

HOUSE BILL NO. 4457

March 09, 2021, Introduced by Reps. Rabhi, Howell, Borton, Kuppa, Martin, O'Malley, VanSingel, Manoogian, Tate, Cambensy, Pohutsky, Anthony, Brixie, Sowerby, 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 11523, 11523a, 11523b, 11525, 11525a, and 11525b (MCL 324.11523, 324.11523a, 324.11523b, 324.11525, 324.11525a, and 324.11525b), sections 11523, 11523a, 11523b, 11525, and 11525b as amended by 2018 PA 640 and section 11525a as amended by 2019 PA 77, by designating sections 11523 to 11525f as subpart 4 of part 115, and by adding sections 11525d and 11525f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 subparagraph.

2 (iv) A type III landfill that received waste on or after the
3 effective date of the amendatory act that added this subparagraph.
4 However, beginning 2 years after the effective date of the
5 amendatory act that added this subparagraph, upon the issuance of a
6 new license for such a landfill, the landfill is not subject to
7 this subdivision but is subject to subdivision (b).

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

22 (c) Financial assurance ~~established~~ for an existing coal ash
23 impoundment shall be ~~in the form of~~ a bond in an amount equal to
24 \$20,000.00 per acre within the impoundment boundary. However, the
25 **total** amount of the bond shall not be less than \$20,000.00 or more
26 than \$1,000,000.00. The bond shall provide assurance for the
27 maintenance of the ~~finished~~ coal ash impoundment **or a portion**
28 **thereof** for a period of 30 years after the coal ash impoundment or
29 any approved portion is completed. In addition to the bond, **the**

1 **owner or operator of an existing coal ash impoundment shall**
 2 **maintain** a perpetual care fund. ~~shall be maintained under section~~
 3 ~~11525.~~ For applications for a license to operate submitted to the
 4 department after ~~the date that is 2 years after the effective date~~
 5 ~~of the amendatory act that added section 11511a,~~ **December 28, 2020,**
 6 an applicant that demonstrates that it meets the requirements of R
 7 299.9709 of the ~~Michigan Administrative Code~~ **MAC** may utilize the
 8 financial test under that rule for an amount not exceeding 95% of
 9 the closure, postclosure, and corrective action cost estimate.

10 (d) Financial assurance established for a **licensed** solid waste
 11 **processing and** transfer facility, ~~or incinerator, processing~~
 12 ~~plant, other solid waste handling or disposal facility, or a~~
 13 ~~combination of these utilized in the disposal of solid waste shall~~
 14 ~~be in the form of a bond in an amount equal to 1/4 of 1% of the~~
 15 ~~construction cost of the facility, but shall not be less than~~
 16 ~~\$4,000.00, and shall be a bond in the amount of \$20,000.00. The~~
 17 **financial assurance** shall be ~~continued-maintained~~ in effect for a
 18 ~~period of 2 years~~ after the disposal area is closed.

19 (2) The department shall not issue an approval under a general
 20 permit for a materials utilization facility unless the applicant
 21 has filed, as a part of the application for the approval, evidence
 22 of the following financial assurance, as applicable:

23 (a) Financial assurance established for a materials recovery
 24 facility or anaerobic digester that requires a general permit shall
 25 be a bond in the amount of \$20,000.00. The bond shall be maintained
 26 in effect until the facility has ceased accepting material, all
 27 managed material has been removed from the site, and the facility's
 28 closure certification has been approved by the department as
 29 described in section 11525b(4)(a).

1 (b) Financial assurance established for a composting facility
 2 with a general permit shall be a bond in the amount of \$20,000.00.
 3 The financial assurance shall be maintained in effect until the
 4 facility has ceased accepting compostable materials, any finished
 5 or partially finished compost has been removed from the site, and
 6 the facility's closure certification has been approved by the
 7 department as described in section 11525b(4) (a) .

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

21 (3) ~~(2) The owner or operator of a landfill may post a cash~~
 22 ~~bond with the department instead of other bonding mechanisms to~~
 23 ~~fulfill the remaining financial assurance requirements of this~~
 24 ~~section. An owner or operator of a disposal area **materials**~~
 25 **management facility** who elects to post cash as a bond shall accrue
 26 interest on that bond **quarterly** at the annual rate of 6%, ~~to be~~
 27 ~~accrued quarterly,~~ except that the interest rate payable to an
 28 owner or operator shall not exceed the rate of interest accrued on
 29 the state common cash fund for the quarter in which an accrual is

