

HOUSE BILL NO. 4456

March 09, 2021, Introduced by Reps. Sowerby, Howell, VanSingel, Tate, Rabhi, Borton, Kuppia, Martin, O'Malley, Manoogian, Cambensy, Pohutsky, Anthony, Brixie, Liberati, Hood, Markkanen, Breen, Morse, Cavanagh, Aiyash, Puri, Brabec, Brenda Carter and Hammoud and referred to the Committee on Natural Resources and Outdoor Recreation.

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,
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, 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 11519b 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:

SUBPART 2 DISPOSAL AREAS

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

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

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

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

1 (3) ~~(2) The application for a construction permit shall~~
 2 ~~contain the name and residence of the applicant, the location of~~
 3 ~~the proposed disposal area, the design capacity of the disposal~~
 4 ~~area, and other information specified by rule. A person may apply~~
 5 ~~to construct more than 1 type of disposal area at the same facility~~
 6 ~~under a single permit. The~~ **An application for a construction permit**
 7 **for a landfill** shall be accompanied by an engineering plan and a
 8 ~~construction permit application fee . A construction permit~~
 9 ~~application for a landfill shall be accompanied by a fee in an~~
 10 ~~amount that is the sum of all of the following fees, as~~
 11 ~~applicable:~~ **in the following amount:**

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

14 (i) For a ~~municipal solid waste~~ **type II** landfill,
 15 ~~\$1,500.00.~~ **\$3,000.00.**

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

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

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

22 (i) For a ~~municipal solid waste~~ **type II** landfill,
 23 ~~\$1,000.00.~~ **\$2,000.00.**

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

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

29 (c) For a vertical expansion of an existing ~~sanitary landfill,~~

1 ~~a fee equal to the following amount:~~**the following:**

2 (i) For a ~~municipal solid waste~~**type II** landfill,
3 ~~\$750.00.~~**\$1,500.00.**

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

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

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

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

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

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

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

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

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

1 or an application is withdrawn, ~~the department shall refund 1/2 the~~
 2 ~~amount specified in subsection (3) to the applicant. An~~ **an**
 3 applicant for a construction permit, within ~~12 months~~ **1 year** after
 4 ~~a~~ **the** permit denial or **application** withdrawal, may resubmit the
 5 application, ~~and the refunded portion of the fee,~~ together with the
 6 additional information as needed to address the reasons for denial
 7 **or withdrawal**, without ~~being required to pay~~ **paying** an additional
 8 application fee.

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

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

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

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

1 The county board of commissioners' request shall include a
2 demonstration that materials utilization options have been
3 exhausted. The department's determination of need shall be based on
4 public health, solid waste disposal capacity, and economic issues
5 that would arise without the new site.

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

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

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

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

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

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

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

28 (a) Immediately notify the clerk of the municipality in which
29 the disposal area is located or proposed to be located, the local

1 soil erosion and sedimentation control agency **under part 93**, each
2 division within the department and the department of natural
3 resources that has responsibilities in land, air, or water
4 management, **the regional planning agency**, and the designated
5 ~~regional solid waste management planning agency~~ **for the planning**
6 **area.**

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

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

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

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

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

1 (d) Conduct a consistency review ~~of the plans~~ of the proposed
2 disposal area, **including the site, plans, and application**, to
3 determine if ~~it complies~~ **they comply** with ~~this part and the rules~~
4 ~~promulgated under this part.~~ **115.** The review shall be made
5 **conducted** by persons qualified in hydrogeology and, ~~sanitary~~ **if the**
6 **disposal area is a landfill**, landfill engineering. ~~A written~~
7 ~~acknowledgment~~ **The department shall not issue a construction permit**
8 **unless the persons conducting the review acknowledge** that the
9 application package ~~is in compliance~~ **complies** with the requirements
10 of **part 115.** ~~this part and rules promulgated under this part by the~~
11 ~~persons qualified in hydrogeology and sanitary landfill engineering~~
12 ~~shall be received before a construction permit is issued. If the~~
13 ~~consistency review of the site and the plans and the application~~
14 ~~meet the requirements of this part and the rules promulgated under~~
15 ~~this part, the department shall issue a~~ **The** construction permit
16 ~~that~~ may contain a stipulation specifically applicable to the site
17 and operation. ~~Except as otherwise provided in section 11542, an~~ **An**
18 expansion of the area of a disposal area, an enlargement in
19 capacity of a disposal area, **a change in the solid waste boundary**,
20 or an alteration of a disposal area to a different type of disposal
21 area than had been specified in the previous construction permit
22 application constitutes a new proposal for which a new construction
23 permit, **rather than a modification of a construction permit**, is
24 required. The upgrading of a disposal area type required by the
25 department to comply with ~~this part or the rules promulgated under~~
26 ~~this part~~ **115** or to comply with a consent order does not require a
27 new construction permit.

