

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 111
HAZARDOUS WASTE MANAGEMENT

324.11101 Meanings of words and phrases.

Sec. 11101. For the purposes of this part, the words and phrases defined in sections 11102 to 11104 have the meanings ascribed to them in those sections.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11102 Definitions; C to F.

Sec. 11102. (1) "Contaminant" means any of the following:

(a) Hazardous waste as defined in R 299.9203 of the Michigan administrative code.

(b) Any hazardous waste or hazardous constituent listed in 40 CFR part 261, appendix VIII or 40 CFR part 264, appendix IX.

(2) "Corrective action" means an action determined by the department to be necessary to protect the public health, safety, or welfare, or the environment, and includes, but is not limited to, investigation, evaluation, cleanup, removal, remediation, monitoring, containment, isolation, treatment, storage, management, temporary relocation of people, and provision of alternative water supplies, or any corrective action allowed under the solid waste disposal act or regulations promulgated pursuant to that act.

(3) "Designated facility" means a hazardous waste treatment, storage, or disposal facility that has received a permit or has interim status under the solid waste disposal act or has a permit from a state authorized under section 3006 of subtitle C of the solid waste disposal act, 42 USC 6926, and which, if located in this state, has an operating license issued under this part, has a legally binding agreement with the department that authorizes operation, or is subject to the requirements of section 11123(8).

(4) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste into or on land or water in a manner that the hazardous waste or a constituent of the hazardous waste may enter the environment, be emitted into the air, or be discharged into water, including groundwater.

(5) "Disposal facility" means a facility or a part of a facility where managed hazardous waste, as defined by rule, is intentionally placed into or on any land or water and at which hazardous waste will remain after closure.

(6) "Failure mode assessment" means an analysis of the potential major methods by which safe handling of hazardous wastes may fail at a treatment, storage, or disposal facility.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11103 Definitions; G to O.

Sec. 11103. (1) "Generation" means the act or process of producing hazardous waste.

(2) "Generator" means any person, by site, whose act or process produces hazardous waste as identified or listed pursuant to section 11128 or whose act first causes a hazardous waste to become subject to regulation under this part.

(3) "Hazardous waste" means waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may

pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste does not include material that is solid or dissolved material in domestic sewage discharge, solid or dissolved material in an irrigation return flow discharge, industrial discharge that is a point source subject to permits under section 402 of title IV of the federal water pollution control act, chapter 758, 86 Stat. 880, 33 U.S.C. 1342, or is a source, special nuclear, or by-product material as defined by the atomic energy act of 1954, chapter 1073, 68 Stat. 919.

(4) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, recycling, and disposal of hazardous waste.

(5) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an injection well, a salt dome formation, a salt bed formation, or an underground mine or cave.

(6) "Land treatment facility" means a treatment facility or part of a treatment facility at which hazardous waste is applied onto or incorporated into the soil surface. If waste will remain after closure, a facility described in this subsection is a disposal facility.

(7) "Limited storage facility" means a storage facility that meets all of the following conditions:

(a) Has a maximum storage capacity that does not exceed 25,000 gallons of hazardous waste.

(b) Storage occurs only in tanks or containers.

(c) Has not more than 200 containers on site that have a capacity of 55 gallons or less.

(d) Does not store hazardous waste on site for more than 90 days.

(e) Does not receive hazardous waste from a treatment, storage, or disposal facility.

(8) "Manifest" means a form approved by the department used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(9) "Manifest system" means the system used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(10) "Mechanism" means a letter of credit, a financial test that demonstrates the financial strength of the company owning a treatment, storage, or disposal facility or a parent company guaranteeing financial assurance for a subsidiary, or an insurance policy that will provide funds for closure or postclosure care of a treatment, storage, or disposal facility.

(11) "Municipal solid waste incinerator" means an incinerator that is owned or operated by any person, and that meets all of the following requirements:

(a) The incinerator receives solid waste from off site and burns only household waste from single and multiple dwellings, hotels, motels, and other residential sources, or burns this household waste together with solid waste from commercial, institutional, municipal, county, or industrial sources that, if disposed of, would not be required to be placed in a disposal facility licensed under this part.

(b) The incinerator has established contractual requirements or other notification or inspection procedures sufficient to assure that the incinerator receives and burns only waste referred to in subdivision (a).

(c) The incinerator meets the requirements of this part and the rules promulgated under this part.

(d) The incinerator is not an industrial furnace as defined in 40 C.F.R. 260.10.

(12) "Municipal solid waste incinerator ash" means the substances remaining after combustion in a municipal solid waste incinerator.

(13) "Municipality" means a city, village, township, or Indian tribe.

(14) "On site" means on the same or geographically contiguous property that may be divided by a public or private right-of-way if the entrance and exit between the pieces of property are at a crossroads intersection and access is by crossing rather than going along the right-of-way. On site property includes noncontiguous pieces of property owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11104 Definitions; O to V.

Sec. 11104. (1) "Operator" means the person responsible for the overall operation of a disposal, treatment,

or storage facility with approval of the department either by contract or license.

(2) "Site identification number" means a number that is assigned by the United States Environmental Protection Agency or the United States Environmental Protection Agency's designee to each generator, each transporter, and each treatment, storage, or disposal facility. If the generator or transporter or the treatment, storage, or disposal facility manages wastes that are hazardous under this part and the rules promulgated under this part but are not hazardous under the solid waste disposal act, site identification number means an equivalent number that is assigned by the department.

(3) "Solid waste" means that term as it is defined in part 115.

(4) "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

(5) "Storage facility" means a facility or part of a facility where managed hazardous waste, as defined by rule, is subject to storage. A generator who accumulates managed hazardous waste, as defined by rule, on site in containers or tanks for less than 91 days or a period of time prescribed by rule is not a storage facility.

(6) "Surface impoundment" or "impoundment" means a treatment, storage, or disposal facility or part of a treatment, storage, or disposal facility that is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials, although it may be lined with human-made materials, that is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and that is not an injection well. Surface impoundments include, but are not limited to, holding, storage, settling, and aeration pits, ponds, and lagoons.

(7) "Technologically enhanced naturally occurring radioactive material" or "TENORM" means naturally occurring radioactive material whose radionuclide concentrations have been increased as a result of human practices. TENORM does not include any of the following:

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

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

(8) "The solid waste disposal act" means title II of Public Law 89-272.

(9) "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

(10) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, to neutralize the waste, to recover energy or material resources from the waste, or to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, amenable to recovery, amenable to storage, or reduced in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(11) "Treatment facility" means a facility or part of a facility where managed hazardous waste, as defined by rule, is subject to treatment.

(12) "Updated plan" means the updated state hazardous waste management plan prepared under section 11110.

(13) "Vehicle" means a transport vehicle as defined in 49 CFR 171.8.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2018, Act 688, Eff. Mar. 28, 2019.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11105 Generation, disposition, storage, treatment, or transportation of hazardous waste.

Sec. 11105. A person shall not generate, dispose, store, treat, or transport hazardous waste in this state without complying with the requirements of this part.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11105a Repealed. 2006, Act 560, Eff. Dec. 29, 2008.

Compiler's note: The repealed section pertained to adoption by reference of federal rules and promulgation of administrative rule.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11106 Municipal solid waste incinerator ash; regulation.

Sec. 11106. The generation, transportation, treatment, storage, disposal, reuse, and recycling of municipal solid waste incinerator ash is regulated under part 115, and not under this part.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11107 Methods of hazardous waste management; assistance.

Sec. 11107. The department, in the conduct of its duties as prescribed under this part, shall assist in encouraging, developing, and implementing methods of hazardous waste management that are environmentally sound, that maximize the utilization of valuable resources, that encourage resource conservation, including source separation, recycling, and waste reduction, and that are consistent with the plan to be provided by the department pursuant to section 12103(1)(d) of the public health code, 1978 PA 368, MCL 333.12103. In addition, the department, in the conduct of its duties as prescribed by this part, shall assist in implementing the policy of this state to minimize the placement of untreated hazardous waste in disposal facilities.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11108 Landfill or solidification facility; payment of fee by owner or operator; certain hazardous waste exempt from fees; certification; evaluating accuracy of generator fee exemption certifications; enforcement action; forwarding fee revenue and completed form; reduction in hazardous waste generated or disposed; refund; disposition of fees; environmental pollution prevention fund.

Sec. 11108. (1) Except as otherwise provided in this section, each owner or operator of a landfill shall pay to the department a fee assessed on hazardous waste disposed of in the landfill. The fee shall be based on the quantity of hazardous waste specified on the manifest or monthly operating report and shall be \$10.00 per ton, \$10.00 per cubic yard, or 1/2 cent per pound depending on the unit of measure used by the owner or operator to calculate the fee. The fee for fractional quantities of hazardous waste shall be proportional. If the hazardous waste is required to be listed on a manifest and the owner or operator of the landfill determines that the hazardous waste quantity on the manifest is not accurate, the owner or operator shall correct the hazardous waste quantity on all manifest copies accompanying the shipment, note the reason for the change in the discrepancy indication space on the manifest, and assess the fee in accordance with the corrected hazardous waste quantity. Payment shall be made within 30 days after the close of each quarter. The landfill owner or operator shall assess off-site generators the fee. The fee for hazardous waste that is generated and disposed of on the site of a landfill owner or operator shall be paid by that owner or operator.

(2) Except as otherwise provided in this section, each owner or operator of a solidification facility licensed pursuant to section 11123 shall pay to the department a fee assessed on hazardous waste received at the solidification facility. The fee shall be based on the quantity of hazardous waste specified on the manifest or monthly operating report and shall be \$10.00 per ton, \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound depending on the unit of measure used by the owner or operator to calculate the fee. The fee for

fractional quantities of hazardous waste shall be proportional. If the hazardous waste is required to be listed on a manifest and the owner or operator of the solidification facility determines that the hazardous waste quantity on the manifest is not accurate, the owner or operator shall correct the hazardous waste quantity on all manifest copies accompanying the shipment, note the reason for the change in the discrepancy indication space on the manifest, and assess the fee in accordance with the corrected hazardous waste quantity. Payment shall be made within 30 days after the close of each quarter. The solidification facility owner or operator shall assess off-site generators the fee. The fee for hazardous waste that is generated and solidified on the site of a solidification owner or operator shall be paid by that owner or operator.