1 determined. Interest shall be paid to the owner or operator upon
2 release of the bond by the department. Any interest greater than 6%
3 shall be deposited in the state treasury to the credit of the
4 general fund. ~~and shall be appropriated to the department to be~~
5 ~~used by the department for administration of this part.~~ **An owner or**
6 **operator who uses a certificate of deposit as a bond shall receive**
7 **any accrued interest on that certificate of deposit upon release of**
8 **the bond by the department.**

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

23 (5) ~~(4)~~ ~~The~~ **If the owner or operator violates the closure and**
24 **postclosure monitoring and maintenance requirements of part 115,**
25 **the** department may utilize a bond required under this section for
26 the closure and postclosure monitoring and maintenance of a
27 disposal area ~~if the owner or operator fails to comply with the~~
28 ~~closure and postclosure monitoring and maintenance requirements of~~
29 ~~this part and the rules promulgated under this part to the extent~~

1 necessary to correct ~~such~~ **the** violations. At least 7 days before
2 utilizing the bond, the department shall issue a notice of
3 violation or other order that alleges violation of ~~this part or~~
4 ~~rules promulgated under this part 115~~ and **shall** provide **the owner**
5 **or operator** an opportunity for a hearing. This subsection does not
6 apply to a perpetual care fund. ~~bond.~~

7 (6) ~~(5) Under the~~ **The** terms of a surety bond, **irrevocable**
8 letter of credit, insurance policy, or perpetual care fund bond ~~7~~
9 **shall require** the issuing institution ~~shall to~~ notify both the
10 department and the owner or operator at least 120 days before the
11 expiration date or ~~any~~ cancellation of the bond. If the owner or
12 operator does not extend the effective date of the bond, or
13 establish alternate financial assurance within 90 days after
14 receipt of an expiration or cancellation notice from the issuing
15 institution, ~~all~~ **both** of the following apply:

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

17 (b) In the case of a perpetual care fund bond, the issuing
18 institution shall deposit the proceeds into the standby trust **fund**
19 or escrow account unless the department agrees to the expiration or
20 cancellation of the perpetual care fund bond.

21 (7) ~~(6)~~ The department shall not issue a construction permit
22 or a new license to operate a disposal area to an applicant that is
23 the subject of a bankruptcy action commenced under title 11 of the
24 United States Code, 11 USC 101 to 1532, or any ~~other predecessor or~~
25 successor statute.

26 ~~(7) A person required under this section to provide financial~~
27 ~~assurance in the form of a bond for a landfill may request a~~
28 ~~reduction in the bond based upon the amount of the perpetual care~~
29 ~~fund established under section 11525. A person requesting a bond~~

1 ~~reduction shall do so on a form consistent with this part and~~
2 ~~provided by the department. The department shall grant this request~~
3 ~~unless there are sufficient grounds for denial and those reasons~~
4 ~~are provided in writing. The department shall grant or deny a~~
5 ~~request for a reduction of the bond within 60 days after the~~
6 ~~request is made. If the department grants a request for a reduced~~
7 ~~bond, the department shall require a bond in an amount such that~~
8 ~~for type III landfills, and type II landfills that are preexisting~~
9 ~~units, the amount of the perpetual care fund plus the amount of the~~
10 ~~reduced bond equals the maximum amount required in a perpetual care~~
11 ~~fund in section 11525(2).~~

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

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

19 **(9) The department may utilize a bond required under this**
20 **section for a facility subject to approval under a general permit**
21 **for bringing the facility into compliance with part 115, including,**
22 **but not limited to, removing managed material from the facility,**
23 **cleanup at the facility, and fire suppression or other emergency**
24 **response at the facility, including reimbursement to any local unit**
25 **of government that incurred emergency response costs. Not less than**
26 **7 days before utilizing the bond, the department shall issue a**
27 **notice of violation or order that alleges violation of part 115 and**
28 **shall provide the owner or operator an opportunity for a hearing.**

29 **(10) ~~(9) Prior to~~ Before** closure of a landfill, if money is

1 disbursed from the perpetual care fund, ~~then~~ the department may
2 require a corresponding increase in the amount of ~~bonding required~~
3 ~~to be provided~~ **a required bond** if necessary to meet the
4 requirements of this section.

5 **(11)** ~~(10)~~ If an owner or operator of a disposal area fulfills
6 the financial assurance requirements of ~~this part~~ **115** by obtaining
7 a bond, including, but not limited to, a perpetual care fund bond,
8 and the surety company, insurer, trustee, bank, or financial or
9 other institution that issued or holds the bond becomes the subject
10 of a bankruptcy action **commenced under title 11 of the United**
11 **States Code, 11 USC 101 to 1532, or any successor statute** or has
12 its authority to issue or hold the bond ~~or to act as an escrow~~
13 ~~agent or trustee~~ suspended or revoked, the owner or operator shall,
14 within 60 days after receiving notice of that event, establish
15 alternate financial assurance under ~~this part~~ **115**.