28 (e) Notify the Michigan aeronautics commission if the disposal
29 area is a ~~sanitary~~ landfill that is a new site or a lateral

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

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

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

29 (2) A construction permit ~~shall expire~~ **expires** 1 year after

1 the date of issuance, unless development under the construction
 2 permit is initiated within that year. A construction permit that
 3 has expired may be renewed upon payment of a permit renewal fee **of**
 4 **\$500.00** and submission of any additional relevant information the
 5 department may require.

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

21 Sec. 11511a. (1) A new coal ash landfill, a new coal ash
 22 impoundment, or a new lateral expansion of a coal ash landfill or
 23 **coal ash** impoundment shall comply with the requirements of R
 24 299.4304, R 299.4305, and R 299.4307 to R 299.4317 of the ~~part 115~~
 25 ~~rules, **MAC**,~~ except that the minimum design standard for a new coal
 26 ash landfill, a new coal ash impoundment, or a new lateral
 27 expansion of a coal ash landfill or **coal as** impoundment pursuant to
 28 R 299.4307(4) of the ~~part 115 rules shall be **MAC is**~~ solely R
 29 299.4307(4) (b) of the ~~part 115 rules **MAC**~~ and not R 299.4307(4) (a),

1 (c), or (d) of the ~~part 115 rules~~.**MAC**.

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

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

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

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

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

1 (i) Boron.

2 (ii) Calcium.

3 (iii) Chloride.

4 (iv) Fluoride.

5 (v) Iron.

6 (vi) pH.

7 (vii) Sulfate.

8 (viii) Total dissolved solids.

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

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

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

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

16 (ii) A schedule, approved by the department, of remedial
17 measures, including a sequence of actions or operations, that leads
18 to compliance with ~~this part 115~~ within a reasonable time period
19 but not ~~more than 2 years after the effective date of the~~
20 ~~amendatory act that added this section.~~ **later than December 28,**
21 **2020.**

22 (4) The constituents listed in this section shall be analyzed
23 by methods ~~specified~~ **identified** in "Standard Methods for the
24 Examination of Water and Wastewater, ~~19th~~ **20th** Edition," ~~published~~
25 ~~by the United States Environmental Protection Agency,~~ **(jointly**
26 **published by the American Public Health Association, the American**
27 **Water Works Association, and the Water Environment Federation) or**
28 **"Test Methods for Evaluating Solid Waste, Physical/Chemical**
29 **Methods," EPA publication SW-846, Third Edition, Final Updates I**

1 (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999),
2 IIIB (2005), IV (2008), and V (2015) or by other methods approved
3 by the director or his or her designee.

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

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

17 (3) An extension of the processing period for an RDDP
18 construction permit is not subject to the limitations under section
19 1307.

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

24 (a) A description of the RDDP goals.

25 (b) Details of the design, construction, and operation of the
26 RDDP as necessary to ensure protection of ~~human~~**the environment,**
27 **natural resources, and the public** health, ~~and the environment.~~
28 **safety, and welfare.** The design shall be at least as protective of
29 ~~human~~**the environment, natural resources, and the public** health,

1 ~~and the environment~~ **safety, and welfare** as other designs that are
 2 required under ~~this part and rules promulgated under this part.~~**115.**

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

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

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

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

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

- 27 (i) Increased presence of liquids.
 28 (ii) Accelerated degradation of the waste.
 29 (iii) Increased gas pressure buildup.

1 (iv) Other relevant factors.

2 (b) An operations management plan that incorporates all of the
3 following:

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

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

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

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

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

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

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

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

25 (c) Include all of the following:

26 (i) A means to monitor the moisture content and temperature of
27 the waste.