(3) The following hazardous waste is exempt from the fees provided for in this section:

(a) Ash that results from the incineration of hazardous waste or the incineration of solid waste as defined in part 115.

(b) Hazardous waste exempted by rule because of its character or the treatment it has received.

(c) Hazardous waste that is removed as part of a site cleanup activity at the expense of this state or the federal government.

(d) Solidified hazardous waste produced by a solidification facility licensed pursuant to section 11123 and destined for land disposal.

(e) Hazardous waste generated pursuant to a 1-time closure or site cleanup activity in this state if the closure or cleanup activity has been authorized in writing by the department. Hazardous waste resulting from the cleanup of inadvertent releases which occur after March 30, 1988 is not exempt from the fees.

(f) Primary and secondary wastewater treatment solids from a wastewater treatment plant that includes an aggressive biological treatment facility as defined in 42 USC 6925.

(g) Emission control dust or sludge from the primary production of steel in electric furnaces.

(4) An owner or operator of a landfill or solidification facility shall assess or pay the fee described in this section unless the generator provides a signed written certification indicating that the hazardous waste is exempt from the fee. If the hazardous waste that is exempt from the fee is required to be listed on a manifest, the certification shall contain the manifest number of the shipment and the specific fee exemption for which the hazardous waste qualifies. If the hazardous waste that is exempt from the fee is not required to be listed on a manifest, the certification shall provide the volume of exempt hazardous waste, the waste code or waste codes of the exempt waste, the date of disposal or solidification, and the specific fee exemption for which the hazardous waste qualifies. The owner or operator of the landfill or solidification facility shall retain this certification for 4 years from the date of receipt.

(5) The department or a health department certified pursuant to section 11145 shall evaluate the accuracy of generator fee exemption certifications and shall take enforcement action against a generator who files a false certification. In addition, the department shall take enforcement action to collect fees that are not paid as required by this section.

(6) The landfill owner or operator and the solidification facility owner or operator shall forward to the department the fee revenue due under this section with a completed form that is provided or approved by the department. The owner or operator shall certify that all information provided in the form is accurate. The form shall include the following information:

(a) The volume of hazardous waste subject to a fee.

(b) The name of each generator who was assessed a fee, the generator's identification number, manifest numbers, hazardous waste volumes, and the amount of the fee assessed.

(7) A generator is eligible for a refund from this state of fees paid under this section if the generator documents to the department, on a form provided by the department, a reduction in the amount of hazardous waste generated as a result of a process change, or a reduction in the amount of hazardous waste disposed of in a landfill, either directly or following solidification at a solidification facility, as a result of a process change or the generator's increased use of source separation, input substitution, process reformulation, recycling, treatment, or an exchange of hazardous waste that results in a utilization of that hazardous waste. The refund shall be in the amount of \$10.00 per ton, \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound of reduction in the amount of hazardous waste generated or disposed of in a landfill. A generator is not eligible to receive a refund for that portion of a reduction in the amount of hazardous waste generated that is attributable to a decrease in the generator's level of production of the products that resulted in the generation of the hazardous waste.

(8) A generator seeking a refund under subsection (7) shall calculate the refund due by comparing hazardous waste generation, treatment, and disposal activity in the calendar year immediately preceding the date of filing with hazardous waste generation, treatment, and disposal activity in the calendar year 2 years prior to the date of filing. To be eligible for a refund, a generator shall file a request with the department by June 30 of the year following the year for which the refund is being claimed. A refund shall not exceed the

total fees paid by the generator to the landfill operator or owner and the solidification facility operator or owner. A form submitted by the generator as provided for in subsection (7) shall be certified by the generator or the generator's authorized agent.

(9) The department shall maintain information regarding the landfill disposal fees received and refunds provided under this section.

(10) The fees collected under this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130. Any balance in the waste reduction fund on October 1, 2013 shall not lapse to the general fund but shall be transferred to the environmental pollution prevention fund and the waste reduction fund shall be closed. Money from the environmental pollution prevention fund shall be expended, upon appropriation, only for 1 or more of the following purposes:

(a) To pay refunds to generators under this section.

(b) To fund programs created under this part, part 143, part 145, or the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480.

(c) Not more than \$500,000.00 to implement section 3103a.

(d) To fund the permit to install program established under section 5505.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2011, Act 150, Imd. Eff. Sept. 21, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11109 Fee for disposal of TENORM in landfill; enforcement; completed form; TENORM account in the environmental pollution prevention fund; creation; investment; expenditures.

Sec. 11109. (1) The owner or operator of a landfill shall pay to the department a fee assessed on TENORM disposed of in the landfill. The fee is \$5.00 per ton, based on the quantity of TENORM specified on the monthly operating report. The fee for fractional tons of TENORM shall be proportional. The fee shall be paid within 30 days after the end of each calendar year quarter.

(2) The department shall take enforcement action to collect fees that are not paid as required by this section.

(3) The landfill owner or operator shall forward to the department the fee revenue due under this section with a completed form that is provided or approved by the department. The owner or operator shall certify that all information provided in the form is accurate. The form shall specify the volume of TENORM disposed of at the landfill during the preceding calendar quarter and the amount of fee revenue being forwarded to the department.

(4) The department shall maintain information regarding the fees collected under this section.

(5) The TENORM account is created within the environmental pollution prevention fund created in section 11130. The department shall forward fees collected under this section to the state treasurer for deposit in the TENORM account. The state treasurer may receive money or other assets from any other source for deposit into the account. The state treasurer shall direct the investment of the account. The state treasurer shall credit to the account interest and earnings from account investments. Money remaining in the account at the close of the fiscal year shall not lapse to the general fund.

(6) Money from the TENORM account shall be expended, upon appropriation, only for 1 or more of the following purposes:

(a) To pay refunds to generators under this section.

(b) To fund the department's regulation and oversight of the disposal of TENORM in this state.

(c) To provide grants to local units of government and landfill operators to obtain equipment to monitor TENORM radiation.

History: Add. 2018, Act 689, Eff. Mar. 28, 2019.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11110 State hazardous waste management plan; preparation; contents; studies; incentives; criteria; notice; news release; public hearings; comments; amendments.

Sec. 11110. (1) Not later than January 1, 1990, the department shall prepare an updated state hazardous waste management plan.

- (2) The updated plan shall:
- (a) Update the state hazardous waste management plan adopted by the commission on January 15, 1982.
 - (b) Be based upon location of generators, health and safety, economics of transporting, type of waste, and existing treatment, storage, or disposal facilities.
 - (c) Include information generated by the department of commerce and the department on hazardous waste capacity needs in the state.
 - (d) Include information provided by the office of waste reduction created in part 143.
 - (e) Plan for the availability of hazardous waste treatment or disposal facilities that have adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the state during the 20-year period after October 1, 1988, as is described in section 104(c)(9)(A) of title I of the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 42 U.S.C. 9604.
 - (f) Plan for a reasonable geographic distribution of treatment, storage, and disposal facilities to meet existing and future needs, including proposing criteria for determining acceptable locations for these facilities. The criteria shall include a consideration of a location's geology, geography, demography, waste generation patterns, along with environmental factors, public health factors, and other relevant characteristics as determined by the department.
 - (g) Emphasize a shift away from the practice of landfilling hazardous waste and toward the in-plant reduction of hazardous waste and the recycling and treatment of hazardous waste.
 - (h) Include necessary legislative, administrative, and economic mechanisms, and a timetable to carry out the plan.
- (3) The department shall instruct the office of waste reduction created in part 143 to complete studies as considered necessary for the completion of the updated plan. The studies may include:
- (a) An inventory and evaluation of the sources of hazardous waste generation within this state or from other states, including the types, quantities, and chemical and physical characteristics of the hazardous waste.
 - (b) An inventory and evaluation of current hazardous waste management, minimization, or reduction practices and costs, including treatment, disposal, on-site recycling, reclamation, and other forms of source reduction within this state.
 - (c) A projection or determination of future hazardous waste management needs based on an evaluation of existing capacities, treatment or disposal capabilities, manufacturing activity, limitations, and constraints. Projection of needs shall consider the types and sizes of treatment, storage, or disposal facilities, general locations within the state, management control systems, and an identified need for a state owned treatment, storage, or disposal facility.
 - (d) An investigation and analysis of methods, incentives, or technologies for source reduction, reuse, recycling, or recovery of potentially hazardous waste and a strategy for encouraging the utilization or reduction of hazardous waste.
 - (e) An investigation and analysis of methods and incentives to encourage interstate and international cooperation in the management of hazardous waste.
 - (f) An estimate of the public and private cost of treating, storing, or disposing of hazardous waste.
 - (g) An investigation and analysis of alternate methods for treatment and disposal of hazardous waste.
- (4) If the department finds in preparing the updated plan that there is a need for additional treatment or disposal facilities in the state, then the department shall identify incentives the state could offer that would encourage the construction and operation of additional treatment or disposal facilities in the state that are consistent with the updated plan. The department shall propose criteria which could be used in evaluating applicants for the incentives.
- (5) Upon completion of the updated plan, the department shall publish a notice in a number of newspapers having major circulation within the state as determined by the department and shall issue a statewide news release announcing the availability of the updated plan for inspection or purchase at cost by interested persons. The announcement shall indicate where and how the updated plan may be obtained or reviewed and shall indicate that not less than 6 public hearings shall be conducted at varying locations in the state before formal adoption. The first public hearing shall not be held until 60 days have elapsed from the date of the notice announcing the availability of the updated plan. The remaining public hearings shall be held within 120 days after the first public hearing at approximately equal time intervals.
- (6) After the public hearings, the department shall prepare a written summary of the comments received, provide comments on the major concerns raised, make amendments to the updated plan, and determine whether the updated plan should be adopted.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11111 State hazardous waste management plan; adoption or rejection; reason for rejection; return of plan; changing and reconsidering plan.