16 **(12) Owners or operators may demonstrate all or a portion of**
17 **required financial assurance for 2 or more materials management**
18 **facilities that are not landfills with a risk pooling financial**
19 **mechanism approved by the department that meets all of the**
20 **following requirements:**

21 **(a) The mechanism is administered by a surety company,**
22 **insurer, surety, bank, or other financial institution that has**
23 **authority to issue such a mechanism and is regulated and examined**
24 **by a state or federal agency.**

25 **(b) The mechanism is irrevocable and renews automatically**
26 **unless, not less than 120 days before the automatic renewal date,**
27 **the insurer, surety, bank, or other financial institution notifies**
28 **the department and the owners or operators of the covered**
29 **facilities that the mechanism will not be renewed, and the**

1 department agrees in writing to termination of the mechanism.

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

5 (d) The addition or deletion of facilities covered under the
6 mechanism requires written agreement of the director.

7 (13) The department shall access and use funds under a
8 mechanism approved under subsection (12) subject to the provisions
9 for bonds under subsection (9).

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

28 (2) An applicant may demonstrate compliance with this section
29 by submitting **to the department** evidence ~~, with a form consistent~~

1 ~~with this part and provided by the department,~~ that the applicant
 2 has financial assurance for any existing unit or new unit in an
 3 amount equal to or ~~greater~~ **more** than the sum of the following
 4 standardized costs:

5 (a) A standard closure cost estimate. The standard closure
 6 cost estimate shall be based upon the sum of the following costs in
 7 ~~1996-2018~~ dollars, adjusted for inflation and partial closures, if
 8 any, as specified in subsections (4) and (5):

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

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

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

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

24 (b) A standard postclosure cost estimate. The standard
 25 postclosure cost estimate shall be based upon the sum of the
 26 following costs, adjusted for inflation as specified in section
 27 ~~11525(2):~~ **11525(3) :**

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

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

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

6 (iv) **An active gas collection and control system maintenance**
7 **cost of \$900.00 per acre per year for active gas collection and**
8 **control systems subject to the requirements of standards of**
9 **performance for new stationary sources, 40 CFR part 60.**

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

14 (vi) **A passive gas collection system maintenance cost of \$35.00**
15 **per acre per year.**

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

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

21 (c) ~~The~~ **A** **corrective action cost estimate, if any. The**
22 **corrective action cost estimate shall be a detailed written**
23 **estimate, in current dollars, of the cost of hiring a third party**
24 **to perform corrective action in accordance-compliance with this**
25 **part 115.**

26 (3) Instead of using some or all of the standardized costs
27 specified in subsection (2), an applicant may ~~estimate~~ **use** the ~~site~~
28 ~~specific~~ **site-specific** costs of closure or postclosure maintenance
29 and monitoring. A ~~site-specific~~ **site-specific** cost estimate shall

1 be a written estimate, in current dollars, of the cost of hiring a
2 third party to perform the activity. For the purposes of this
3 subsection, a parent corporation or a subsidiary of the owner or
4 operator is not a third party. ~~Site-specific~~ **Site-specific** cost
5 estimates shall ~~be based on~~ **comply with** the following, **as**
6 **applicable:**

7 (a) For closure, **be based on** the cost to close the largest
8 area of the landfill ~~ever~~ requiring a final cover at any time
9 during the active life, when the extent and manner of its operation
10 would make closure the most expensive, in ~~accordance~~ **compliance**
11 with the approved closure plan. The closure cost estimate ~~may~~ **shall**
12 not incorporate any salvage value ~~that may be realized by~~ **from** the
13 sale of structures, land, equipment, or other assets associated
14 with the facility at the time of final closure.

15 (b) For postclosure, **be based on** the cost **at any given time** to
16 conduct postclosure maintenance and monitoring in ~~accordance~~
17 **compliance** with the approved postclosure plan **for the next 30 years**
18 **of the postclosure period, or for the remainder of the postclosure**
19 **period if the remainder is less than 30 years. However, the**
20 **applicant shall submit to the department an estimate of the**
21 **postclosure maintenance and monitoring cost** for the entire
22 postclosure period.

