycling and reuse of materials, including~~
13 ~~materials from electronic devices, will conserve raw materials,~~
14 ~~conserve landfill space, and avoid the contamination of soil and~~
15 ~~groundwater from heavy metals and other pollutants.~~

16 (1) ~~(2)~~ A person shall not knowingly deliver to a landfill for
17 disposal, or, if the person is an owner or operator of a landfill,
18 knowingly ~~permit~~ **allow** disposal in the landfill of, any of the
19 following:

20 (a) Medical waste, unless that medical waste has been
21 decontaminated or is not required to be decontaminated but is
22 packaged in the manner required under part 138 of the public health
23 code, 1978 PA 368, MCL 333.13801 to ~~333.13831~~ **333.13832**.

24 (b) More than a de minimis amount of open, empty, or otherwise
25 used beverage containers.

26 (c) More than a de minimis number of whole motor vehicle
27 tires.

28 (d) More than a de minimis amount of yard ~~clippings, waste,~~
29 ~~unless they are diseased, infested, or composed of invasive species~~

~~as authorized by section 11521(1)(i).~~ **it meets the requirements of section 11555(1)(j) .**

(2) ~~(3)~~ A person shall not deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, ~~permit~~ **allow** disposal in the landfill of, any of the following:

(a) Used oil as defined in section 16701.

(b) A lead acid battery as defined in section 17101.

(c) Low-level radioactive waste as defined in section 2 of the low-level radioactive waste authority act, 1987 PA 204, MCL 333.26202.

(d) Regulated hazardous waste as defined in R 299.4104 of the ~~Michigan administrative code.~~ **MAC.**

(e) Bulk or noncontainerized liquid waste or waste that contains free liquids, unless the waste is 1 of the following:

(i) Household waste other than septage waste.

(ii) Leachate or gas condensate that is approved for recirculation.

(iii) Septage waste or other liquids approved for beneficial addition under section 11511b.

(f) Sewage.

(g) PCBs as defined in 40 CFR 761.3.

(h) Asbestos waste, unless the landfill complies with 40 CFR 61.154.

(3) ~~(4)~~ A person shall not knowingly deliver to a municipal solid waste incinerator for disposal, or, if the person is an owner or operator of a municipal solid waste incinerator, knowingly ~~permit~~ **allow** disposal in the incinerator of, more than a de minimis amount of yard clippings, ~~waste~~, unless they are diseased, infested, or composed of invasive species as authorized by section

1 ~~11521(1)(i)~~. **the requirements of section 11555(1)(j) are met.**

2 (4) The department shall post, and a ~~solid waste~~-hauler that
3 disposes of solid waste in a municipal solid waste incinerator
4 shall provide its customers with, notice of the prohibitions of
5 ~~this subsection (3)~~ in the same manner as provided in section
6 11527a.

7 (5) If the department determines that a safe, sanitary, and
8 feasible alternative does not exist for the disposal in a landfill
9 or municipal solid waste incinerator of any items described in
10 subsection ~~(2)~~ **(1)** or ~~(4)~~ **(3)**, respectively, the department shall
11 submit a report setting forth that determination and the basis for
12 the determination to the standing committees of the senate and
13 house of representatives with primary responsibility for solid
14 waste issues.

15 Sec. 11514b. (1) A person shall not deliver to a type II
16 landfill in this state for disposal and the owner or operator of a
17 type II landfill shall not permit disposal in the landfill of
18 technologically enhanced naturally occurring radioactive material
19 with any of the following:

20 (a) A concentration of radium-226 more than 50 picocuries per
21 gram.

22 (b) A concentration of radium-228 more than 50 picocuries per
23 gram.

24 (c) A concentration of lead-210 more than 260 picocuries per
25 gram.

26 (2) The owner or operator of a type II landfill shall not
27 permit a delivery of TENORM for disposal at the landfill unless the
28 generator has provided the following information in writing to the
29 owner or operator of the landfill:

1 (a) The concentrations of radium-226, radium-228, lead-210,
2 and any other radionuclide identified using gamma spectroscopy, or
3 an equivalent analytical method, in the TENORM based on techniques
4 for representative sampling and waste characterization approved by
5 the department.

6 (b) An estimate of the total mass of the TENORM.

7 (c) An estimate of the total radium-226 activity, the total
8 radium-228 activity, and the total lead-210 activity of the TENORM.

9 (d) The proposed date of delivery.

10 (3) The department may test TENORM proposed to be delivered to
11 a landfill.