28 (ii) A leachate collection system of adequate size for the
29 anticipated increased liquid production rates. The design's factor

1 of safety shall take into account the anticipated increased
2 operational temperatures and other factors as appropriate.

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

4 (iv) An ~~integrated~~ active gas collection **and control** system.
5 The system shall be of adequate size for the anticipated methane
6 production rates and to control odors. The system ~~shall~~**must** be
7 operational before the addition of any material to accelerate or
8 enhance biostabilization of the solid waste.

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

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

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

24 (b) The application shall include a detailed assessment of the
25 RDDP showing the progress of the RDDP in achieving its goals, a
26 list of problems with the RDDP and progress toward resolving those
27 problems, and other information that the ~~director~~**department**
28 determines is necessary to accomplish the purposes of ~~this part~~
29 **115.**

1 (c) If the department fails to make a final decision within 90
2 days ~~of~~**after** receipt of an administratively complete application
3 for an extension of the term of a permit, the term of the permit is
4 extended for 3 years.

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

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

15 (10) The postclosure period for a facility authorized as an
16 RDDP begins when the department determines that the unit or portion
17 of the unit where the RDDP was authorized has reached a condition
18 similar to the condition that non-RDDP landfills would reach ~~prior~~
19 ~~to~~**before** postclosure. The parameters, such as moisture content,
20 stability, gas production, and settlement, to attain this condition
21 shall be specified in the permit. The ~~perpetual~~**landfill** care fund
22 ~~required under section 11525~~ shall be maintained for the period
23 after final closure of the landfill as specified under section
24 ~~11525.~~**11523(1) (a)** .

25 (11) The ~~director~~**department** may authorize the conversion of
26 an RDDP to a full-scale operation if the owner or operator of the
27 RDDP demonstrates to the satisfaction of the ~~director~~**department**
28 that the goals of the RDDP have been met and the authorization does
29 not constitute a less stringent permitting requirement than is

1 required under subtitle D of the solid waste disposal act, 42 USC
2 6941 to 6949a, **and regulations promulgated thereunder.**

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

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

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

17 (3) ~~(2)~~ Except as otherwise provided in this section, ~~or in~~
18 ~~section 11529,~~ a person shall not conduct, manage, maintain, or
19 operate a disposal area ~~within this state~~ except as authorized by
20 an operating license issued by the department pursuant to part 13.
21 ~~In addition, a person shall not conduct, manage, maintain, or~~
22 ~~operate a disposal area contrary to an approved solid waste~~
23 ~~management plan, or contrary to a permit, license, or final order~~
24 ~~issued under this part. A person who intends to conduct, manage,~~
25 ~~maintain, or operate a~~ **The owner or operator of the** disposal area
26 shall submit a license application to the department through a
27 certified health department. Existing coal ash impoundments are
28 exempt from the licensing requirements of this part through ~~the~~
29 ~~date that is 2 years after the effective date of the amendatory act~~

1 ~~that added section 11511a.~~ **December 28, 2020.** If the disposal area
 2 is located in a county or city that does not have a certified
 3 health department, the application shall be made directly to the
 4 department. A person authorized by ~~this part~~ **115** to operate more
 5 than 1 type of disposal area at the same facility may apply for a
 6 single license.

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

20 **(5)** ~~(4) At the time of~~ **An** application for a license for a
 21 disposal area ~~, the applicant shall submit to a health officer or~~
 22 ~~the department~~ **other than an existing coal ash impoundment shall**
 23 **include** a certification under the seal of a licensed professional
 24 engineer verifying that the construction of the disposal area has
 25 proceeded according to the approved plans. ~~Any~~ **An** applicant for a
 26 license for an existing coal ash impoundment ~~is exempt from the~~
 27 ~~preceding requirement of this subsection but, when applying for a~~
 28 ~~license,~~ shall submit **with the application** documentation in the
 29 applicant's possession or control regarding the construction of the

1 impoundment. If construction of ~~the disposal area or a portion of~~
 2 ~~the disposal area~~ **a landfill** is not complete, the ~~department shall~~
 3 ~~require~~ **owner or operator shall submit** additional construction
 4 certification of that portion of the ~~disposal area during~~
 5 ~~intermediate progression of the operation, as specified in section~~
 6 ~~11516(5).~~ **landfill under section 11516(3).**

7 (6) ~~(5)~~—An applicant for an operating license, within 6 months
 8 after a license denial, may resubmit the application, together with
 9 additional information or corrections as are necessary to address
 10 the reason for denial, without being required to pay an additional
 11 application fee.