23 (c) For costs for operation and maintenance of an on-site
24 wastewater treatment facility managing leachate at a landfill that
25 are substituted for the standardized leachate disposal and
26 transportation costs of this section, **be based on an engineering**
27 **evaluation of total wastewater flow and include utilities,**
28 **staffing, and incidental costs to maintain and ensure compliance**
29 **with all applicable permits.**

1 (4) The owner or operator of a landfill subject to this
 2 section shall, during the active life of the landfill and during
 3 the postclosure care period, annually adjust the financial
 4 assurance cost estimates and corresponding amount of financial
 5 assurance for inflation. ~~Cost estimates~~ **The standard closure cost**
 6 **estimate and corrective action cost estimate** shall be adjusted for
 7 inflation by multiplying the cost estimate by an inflation factor
 8 derived from the most recent United States Department of the
 9 Interior, Bureau of Reclamation ~~composite index~~ **Composite Index**
 10 published by the United States Department of Commerce or another
 11 index that is more representative of the costs of closure and
 12 postclosure monitoring and maintenance as ~~determined appropriate~~
 13 **approved** by the department. The owner or operator shall document
 14 the adjustment on a form consistent with ~~this part 115~~ as ~~prepared~~
 15 **provided or approved** by the department and shall place the
 16 documentation in the operating record of the facility.

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

27 (a) Partial closure of the landfill. The current closure cost
 28 estimate for partially closed portions of a landfill unit may be
 29 reduced by 80%, if the maximum waste slope on the unclosed portions

1 of the unit does not exceed 25%. The percentage of the cost
2 estimate reduction approved by the department for the partially
3 closed portion shall be reduced 1% for every 1% increase in the
4 slope of waste over 25% in the active portion. An owner or operator
5 requesting a reduction in financial assurance for partial closure
6 shall ~~enclose~~**submit** with the request a certification under the
7 seal of a licensed professional engineer ~~that certifies of~~ both of
8 the following:

9 (i) That a portion of the licensed landfill unit has reached
10 final grades and has had a final cover installed in compliance with
11 the approved closure plan and ~~rules promulgated under this part~~
12 **115.**

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

15 (b) Final closure of the landfill. An owner or operator
16 requesting a cost estimate reduction for final closure shall submit
17 **with the request** a certification under the seal of a licensed
18 professional engineer that closure of that landfill unit has been
19 fully completed in ~~accordance~~**compliance** with the approved closure
20 plan for the landfill. Within 60 days of receiving a certification
21 under this ~~subsection,~~**subdivision,** the department shall perform a
22 consistency review of the submitted certification and do 1 of the
23 following:

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

27 (ii) Disapprove the certification and provide the owner or
28 operator with a detailed written statement of the reasons ~~why~~ the
29 department has determined that closure certification has not been

1 conducted in ~~accordance~~**compliance** with ~~this part, the rules~~
 2 ~~promulgated under this part 7-115~~ or an approved closure plan.

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

28 (6) The owner or operator of a landfill subject to this
 29 section may request a reduction in the amount of ~~one~~**1** or more of

1 the financial assurance mechanisms in place. If the combined value
2 of the remaining financial assurance mechanisms equals the amount
3 required under this section, the department shall approve the
4 request.

5 ~~(7) An owner or operator requesting that the department~~
6 ~~approve a financial assurance reduction under subsection (5) or (6)~~
7 ~~shall do so on a form consistent with this part and provided by the~~
8 ~~department. The department shall grant written approval or, within~~
9 ~~60 days of receiving a financial assurance reduction request, issue~~
10 ~~a written denial stating the reason for the denial.~~

11 Sec. 11523b. (1) The owner or operator of a landfill or coal
12 ash impoundment may establish a trust fund or escrow account to
13 fulfill the requirements of sections 11523 and 11523a. ~~The trust~~
14 ~~fund or escrow account shall be executed on a form provided by the~~
15 ~~department.~~

16 ~~(2) Payments into a trust fund or escrow account shall be made~~
17 ~~annually over the term of the first operating license issued after~~
18 ~~the effective date of this section. The first payment into a trust~~
19 ~~fund or escrow account shall be made prior to licensure and shall~~
20 ~~be at least equal to the portion of the financial assurance~~
21 ~~requirement to be covered by the trust fund or escrow account~~
22 ~~divided by the term of the operating license. Subsequent payments~~
23 ~~shall be equal to the remaining financial assurance requirement~~
24 ~~divided by the number of years remaining until the license expires.~~

25 ~~(3) If the owner or operator of a landfill or coal ash~~
26 ~~impoundment establishes a trust fund or escrow account after having~~
27 ~~used one or more alternate forms of financial assurance, the~~
28 ~~initial payment into the trust fund or escrow account shall be at~~
29 ~~least the amount the fund would contain if the fund were~~

1 ~~established initially and annual payments made according to~~
 2 ~~subsection (2).~~

3 (2) ~~(4)~~—All earnings and interest from a trust fund or escrow
 4 account shall be credited to the fund or account. However, the
 5 custodian may be compensated for reasonable fees and costs for ~~his~~
 6 ~~or her~~ **the custodian's** responsibilities as custodian. The custodian
 7 shall ensure the filing of all required tax returns for which the
 8 trust fund or escrow account is liable and shall disburse funds
 9 from earnings to pay ~~lawfully due~~ taxes owed by the trust fund or
 10 escrow account, without permission of the department.