Sec. 11111. (1) The department, with the advice of the director of public health, shall adopt or reject the updated plan within 60 days.

(2) If the department rejects the updated plan, it shall indicate its reason for rejection and return the updated plan for further work.

(3) The department shall make the necessary changes and reconsider the updated plan within 30 days after receipt of the rejection.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11112 State hazardous waste management plan; final decision; adoption.

Sec. 11112. The department shall make a final decision on the updated plan within 120 days after the department first receives the updated plan. If the department fails to formally adopt or reject the updated plan within 120 days, the updated plan is considered adopted.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11114 Proposed rules to implement plan.

Sec. 11114. Not more than 180 days after the final adoption of the updated plan, the department shall submit to the legislature proposed rules to implement the updated plan created in section 11110.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11115 Permits and licenses for treatment, storage, or disposal facility; determination; exception.

Sec. 11115. After the updated plan is adopted, the department shall not issue a permit or license under this part for a treatment, storage, or disposal facility until the department has made a determination that the action is consistent with the updated plan. This section does not apply to a treatment, storage, or disposal facility granted a construction permit or a license under this part before the final adoption of the updated plan. However, such a facility shall be consistent with the state hazardous waste management plan adopted by the commission on January 15, 1982.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11115a Facility subject to corrective action requirements; release of contaminant from waste management unit or release of hazardous waste from facility; determination by department; consent order; license, permit, or order; contents.

Sec. 11115a. (1) Beginning on June 4, 1992, the owner or operator, or both, of a facility specified in this subsection is subject to the corrective action requirements specified in this part and the rules promulgated under this part for all releases of a contaminant from any waste management unit at the facility, regardless of when the contaminant may have been placed in or released from the waste management unit. This requirement applies to a facility for which the owner or operator, or both, is applying for or has been issued a license under this part.

(2) Beginning on June 4, 1992, if the department, on the basis of any information, determines that there is

or has been a release of a contaminant from any waste management unit at the facility, the department may order, or may enter a consent order with an owner or operator, or both, of a facility specified in subsection (1), requiring corrective action at the facility. A license, permit, or order issued or entered pursuant to this subsection shall contain all of the following:

(a) Schedules of compliance for corrective action if corrective action cannot be completed before the issuance of the license, permit, or order.

(b) Assurances of financial responsibility for completing the corrective action.

(c) Requirements that corrective action be taken beyond the facility boundary if the release of a contaminant has or may have migrated or otherwise has or may have been emitted beyond the facility boundary, unless the owner or operator of the facility demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake this corrective action.

(3) Beginning on June 4, 1992, the owner or operator, or both, of a facility specified in this subsection and not in subsection (1) is subject to the corrective action requirements specified in this part and the rules promulgated under this part for all releases of a hazardous waste from the facility, regardless of when the hazardous waste may have been placed in or released from the facility. This requirement applies to a facility for which the owner or operator, or both, is or was subject to the interim status requirements defined in the solid waste disposal act, except for those facilities that have received formal written approval of the withdrawal of their United States environmental protection agency part A hazardous waste permit application from the department or the United States environmental protection agency.

(4) Beginning on June 4, 1992, if the department, on the basis of any information, determines that there is or has been a release of a hazardous waste, the department may order, or may enter a consent order with, an owner or operator, or both, of a facility specified in subsection (3), requiring corrective action at the facility. An order issued or entered pursuant to this subsection shall contain both of the following:

(a) Schedules of compliance for corrective action.

(b) Assurances of financial responsibility for completing the corrective action.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11115b Corrective actions; satisfaction of remedial action obligations.

Sec. 11115b. Corrective actions conducted pursuant to this part satisfy a person's remedial action obligations under part 201 and remedial obligations under part 31 for that release or threat of release.

History: Add. 1995, Act 37, Imd. Eff. May 17, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11116-324.11118 Repealed. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Compiler's note: The repealed sections pertained to requirements for applications for construction permits.

324.11118a Multisource commercial hazardous waste disposal well; definition; maintenance of treatment and storage facility; operating license required; business plan; applicability of subsection (3).

Sec. 11118a. (1) As used in this section, "multisource commercial hazardous waste disposal well" has the meaning ascribed to that term in section 62506a.

(2) A multisource commercial hazardous waste disposal well shall maintain on site a treatment facility and a storage facility that have obtained an operating license under section 11123.

(3) Subject to subsection (4), in addition to the information required under section 11123, the owner or operator of a proposed treatment and storage facility with a multisource commercial hazardous waste disposal well shall provide to the department in an application for an operating license a business plan for the well operations. The business plan shall contain all of the following information:

(a) The type, estimated quantities, and expected potential sources of wastes to be disposed of in the well.

(b) A feasibility study on the viability of the disposal well operations.

(c) Additional business plan information required by the department and related solely to the requirements

of subdivisions (a) and (b).

(d) Any additional business plan information if the department and applicant agree that such additional information should be submitted.

(4) Subsection (3) applies only to a person who submits an application for an operating license, other than a renewal operating license, after the effective date of the 2010 amendatory act that added this subsection.

History: Add. 1996, Act 182, Imd. Eff. May 3, 1996;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11119, 324.11120 Repealed. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Compiler's note: The repealed sections pertained to duties of department upon receipt of construction permit application and notification of affected municipalities and counties.

324.11121 Effect of local ordinance, permit requirement, or other requirement.

Sec. 11121. A local ordinance, permit requirement, or other requirement does not prohibit the construction of a treatment, storage, or disposal facility, except as otherwise provided in section 11123.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11122 Repealed. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Compiler's note: The repealed section pertained to establishment of limited storage facility.

324.11123 Operating license; contents of applications; schedule for submitting operating license application; time period for submitting complete operating license application; conditions for operating storage facility until application approved or denied; placement on department-organized mailing list; fee.

Sec. 11123. (1) Unless a person is complying with subsection (8) or a rule promulgated under section 11127(4), a person shall not establish, construct, conduct, manage, maintain, or operate a treatment, storage, or disposal facility within this state without an operating license from the department.

(2) An application for an operating license for a proposed treatment, storage, or disposal facility or the expansion, enlargement, or alteration of a treatment, storage, or disposal facility beyond its original authorized design capacity or beyond the area specified in an existing operating license, original construction permit, or other authorization shall be submitted on a form provided by the department and contain all of the following:

(a) The name and residence of the applicant.

(b) The location of the proposed treatment, storage, or disposal facility project.

(c) A copy of an actual published notice that the applicant published at least 30 days before submittal of the application in a newspaper having major circulation in the municipality and the immediate vicinity of the proposed treatment, storage, or disposal facility project. The notice shall contain a map indicating the location of the proposed treatment, storage, or disposal facility project and information on the nature and size of the proposed facility. In addition, as provided by the department, the notice shall contain a description of the application review process, the location where the complete application may be reviewed, and an explanation of how copies of the complete application may be obtained.

(d) A written summary of the comments received at the public preapplication meeting required by rule and the applicant's response to the comments, including any revisions to the application.

(e) A determination of existing hydrogeological characteristics specified in a hydrogeological report and monitoring program consistent with rules promulgated under this part.

(f) An environmental assessment. The environmental assessment shall include, at a minimum, an evaluation of the proposed facility's impact on the air, water, and other natural resources of this state, and also shall contain an environmental failure mode assessment.

(g) The procedures for closure and postclosure monitoring.

(h) An engineering plan.

(i) Other information specified by rule or by federal regulation issued under the solid waste disposal act.

(j) An application fee. The application fee shall be deposited in the environmental pollution prevention fund created in section 11130. Pursuant to procedures established by rule, the application fee shall be

\$25,000.00 plus all of the following, as applicable:

- (i) For a landfill, surface impoundment, land treatment, or waste pile facility..... \$ 9,000.00
- (ii) For an incinerator or treatment facility other than a treatment facility described in subparagraph (i)..... \$ 7,200.00
- (iii) For a storage facility, other than storage that is associated with treatment or disposal activities that may be regulated under a single license..... \$ 500.00

(k) Except as otherwise provided in this subdivision, a disclosure statement that includes all of the following:

(i) The full name and business address of all of the following:

(A) The applicant.

(B) The 5 persons holding the largest shares of the equity in or debt liability of the proposed facility. The department may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(C) The operator. If a waiver is obtained under sub-subparagraph (B), detailed information regarding the proposed operator shall be included in the disclosure statement.

(D) If known, the 3 employees of the operator who will have the most responsibility for the day-to-day operation of the facility, including their previous experience with other hazardous waste treatment, storage, or disposal facilities.

(E) Any other partnership, corporation, association, or other legal entity if any person required to be listed under sub-subparagraphs (A) to (D) has at any time had 25% or more of the equity in or debt liability of that legal entity. The department may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(ii) For each person required to be listed under this subdivision, a list of all convictions for criminal violations of any statute enacted by a federal, state, Canadian, or Canadian provincial agency if the statute is an environmental statute, if the violation was a misdemeanor committed in furtherance of obtaining an operating license under this part not more than 5 years before the application is filed, or if the violation was a felony committed in furtherance of obtaining an operating license under this part not more than 10 years before the application is filed. If debt liability is held by a chartered lending institution, information required in this subparagraph and subparagraphs (iii) and (iv) is not required from that institution. The department shall submit to the legislature a report on the 2014 act that amended this subparagraph, including the number of permits denied as a result of that act and whether this subparagraph should be further amended. The report shall cover the 5-year period after the effective date of that act and shall be submitted within 60 days after the expiration of that 5-year period. The report may be submitted electronically.

(iii) A list of all environmental permits or licenses issued by a federal, state, local, Canadian, or Canadian provincial agency held by each person required to be listed under this subdivision that were permanently revoked because of noncompliance.