12 (7) ~~(6)~~ ~~In order to~~ **To** conduct tests and assess operational
 13 capabilities, the owner or operator of a municipal solid waste
 14 incinerator that is designed to burn at a temperature in excess of
 15 2500 degrees Fahrenheit may operate the incinerator without an
 16 operating license, upon notice to the department, for a period not
 17 to exceed 60 days.

18 (8) ~~(7)~~—The application for a type II landfill operating
 19 license shall be accompanied by the following fee for the 5-year
 20 term of the operating license, ~~calculated in accordance with~~
 21 **subject to subsection ~~(8)~~ ÷ (9):**

22 (a) Landfills receiving less than 100 tons per day,
 23 ~~\$250.00.~~ **\$500.00.**

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

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

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

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

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

5 (g) Landfills receiving ~~greater~~**more** than 3,000 tons per day,
6 ~~\$30,000.00.~~**\$33,000.00.**

7 **(9)** ~~(8)~~ Type II landfill application fees shall be based on
8 the average amount of waste **in tons** projected to be received daily
9 during the license period. Application fees for license renewals
10 shall be based on the average amount of waste received **daily** in the
11 previous calendar year **based on a 365-day calendar year.**

12 Application fees shall be adjusted in the following circumstances:

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

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

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

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

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

29 ~~(f) If an application is submitted to renew a license more~~

1 ~~than 6 months but less than 1 year prior to license expiration, the~~
 2 ~~department shall credit the applicant an amount equal to 1/4 the~~
 3 ~~application fee.~~

4 (10) ~~(9)~~—The operating license application for a type III
 5 landfill shall be accompanied by a fee of ~~\$2,500.00.~~ **\$5,000.00.**

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

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

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

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

28 (a) Immediately send notice to the clerk of the municipality
 29 where the disposal area is located and the designated regional

1 solid waste management planning agency.

2 (b) Publish a notice in a newspaper having major circulation
3 in the vicinity of the disposal area.

4 **(15)** ~~(14)~~—The notices under subsection ~~(13)~~—**(14)** shall meet
5 all of the following requirements:

6 (a) Include a map indicating the location of the disposal area
7 and a description of the disposal area.

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

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

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

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

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

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

25 **(17)** ~~(16)~~—If an application is returned to the applicant as
26 administratively incomplete, the department shall refund the entire
27 fee. An applicant for a license, within 12 months after a license
28 denial or withdrawal of a license application, may resubmit the
29 application with the additional information as needed to address

1 the reasons for denial, without being required to pay an additional
2 application fee.

3 **(18)** ~~(17)~~The operating license application for a solid waste
4 processing plant, ~~solid waste~~ **and** transfer facility **that manages**
5 **more than 200 cubic yards at any time, or** other disposal area ~~, or~~
6 ~~combination of these entities that is not a landfill or surface~~
7 **impoundment** shall be accompanied by a fee equal to ~~\$500.00.~~ **of**
8 **\$1,000.00.**

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

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

17 **(21)** **The department shall not license a landfill or coal ash**
18 **impoundment unless the landfill or coal ash impoundment has an**
19 **approved hydrogeologic monitoring program and the owner or operator**
20 **has provided the department with the monitoring results. The**
21 **department shall use this information in conjunction with other**
22 **information required by part 115 to determine a course of action**
23 **regarding licensing of the facility consistent with section 4005 of**
24 **subtitle D of the solid waste disposal act, 42 USC 6945, and with**
25 **part 115. In deciding a course of action, the department shall**
26 **consider, at a minimum, the environment, natural resources, the**
27 **public health, safety, and welfare, and other public or private**
28 **alternatives. If a landfill or coal ash impoundment violates part**
29 **115, the department may do any of the following:**

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

2 (b) If the disposal area is a coal ash impoundment that has
3 not been previously licensed under this part, deny a license.

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

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

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

13 (b) Complies with part 55.

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

16 (23) An existing industrial waste landfill may accept any of
17 the following:

18 (a) Industrial waste.