11 (3) ~~(5)~~—The custodian shall annually, 30 days preceding the
 12 anniversary date of establishment of the fund, furnish to the owner
 13 or operator and to the department a statement confirming the value
 14 of the fund or account as of the end of ~~that~~ **the** month **immediately**
 15 **preceding the submittal of the report.**

16 (4) ~~(6)~~—The owner or operator may request that the department
 17 authorize the release of funds from a trust fund or escrow account.
 18 The department shall grant the request if the owner or operator
 19 demonstrates that the value of the fund or account exceeds the
 20 owner's or operator's financial assurance obligation. A payment or
 21 disbursement from the fund or account shall not be made without the
 22 prior written approval of the department.

23 (5) ~~(7)~~—The owner or operator shall receive all interest or
 24 earnings from a trust fund or escrow account upon its termination.

25 (6) **If an owner or operator of a disposal area fulfills the**
 26 **financial assurance requirements of part 115 by establishing a**
 27 **trust fund or escrow account and the custodian has its authority to**
 28 **act as a custodian suspended or revoked, the owner or operator**
 29 **shall, within 60 days after receiving notice of the suspension or**

1 **revocation, establish alternative financial assurance under part**
 2 **115.**

3 (7) ~~(8)~~—As used in this section, "custodian" means the trustee
 4 of a trust fund or escrow agent of an escrow account.

5 Sec. 11525. (1) **This section does not apply to a landfill**
 6 **unless the landfill is subject to section 11523(1) (a).**

7 (2) ~~(1)~~—The owner or operator of a landfill or coal ash
 8 impoundment shall establish and maintain a perpetual care fund for
 9 a period of 30 years after final closure of the landfill or coal
 10 ash impoundment as specified in this section. A perpetual care fund
 11 may be established as a trust **fund**, an escrow account, or a
 12 perpetual care fund bond and may be used to demonstrate financial
 13 assurance for ~~type II and type III landfills and coal ash~~
 14 ~~impoundments under sections 11523 and 11523a.~~ **a landfill or coal ash**
 15 **impoundment.**

16 (3) ~~(2)~~—Except as otherwise provided in this section, the
 17 owner or operator of a landfill shall increase the amount of ~~his or~~
 18 ~~her~~ **the** perpetual care fund 75 cents for each ton or portion of a
 19 ton ~~or 25 cents for each cubic yard or portion of a cubic yard of~~
 20 solid waste, **other than materials described in subsection (4)**, that
 21 is disposed of in the landfill ~~after June 17, 1990~~ until the fund
 22 reaches the maximum required fund amount. As of July 1, ~~1996,~~ **2018**,
 23 the maximum required fund amount for a landfill or coal ash
 24 impoundment is ~~\$1,156,000.00. This amount shall be annually~~
 25 ~~adjusted for inflation and rounded to the nearest thousand.~~
 26 **\$2,257,000.00.** The department shall **annually** adjust ~~the maximum~~
 27 ~~required fund~~ **this** amount for inflation ~~annually~~ by multiplying the
 28 amount by an inflation factor derived from the most recent United
 29 States Department of the Interior, Bureau of Reclamation ~~composite~~

1 ~~index~~ **Composite Index** published by the United States Department of
 2 Commerce or another index more representative of the costs of
 3 closure and postclosure monitoring and maintenance as ~~determined~~
 4 ~~appropriate~~ **approved** by the department. **The department shall round**
 5 **the resulting amount to the nearest thousand dollars.** Increases to
 6 the amount of a perpetual care fund required under this subsection
 7 shall be calculated based on solid waste disposed of in the
 8 landfill as of the end of the state fiscal year and shall be made
 9 within 30 days after the end of each state fiscal year.