(iv) A list of all activities at property owned or operated by each person required to be listed under this subdivision that resulted in a threat or potential threat to the environment and for which public funds were used to finance an activity to mitigate the threat or potential threat to the environment, except if the public funds expended to facilitate the mitigation of environmental contamination were voluntarily and expeditiously recovered from the applicant or other listed person without litigation.

(l) A demonstration that the applicant has considered each of the following:

(i) The risk and impact of accident during the transportation of hazardous waste to the treatment, storage, or disposal facility.

(ii) The risk and impact of fires or explosions from improper treatment, storage, and disposal methods at the treatment, storage, or disposal facility.

(iii) The impact on the municipality where the proposed treatment, storage, or disposal facility is to be located in terms of health, safety, cost, and consistency with local planning and existing development, including proximity to housing, schools, and public facilities.

(iv) The nature of the probable environmental impact, including the specification of the predictable adverse effects on each of the following:

(A) The natural environment and ecology.

(B) Public health and safety.

(C) Scenic, historic, cultural, and recreational values.

(D) Water and air quality and wildlife.

(m) A summary of measures evaluated to mitigate the impacts identified in subdivision (l) and a detailed description of the measures to be implemented by the applicant.

(n) A schedule for submittal of all of the following postconstruction documentation:

(i) Any changes in, or additions to, the previously submitted disclosure information, or a certification that the disclosure listings previously submitted continue to be correct, following completion of construction of the treatment, storage, or disposal facility.

(ii) A certification under the seal of a licensed professional engineer verifying that the construction of the treatment, storage, or disposal facility has proceeded according to the plans approved by the department and, if applicable, the approved construction permit, including as-built plans.

(iii) A certification of the treatment, storage, or disposal facility's capability of treating, storing, or disposing of hazardous waste in compliance with this part.

(iv) Proof of financial assurance as required by rule.

(3) If any information required to be included in the disclosure statement under subsection (2)(k) changes or is supplemented after the filing of the statement, the applicant or licensee shall provide that information to the department in writing not later than 30 days after the change or addition.

(4) Notwithstanding any other provision of law, the department may deny an application for an operating license if there are any listings pursuant to subsection (2)(k)(ii), (iii), or (iv) as originally disclosed or as supplemented.

(5) The application for an operating license for a proposed limited storage facility, which is subject to the requirements pertaining to storage facilities, shall be submitted on a form provided by the department and contain all of the following:

(a) The name and residence of the applicant.

(b) The location of the proposed facility.

(c) A determination of existing hydrogeological characteristics specified in a hydrogeological report and monitoring program consistent with rules promulgated under this part.

(d) An environmental assessment. The environmental assessment shall include, at a minimum, an evaluation of the proposed facility's impact on the air, water, and other natural resources of this state, and also shall contain an environmental failure mode assessment.

(e) The procedures for closure.

(f) An engineering plan.

(g) Proof of financial responsibility.

(h) A resolution or other formal determination of the governing body of each municipality in which the proposed limited storage facility would be located indicating that the limited storage facility is compatible with the zoning ordinance of that municipality, if any. However, in the absence of a resolution or other formal determination, the application shall include a copy of a registered letter sent to the municipality at least 60 days before the application submittal, indicating the intent to construct a limited storage facility, and requesting a formal determination on whether the proposed facility is compatible with the zoning ordinance of that municipality, if any, in effect on the date the letter is received, and indicating that failure to pass a resolution or make a formal determination within 60 days of receipt of the letter means that the proposed facility is to be considered compatible with any applicable zoning ordinance. If, within 60 days of receiving a registered letter, a municipality does not make a formal determination concerning whether a proposed limited storage facility is compatible with a zoning ordinance of that municipality as in effect on the date the letter is received, the limited storage facility is considered compatible with any zoning ordinance of that municipality, and incompatibility with a zoning ordinance of that municipality is not a basis for the department to deny the license.

(i) An application fee of \$500.00. The application fee shall be deposited in the environmental pollution prevention fund created in section 11130.

(j) Other information specified by rule or by federal regulation issued under the solid waste disposal act.

(6) The application for an operating license for a treatment, storage, or disposal facility other than a facility identified in subsection (2) or (5) shall be made on a form provided by the department and include all of the following:

(a) The name and residence of the applicant.

(b) The location of the existing treatment, storage, or disposal facility.

(c) Other information considered necessary by the department or specified in this section, by rule, or by federal regulation issued under the solid waste disposal act.

(d) Proof of financial responsibility. An applicant for an operating license for a treatment, storage, or disposal facility that is a surface impoundment, landfill, or land treatment facility shall demonstrate financial responsibility for claims arising from nonsudden and accidental occurrences relating to the operation of the facility that cause injury to persons or property.

(e) A fee of \$500.00. The fee shall be deposited in the environmental pollution prevention fund created in

section 11130.

(7) The department shall establish a schedule for requiring each person subject to subsection (8) to submit an operating license application. The department may adjust this schedule as necessary. Each person subject to subsection (8) shall submit a complete operating license application within 180 days of the date requested to do so by the department.

(8) A person who owns or operates a treatment, storage, or disposal facility that is in existence on the effective date of an amendment of this part or of a rule promulgated under this part that renders all or portions of the facility subject to the operating license requirements of this section may continue to operate the facility or portions of the facility that are subject to the operating license requirements until an operating license application is approved or denied if all of the following conditions have been met:

(a) A complete operating license application is submitted within 180 days of the date requested by the department under subsection (7).

(b) The person is in compliance with all rules promulgated under this part and with all other state laws.

(c) The person qualifies for interim status as defined in the solid waste disposal act, is in compliance with interim status standards established by federal regulation under subtitle C of the solid waste disposal act, 42 USC 6921 to 6939e, and has not had interim status terminated.

(9) A person may request to be placed on a department-organized mailing list to be kept informed of any rules, plans, operating license applications, contested case hearings, public hearings, or other information or procedures relating to the administration of this part. The department may charge a fee to cover the cost of the materials.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010;—Am. 2014, Act 254, Imd. Eff. June 30, 2014.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11124 Inspection of site; determination of compliance; filing and review of inspection report.

Sec. 11124. (1) Following the construction of the proposed treatment, storage, or disposal facility or the expansion, enlargement, or alteration of a treatment, storage, or disposal facility beyond its original authorized design capacity or beyond the area specified in an existing operating license, original construction permit, or other authorization, and the receipt of the postconstruction documentation required under section 11123, the department shall inspect the site and determine if the proposed treatment, storage, or disposal facility complies with this part, the rules promulgated under this part, and the stipulations included in the approved treatment, storage, or disposal facility operating license. An inspection report shall be filed in writing by the department before issuing final authorization to manage, maintain, and operate the treatment, storage, or disposal facility and shall be made available for public review.

(2) Upon receipt of an operating license application meeting the requirements of section 11123(6), the department shall inspect the site and determine if the treatment, storage, or disposal facility complies with this part and the rules promulgated under this part. An inspection report shall be filed in writing by the department before issuing an operating license.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11125 Duties of department upon receipt of operating license application; establishment of operating license condition; final decision on operating license application; public hearing; notice; time; extension of deadline; stipulations; operation not prohibited by local ordinance, permit, or other requirement; changes or additions to disclosure statement; denial of application; modification or revocation of operating license; conditions; postconstruction documentation.

Sec. 11125. (1) Upon receipt of an operating license application that complies with the requirements of section 11123(2), the department shall do all of the following:

(a) Notify the municipality and county in which the treatment, storage, or disposal facility is located or proposed to be located; a local soil erosion and sedimentation control agency appointed pursuant to part 91;

each division within the department that has responsibility in land, air, or water management; a regional planning agency established by executive directive of the governor; and other appropriate agencies. The notice shall describe the procedure by which the license may be approved or denied.

(b) Review the plans of the proposed treatment, storage, or disposal facility to determine if the proposed operation complies with this part and the rules promulgated under this part. The review shall be made within the department. The review shall include, but need not be limited to, a review of air quality, water quality, waste management, hydrogeology, and the applicant's disclosure statement. A written and signed review by each person within the department reviewing the application and plans shall be received and filed in the department's license application records before an operating license is issued or denied by the department.

(c) Integrate the relevant provisions of all permits that the applicant is required to obtain from the department to construct the proposed treatment, storage, or disposal facility into the operating license required by this part.

(d) Consider the mitigation measures proposed to be implemented as identified in section 11123(2)(m).

(e) Hold a public hearing not more than 60 days after receipt of the application.

(2) The department may establish operating license conditions specifically applicable to the treatment, storage, or disposal facility and operation at that site to mitigate adverse impacts.

(3) The department shall provide notice and an opportunity for a public hearing before making a final decision on an operating license application.

(4) The department shall make a final decision on an operating license application within 140 days after the department receives a complete application. However, if the state's hazardous waste management program is authorized by the United States environmental protection agency under section 3006 of subtitle C of the solid waste disposal act, 42 USC 6926, the department may extend the deadline beyond the limitation provided in this section in order to fulfill the public participation requirements of the solid waste disposal act. The operating license may contain stipulations specifically applicable to site and operation.

(5) A local ordinance, permit, or other requirement shall not prohibit the operation of a licensed treatment, storage, or disposal facility.

(6) If any information required to be included in the disclosure statement required under section 11123 changes or is supplemented after the filing of the statement, the applicant or licensee shall provide that information to the department in writing within 30 days after the change or addition.

(7) The department may deny an operating license application submitted pursuant to section 11123 if any information described in section 11123(2)(k)(ii) to (iv) was not disclosed as required in section 11123(2) or this section.

(8) The department shall provide notice of the final decision to persons on the organized mailing list for the facility.

(9) Following the construction of a new, expanded, enlarged, or altered treatment, storage, or disposal facility, the department shall review all information required to be submitted by the operating license. If the department finds that the owner or operator has deviated from the specific conditions established in the operating license, the department shall determine if cause exists for modification or revocation of the operating license, in accordance with provisions established by rule. At a minimum, the postconstruction documentation shall include all of the following:

(a) Updated disclosure information or a certification as described in section 11123(2)(n)(i).