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

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

1 permit for construction under part 115 but has not yet been
2 constructed. The report shall be submitted within 45 days after the
3 end of each state fiscal year. By January 31 of each year, the
4 department shall submit to the legislature a report summarizing the
5 information obtained under this subsection.

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

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

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

19 (a) Vertical gas extraction wells that meet all of the
20 following requirements:

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

27 (ii) Have target depths of at least 75% of the waste depth at
28 the well location. However, the wells should not extend closer than
29 10 feet above the leachate collection system.

1 (iii) Are constructed of pipe that meets all of the following
2 requirements:

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

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

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

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

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

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

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

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

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

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

28 (d) A gas header system that meets all of the following
29 requirements:

1 (i) The entire gas header system is designed with a loop to
2 allow alternative flow paths for the gas as soon as practicable
3 during both the interim and final development phases of
4 construction.

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

8 (iii) The header and lateral pipes meet both of the following
9 requirements:

10 (A) Are manufactured from polyethylene or another material
11 approved by the department.

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

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

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

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

29 (h) The ability to collect and manage all condensate, measure

1 volumes of liquid removed from the gas extraction wells, and
2 collect samples of landfill gas.

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

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

6 (ii) Is designed and operated to meet the requirements of part
7 55 or the new source performance standards under 40 CFR part 60.

8 (iii) Operates backup blower or control equipment required under
9 subdivision (j).

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

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

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

19 (a) Soil conditions.

20 (b) Hydrogeologic conditions surrounding the landfill.

21 (c) Hydraulic conditions surrounding the landfill.

22 (d) The location of landfill structures and property
23 boundaries.

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

1 gas venting trenches for an effective system. The system shall be
2 designed with a continuous layer, which may be utilized as part of
3 the infiltration layer that protects the final cover liner from the
4 waste and minimizes the effect of settlement. The continuous layer
5 shall meet all of the following requirements:

6 (a) Be located below the capping layer.

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

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

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

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

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

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

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

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

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

29 (b) At each penetration of daily, interim, or final landfill

1 cover.

2 (c) Around the perimeter of the active gas collection and
3 control system.

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

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

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

18 (a) Submit gas monitoring results to the department upon
19 request.

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

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

27 (d) Make the field records available for department inspection
28 on request.

29 Sec. 11512f. (1) The owner or operator of a type II landfill

1 shall submit to the department revised engineering plans and
2 reports required by this section in compliance with the following
3 schedule:

4 (a) If, on the effective date of the amendatory act that added
5 this section, the landfill has an active gas collection and control
6 system and is subject to monthly wellhead monitoring pursuant to
7 the new source performance standards under 40 CFR part 60, the
8 owner or operator shall submit revised engineering plans that
9 incorporate the approved new source performance standard plans
10 within 90 days after the effective date of the amendatory act that
11 added this section. The revised plans need not require upgrading of
12 the initial active gas collection and control system in previously
13 constructed areas unless it is necessary to correct surface
14 emissions of methane at concentrations exceeding 500 parts per
15 million above background that cannot be corrected within 1
16 quarterly monitoring period by following the procedures of 40 CFR
17 60.755(c) (4) (i) to (iv), to correct a nuisance odor violation, or
18 to maintain vacuum requirements at the wellhead located farthest
19 from the blower. The design requirements of section 11512b(2) apply
20 to lateral extensions, lateral expansions, and all new units at the
21 facility.

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

1 surface emissions exceeding 500 parts per million of methane above
2 background that cannot be corrected within 1 quarterly monitoring
3 period by following the procedures of 40 CFR 60.755(c)(4)(i) to
4 (iv), to correct a nuisance odor violation, or to maintain vacuum
5 requirements at the well located furthest from the blower. The
6 design requirements of section 11512b(2) apply to lateral
7 extensions and all new units at the landfill.

8 (c) If, on the effective date of the amendatory act that added
9 this section, the landfill does not have an active gas collection
10 and control system, the owner or operator shall submit revised
11 plans for an active gas collection and control system within 1 year
12 after detecting surface methane emissions at concentrations
13 exceeding 500 parts per million above background that cannot be
14 corrected within 1 quarterly monitoring period by following the
15 procedures of 40 CFR 60.755(c)(4)(i) to (iv) or within 1 year after
16 the department documents a nuisance odor violation, unless an
17 extension of the deadline is approved by the department. The
18 revised plans need not include upgrading of the initial system in
19 all previously constructed areas. The revised plans shall address
20 the areas causing the surface emissions exceedance or nuisance odor
21 violation plus all future lateral extensions at the landfill. The
22 design requirements of section 11512b(2) apply to the proposed
23 active gas collection and control system. Construction of the
24 system shall be completed within 180 days after the department
25 approves the revised engineering plans, unless an extension is
26 approved by the department.