10 (4) ~~(3)~~ The owner or operator of a landfill or coal ash
 11 impoundment ~~that is used for the disposal of the following~~
 12 ~~materials~~ shall increase the amount of the perpetual care fund 7.5
 13 cents for each ton ~~or cubic yard~~ or portion of a ton ~~or cubic yard~~
 14 of the following ~~materials~~ that are disposed of ~~in the landfill or~~
 15 ~~coal ash impoundment after the effective date of the amendatory act~~
 16 ~~that added section 11511a~~ **after December 28, 2018** until the fund
 17 reaches the maximum required fund amount under subsection ~~(2)~~ **(3)**:

18 (a) Coal ash, wood ash, ~~or~~ cement kiln dust, **or a combination**
 19 **thereof** that is disposed of in ~~a~~ **the** landfill ~~that~~ **or coal ash**
 20 **impoundment if the disposal area** is used only for the disposal of
 21 ~~coal ash, wood ash, or cement kiln dust, or a combination of these~~
 22 ~~materials, or that is~~ **these materials or these materials are**
 23 permanently segregated in ~~a landfill.~~ **the disposal area.**

24 (b) Wastewater treatment sludge or sediments from wood pulp or
 25 paper producing industries that is disposed of in a landfill ~~that~~
 26 **if the landfill** is used only for the disposal of ~~wastewater~~
 27 ~~treatment sludge and sediments from wood pulp or paper producing~~
 28 ~~industries, or that is~~ **these materials or these materials are**
 29 permanently segregated in ~~a~~ **the** landfill.

1 (c) Foundry sand or other material that is approved by the
 2 department for use as daily cover at **a landfill if it is an**
 3 operating landfill, **foundry sand** that is disposed of in a landfill
 4 ~~that-if the landfill~~ is used only for the disposal of foundry sand,
 5 or **foundry sand** that is permanently segregated in a landfill.

6 (5) ~~(4)~~—The owner or operator of a landfill that is used only
 7 for the disposal of a mixture of 2 or more of the materials
 8 described in subsection ~~(3)(a)~~ **(4)(a)** to (c) or in which a mixture
 9 of 2 or more of these materials are permanently segregated shall
 10 increase the amount of the perpetual care fund 7.5 cents for each
 11 ton ~~or cubic yard~~ or portion of a ton ~~or cubic yard~~ of these
 12 materials that are disposed of in the landfill. ~~after July 1, 1996.~~

13 (6) ~~(5)~~—The amount of a perpetual care fund is not required to
 14 be increased for materials that are regulated under part 631.

15 (7) ~~(6)~~—The owner or operator of a landfill may increase the
 16 amount of the perpetual care fund above the amount otherwise
 17 required by this section at his or her discretion.

18 (8) ~~(7)~~—The custodian of a perpetual care fund trust **fund** or
 19 escrow account shall be a bank or other financial institution that
 20 has the authority to act as a custodian and whose account
 21 operations are regulated and examined by a federal or state agency.
 22 Until the perpetual care fund trust **fund** or escrow account reaches
 23 the maximum required fund amount, the custodian of ~~a-the~~ perpetual
 24 care fund trust **fund** or escrow account shall credit any interest
 25 and earnings of the perpetual care fund trust **fund** or escrow
 26 account to the perpetual care fund trust **fund** or escrow account.
 27 After the perpetual care fund trust **fund** or escrow account reaches
 28 the maximum required fund amount, any interest and earnings shall
 29 be distributed as directed by the owner or operator. ~~The agreement~~

1 ~~governing the operation of the perpetual care fund trust or escrow~~
 2 ~~account shall be executed on a form consistent with this part and~~
 3 ~~provided by the department.~~ The custodian may be compensated from
 4 the fund for reasonable fees and costs incurred ~~for his or her~~ **in**
 5 **discharging the custodian's** responsibilities. ~~as custodian.~~ The
 6 custodian of a perpetual care fund trust **fund** or escrow account
 7 shall make an accounting to the department within 30 days following
 8 the close of each state fiscal year.

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

1 11523(1) (a) or (c), as applicable.

2 ~~(a) For those landfills or coal ash impoundments containing~~
 3 ~~only those materials specified in subsection (3), an amount equal~~
 4 ~~to 1/2 of the maximum required fund amount specified in subsection~~
 5 ~~(2).~~

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

8 (10) ~~(9)~~—If the owner or operator of a landfill or coal ash
 9 impoundment ~~refuses or fails~~ to conduct closure, postclosure
 10 monitoring and maintenance, or corrective action as necessary to
 11 protect **the environment, natural resources, or** the public health,
 12 safety, or welfare, ~~or the environment or~~ fails to request the
 13 disbursement of money from a perpetual care fund when necessary to
 14 protect **the environment, natural resources, or** the public health,
 15 safety, or welfare, ~~or the environment,~~ or fails to pay the solid
 16 waste management program administration fee or the surcharge
 17 required under section 11525a, then the department may draw on the
 18 perpetual care fund and may expend the money for closure,
 19 postclosure monitoring and maintenance, and corrective action **or**
 20 **for payment of the fee or surcharge,** as necessary. The department
 21 may **also** draw on a perpetual care fund for administrative costs
 22 associated with actions taken under this subsection.