(b) A certification of construction as described in section 11123(2)(n)(ii). The department shall require additional certification periodically during the operation or in order to verify proper closure of the site.

(c) A certification of capability signed and sealed by a licensed professional engineer as described in section 11123(2)(n)(iii).

(d) Information regarding any deviations from the specific conditions in the operating license.

(e) Proof of financial responsibility.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11126 Coordinating and integrating provisions of act; extent.

Sec. 11126. The department shall coordinate and integrate the provisions of this part for purposes of administration and enforcement with appropriate state and federal law including the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617,

7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q; the federal water pollution control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387; title XIV of the public health service act, chapter 373, 88 Stat. 1660; the toxic substances control act, Public Law 94-469, 15 U.S.C. 2601 to 2629, 2641 to 2656, 2661 to 2671, and 2681 to 2692; the resource conservation and recovery act of 1976, 42 U.S.C. 6901 to 6987; parts 31, 55, 115, and 121; the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023; the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34; and the hazardous materials transportation act. The coordination and integration shall be effected only to the extent that it can be done in a manner consistent with the goals and policies of this part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11126a Fee schedule; report.

Sec. 11126a. By September 1, 1998, the department shall submit a report to the legislature that recommends a fee schedule to implement this part.

History: Add. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11127 Rules generally; exemption; effect of amendment to part or rules, or changes in definitions.

Sec. 11127. (1) The department shall submit to the legislature, after consultation with the department of public health, rules necessary to implement and administer this part. The rules required to be submitted by this subsection shall include, but not be limited to, requirements for generators, transporters, and treatment, storage, and disposal facilities.

(2) The department may promulgate rules that exempt certain hazardous wastes and certain treatment, storage, or disposal facilities from all or portions of the requirements of this part as necessary to obtain or maintain authorization from the United States environmental protection agency under the solid waste disposal act, or upon a determination by the department that a hazardous waste or a treatment, storage, or disposal facility is adequately regulated under other state or federal law and that scientific data supports a conclusion that an exemption will not result in an impairment of the department's ability to protect the public health and the environment. However, an exemption granted pursuant to this subsection shall not result in a level of regulation less stringent than that required under the solid waste disposal act.

(3) If an amendment to this part or the rules promulgated under this part subjects a person to a new or different licensing requirement of this part, the department shall promulgate rules to facilitate orderly and reasonable compliance by that person.

(4) Changes in the definition of hazardous waste contained in section 11103 and the definition of treatment contained in section 11104 effected by the 1982 amendatory act that amended former Act No. 64 of the Public Acts of 1979 do not eliminate any exemption provided to any hazardous waste or to any treatment, storage, or disposal facility under administrative rules promulgated under former Act No. 64 of the Public Acts of 1979 before March 30, 1983. However, these exemptions may be modified or eliminated by administrative rules promulgated after March 30, 1983 under former Act No. 64 of the Public Acts of 1979 or under this part in order that the state may obtain authorization from the United States environmental protection agency under the solid waste disposal act, or to provide adequate protection to the public health or the environment.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11128 Rules listing hazardous waste and other criteria; revision; removing certain materials from list; public hearings; construction of part, rules, and list.

Sec. 11128. (1) The department shall submit to the legislature proposed rules listing hazardous waste and

other criteria as required by this part. The rules shall state the criteria for identifying the characteristics of hazardous waste and for listing the types of hazardous waste, taking into account toxicity, persistence, degradability in nature, potential for accumulation in tissue, and other related factors including flammability, corrosiveness, and other hazardous characteristics. The department shall revise by rule the criteria and listing as necessary. A rule promulgated for the purpose of removing from the list those materials removed from the federal list of regulated materials or removing from management as a hazardous waste those wastes that have been exempted from management under the solid waste disposal act are not required to meet the requirements of sections 41, 42, and 45(2) of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.241, 24.242, and 24.245 of the Michigan Compiled Laws.

(2) Before the department establishes the list, the department shall hold not less than 3 public hearings in different municipalities in the state. To ensure consistency between federal and state requirements, this part, the rules promulgated by the department, and the list shall be construed to conform as closely as possible to requirements established under the solid waste disposal act.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11129 Information as public record; confidential information; notice of request for information; demonstration by person regulated; granting or denying request; certain data not confidential; release of confidential information.

Sec. 11129. (1) Except as provided in subsections (2) and (3), information obtained by the department under this part is a public record subject to disclosure as provided in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) A person regulated under this part may designate a record, permit application, other information, or a portion of a record, permit application, or other information furnished to or obtained by the department or its agents as being only for the confidential use of the department. The department shall notify the regulated person of a request for public records under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, whose scope includes information designated as confidential. The person regulated under this part has 30 days after the receipt of the notice to demonstrate to the department that the information designated as confidential should not be disclosed because the information is a trade secret or secret process or is production, commercial, or financial information the disclosure of which would jeopardize the competitive position of the person from whom the information was obtained and make available information not otherwise publicly available. The department shall grant the request for the information unless the person regulated under this part makes a satisfactory demonstration to the department that the information should not be disclosed. If there is a dispute between the owner or operator of a treatment, storage, or disposal facility and the person requesting information under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, the director of the department shall make the decision to grant or deny the request. When the department makes a decision to grant a request, the information requested shall not be released until 3 days have elapsed after the decision is made.

(3) Data on the quantity or composition of hazardous waste generated, transported, treated, stored, or disposed of; air and water emission factors, rates and characterizations; emissions during malfunctions of equipment required under this part on treatment, storage, or disposal facilities; or the efficiency of air and water pollution control devices is not rendered as confidential information by this section.

(4) The department may release any information obtained under this part, including a record, permit application, or other information considered confidential pursuant to subsection (1), to the United States environmental protection agency, the United States agency for toxic substance disease registry, or other agency authorized to receive information, including confidential information, under the solid waste disposal act.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11130 Environmental pollution prevention fund; creation; receipt and disposition of assets; investment; administration.

Sec. 11130. (1) The environmental pollution prevention fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the environmental pollution prevention fund or into an account within the environmental pollution prevention fund. The state treasurer shall direct the investment of the environmental pollution prevention fund. The state treasurer shall credit to each account within the environmental pollution prevention fund interest and earnings from account investments.

(3) Money remaining in the environmental pollution prevention fund and in any account within the environmental pollution prevention fund at the close of the fiscal year shall not lapse to the general fund. The department shall be the administrator of the fund for auditing purposes.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2013, Act 73, Eff. Oct. 1, 2013.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11132 Disposal of certain technologically enhanced naturally occurring radioactive material (TENORM) in landfill prohibited; request for renewal or modification of operating license for disposal of TENORM; requirements; monitoring program; report; maintenance of records.

Sec. 11132. (1) Except as otherwise provided in this section, a person shall not deliver to a landfill in this state for disposal and the owner or operator of a landfill shall not permit disposal in the landfill of TENORM with any of the following:

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

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

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

(2) Except as otherwise specified in the landfill operating license, the owner or operator of a landfill shall not permit a delivery of TENORM for disposal at the landfill unless the generator has provided the following information in writing to the owner or operator of the landfill:

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

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

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

(d) The proposed date of delivery.

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

(4) If requested by the owner or operator of a landfill in an application for the renewal of or a major modification to an operating license, the department may authorize with conditions and limits in the operating license the disposal of TENORM with concentrations of radium-226 more than 50 picocuries per gram, radium-228 more than 50 picocuries per gram, or lead-210 more than 260 picocuries per gram, or any combination thereof, but not more than 500 picocuries per gram for each radionuclide. An operating license under this part with such an authorization constitutes a license from the state's radiation control authority under part 135 of the public health code, 1978 PA 368, MCL 333.13501 to 333.13537, if the conditions and procedures for issuance of the operating license under this part are sufficient to satisfy the licensing requirements of part 135 of the public health code, 1978 PA 368, MCL 333.13501 to 333.13537.

(5) A request under subsection (4) shall include all of the following:

(a) A radiation safety program that addresses all of the following:

(i) Personnel radiation protection.

(ii) Worker training.

(iii) Radiation surveys.

(iv) Radiation instrument calibration.

(v) Receipt and disposal of radioactive material.

(vi) Emergency procedures.

(vii) Record keeping.

(b) A report evaluating the risks of exposure to residual radioactivity through all relevant pathways using a generally accepted industry model such as the Argonne National Laboratory RESRAD family of codes or, if

approved by the department, another model. The report shall evaluate potential radiation doses to site workers and members of the public during site operation and after site closure. The report shall use reasonable scenarios to evaluate the dose to members of the public.

(c) A description of any steps necessary to ensure the annual dose to members of the public during landfill operation and after site closure will be less than 25 millirem.

(d) A description of an environmental monitoring program under subsection (6).

(6) If TENORM is disposed at a landfill, the operator of the landfill shall conduct a monitoring program that complies with all of the following:

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

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

(c) Penetrating radiation, radioactivity in air, and radon in air are measured as specified in the operating license if the landfill is used to dispose of TENORM with a concentration of radium-226 more than 50 picocuries per gram, radium-228 more than 50 picocuries per gram, or lead-210 more than 260 picocuries per gram.

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

(7) The owner or operator of a landfill shall submit to the department by March 15 each year a report that summarizes the information obtained under subsection (2) for all TENORM disposed at the landfill during the previous calendar year.

(8) The owner or operator of a landfill shall do both of the following:

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

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

History: Add. 2018, Act 688, Eff. Mar. 28, 2019.

Compiler's note: Former MCL 324.11132, which pertained to requirements for hazardous waste transporter business license, was repealed by Act 139 of 1998, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11132a Transporter; duties; inspection; establishment of standards and requirements by rule.

Sec. 11132a. (1) A transporter shall do all of the following:

(a) Obtain and utilize an environmental protection agency identification number in accordance with the rules promulgated under this part.