27 (d) If the landfill is a new unit or lateral expansion, the
28 owner or operator must submit engineering plans and reports for an
29 active gas collection and control system before the department

1 issues a solid waste disposal area construction permit.

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

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

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

1 relevant infrastructure, as well as construction details for these
2 items. If, during construction, conditions require that any of the
3 approved or proposed extraction well locations deviate more than 50
4 feet from the proposed location or more than 25% from the proposed
5 depth, the owner or operator shall submit to the department 1 of
6 the following:

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

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

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

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

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

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

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

1 (c) An as-built engineering plan view of the active gas
2 collection and control system with the location of existing wells
3 and headers and the location of newly installed wells, headers, and
4 other active gas collection and control system infrastructure.

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

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

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

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

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

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

1 a landfill cell, as determined by any of the following:

2 (i) Surface emission scans detecting methane at concentrations
3 exceeding 500 parts per million above background that cannot be
4 corrected within 1 quarterly period by following the procedures of
5 40 CFR 60.755(c) (4) (i) to (iv).

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

7 (iii) Nuisance odors.

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

10 (b) If, on the effective date of the amendatory act that added
11 this section, the landfill has an active gas collection and control
12 system and is not subject to monthly wellhead monitoring, gas
13 extraction wells at locations as shown in the approved engineering
14 plans shall be installed as soon as practicable, but not later than
15 180 days after engineering plan approval, unless an extension is
16 approved by the department.

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

22 (4) After waste placement and operation of the initial
23 collection devices, if a location is identified to have methane
24 emissions at concentrations exceeding 500 parts per million above
25 background, the owner or operator of the landfill shall comply with
26 40 CFR 60.755(c) (4) (i) to (iv). If a location is identified to have
27 methane emissions at concentrations exceeding 500 parts per million
28 above background 3 times within a quarterly monitoring period, the
29 owner or operator shall, within 120 days, install additional

1 extraction devices in compliance with the approved engineering
2 plans. The department may approve an alternative remedy or
3 deadline.

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

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

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

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

27 (2) Subject to subsection (4), unless the person has
28 registered the facility with the department, a person shall not
29 operate a solid waste processing and transfer facility that at any

1 time has on-site more than 50 cubic yards and does not at any time
2 have on-site more than 200 cubic yards of solid waste and that is
3 not designed to accept waste from vehicles with mechanical
4 compaction devices. The term of a registration is 5 years. The
5 person shall submit an application to renew a registration at least
6 90 days before the expiration of the current registration. An
7 application for registration under this subsection shall contain
8 the name and mailing address of the applicant, the location of the
9 proposed or existing solid waste processing and transfer facility,
10 and other information required by part 115. The application shall
11 be accompanied by a fee of \$750.00. In addition, within 45 days
12 after the end of each state fiscal year, the person shall submit to
13 the department a report on the amount of materials managed at the
14 facility during that state fiscal year.

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

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

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

29 (b) For a disposal area described in subsection (1) or (2),

1 the operator shall submit to the department the notification or
 2 application for registration required under those subsections
 3 within 1 year after the effective date of the amendatory act that
 4 added this subsection.

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

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

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

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

28 (c) More than a de minimis number of whole motor vehicle
 29 tires.

1 (d) More than a de minimis amount of yard ~~clippings, waste,~~
 2 unless ~~they are diseased, infested, or composed of invasive species~~
 3 ~~as authorized by section 11521(1)(i).~~ **it meets the requirements of**
 4 **section 11555(1)(j) .**

5 (2) ~~(3)~~—A person shall not deliver to a landfill for disposal,
 6 or, if the person is an owner or operator of a landfill, ~~permit~~
 7 **allow** disposal in the landfill of, any of the following:

8 (a) Used oil as defined in section 16701.

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

10 (c) Low-level radioactive waste as defined in section 2 of the
 11 low-level radioactive waste authority act, 1987 PA 204, MCL
 12 333.26202.