12 (4) ~~The~~ **Within 45 days after the end of each state fiscal**
13 **year, the** owner or operator of a type II landfill shall submit to
14 the department an annual report that summarizes the information
15 obtained under subsection (2) for all TENORM disposed at the
16 landfill during the previous state fiscal year.

17 (5) The owner or operator of a type II landfill that disposes
18 of TENORM with a concentration of radium-226 more than 25
19 picocuries per gram, a concentration of radium-228 more than 25
20 picocuries per gram, or a concentration of lead-210 more than 25
21 picocuries per gram shall do all of the following:

22 (a) Ensure that all TENORM is deposited at least 10 feet below
23 the bottom of the future landfill cap.

24 (b) Maintain records of the location and elevation of TENORM
25 disposed of at the landfill.

26 (c) Conduct a monitoring program that complies with all of the
27 following:

28 (i) Radiological monitoring of site workers and at the landfill
29 property boundary are conducted as specified in the license.

1 (ii) Radium-226, radium-228, and lead-210 are included among
2 the parameters analyzed in leachate and groundwater at the
3 frequency specified in the license.

4 (iii) Results of all monitoring required under this subsection
5 are included in the environmental monitoring reports required under
6 rules promulgated under this part and the facility operating
7 license.

8 (6) As used in this section, "technologically enhanced
9 naturally occurring radioactive material" or "TENORM" means
10 naturally occurring radioactive material whose radionuclide
11 concentrations have been increased as a result of human practices.
12 TENORM does not include any of the following:

13 (a) Source material, as defined in section 11 of the atomic
14 energy act of 1954, 42 USC 2014, and its progeny in equilibrium.

15 (b) Material with concentrations of radium-226, radium-228,
16 and lead-210 each less than 5 picocuries per gram.

17 ~~Sec. 11515. (1) Upon receipt of a license application, the~~
18 ~~department or a health officer or an authorized representative of a~~
19 ~~health officer shall inspect the site and determine if the proposed~~
20 ~~operation complies with this part and the rules promulgated under~~
21 ~~this part.~~

22 ~~(2) The department shall not license a landfill facility or~~
23 ~~coal ash impoundment operating without an approved hydrogeologic~~
24 ~~monitoring program until the department receives a hydrogeologic~~
25 ~~monitoring program and the results of the program. The department~~
26 ~~shall use this information in conjunction with other information~~
27 ~~required by this part or the rules promulgated under this part to~~
28 ~~determine a course of action regarding licensing of the facility~~
29 ~~consistent with section 4005 of subtitle D of the solid waste~~

~~disposal act, title II of Public Law 89-272, 42 USC 6945, and with this part and the rules promulgated pursuant to this part. In deciding a course of action, the department shall consider, at a minimum, the health hazards, environmental degradation, and other public or private alternatives. The department may do any of the following:~~

~~(a) Revoke a license.~~

~~(b) Deny a license to a coal ash impoundment that has not been previously licensed under this part.~~

~~(1) (c) Issue a timetable or schedule to provide for compliance for the landfill or coal ash impoundment, specifying a schedule of remedial measures, including a sequence of actions or operations, which leads to compliance with this part within a reasonable time period but not more than 1 year.~~**The department or an authorized representative of the department may inspect and investigate conditions relating to the generation, storage, processing, transportation, management, or disposal of solid waste or any material regulated under part 115. In conducting an inspection or investigation, the department or its authorized representative may, at reasonable times and after presenting credentials and stating its authority and purpose, do any of the following:**

(a) Enter any property.

(b) Have access to and copy any information or records that are required to be maintained pursuant to part 115 or an order issued under part 115.

(c) Inspect any facility, equipment, including monitoring and pollution control equipment, practices, or operations regulated or required under part 115 or an order issued under part 115.

1 (d) Sample, test, or monitor substances or parameters for the
2 purpose of determining compliance with part 115 or an order issued
3 under part 115.

4 (2) Upon receipt of an application for a permit, license,
5 approval under a general permit, or registration under part 115,
6 the department or an authorized representative of the department
7 shall inspect the materials management facility, property, site, or
8 proposed operation to determine eligibility for the permit,
9 license, approval under a general permit, or registration. Before
10 issuing a permit, license, approval under a general permit, or
11 registration, the department shall file a written inspection
12 report.

13 (3) If the department or an authorized representative of the
14 department is refused entry or access under subsection (1) or (2),
15 the attorney general, on behalf of this state, may do either of the
16 following:

17 (a) Petition the court of appropriate jurisdiction for a
18 warrant authorizing entry or access to property, information or
19 records or authorizing sampling, testing, or monitoring pursuant to
20 this section.

21 (b) Commence a civil action to compel compliance with a
22 request for entry or access to property, information, or records or
23 to sample, test, or monitor pursuant to this section.