(b) If transporting by highway, register and be permitted in accordance with the hazardous materials transportation act and carry a copy of the registration and permit on the vehicle for inspection by the department, the department of state police, a peace officer, or a representative of the United States environmental protection agency.

(c) Comply with the transfer facility operating and financial responsibility requirements as required by the rules promulgated under this part.

(d) Comply with the consolidation and commingling requirements as required by the rules promulgated under this part.

(e) Comply with the vehicle requirements as required by the rules promulgated under this part.

(f) Utilize, complete, and retain a manifest for each shipment of hazardous waste as required by this part and the rules promulgated under this part.

(g) Keep all records readily available for review and inspection by the department, the department of state police, a peace officer, or a representative of the United States environmental protection agency.

(h) Retain all records as required by the rules promulgated under this part for a period of 3 years. The retention period required by this subdivision is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

(i) Comply with the reporting requirements as required by the rules promulgated under this part.

(j) Comply with the import and export requirements as required by the rules promulgated under this part.

(k) Comply with the requirements regarding hazardous waste discharges as required by the rules promulgated under this part.

(l) Comply with the land disposal restriction requirements as required by the rules promulgated under this part.

(m) Comply with the universal waste requirements as required by the rules promulgated under this part.

(n) Keep the outside of all vehicles and accessory equipment free of hazardous waste or hazardous waste constituents.

(2) The department may conduct an inspection to verify that the equipment, location, and methods of a transporter are adequate to effectuate service under this part and the rules promulgated under this part. The department shall establish, by rule, the inspection standards and requirements.

History: Add. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11133 Hazardous waste transporter business license; revocation.

Sec. 11133. A hazardous waste transporter business license issued under this part shall be revoked if the holder of the license selected a treatment, storage, or disposal facility which is operated contrary to this part or the rules promulgated under this part or uses a vehicle to store, treat, transport, or dispose of hazardous waste contrary to this part or the rules promulgated under this part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11134 Municipality or county; prohibited conduct.

Sec. 11134. A municipality or county shall not prohibit the transportation of hazardous waste through the municipality or county or prevent the ingress and egress into a licensed treatment, storage, or disposal facility.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11135 Manifest; submission of copy to department; certification; specified destination; determining status of specified waste; exception report; retention period for copy of manifest; extension.

Sec. 11135. (1) A hazardous waste generator shall provide a separate manifest to the transporter for each load of hazardous waste transported to property that is not on the site where it was generated.

(2) A person that fails to provide timely and accurate information or a complete form as provided for in this section is in violation of this part.

(3) A generator shall include on the manifest details as specified by the department and shall at least include a sufficient qualitative and quantitative analysis and a physical description of the hazardous waste to evaluate toxicity and methods of transportation, storage, and disposal. The manifest must include safety precautions as necessary for each load of hazardous waste. The generator shall submit to the department a copy of the manifest within 10 days after the end of the month for each load of hazardous waste transported within that month.

(4) A generator shall certify that the information contained on a manifest prepared by the generator is accurate.

(5) The specified destination of each load of hazardous waste identified on the manifest must be a designated facility.

(6) If a generator does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days after the date on which the hazardous waste was accepted by the initial transporter, the generator shall contact the transporter to determine the status of the hazardous waste. If the generator is unable to determine the status of the hazardous waste upon contacting the transporter, the generator shall contact the owner or operator of the designated facility to which the hazardous waste was to be transported to determine the status of the hazardous waste.

(7) A generator shall submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days after the date on which the hazardous waste was accepted by the initial transporter. The exception report must include all of the following:

(a) A legible copy of the manifest.

(b) A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(8) A generator shall keep a copy of each manifest signed and dated by the initial transporter for 3 years or until the generator receives a signed and dated copy from the owner or operator of the designated facility that received the hazardous waste. The generator shall keep the copy of the manifest signed and dated by the owner or operator of the designated facility for 3 years. The retention periods required by this subsection are automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 403, Imd. Eff. Jan. 6, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 287, Imd. Eff. Sept. 23, 2014;—Am. 2017, Act 90, Imd. Eff. July 12, 2017;—Am. 2021, Act 91, Imd. Eff. Oct. 20, 2021.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11136 Certifying acceptance of waste for transportation; delivery of hazardous waste and manifest; period for keeping copy of manifest; review and inspection of manifest; extension of retention period.

Sec. 11136. (1) The hazardous waste transporter shall certify acceptance of waste for transportation and shall deliver the hazardous waste and accompanying manifest only to the destination specified by the generator on the manifest.

(2) The hazardous waste transporter shall keep a copy of the manifest for a period of 3 years and shall make it readily available for review and inspection by the department, the director of public health, an authorized representative of the director of public health, a peace officer, or a representative of the United States environmental protection agency. The retention period required by this subsection shall be automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11137 Accepting delivery of hazardous waste; condition; duties of owner or operator.

Sec. 11137. The treatment, storage, or disposal facility owner or operator shall accept delivery of hazardous waste only if delivery is accompanied by a manifest properly certified by both the generator and the transporter and the treatment, storage, or disposal facility is the destination indicated on the manifest. The treatment, storage, or disposal facility owner or operator also shall do all of the following:

(a) Certify on the manifest receipt of the hazardous waste and return a signed copy of the manifest to the department within a period of 10 days after the end of the month for all hazardous waste received within that month.

(b) Return a signed copy of the manifest to the generator.

(c) Keep permanent records pursuant to the rules promulgated by the department.

(d) Compile a periodic report of hazardous waste treated, stored, or disposed of as required by the department under rules promulgated by the department.

(e) Retain a copy of each manifest and report described in this section for a period of 3 years and make each copy readily available for review and inspection by the department, the director of public health or a designated representative of the director of public health, a peace officer, or a representative of the United States environmental protection agency. The retention period required by this subdivision is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11138 Generator of hazardous waste; duties; records; report.

Sec. 11138. (1) A generator of hazardous waste shall do all of the following:

(a) Compile and maintain information and records regarding the quantities of hazardous waste generated, characteristics and composition of the hazardous waste, and the disposition of hazardous waste generated.

(b) Utilize proper labeling and containerization of hazardous waste as required by the department.

(c) Provide for the transport of hazardous waste only by a transporter permitted under the hazardous materials transportation act.

(d) Utilize and retain a manifest for each shipment of hazardous waste transported to property that is not on site as required by section 11135 and assure that the treatment, storage, or disposal facility to which the waste is transported is a designated facility.

(e) Provide the information on the manifest as required under section 11135(1) to each person transporting, treating, storing, or disposing of hazardous waste.

(f) Keep all records readily available for review and inspection by the department, the department of state police, a peace officer, or a representative of the United States environmental protection agency.

(g) Retain all records for a period of 3 years. The retention period required by this subdivision is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

(h) Compile and submit a periodic report of hazardous waste generated, stored, transferred, treated, disposed of, or transported for treatment, storage, or disposal as required by the department.

(2) A generator who also operates a treatment, storage, or disposal facility shall keep records of all hazardous waste produced and treated, stored, or disposed. The generator shall submit a report to the department within a period of 10 days after the end of each month for all waste produced and treated, stored, or disposed.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11139 Condition of obtaining operating license for disposal facility; condition of obtaining operating license for landfill.

Sec. 11139. (1) As a condition of obtaining an operating license for a disposal facility pursuant to section 11123, the applicant shall demonstrate to the department that the owner of the property has recorded on the deed to the property or some other document that is normally examined during a title search a notice that will notify in perpetuity any potential purchaser of the following:

(a) That the property has been used to manage hazardous wastes.

(b) That the use of the land should not disturb the final cover, liners, components of any containment system, or the function of the monitoring systems on or in the property.

(c) That the survey plat and records of type, location, and quantity of hazardous waste on or in the property have been filed with the local zoning or land use authority as required by the rules promulgated under this part.

(2) As a condition of obtaining an operating license for a landfill pursuant to section 11123, the applicant shall demonstrate to the department that an instrument imposing a restrictive covenant upon the land involved has been executed by all of the owners of the tract of land upon which the landfill is to be located. The instrument imposing the restrictive covenant shall be filed for record by the department in the office of the register of deeds in the county in which the disposal facility is located. The covenant shall state that the land has been or may be used as a landfill for disposal of hazardous waste and that neither the property owners, agents, or employees, nor any of their heirs, successors, lessees, or assignees shall engage in filling, grading, excavating, building, drilling, or mining on the property following completion of the landfill without authorization of the department. In giving authorization, the department shall consider, at a minimum, the original design, type of operation, hazardous waste deposited, and the state of decomposition of the fill. Before authorizing any activity that would disturb the integrity of the final cover of a landfill, the department must find either that the disturbance of the final cover is necessary to the proposed use of the property and will not increase the potential hazard to human health or the environment or that disturbance of the final cover is necessary to reduce a threat to human health or the environment.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11140 Closure and postclosure monitoring and maintenance plan; submission; contents; rules.

Sec. 11140. (1) The owner or operator of a treatment, storage, or disposal facility shall submit a closure plan to the department as part of the application for an operating license under section 11123. In addition, the owner or operator of a disposal facility shall submit a postclosure monitoring and maintenance plan to the department as part of the application. At a minimum, the closure plan shall include a description of how the facility shall be closed, possible uses of the land after closure, anticipated time until closure, estimated time for closure, and each anticipated partial closure. Those facilities described in section 11123(6) and (8) shall submit a closure and, if required by rule, a postclosure plan with their operating license application.

(2) The department shall promulgate rules regarding notification before closure of a treatment, storage, or disposal facility, length of time permitted for closure, removal and decontamination of equipment, security, groundwater and leachate monitoring system, sampling analysis and reporting requirements, and any other pertinent requirements.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11141 Cost of closing and postclosure monitoring and maintenance of facility; methods of assurance; amount; periodic adjustment; violation.