23 (11) ~~(10)~~—Upon approval by the department of a request to
 24 terminate financial assurance for a landfill or coal ash
 25 impoundment under section 11525b, any money in the perpetual care
 26 fund for that landfill or coal ash impoundment shall be disbursed
 27 by the custodian to the owner of the landfill or coal ash
 28 impoundment unless ~~a contract~~ **an agreement** between the owner and
 29 the operator provides otherwise.

1 (12) ~~(11)~~—The owner of a landfill or coal ash impoundment
 2 shall provide notice to the custodian of the perpetual care fund
 3 for that landfill or coal ash impoundment if there is a change of
 4 ownership of the landfill. The custodian shall maintain records of
 5 ownership of a landfill or coal ash impoundment during the period
 6 of existence of the perpetual care fund.

7 (13) ~~(12)~~—This section does not relieve an owner or operator
 8 of a landfill or coal ash impoundment of any liability that ~~he or~~
 9 ~~she~~ **the owner or operator** may have under ~~this~~ part **115** or as
 10 otherwise provided by law.

11 (14) ~~(13)~~—This section does not create a cause of action at
 12 law or in equity against a custodian of a perpetual care fund other
 13 than for errors or omissions related to investments, accountings,
 14 disbursements, filings of required tax returns, and maintenance of
 15 records required by this section or the applicable perpetual care
 16 fund.

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

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

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

23 (15) A perpetual care fund that is established as a trust **fund**
 24 or escrow account may be replaced with a perpetual care fund that
 25 is established as a perpetual care fund bond that complies with
 26 this section. Upon such replacement, the ~~director~~ **department** shall
 27 authorize the custodian of the trust **fund** or escrow account to
 28 disburse the money in the trust **fund** or escrow account to the owner
 29 of the landfill or coal ash impoundment unless ~~a contract~~ **an**

1 **agreement** between the owner and operator specifies otherwise.

2 (16) An owner or operator of a landfill or coal ash
 3 impoundment ~~who~~**that** uses a perpetual care fund bond to satisfy the
 4 requirements of this section shall also establish a standby trust
 5 **fund** or escrow account. All payments made under the terms of the
 6 perpetual care fund bond shall be deposited by the custodian
 7 directly into the standby trust **fund** or escrow account in
 8 ~~accordance~~**compliance** with instructions from the ~~director~~
 9 **department**. The standby trust **fund** or escrow account must meet the
 10 requirements for a trust **fund** or escrow account established as a
 11 perpetual care fund under subsection ~~(1)~~, **(2)**, except that until
 12 the standby trust **fund** or escrow account is funded pursuant to the
 13 requirements of this subsection, the following are not required:

14 (a) Payments into the standby trust **fund** or escrow account as
 15 specified in subsection ~~(2)~~. **(3)**.

16 (b) Annual ~~accounting valuations~~**accountings** as required in
 17 subsection ~~(7)~~. **(8)**.

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

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

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

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

26 (a) ~~For~~**Except as provided in subdivision (b)**, for a landfill
 27 or coal ash impoundment that is not a captive facility, ~~12~~**36** cents
 28 for each ~~cubic yard~~**ton** or portion of a ~~cubic yard~~**ton** of solid
 29 waste or municipal solid waste incinerator ash that is disposed of

1 in the landfill or coal ash impoundment before October 1, 2023.

2 (b) For a landfill or coal ash impoundment that is not a
3 captive facility, 12 cents per ton or portion of a ton of foundry
4 sand, slag from metal melting, baghouse dust, furnace refractory
5 brick, pulp and paper mill material, paper mill ash, wood ash, coal
6 bottom ash, mixed wood ash, fly ash, flue gas desulfurization
7 sludge, contaminated soil, cement kiln dust, lime kiln dust, and
8 other industrial waste that weighs at least 1 ton per cubic yard,
9 as determined by the generator.

10 (c) ~~(b)~~ For a type III landfill or coal ash impoundment that
11 is a captive facility and annually receives the following amount of
12 waste, the following annual corresponding surcharge ~~amount~~ **for each**
13 **state fiscal year, based on the amount of waste received during**
14 **that fiscal year:**

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

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

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

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

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

23 (2) ~~The~~ **Within 30 days after the end of each quarter of a**
24 **state fiscal year, the** owner or operator of a landfill or coal ash
25 impoundment that is not a captive facility shall pay the surcharge
26 under subsection (1) (a) ~~within 30 days after the end of each~~ **for**
27 **waste received during that** quarter of the state fiscal year. ~~The~~
28 **Within 30 days after the end of a state fiscal year, the** owner or
29 operator of a type III landfill or coal ash impoundment that is a

1 captive facility shall pay the surcharge under subsection (1)(b) ~~by~~
2 ~~January 31 of each~~ **for waste received during that state fiscal**
3 year.