24 (4) The department or an authorized representative may receive
25 and initiate complaints of an alleged violation of part 115 and
26 take action with respect to the complaint as provided in part 115.

27 (5) As used in this section, "authorized representative" means
28 any of the following:

29 (a) A full- or part-time employee of another state department

1 or agency acting pursuant to law or to which the department
2 delegates certain duties under part 115.

3 (b) A local health officer.

4 (c) For the purpose of sampling, testing, or monitoring under
5 subsection (1)(d), a contractor retained by the state or a local
6 health officer.

7 Sec. 11516. (1) ~~The department shall conduct a consistency~~
8 ~~review before~~ **Before** making a final decision on ~~a~~ **an operating**
9 license application **under section 11512, the department shall**
10 **review the application for consistency with the requirements of**
11 **part 115.** The department shall notify the clerk of the municipality
12 in which the disposal area is located and the applicant of its
13 approval or denial of a license application within 10 days after
14 the final decision is made.

15 (2) An operating license ~~shall expire~~ **expires** 5 years after
16 the date of issuance. An operating license may be renewed before
17 expiration upon payment of a renewal application fee specified in
18 section ~~11512(8)~~ **11512** if the licensee is in compliance with **part**
19 **115.** ~~this part and the rules promulgated under this part.~~

20 ~~(3) The issuance of the operating license under this part~~
21 ~~empowers the department or a health officer or an authorized~~
22 ~~representative of a health officer to enter at any reasonable time,~~
23 ~~pursuant to law, in or upon private or public property licensed~~
24 ~~under this part for the purpose of inspecting or investigating~~
25 ~~conditions relating to the storage, processing, or disposal of any~~
26 ~~material.~~

27 ~~(4) Except as otherwise provided in this subsection, the~~
28 ~~department shall not issue an operating license for a new disposal~~
29 ~~area within a planning area unless a solid waste management plan~~

1 ~~for that planning area has been approved pursuant to sections 11536~~
 2 ~~and 11537 and unless the disposal area complies with and is~~
 3 ~~consistent with the approved solid waste management plan. This~~
 4 ~~subsection does not prohibit the issuance of a license for a~~
 5 ~~captive facility that is a coal ash impoundment or a coal ash~~
 6 ~~landfill in the absence of an approved county solid waste~~
 7 ~~management plan, upon receipt of a letter of approval from~~
 8 ~~whichever county or counties, group of municipalities, or regional~~
 9 ~~planning agency has prepared or is preparing the county solid waste~~
 10 ~~management plan for that planning area under section 11533 and from~~
 11 ~~the municipality in which the disposal area is to be located.~~

12 (3) ~~(5)~~ Issuance of an operating license by the department
 13 authorizes the licensee to accept waste for disposal in certified
 14 portions of the disposal area for which a bond was established
 15 under section 11523 and, for type II landfills, for which financial
 16 assurance was demonstrated under section 11523a. If the
 17 construction of a portion of a landfill licensed under this section
 18 is not complete ~~at~~ **by** the time ~~of the~~ license application **is**
 19 **submitted**, the owner or operator of the landfill shall submit a
 20 certification under the seal of a licensed professional engineer
 21 verifying that the construction of that portion of the landfill has
 22 proceeded according to the approved plans at least 60 days ~~prior to~~
 23 **before** the anticipated date of waste disposal in that portion of
 24 the landfill. If the department does not deny the certification
 25 within 60 days of receipt, the owner or operator may accept waste
 26 for disposal in the certified portion. In the case of a denial, the
 27 department shall issue a written statement ~~stating of~~ the reasons
 28 why the construction or certification is not consistent with ~~this~~
 29 ~~part or rules promulgated under this part~~ **115** or the approved

1 plans.

2 (4) The final exterior landfill slopes approved by the
3 department, including the slope of the top of waste beneath the
4 final cover, shall not be steeper than 25% except where necessary
5 for either of the following:

6 (a) To install berms for erosion control.

7 (b) To vertically transition the side slope back to permitted
8 final waste grades upslope from an area that has received final
9 cover and has settled below permitted grades. The department may
10 approve the transition slope if it does not exceed 33% and the
11 owner or operator demonstrates, through revised engineering plans
12 and analyses, that the steeper slope will not result in increased
13 erosion or reduced stability in either the interim or final cover
14 conditions. The landfill owner or operator shall provide enhanced
15 soil erosion protection to the top surface of the transition slope
16 to ensure interim and long-term erosion control and stability
17 equivalent to a 25% side slope.