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

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

17 (i) Household waste other than septage waste.

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

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

22 (f) Sewage.

23 (g) PCBs as defined in 40 CFR 761.3.

24 (h) Asbestos waste, unless the landfill complies with 40 CFR
 25 61.154.

26 (3) ~~(4)~~—A person shall not knowingly deliver to a municipal
 27 solid waste incinerator for disposal, or, if the person is an owner
 28 or operator of a municipal solid waste incinerator, knowingly
 29 ~~permit~~ **allow** disposal in the incinerator of, more than a de minimis

1 amount of yard ~~clippings, waste,~~ unless they are diseased,
 2 ~~infested, or composed of invasive species as authorized by section~~
 3 ~~11521(1)(i).~~ **the requirements of section 11555(1)(j) are met.**

4 (4) The department shall post, and a ~~solid waste hauler~~ that
 5 disposes of solid waste in a municipal solid waste incinerator
 6 shall provide its customers with, notice of the prohibitions of
 7 ~~this subsection (3)~~ in the same manner as provided in section
 8 11527a.

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

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

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

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

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

28 (2) The owner or operator of a type II landfill shall not
 29 permit a delivery of TENORM for disposal at the landfill unless the

1 generator has provided the following information in writing to the
2 owner or operator of the landfill:

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

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

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

11 (d) The proposed date of delivery.

12 (3) The department may test TENORM proposed to be delivered to
13 a landfill.

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

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

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

26 (b) Maintain records of the location and elevation of TENORM
27 disposed of at the landfill.

28 (c) Conduct a monitoring program that complies with all of the
29 following:

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

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

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

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

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

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

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

24 ~~(2) The department shall not license a landfill facility or~~
25 ~~coal ash impoundment operating without an approved hydrogeologic~~
26 ~~monitoring program until the department receives a hydrogeologic~~
27 ~~monitoring program and the results of the program. The department~~
28 ~~shall use this information in conjunction with other information~~
29 ~~required by this part or the rules promulgated under this part to~~

1 ~~determine a course of action regarding licensing of the facility~~
2 ~~consistent with section 4005 of subtitle D of the solid waste~~
3 ~~disposal act, title II of Public Law 89-272, 42 USC 6945, and with~~
4 ~~this part and the rules promulgated pursuant to this part. In~~
5 ~~deciding a course of action, the department shall consider, at a~~
6 ~~minimum, the health hazards, environmental degradation, and other~~
7 ~~public or private alternatives. The department may do any of the~~
8 ~~following:~~

9 ~~(a) Revoke a license.~~

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

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

24 **(a) Enter any property.**

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

28 **(c) Inspect any facility, equipment, including monitoring and**
29 **pollution control equipment, practices, or operations regulated or**

1 required under part 115 or an order issued under part 115.

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

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

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

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

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

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

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

1 (a) A full- or part-time employee of another state department
2 or agency acting pursuant to law or to which the department
3 delegates certain duties under part 115.

4 (b) A local health officer.

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

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

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

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

28 ~~(4) Except as otherwise provided in this subsection, the~~
29 ~~department shall not issue an operating license for a new disposal~~

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

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

1 ~~part or rules promulgated under this part 115~~ or the approved
2 plans.

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

7 (a) To install berms for erosion control.

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

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

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

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

1 of the following conducted as required by part 115:

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

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

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

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

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

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

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

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

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

1 (ii) There is no ongoing subsidence or significant past
2 subsidence of waste in the unit that may result in ponding or
3 erosion that would significantly increase infiltration through or
4 cause damage to the final cover.

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

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

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

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

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

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

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

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

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

1 vegetation present.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **approval under a general permit, or a registration, including the**
 2 ~~sections of this part or rules promulgated under this part 115 that~~
 3 may be violated by granting the application and the manner in which
 4 the violation may occur.

