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

CHAPTER 3
WASTE MANAGEMENT

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

PART 113
LANDFILL MAINTENANCE TRUST FUND

324.11301 Definitions.

Sec. 11301. As used in this part:

(a) "Fund" means the landfill maintenance trust fund created in section 11302 .

(b) "Response activity" means response activity as defined in part 201.

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: NREPA

324.11302 Landfill maintenance trust fund; creation; separate fund; revenue.

Sec. 11302. (1) There is hereby created the landfill maintenance trust fund. The fund shall be established as a separate fund in the department of treasury.

(2) The fund shall receive as revenue money from any source not to exceed $500,000.00, as appropriated by the legislature.

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: NREPA

324.11303 Expenditure of interest and earnings of fund; manner of maintaining corpus of fund.

Sec. 11303. (1) The interest and earnings of the fund shall be expended by the department to monitor the effectiveness of response activity and to provide necessary long-term maintenance only at those landfills that are sites of polybrominated biphenyls contamination where the department has undertaken response activity through the use of funds appropriated by the state from a judicially approved settlement.

(2) The corpus of the fund shall be maintained by the state treasurer in a manner that will provide for future disbursements to the department to ensure that the sites described in subsection (1) are properly monitored and maintained for as long as considered necessary by the department to assure the protection of the public health, safety, welfare, and the environment.

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

Popular name: Act 451

Popular name: NREPA

324.11304 Investment of fund.

Sec. 11304. The state treasurer shall direct the investment of the fund in the same manner as surplus funds are invested.

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

Popular name: Act 451

Popular name: NREPA

PART 115
SOLID WASTE MANAGEMENT

SUBPART 1
GENERAL AND DEFINITIONS

324.11501 Meanings of words and phrases.

Sec. 11501. For purposes of this part, the words and phrases defined in sections 11502 to 11506 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 324.99903 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11502 Definitions; A to C.

Sec. 11502. (1) "Agreement" means a written contract.

(2) "Agronomic rate" means a rate that meets both of the following requirements:

(a) Is generally recognized by the agricultural community or is calculated for a particular area of land to improve the physical nature of soil, such as structure, tilth, water retention, pH, or porosity, or to provide macronutrients or micronutrients in an amount not materially in excess of that needed by the crop, forest, or vegetation grown on the land.

(b) Takes into account and minimizes runoff of beneficial use by-products to surface water or neighboring properties, the percolation of excess nutrients beyond the root zone, and the liberation of metals from the soil into groundwater.

(3) "Anaerobic digester" means a facility that uses microorganisms to break down biodegradable material in the absence of oxygen, producing methane and an organic product.

(4) "Animal bedding" means a mixture of manure and wood chips, sawdust, shredded paper or cardboard, hay, straw, or other similar fibrous materials normally used for bedding animals.

(5) "Ashes" means the residue from the burning of wood, scrap wood, tires, biomass, wastewater sludge, fossil fuels including coal or coke, or other combustible materials.

(6) "Benchmark recycling standards" means all of the following requirements:

(a) By January 1, 2026, at least 90% of single-family dwellings in urban areas as identified by the most recent federal decennial census and, by January 1, 2028, at least 90% of single-family dwellings in municipalities with more than 5,000 residents have access to curbside recycling that meets all of the following criteria:

(*i*) One or more recyclable materials, as determined by the county's material management plan, that are typically collected through curbside recycling programs, are collected at least twice per month.

(*ii*) If recyclable materials are not collected separately, the mixed load is delivered to a solid waste processing and transfer facility and the recyclable materials are separated from material to be sent to a solid waste disposal area.

(*iii*) Recyclable materials collected are delivered to a materials recovery facility that complies with part 115 or are managed appropriately at an out-of-state recycling facility.

(*iv*) The curbside recycling is provided by the municipality or the resident has access to curbside recycling by the resident's chosen hauler.

(b) By January 1, 2032, the following additional criteria:

(*i*) In counties with a population of less than 100,000, there is at least 1 drop-off location for each 10,000 residents without access to curbside recycling at their dwelling, and the drop-off location is available at least 24 hours per month.

(*ii*) In counties with a population of 100,000 or more, there is at least 1 drop-off location for each 50,000 residents without access to curbside recycling at their dwelling, and the drop-off location is available at least 24 hours per month.

(7) "Beneficial use 1" means use as aggregate, road material, or building material that in ultimate use is or will be bonded or encapsulated by cement, limes, or asphalt.

(8) "Beneficial use 2" means use as any of the following:

(a) Construction fill at nonresidential property that meets all of the following requirements:

(*i*) Is placed at least 4 feet above the seasonal groundwater table.

(*ii*) Does not come into contact with a surface water body.

(*iii*) Is covered by concrete, asphalt pavement, or other material approved by the department.

(*iv*) Does not exceed 4 feet in thickness, except for areas where exceedances are incidental to variations in the existing topography. This subparagraph does not apply to construction fill placed underneath a building or other structure.