18 Sec. 11517. ~~(1) Within 9 months after the completion of~~
19 ~~construction of a municipal solid waste incinerator, the owner or~~
20 ~~operator of a municipal solid waste incinerator shall submit a plan~~
21 ~~to the department for a program that, to the extent practicable,~~
22 ~~reduces the incineration of noncombustible materials and dangerous~~
23 ~~combustible materials and their hazardous by-products at the~~
24 ~~incinerator. The department shall approve or disapprove the plan~~
25 ~~submitted under this subsection within 30 days after receiving it.~~
26 ~~In reviewing the plan, the department shall consider the current~~
27 ~~county solid waste management plan, available markets for separated~~
28 ~~materials, disposal alternatives for the separated materials, and~~
29 ~~collection practices for handling such separated materials. If the~~

1 ~~department disapproves a plan, the department shall notify the~~
2 ~~owner or operator submitting the plan of this fact, and shall~~
3 ~~provide modifications that, if included, would result in the plan's~~
4 ~~approval. If the department disapproves a plan, the owner or~~
5 ~~operator of a municipal solid waste incinerator shall within 30~~
6 ~~days after receipt of the department's disapproval submit a revised~~
7 ~~plan that addresses all of the modifications provided by the~~
8 ~~department. The department shall approve or disapprove the revised~~
9 ~~plan within 30 days after receiving it, and approval of the revised~~
10 ~~plan shall not be unreasonably withheld.~~

11 (1) ~~(2) Not later than 6 months after the approval of the plan~~
12 ~~by the department under subsection (1), the owner or operator shall~~
13 ~~implement the plan in accordance with the implementation schedule~~
14 ~~set forth in the plan. The operation of a municipal solid waste~~
15 ~~incinerator without an approved plan under this section shall~~
16 ~~subject the owner or operator, or both, to all of the sanctions~~
17 ~~provided by this part.~~**After the department approves the closure**
18 **certification for a landfill unit under section 11523a, the owner**
19 **or operator shall conduct postclosure care of that unit in**
20 **compliance with a postclosure plan approved by the department and**
21 **shall maintain financial assurance in compliance with part 115**
22 **including any additional financial assurance required based on an**
23 **extension of the postclosure care period under subsection (3). The**
24 **postclosure plan may include monitoring and maintenance provisions**
25 **not otherwise required by part 115 if designed to achieve and**
26 **demonstrate functional stability, such as monitoring settlement.**
27 **Postclosure care shall be conducted for 30 years, except as**
28 **provided under subsection (2) or (3), and consist of at least all**
29 **of the following conducted as required by part 115:**

1 (a) Maintaining the integrity and effectiveness of any final
2 cover, including making repairs to the cover as necessary to
3 correct the effects of settlement, subsidence, erosion, or other
4 events, and preventing run-on and run-off from eroding or otherwise
5 damaging the final cover.

6 (b) Maintaining and operating the leachate collection system,
7 if any. The department may waive the requirements of this
8 subdivision if the owner or operator demonstrates that leachate no
9 longer poses a threat to the environment, natural resources, or the
10 public health, safety, or welfare.

11 (c) Monitoring the groundwater and maintaining the groundwater
12 monitoring system, if any.

13 (d) Maintaining and operating the gas monitoring and
14 collection system, if any.

15 (2) The department, by written notification to the landfill
16 owner or operator, shall shorten the postclosure care period
17 specified under subsection (1) if the landfill owner or operator
18 submits to the department, and the department approves, a petition
19 certified by a licensed professional engineer and a qualified
20 groundwater scientist that demonstrates all of the following:

21 (a) The landfill's closure certification was approved by the
22 department under section 11523a.

23 (b) The owner or operator has complied with postclosure care
24 maintenance and monitoring requirements for at least 15 years.

25 (c) The landfill has achieved functional stability, including,
26 but not limited to, meeting all of the following requirements:

27 (i) There has been no release from the landfill into
28 groundwater or surface water requiring ongoing corrective action.

29 (ii) There is no ongoing subsidence or significant past

1 subsidence of waste in the unit that may result in ponding or
2 erosion that would significantly increase infiltration through or
3 cause damage to the final cover.

4 (iii) The landfill does not produce more than minimal amounts of
5 combustible gases.

6 (iv) Combustible gases from the landfill have not been detected
7 at or beyond the landfill's property boundary or in facility
8 structures.

9 (v) The landfill does not produce nuisance odors requiring
10 control.

11 (vi) Leachate and gas collection and control system condensate
12 generation has ceased, leachate and condensate quality meets
13 criteria for acceptable surface water or groundwater discharge, or
14 leachate and condensate can be discharged through existing leachate
15 and condensate handling facilities, such as sewers connected to a
16 publicly owned treatment works.