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

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

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

1 ~~or license, this part, or the rules promulgated under this part. A~~
 2 ~~final order issued pursuant to this section is subject to judicial~~
 3 ~~review as provided in Act No. 306 of the Public Acts of 1969. The~~
 4 ~~department or a health officer shall inspect and file a written~~
 5 ~~report not less than 4 times per year for each licensed disposal~~
 6 ~~area. The department or the health officer shall provide the~~
 7 ~~municipality in which the licensed disposal area is located with a~~
 8 ~~copy of each written inspection report if the municipality arranges~~
 9 ~~with the department or the health officer to bear the expense of~~
 10 ~~duplicating and mailing the reports.~~ **1969 PA 306, MCL 24.201 to**
 11 **24.328.**

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

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

1 Sec. 11519b. (1) Placement of coal ash and associated liquids
2 into an existing coal ash impoundment or coal ash impoundment
3 licensed under this part is permitted and shall be conducted
4 consistent with ~~good management practices as defined in section~~
5 11519a and this section.

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

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

1 (n) Selenium.

2 (o) Silver.

3 (p) Thallium.

4 (q) Vanadium.

5 (r) Zinc.

6 (s) Radium 226 and 228 combined.

7 (3) The constituents listed in this section shall be analyzed
 8 by methods ~~specified~~ **identified** in "Standard Methods for the
 9 Examination of Water and Wastewater, ~~19th~~ **20th** edition", ~~published~~
 10 ~~by the United States Environmental Protection Agency,~~ **(jointly**
 11 **published by the American Public Health Association, the American**
 12 **Water Works Association, and the Water Environment Federation)** or
 13 **"Test Methods for Evaluating Solid Waste, Physical/Chemical**
 14 **Methods," EPA publication SW-846, Third Edition, Final Updates I**
 15 **(1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999),**
 16 **IIIB (2005), IV (2008), and V (2015)** or by other methods approved
 17 by the director or his or her designee.

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

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

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

1 of coal ash within the impoundment and shall diligently pursue the
2 closure. The closure shall be completed in compliance with 40 CFR
3 257.102(f) (1) and (2).

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

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

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

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

18 (b) The owner or operator certifies that testing confirms that
19 constituent concentrations remaining in the coal ash impoundment or
20 landfill unit and any concentrations of soil or groundwater
21 affected by releases therefrom do not exceed the lesser of the
22 applicable standards adopted by the department pursuant to section
23 20120a or the groundwater protection standards established pursuant
24 to 40 CFR 257.95(h) and the department accepts the certification,
25 or, if the constituent concentrations do exceed those standards,
26 the department has approved a remedy consistent with R 299.4444 and
27 R 299.4445 of the ~~part 115~~ rules. **MAC**.

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

1 waste diversion center, **transfer** that diverted waste ~~shall be~~
 2 ~~transported from the waste diversion center to a~~ **another** waste
 3 diversion center, **a** recycling facility, or **a** disposal facility that
 4 ~~is in compliance with this act,~~ **meets the requirement of section**
 5 **11508(1)(a)**, for processing, recycling, or disposal.

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

9 (g) ~~The operator shall record~~ **Record** the types and quantities
 10 of diverted ~~wastes~~ **waste** collected, the period of storage, and
 11 where the diverted ~~wastes were~~ **waste was** transferred, processed,
 12 recycled, or disposed of. The operator shall maintain the records
 13 for at least 3 years and shall make the records available to the
 14 department upon request.

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

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

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

25 (k) If the primary function of an entity is to serve as a
 26 waste diversion center, notify the department of the waste
 27 diversion center. Notification shall be given upon initial
 28 operation and subsequently within 45 days after the end of each
 29 state fiscal year. The subsequent notices shall report the amount

1 of solid waste diverted at the facility during the preceding state
 2 fiscal year. The notification requirement applies to both of the
 3 following:

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

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

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

12 (2) ~~(3)~~The operator of a waste diversion center may reject
 13 any diverted waste.

14 Enacting section 1. Sections 11521 and 11522 of the natural
 15 resources and environmental protection act, 1994 PA 451, MCL
 16 324.11521 and 324.11522 are repealed.

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

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

22 (a) Senate Bill No. ____ or House Bill No. 4454 (request no.
 23 01463'21).

24 (b) Senate Bill No. ____ or House Bill No. 4457 (request no.
 25 01465'21).

26 (c) Senate Bill No. ____ or House Bill No. 4458 (request no.
 27 01466'21).

28 (d) Senate Bill No. ____ or House Bill No. 4460 (request no.
 29 01467'21).

1 (e) Senate Bill No. ____ or House Bill No. 4461 (request no.
2 01468'21).