Sec. 11141. An owner or operator of a treatment, storage, or disposal facility shall file, as a part of the application for a license to operate, a surety bond or other suitable instrument or mechanism or establish a secured trust fund, as approved by the department, to cover the cost of closing the treatment, storage, or disposal facility after its capacity is reached or operations have otherwise terminated. In addition, the owner or operator of a disposal facility shall also file a surety bond or other suitable instrument or mechanism or establish a secured trust fund, approved by the department, to cover the cost of postclosure monitoring and maintenance of the facility. An owner or operator may use a combination of bonds, instruments, mechanisms, or funds, as approved by the department, to satisfy the requirements of this section. The bond, instrument, mechanism, or fund, or combination of these methods of assurance, shall be in an amount equal to a reasonable estimate of the cost required to adequately close the facility, based on the level of operations proposed in the operating license application, and, with respect to a disposal facility, to monitor and maintain the site for a period of at least 30 years. The bond, instrument, mechanism, or fund, or the combination of these methods of assurance, shall be adjusted periodically as determined by rule to account for inflation or changes in the permitted level of operations. Failure to maintain the bond, instrument, mechanism, or fund, or combination of these methods of assurance, constitutes a violation of this part.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11143 Hazardous waste service fund; creation; financing; uses of fund; administration; expenditures; expenses; rules.

Sec. 11143. (1) There is created within the state treasury a hazardous waste service fund of not less than \$1,000,000.00 to be financed by appropriations for the following uses:

(a) For hazardous waste emergencies as defined by rule.

(b) For use in ensuring the closure and post closure monitoring and maintenance of treatment, storage, or disposal facilities.

(2) The department shall administer the fund and authorize expenditures upon a finding of actual or potential environmental damage caused by hazardous waste or when the owner or operator of the treatment, storage, or disposal facility is not fulfilling his or her obligation in regard to closure or postclosure monitoring and maintenance of the site and the surety bond, instrument, mechanism, or secured trust fund maintained by the owner or operator of a treatment, storage, or disposal facility as required by section 11141 is inadequate or

is no longer in effect.

(3) After an expenditure from the fund, the department immediately shall request the attorney general to begin proceedings to recover any expenditure from the fund from the person responsible for the hazardous waste emergency or the owner or operator of a treatment, storage, or disposal facility who is not fulfilling his or her obligation in regard to closure or postclosure monitoring and maintenance of a facility. If the owner of the property refuses to pay expenses incurred, the expenses shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the laws of the state.

(4) The department shall promulgate rules to define a hazardous waste emergency and to establish the method of payment from the fund.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11144 Inspection; filing report for licensed facility; complaint or allegation; record; investigation; report; notice of violation or emergency situation.

Sec. 11144. (1) The department shall inspect and file a written report not less than 4 times per year for each licensed treatment, storage, and disposal facility.

(2) A person may register with the department a complaint or allegation of improper action or violation of this part, a rule, or a condition of the license to operate a treatment, storage, or disposal facility.

(3) Upon receipt of a complaint or allegation from a municipality, the department shall make a record of the complaint and shall order an inspection of the treatment, storage, or disposal facility, or other location of alleged violation to investigate the complaint or allegation within not more than 5 business days after receipt of the complaint or allegation. If a complaint or allegation is of a highly serious nature, as determined by the department, the facility or the location of the alleged violation shall be inspected as quickly as possible.

(4) Following an investigation of a complaint or allegation under subsection (3), the department shall make a written report to the municipality within 15 days.

(5) A person who has knowledge that hazardous waste is being treated, disposed of, or stored in violation of this part shall notify the department. A person who has knowledge that an emergency situation exists shall notify the department and the department of community health.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11145 Administration and enforcement of part by certified health department; certification procedures; rescission of certification; annual grant; costs; rules.

Sec. 11145. (1) The department may certify a city, county, or district health department to administer and enforce portions of this part but only to an extent consistent with obtaining and maintaining authorization of the state's hazardous waste management program pursuant to sections 3006 to 3009 of subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6926 to 6929. Certification procedures shall be established by the department by rule. The department may rescind certification upon the request of the certified city, county, or district health department, or after reasonable notice and hearing, if the department finds that a certified health department is not administering and enforcing this part as required.

(2) In order for a certified health department to carry out the responsibilities authorized under this part, an annual grant shall be appropriated by the legislature from the general fund of the state to provide financial assistance to each certified health department. A certified health department shall be eligible to receive 100% of its reasonable costs as determined by the department based on criteria established by rule. The department shall promulgate rules for distribution of the appropriated funds.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

Administrative rules: R 299.9101 et seq. of the Michigan Administrative Code.

324.11146 Request for information and records; purpose; court authorization; inspection; samples; probable cause as to violation; search and seizure; forfeiture.

Sec. 11146. (1) Any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste shall furnish information relating to the hazardous wastes or permit access to and copying of all records relating to the hazardous wastes, or both, if the information and records are required to be kept under this part or the rules promulgated under this part, upon a request of the department, made for the purpose of developing a rule or enforcing or administering this part or a rule promulgated under this part. This subsection does not limit the department's authority to pursue appropriate court authorization in order to obtain information pertaining to enforcement actions under this part.

(2) The department may enter at reasonable times any treatment, storage, or disposal facility or other place where hazardous wastes are or have been generated, stored, treated, disposed of, or transported from and may inspect the facility or other place and obtain from any person samples of the hazardous wastes and samples of the containers or labeling of the wastes for the purpose of developing a rule or enforcing or administering this part or a rule promulgated under this part.

(3) If the department or a law enforcement official has probable cause to believe that a person is violating this part or a rule promulgated under this part, the department or law enforcement official may search without a warrant a vehicle or equipment that is possessed, used, or operated by that person. The department or a law enforcement official may seize a vehicle, equipment, or other property used or operated in a manner or for a purpose contrary to this part or a rule promulgated under this part. A vehicle, equipment, or other property used in violation of this part or a rule promulgated under this part is subject to seizure and forfeiture as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11147 Violation as misdemeanor; penalty; appearance ticket.

Sec. 11147. A person who violates section 11132a(1)(b) or (n) or who violates rules promulgated under section 11132a(1)(b) or (n) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, for each violation. A law enforcement officer or a conservation officer may issue an appearance ticket to a person who is in violation of section 11132a(1)(b) or (n) or the rules promulgated under section 11132a(1)(b) or (n).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11148 Imminent and substantial hazard to health; endangering or causing damage to public health or environment; actions by director; determination.

Sec. 11148. (1) Subject to subsection (2), upon receipt of information that the storage, transportation, treatment, or disposal of hazardous waste may present an imminent and substantial hazard to the health of persons or to the natural resources, or is endangering or causing damage to public health or the environment, the department, after consultation with the director of public health or a designated representative of the director of public health, shall take 1 or more of the following actions:

(a) Issue an order directing the owner or operator of the treatment, storage, or disposal facility, the generator, the transporter, or the custodian of the hazardous waste that constitutes the hazard, to take the steps necessary to prevent the act or eliminate the practice that constitutes the hazard. The order may include permanent or temporary cessation of the operation of a treatment, storage, or disposal facility, generator, or transporter. An order issued under this subdivision may be issued without prior notice or hearing and shall be complied with immediately. An order issued under this subdivision shall not remain in effect more than 7 days without affording the owner or operator or custodian an opportunity for a hearing. In issuing an order calling for corrective action, the department shall specify the precise nature of the corrective action necessary and the specific time limits for performing the corrective action. If corrective action is not completed within the time limit specified and pursuant to the department's requirements, the department shall issue a cease and desist order against the owner or operator of the treatment, storage, or disposal facility, generator, or transporter and initiate action to revoke the operating license and take appropriate action.

(b) Request that the attorney general commence an action to enjoin the act or practice and obtain injunctive relief upon a showing by the department that a person has engaged in the prohibited act or practice.

(c) Revoke a permit, license, or construction permit after reasonable notice and hearing pursuant to the

administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, if the department finds that a treatment, storage, or disposal facility is not, or has not been, constructed or operated pursuant to the approved plans or this part and the rules promulgated under this part, or the conditions of a license or construction permit.

(2) A determination of an instance of imminent and substantial hazard to the health of persons shall be made by the director of community health.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 139, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11149 Tearing down, removing, or destroying sign or notice as misdemeanor; penalty.

Sec. 11149. A person who willfully tears down, removes, or destroys any sign or notice warning of the presence of hazardous waste or marking the boundaries of a hazardous waste treatment, storage, or disposal facility is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11150 Order of noncompliance; order suspending or restricting license of facility.

Sec. 11150. (1) Upon receipt and verification of information that a licensed storage, treatment, or disposal facility does not have or has not maintained a suitable instrument or mechanism required under section 11141, or that the hazardous waste at the licensed facility exceeds the maximum quantities allowed under the storage, treatment, or disposal facility's license issued under this part, the department may issue an order of noncompliance directing the owner or operator of the storage, treatment, or disposal facility to take steps to eliminate the act or practice that results in a violation listed in this section. An order issued pursuant to this section shall specify the corrective action necessary and may order a licensed facility that has exceeded the maximum quantities of hazardous waste allowed under the terms of the facility's license to cease receiving hazardous waste. The order shall specify the time limit in which corrective action must be completed. If a licensed storage, treatment, or disposal facility comes into compliance with this part following the issuance of an order of noncompliance, the department shall send written verification of compliance to the owner or operator of the facility.

(2) An order of noncompliance issued pursuant to subsection (1) that requires a licensed facility to reduce the quantity of hazardous waste on site and to cease receiving hazardous waste shall not remain in effect for more than 7 days without affording the owner or operator an opportunity for a hearing. If the order remains in effect following the hearing, or if the owner or operator of the facility waives his or her right to a hearing, the owner or operator shall cooperate with the department in developing and implementing a compliance plan to reduce the amount of hazardous waste at the facility. If the department determines that the owner or operator has failed to make reasonable and continuous efforts to comply with the order of noncompliance and the resulting compliance plan, the department may issue an order suspending or restricting the facility's license pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. An order provided for in this subsection that suspends or restricts a license following the licensed facility's failure to comply with an order of noncompliance provided for in this section shall not remain in effect for more than 7 days without affording the owner or operator of the facility an opportunity for a hearing to contest the suspension or restriction.