17 (vii) The final exterior landfill slopes are as approved by the
18 department under section 11516(4).

19 (d) Any other conditions necessary, as determined by the
20 department, to protect the environment, natural resources, or the
21 public health, safety, or welfare are met.

22 (3) The department shall extend the postclosure care period
23 specified in subsection (1) for a landfill unit if any of the
24 following apply:

25 (a) The owner or operator did not close the landfill unit as
26 required by part 115.

27 (b) The final cover of the landfill unit has not been
28 maintained and has significant ponding, erosion, or detrimental
29 vegetation present.

1 (c) Groundwater monitoring has not been conducted in
2 compliance with the approved monitoring plan or groundwater
3 affected by the landfill unit exceeds criteria established under
4 part 201.

5 (d) There is ongoing differential settlement of waste, as
6 evidenced by significant ponding of water on the landfill cover.

7 (e) Gas monitoring has detected combustible landfill gases at
8 or beyond the landfill boundary or in a facility structure above
9 applicable criteria or gas from the unit continues to be generated
10 at a rate that produces nuisance odors.

11 (f) Leachate or gas collection and control system condensate
12 continues to be generated by the landfill unit in quantities or
13 quality that may threaten groundwater or surface water.

14 (4) The owner or operator of a landfill unit that has been
15 released from postclosure care of the unit shall do all of the
16 following with respect to the landfill unit:

17 (a) Exercise custodial care by undertaking any activity
18 necessary to maintain the effectiveness of the final cover, prevent
19 the unauthorized discharge of leachate, prevent impacts to the
20 surface or groundwater, mitigate the fire and explosion hazards due
21 to combustible gases, and manage the landfill unit in a manner that
22 protects environment, natural resources, and the public health,
23 safety, and welfare.

24 (b) Comply with any land use or resource use restrictions
25 established for the landfill unit.

26 Sec. 11518. (1) ~~At the time a disposal area that is a sanitary~~
27 **When a landfill cell is first** licensed, an instrument that imposes
28 a restrictive covenant upon the land involved shall be executed by
29 all of the owners of the ~~tract of land upon which the landfill is~~

~~to be located~~ **land** and the department. If the land ~~involved is~~
~~state owned,~~ **is owned by this state**, the state administrative board
shall execute the covenant on behalf of ~~the~~ **this** state. The
department or a local health officer shall file the instrument
imposing the restrictive covenant ~~shall be filed for record by the~~
~~department or a health officer~~ in the office of the register of
deeds of the county, or counties, in which the ~~facility~~ **land** is
located. The covenant shall state that the land described in the
covenant ~~has been or~~ will be used as a landfill and that neither
the property owners, their servants, agents, or employees, nor any
of their heirs, successors, lessees, or assigns shall, **without**
authorization from the department, engage in filling, grading,
excavating, drilling, or mining on the property during the first 50
years following ~~completion of the landfill without authorization of~~
~~the department.~~ **approval by the department of the landfill's**
closure certification under section 11523a. In giving
authorization, the department shall consider the original design,
type of operation, material deposited, and the stage of
decomposition of the fill. ~~Special~~ **The department may grant an**
exemption from this section ~~may be granted by the department if the~~
~~lands involved are federal lands or if contracts~~ **if the land**
involved is federally owned or if agreements existing between the
landowner and the licensee on January 11, 1979 are not
renegotiable.

(2) ~~This part~~ **Part 115** does not prohibit the department from
conveying, leasing, or permitting the use of state land for a ~~solid~~
~~waste disposal area or a resource recovery facility as provided by~~
applicable state law.

(3) When a disposal area that is a coal ash impoundment is

1 **first** licensed under this part, an instrument that imposes a
 2 restrictive covenant upon the land involved shall be executed by
 3 all of the owners of the ~~tract of land upon which the impoundment~~
 4 ~~is located or is to be located~~ **land** and the department. If the land
 5 ~~involved~~ is owned by this state, the state administrative board
 6 shall execute the covenant on behalf of this state. The **department**
 7 **or a local health officer shall file the** instrument imposing the
 8 restrictive covenant ~~shall be filed for record by the department or~~
 9 ~~a health officer~~ in the office of the register of deeds of the
 10 county, or counties, ~~in which the disposal area~~ **the land** is
 11 located. The covenant shall state that the land described in the
 12 covenant ~~has been or~~ will be used as a coal ash impoundment and
 13 that neither the property owners, their servants, agents, or
 14 employees, nor any of their heirs, successors, lessees, or assigns
 15 shall, **without authorization from the department**, engage in
 16 filling, grading, excavating, drilling, or mining on the property
 17 during the first 50 years following completion of the impoundment.
 18 ~~without authorization of the department.~~ In giving authorization,
 19 the department shall consider the original design, type of
 20 operation, material deposited, and any removal of the materials as
 21 part of the closure of the impoundment.