4 (3) ~~The~~ **If the** owner or operator of a landfill or coal ash
5 impoundment ~~who~~ is required to pay the surcharge under subsection
6 (1), **the owner or operator** shall pass through and collect the
7 surcharge from any person ~~who~~ **that** generated the solid waste or ~~who~~
8 arranged for its delivery to the ~~solid waste hauler or~~ **solid waste**
9 **processing and** transfer facility, notwithstanding the provisions of
10 any ~~contract or~~ agreement to the contrary or the absence of any
11 ~~contract or~~ agreement.

12 (4) Surcharges collected under this section shall be forwarded
13 to the state treasurer for deposit in the solid waste staff account
14 of the solid waste management fund. ~~established in section 11550.~~

15 Sec. 11525b. (1) The owner or operator of **a materials**
16 **utilization facility for which financial assurance is required**
17 **under section 11523 or of** a disposal area shall provide continuous
18 financial assurance coverage until released from these requirements
19 by the department ~~under the provisions of this~~ **as provided in part**
20 **115.**

21 (2) Upon transfer of **a materials utilization facility for**
22 **which financial assurance is required under section 11523 or of a**
23 **disposal area,** the former owner or operator shall continue to
24 maintain financial assurance until the financial assurance is
25 replaced by the new owner or operator or until the materials
26 utilization facility or disposal area is released from the
27 financial assurance obligation at the end of the postclosure
28 period.

29 (3) ~~(2) The~~ **If the** owner or operator of a landfill or coal ash

1 impoundment ~~who~~ has completed postclosure maintenance and
 2 monitoring in ~~accordance with this part, rules promulgated under~~
 3 ~~this part,~~ **compliance with part 115** and ~~the~~ approved postclosure
 4 plan, **the owner or operator** may request that financial assurance
 5 required by sections 11523 and 11523a be terminated. ~~A~~**The** person
 6 requesting termination of ~~bonding and~~ financial assurance shall
 7 submit to the department a statement that the landfill or coal ash
 8 impoundment has been monitored and maintained in ~~accordance with~~
 9 ~~this part, rules promulgated under this part,~~ **compliance with part**
 10 **115** and the approved postclosure plan for the postclosure period
 11 specified in section 11523 and shall certify that the landfill or
 12 coal ash impoundment is not subject to corrective action under
 13 section ~~11515.~~ **11512(21)**. Within 60 days ~~of~~**after** receiving a
 14 statement under this subsection, the department shall perform a
 15 consistency review of the submitted statement and do 1 of the
 16 following:

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

24 (b) Disapprove the statement and provide the owner or operator
 25 with a detailed written ~~statement~~**explanation** of the reasons why
 26 the department has determined that postclosure maintenance and
 27 monitoring and corrective action, if any, have not been conducted
 28 in ~~accordance with this part, the rules promulgated under this~~
 29 ~~part, or an~~ **compliance with part 115 or the** approved postclosure

1 plan.

2 (4) The owner or operator of a materials utilization facility
3 required to provide financial assurance under section 11523(2) may
4 request that the financial assurance be terminated. The person
5 requesting termination of financial assurance shall submit to the
6 department a statement that the facility has been maintained in
7 compliance with part 115 and that all managed material has been
8 removed from the facility. Within 60 days after receiving a
9 statement under this subsection, the department shall perform a
10 consistency review of the statement and do 1 of the following:

11 (a) Approve the statement, notify the owner or operator that
12 the owner or operator is no longer required to maintain financial
13 assurance, and return or release all financial assurance
14 mechanisms.

15 (b) Disapprove the statement and provide the owner or operator
16 with a detailed written explanation of the reasons why the
17 department has determined that all managed material has not been
18 removed from the facility or that the facility has not been
19 maintained in compliance with part 115.

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

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

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

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

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

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

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

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

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

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

1 115 or as otherwise provided by law.

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

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

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

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

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

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

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

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

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

22 Enacting section 2. This amendatory act does not take effect
 23 unless all of the following bills of the 101st Legislature are
 24 enacted into law:

25 (a) Senate Bill No. ____ or House Bill No. 4454 (request no.
 26 01463'21).

27 (b) Senate Bill No. ____ or House Bill No. 4456 (request no.
 28 01464'21).

29 (c) Senate Bill No. ____ or House Bill No. 4458 (request no.

1 01466'21).

2 (d) Senate Bill No. _____ or House Bill No. 4460 (request no.

3 01467'21).

4 (e) Senate Bill No. _____ or House Bill No. 4461 (request no.

5 01468'21).