(3) If the owner or operator of a storage, treatment, or disposal facility receives an order of noncompliance issued pursuant to subsection (1) for failing to maintain a suitable instrument or mechanism required under section 11141 and does not make reasonable efforts to comply with the order of noncompliance, the department may issue an order suspending or restricting the facility's license pursuant to Act No. 306 of the Public Acts of 1969. An order provided for in this subsection that suspends or restricts a license following the licensed facility's failure to comply with an order of noncompliance provided for in this section shall not remain in effect for more than 7 days without affording the owner or operator of the facility an opportunity for a hearing to contest the suspension or restriction.

(4) Upon receipt and verification that a storage, treatment, or disposal facility has not maintained a suitable instrument or mechanism required under section 11141 or that hazardous waste at a licensed facility exceeds

the maximum quantities allowed under the facility's license and the owner or operator of the facility has previously been issued an order of noncompliance under this section, the department may do either of the following:

(a) Issue a second or subsequent order of noncompliance and proceed in the manner provided for in subsection (2) or (3).

(b) Initiate an action to suspend or restrict the facility's license or permit pursuant to Act No. 306 of the Public Acts of 1969, without first issuing an order of noncompliance.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11151 Violation of permit, license, rule, or part; order requiring compliance; civil action; jurisdiction; imposition, collection, and disposition of fine; conduct constituting misdemeanor; penalty; state of mind and knowledge; affirmative defense; preponderance of evidence; definition; action for damages and costs; disposition and use of damages and costs collected; awarding costs of litigation; intervention.

Sec. 11151. (1) If the department finds that a person is in violation of a permit, license, rule promulgated under this part, or requirement of this part including a corrective action requirement of this part, the department may issue an order requiring the person to comply with the permit, license, rule, or requirement of this part including a corrective action requirement of this part. The attorney general or a person may commence a civil action against a person, the department, or a health department certified under section 11145 for appropriate relief, including injunctive relief for a violation of this part including a corrective action requirement of this part, or a rule promulgated under this part. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance. In addition to any other relief granted under this subsection, the court may impose a civil fine of not more than \$25,000.00 for each instance of violation and, if the violation is continuous, for each day of continued noncompliance. A fine collected under this subsection shall be deposited in the general fund of the state.

(2) A person who transports, treats, stores, disposes, or generates hazardous waste in violation of this part, or contrary to a permit, license, order, or rule issued or promulgated under this part, or who makes a false statement, representation, or certification in an application for, or form pertaining to, a permit, license, or order or in a notice or report required by the terms and conditions of an issued permit, license, or order, or a person who violates section 11144(5), is guilty of a misdemeanor punishable by a fine of not more than \$25,000.00 for each instance of violation and, if the violation is continuous, for each day of violation, or imprisonment for not more than 1 year, or both. If the conviction is for a violation committed after a first conviction of the person under this subsection, the person is guilty of a misdemeanor punishable by a fine of not more than \$50,000.00 for each instance of violation and, if the violation is continuous, for each day of violation, or by imprisonment for not more than 2 years, or both. Additionally, a person who is convicted of a violation under this subsection shall be ordered to pay all costs of corrective action associated with the violation.

(3) Any person who knowingly stores, treats, transports, or disposes of any hazardous waste in violation of subsection (2) and who knows at that time that he or she thereby places another person in imminent danger of death or serious bodily injury, and if his or her conduct in the circumstances manifests an unjustified and inexcusable disregard for human life, or if his or her conduct in the circumstances manifests an extreme indifference for human life, upon conviction, is subject to a fine of not more than \$250,000.00 or imprisonment for not more than 2 years, or both, except that any person whose actions constitute an extreme indifference for human life, upon conviction, is subject to a fine of not more than \$250,000.00 or imprisonment for not more than 5 years, or both. A defendant that is not an individual and not a governmental entity, upon conviction, is subject to a fine of not more than \$1,000,000.00. Additionally, a person who is convicted of a violation under this subsection shall be ordered to pay all costs of corrective action associated with the violation.

(4) For the purposes of subsection (3), a person's state of mind is knowing with respect to:

(a) His or her conduct, if he or she is aware of the nature of his or her conduct.

(b) An existing circumstance, if he or she is aware or believes that the circumstance exists.

(c) A result of his or her conduct, if he or she is aware or believes that his or her conduct is substantially certain to cause danger of death or serious bodily injury.

(5) For purposes of subsection (3), in determining whether a defendant who is an individual knew that his or her conduct placed another person in imminent danger of death or serious bodily injury, both of the following apply:

(a) The person is responsible only for actual awareness or actual belief that he or she possessed.

(b) Knowledge possessed by a person other than the defendant but not by the defendant himself or herself may not be attributed to the defendant. However, in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself or herself from relevant information.

(6) It is an affirmative defense to a prosecution under this part that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of either of the following:

(a) An occupation, a business, or a profession.

(b) Medical treatment or professionally approved methods and the other person had been made aware of the risks involved prior to giving consent.

(7) The defendant may establish an affirmative defense under subsection (6) by a preponderance of the evidence.

(8) For purposes of subsection (3), "serious bodily injury" means each of the following:

(a) Bodily injury that involves a substantial risk of death.

(b) Unconsciousness.

(c) Extreme physical pain.

(d) Protracted and obvious disfigurement.

(e) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(9) In addition to a fine, the attorney general may bring an action in a court of competent jurisdiction to recover the full value of the damage done to the natural resources of this state and the costs of surveillance and enforcement by the state resulting from the violation. The damages and cost collected under this subsection shall be deposited in the general fund if the damages or costs result from impairment or destruction of the fish, wildlife, or other natural resources of the state and shall be used to restore, rehabilitate, or mitigate the damage to those resources in the affected area, and for the specific resource to which the damages occurred.

(10) The court, in issuing a final order in an action brought under this part, may award costs of litigation, including reasonable attorney and expert witness fees to a party, if the court determines that the award is appropriate.

(11) A person who has an interest that is or may be affected by a civil or administrative action commenced under this part has a right to intervene in that action.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 439, Eff. Mar. 23, 1999.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11152 Interstate and international cooperation; purpose.

Sec. 11152. The department shall encourage interstate and international cooperation for the improved management of hazardous waste; for improved, and so far as is practicable, uniform state laws relating to the management of hazardous waste; and compacts between this and other states for the improved management of hazardous waste.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA

324.11153 Site identification number; user charges; violations; maintenance of information; summary of findings; report; definitions.

Sec. 11153. (1) A generator, transporter, or treatment, storage, or disposal facility shall obtain and utilize a site identification number assigned by the United States Environmental Protection Agency or the department. Until October 1, 2025, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subsection unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received by the department.

(2) Until October 1, 2025, the department shall annually assess hazardous waste management program user charges as follows:

(a) A generator shall pay a handler user charge that is the highest of the following applicable fees:

(i) A generator that generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in any month during the calendar year shall pay to the department an annual handler user charge of \$100.00.

(ii) A generator that generates 1,000 kilograms or more of hazardous waste in any month during the calendar year and that generates less than 900,000 kilograms during the calendar year shall pay to the department an annual handler user charge of \$400.00.

(iii) A generator that generates 1,000 kilograms or more of hazardous waste in any month during the calendar year and that generates 900,000 kilograms or more of hazardous waste during the calendar year shall pay to the department an annual handler user charge of \$1,000.00.

(b) An owner or operator of a treatment, storage, or disposal facility for which an operating license is required under section 11123 or for which an operating license is issued under section 11125 shall pay to the department an annual handler user charge of \$2,000.00.

(c) A used oil processor or rerefiner, a used oil burner, or a used oil fuel marketer as defined in the rules promulgated under this part shall pay to the department an annual handler user charge of \$100.00.

(3) A handler shall pay the handler user charge specified in subsection (2)(a) to (c) for each of the activities conducted during the previous calendar year.

(4) Handler user charges must be paid using a form provided by the department. The handler shall certify that the information on the form is accurate. The department shall send forms to the handlers by March 30 of each year. A handler shall return the completed forms and the appropriate payment to the department by April 30 of each year.

(5) A handler that fails to provide timely and accurate information, a complete form, or the appropriate handler user charge is in violation of this part and is subject to both of the following:

(a) Payment of the handler user charge and an administrative fine of 5% of the amount owed for each month that the payment is delinquent. Any payments received after the fifteenth of the month after the due date are delinquent for that month. However, the administrative fine must not exceed 25% of the total amount owed.

(b) Beginning 5 months after the date payment of the handler user charge is due, if the amount owed under subdivision (a) is not paid in full, at the request of the department, an action by the attorney general for the collection of the amount owed under subdivision (a) and the actual cost to the department in attempting to collect the amount owed under subdivision (a).

(6) The department shall maintain information regarding the site identification number user charges and the handler user charges collected under this section as necessary to satisfy the reporting requirements of subsection (8).

(7) The site identification number user charges and the handler user charges collected under this section and any amounts collected under subsection (5) for a violation of this section must be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130.

(8) The department shall evaluate the effectiveness and adequacy of the site identification number user charges and the handler user charges collected under this section relative to the overall revenue needs of the hazardous waste management program administered under this part. Not later than April 1 of each even-numbered year, the department shall submit to the legislature a report summarizing the department's findings under this subsection.

(9) As used in this section:

(a) "Handler" means the person required to pay the handler user charge.

(b) "Handler user charge" means an annual hazardous waste management program user charge provided for in subsection (2).

History: Add. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 403, Imd. Eff. Jan. 6, 2009;—Am. 2010, Act 357, Imd. Eff. Dec. 22, 2010;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 287, Imd. Eff. Sept. 23, 2014;—Am. 2017, Act 90, Imd. Eff. July 12, 2017;—Am. 2021, Act 91, Imd. Eff. Oct. 20, 2021.

Popular name: Act 451

Popular name: Hazardous Waste Act

Popular name: NREPA