22 (4) An industrial waste landfill may accept industrial waste
 23 of different types and from different generators, but shall not
 24 accept hazardous waste generated by conditionally exempt small
 25 quantity generators.

26 Sec. 11519. (1) The department shall specify, in writing, the
 27 reasons for denial of **an application for** a ~~construction permit, or~~
 28 an operating license, ~~further specifying those particular~~ **an**
 29 **approval under a general permit, or a registration, including the**

1 sections of ~~this part or rules promulgated under this part~~ **115** that
 2 may be violated by granting the application and the manner in which
 3 the violation may occur.

4 (2) ~~The~~ **If a materials management facility is established,**
 5 **constructed, or operated in violation of the conditions of a**
 6 **permit, license, approval under a general permit, or registration,**
 7 **in violation of part 115 or an order issued under part 115, or in a**
 8 **manner not consistent with an MMP, all of the following apply:**

9 (a) **A local** health officer or ~~the~~ department may issue a cease
 10 and desist order specifying a schedule of closure or remedial
 11 action in ~~accordance~~ **compliance** with ~~this part and rules~~
 12 ~~promulgated under this part 115~~ or may establish ~~enter~~ a consent
 13 agreement specifying a schedule of closure or remedial action ~~in~~
 14 ~~accordance with this part and rules promulgated under this part to~~
 15 ~~a person who establishes, constructs, conducts, manages, maintains,~~
 16 ~~or operates a disposal area without a permit or license or to a~~
 17 ~~person who holds a permit or license but establishes, constructs,~~
 18 ~~conducts, manages, maintains, or operates a disposal area contrary~~
 19 ~~to an approved solid waste management plan or contrary to the~~
 20 ~~permit or license issued under this part.~~ **under part 115.**

21 (b) ~~(3)~~ The department may issue a final order revoking,
 22 suspending, or restricting a ~~the~~ permit, ~~or~~ license, **approval under**
 23 **a general permit, or registration or a notification** after a
 24 contested case hearing as provided in the administrative procedures
 25 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
 26 ~~24.201 to 24.328 of the Michigan Compiled Laws, if the department~~
 27 ~~finds that the disposal area is not being constructed or operated~~
 28 ~~in accordance with the approved plans, the conditions of a permit~~
 29 ~~or license, this part, or the rules promulgated under this part. A~~

~~final order issued pursuant to this section is subject to judicial review as provided in Act No. 306 of the Public Acts of 1969. The department or a health officer shall inspect and file a written report not less than 4 times per year for each licensed disposal area. The department or the health officer shall provide the municipality in which the licensed disposal area is located with a copy of each written inspection report if the municipality arranges with the department or the health officer to bear the expense of duplicating and mailing the reports.~~ **1969 PA 306, MCL 24.201 to 24.328.**

(c) (4) ~~The department may issue an order summarily suspending a the permit, or license, approval under a general permit, or registration or a notification, if the department determines that a violation of this part or rules promulgated under this part has occurred which, in the department's opinion, the violation or inconsistency constitutes an emergency or poses an imminent risk of injury to the public health or the environment, natural resources, or the public health, safety, or welfare. A determination that a violation poses an imminent risk of injury to the public health shall be made by the department.~~ Summary suspension may be ordered effective on the date specified in the order or upon service of a certified copy of the order on the licensee, **owner or operator**, whichever is later, and ~~shall remain~~ **remains** effective during the proceedings. The proceedings shall be commenced within 7 days ~~of~~ **after** the issuance of the order and shall be promptly determined.

(3) A final order issued pursuant to this section is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 11519b. (1) Placement of coal ash and associated liquids

1 into an existing coal ash impoundment or coal ash impoundment
2 licensed under this part is permitted and shall be conducted
3 consistent with ~~good management practices as defined in section~~
4 11519a and this section.

5 (2) If the detection monitoring required in sections
6 11511a(3), 11512a(1), and 11519a(1)(h) confirms a statistically
7 significant increase over background for 1 or more of the
8 constituents listed in section 11511a(3), the owner and operator of
9 a coal ash landfill or coal ash impoundment shall comply with R
10 299.4440 and 299.4441 of the ~~part 115 rules, MAC~~, including, as
11 applicable, conducting assessment monitoring and preparation of a
12 response action plan in compliance with R 299.4442 of the ~~part 115~~
13 ~~rules. MAC~~. The constituents to be monitored in the assessment
14 monitoring program shall include those listed in section 11511a(3)
15 and all of the following:

- 16 (a) Antimony.
- 17 (b) Arsenic.
- 18 (c) Barium.
- 19 (d) Beryllium.
- 20 (e) Cadmium.
- 21 (f) Chromium.
- 22 (g) Cobalt.
- 23 (h) Copper.
- 24 (i) Lead.
- 25 (j) Lithium.
- 26 (k) Nickel.
- 27 (l) Mercury.
- 28 (m) Molybdenum.
- 29 (n) Selenium.

- (o) Silver.
- (p) Thallium.
- (q) Vanadium.
- (r) Zinc.
- (s) Radium 226 and 228 combined.

(3) The constituents listed in this section shall be analyzed by methods ~~specified~~ **identified** in "Standard Methods for the Examination of Water and Wastewater, ~~19th~~ **20th** edition", ~~published by the United States Environmental Protection Agency,~~ **(jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation)** or **"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), and V (2015)** or by other methods approved by the director or his or her designee.

(4) If the owner or operator of a coal ash landfill or coal ash impoundment is obligated to prepare a response action plan, the owner or operator shall comply with R 299.4442 to R 299.4445 of the ~~part 115 rules,~~ **MAC**, as applicable.

(5) The owner or operator of a coal ash landfill shall place landfill cover materials that are described in R 299.4304 of the ~~part 115 rules~~ **MAC**, over the entire surface of each portion of the final lift not more than 6 months after the final placement of coal ash within the landfill or landfill unit.

(6) The owner or operator of a coal ash impoundment shall begin to implement closure as described in R 299.4309(7) of the ~~part 115 rules~~ **MAC** not more than 6 months after the final placement of coal ash within the impoundment and shall diligently pursue the

closure. The closure shall be completed in compliance with 40 CFR 257.102(f)(1) and (2).

(7) ~~Coal ash impoundments~~ **A coal ash impoundment** or coal ash ~~landfills~~ **landfill** may be closed as a type III landfill pursuant to the applicable rules or by removal of ~~the~~ coal ash from the **coal ash impoundment or coal ash landfill** as described in ~~this part 115.~~

(8) If a coal ash impoundment is closed by ~~the date that is 2 years after the effective date of the amendatory act that added this section~~ **December 28, 2020**, and the department accepts the certification of the closure, the owner is not required to provide financial assurance under section 11523 or pay into a perpetual care fund under section 11525.

(9) Closure by removal of coal ash under subsection (7) is complete when either of the following requirements are met:

(a) The owner or operator certifies compliance with the requirements of 40 CFR 257.102(c).

(b) The owner or operator certifies that testing confirms that constituent concentrations remaining in the coal ash impoundment or landfill unit and any concentrations of soil or groundwater affected by releases therefrom do not exceed the lesser of the applicable standards adopted by the department pursuant to section 20120a or the groundwater protection standards established pursuant to 40 CFR 257.95(h) and the department accepts the certification, or, if the constituent concentrations do exceed those standards, the department has approved a remedy consistent with R 299.4444 and R 299.4445 of the ~~part 115 rules.~~ **MAC.**

(10) Upon completion of the closure by removal under subsection (9), **all of the following apply:**

(a) The financial assurance under section 11523 and perpetual

1 care fund under section 11525 shall be terminated. ~~the~~

2 (b) The owner or operator is not required to provide financial
3 assurance or contribute to a perpetual care fund. ~~and any~~

4 (c) Any claim to the assurance or fund by the department is
5 terminated and released. The termination and release do not impair
6 the department's authority to require, whether upon completion of
7 closure under subsection (9) (b) or subsequently, financial
8 assurance for corrective action as provided under this act.

9 Sec. 11520. (1) Fees collected by a health officer under this
10 part shall be deposited with the city or county treasurer. ~~who~~
11 ~~shall keep the deposits~~ The treasurer shall deposit the fees in a
12 special fund designated for use in implementing this part. If ~~there~~
13 ~~is an ordinance or charter provision that prohibits a health~~
14 ~~officer from maintaining~~ such a special fund, the fees shall be
15 deposited and used in ~~accordance~~ compliance with the ordinance or
16 charter provision. ~~Fees collected by the department under this part~~
17 ~~shall be credited to the general fund of the state.~~

18 (2) ~~This part~~ Part 115 does not prohibit an individual from
19 disposing of solid waste from the individual's own household upon
20 the individual's own land ~~as long as if~~ the disposal does not
21 create a nuisance or hazard to health. Solid waste accumulated as a
22 part of an improvement or the planting of privately owned farmland
23 may be disposed of on the property if the method used is not
24 injurious to human life or property and does not ~~unreasonably~~
25 ~~interfere with the enjoyment of life or property.~~ create a nuisance.

26 27 SUBPART 3 WASTE DIVERSION CENTERS

28 Sec. 11521b. (1) The operator of a waste diversion center
29 shall comply with all of the following requirements:

1 (a) ~~At least 90%, by volume, of the material collected at the~~
2 ~~waste diversion center shall consist of diverted waste to be~~
3 ~~managed at the waste diversion center.~~ **On an annual basis, not**
4 **receive an amount of solid waste equal to or greater than 15%, by**
5 **weight, of the diverted waste received by the facility.**

6 (b) ~~The~~ **Ensure that personnel operating the** waste diversion
7 center ~~shall be operated by personnel who are knowledgeable about~~
8 the safe management of the types of diverted waste that are
9 accepted at the waste diversion center.

10 (c) ~~The operator shall manage~~ **Manage** the diverted waste in a
11 manner that prevents the release of any diverted waste or component
12 of diverted waste to the environment.

13 (d) ~~The operator shall not~~ **Not** store diverted waste overnight
14 at the waste diversion center except in a secure location and with
15 ~~adequate containment~~ **that is adequate** to prevent any release of
16 diverted ~~wastes.~~ **waste.**

17 (e) Within 1 year after diverted waste is collected by the
18 waste diversion center, **transfer** that diverted waste ~~shall be~~
19 ~~transported from the waste diversion center to a~~ **another** waste
20 diversion center, **a** recycling facility, or **a** disposal facility that
21 ~~is in compliance with this act,~~ **meets the requirement of section**
22 **11508(1)(a),** for processing, recycling, or disposal.

23 (f) ~~The operator shall not~~ **Not** process diverted waste except
24 to the extent necessary for the safe and efficient transportation
25 of the diverted waste.

26 (g) ~~The operator shall record~~ **Record** the types and quantities
27 of diverted ~~wastes~~ **waste** collected, the period of storage, and
28 where the diverted ~~wastes were~~ **waste was** transferred, processed,
29 recycled, or disposed of. The operator shall maintain the records

1 for at least 3 years and shall make the records available to the
2 department upon request.

3 (h) ~~Access~~ **Allow access** to the waste diversion center ~~shall be~~
4 ~~limited to a time only~~ when a responsible individual is on duty.

5 (i) ~~The~~ **As appropriate for the type of diverted waste, protect**
6 **the** area where the diverted waste is accumulated ~~shall be~~
7 ~~protected, as appropriate for the type of waste, from weather,~~
8 fire, physical damage, and vandals.

9 (j) ~~The~~ **Keep the** waste diversion center ~~shall be kept clean~~
10 and free of litter **and operate in a manner that does not create a**
11 **nuisance or hazard to the environment, natural resources, or the**
12 **public health, safety, or welfare.**

13 (k) If the primary function of an entity is to serve as a
14 waste diversion center, notify the department of the waste
15 diversion center. Notification shall be given upon initial
16 operation and subsequently within 45 days after the end of each
17 state fiscal year. The subsequent notices shall report the amount
18 of solid waste diverted at the facility during the preceding state
19 fiscal year. The notification requirement applies to both of the
20 following:

21 (i) For the initial notification, entities that anticipate
22 collecting more than 50 tons of diverted or recyclable materials in
23 the state fiscal year in which the notification is given.

24 (ii) For subsequent notifications, entities that collected more
25 than 50 tons of diverted or recyclable materials in the preceding
26 state fiscal year.

27 ~~(2) Management of diverted wastes as required by this section~~
28 ~~is not considered disposal for the purposes of section 11538(6).~~

29 (2) ~~(3)~~ The operator of a waste diversion center may reject

1 any diverted waste.

2 Enacting section 1. Sections 11521 and 11522 of the natural
3 resources and environmental protection act, 1994 PA 451, MCL
4 324.11521 and 324.11522, are repealed.

5 Enacting section 2. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 3. This amendatory act does not take effect
8 unless all of the following bills of the 101st Legislature are
9 enacted into law:

- 10 (a) House Bill No. 4454.
- 11 (b) House Bill No. 4455.
- 12 (c) House Bill No. 4457.
- 13 (d) House Bill No. 4458.
- 14 (e) House Bill No. 4459.
- 15 (f) House Bill No. 4460.
- 16 (g) House Bill No. 4461.