(b) Road base or soil stabilizer that does not exceed 4 feet in thickness except for areas where exceedances are incidental to variations in existing topography, is placed at least 4 feet above the seasonal groundwater table, does not come into contact with a surface water body, and is covered by concrete, asphalt pavement, or other material approved by the department.

(c) Road shoulder material that does not exceed 4 feet in thickness except for areas where exceedances are

incidental to variations in existing topography, is placed at least 4 feet above the seasonal groundwater table, does not come into contact with a surface water body, is sloped, and is covered by asphalt pavement, concrete, 6 inches of gravel, or other material approved by the department.

(9) "Beneficial use 3" means applied to land as a fertilizer or soil conditioner under part 85 or a liming material under 1955 PA 162, MCL 290.531 to 290.538, if all of the following requirements are met:

(a) The material is applied at an agronomic rate consistent with GAAMPS.

(b) The use, placement, or storage at the location of use does not do any of the following:

(*i*) Violate part 55 or create a nuisance.

(*ii*) Cause groundwater to no longer be fit for 1 or more protected uses as defined in R 323.2202 of the MAC.

(*iii*) Cause a violation of a part 31 surface water quality standard.

(10) "Beneficial use 4" means any of the following uses:

(a) To stabilize, neutralize, solidify, or otherwise treat waste for ultimate disposal at a facility licensed under this part or part 111.

(b) To treat wastewater, wastewater treatment sludge, or wastewater sludge in compliance with part 31 or the federal water pollution control act, 33 USC 1251 to 1388, at a private or publicly owned wastewater treatment plant.

(c) To stabilize, neutralize, solidify, cap, or otherwise remediate hazardous substances or contaminants as part of a response activity in compliance with part 201, part 213, or the comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601 to 9657, or a corrective action in compliance with part 111 or the solid waste disposal act, 42 USC 6901 to 6992k.

(d) As construction material at a landfill licensed under this part.

(e) As alternate daily cover at a licensed landfill in compliance with an operational plan approved pursuant to R 299.4429 of the MAC.

(11) "Beneficial use 5" means blended with inert materials or with compost and used to manufacture soil.

(12) "Beneficial use by-product" means the following materials if the materials are stored for beneficial use or are used beneficially as specified and the requirements of section 11551(1) are met:

(a) Coal bottom ash or wood ash used for beneficial use 3 or wood ash or coal ash, except for segregated flue gas desulfurization material, used for beneficial use 1, 2, or 4.

(b) Pulp and paper mill ash used for beneficial use 1, 2, 3, or 4.

(c) Mixed wood ash used for beneficial use 1, 2, 3, or 4.

(d) Cement kiln dust used as a flue gas scrubbing reagent or for beneficial use 1, 2, 3, or 4.

(e) Lime kiln dust used as a flue gas scrubbing reagent or for beneficial use 1, 2, 3, or 4.

(f) Stamp sands used for beneficial use 1 or 2.

(g) Foundry sand from ferrous or aluminum foundries used for beneficial use 1, 2, 3, 4, or 5.

(h) Pulp and paper mill material, other than the following, used for beneficial use 3:

(*i*) Rejects, from screens, cleaners, and mills dispersion equipment, containing more than de minimis amounts of plastic.

(*ii*) Scrap paper.

(i) Spent media from sandblasting, with uncontaminated sand, newly manufactured, unpainted steel used for beneficial use 1 or 2.

(j) Dewatered concrete grinding slurry from public transportation agency road projects used for beneficial use 1, 2, 3, or 4.

(k) Lime softening residuals from the treatment and conditioning of water for domestic use or from a community water supply used for beneficial use 3 or 4.

(*l*) Soil washed or otherwise removed from sugar beets that is used for beneficial use 3.

(m) Segregated flue gas desulfurization material used for beneficial use 1 or 3.

(n) Materials and uses approved by the department under section 11553(3) or (4). Approval of materials and uses by the department under section 11553(3) or (4) does not require the use of those materials by any governmental entity or any other person.

(13) "Beverage container" means an airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains 1 gallon or less of any of the following:

(a) A soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink.

(b) A beer, ale, or other malt drink of whatever alcoholic content.

(c) A mixed wine drink or a mixed spirit drink.

(14) "Biosolids" means a solid, semisolid, or liquid that has been treated to meet the requirements of R 323.2414 of the MAC. Biosolids include, but are not limited to, scum or solids removed in a primary,

secondary, or advanced wastewater treatment process and a derivative of the removed scum or solids.

(15) "Bond" means a financial instrument guaranteeing performance, including a surety bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, an irrevocable letter of credit, an insurance policy, a trust fund, an escrow account, or a combination of any of these instruments in favor of the department.

(16) "Captive facility" means a landfill or coal ash impoundment that accepts for disposal, and accepted for disposal during the previous calendar year, only nonhazardous industrial waste generated only by the owner of the landfill or coal ash impoundment.

(17) "Captive type III landfill" means a type III landfill that meets either of the following requirements:

(a) Accepts for disposal only nonhazardous industrial waste generated only by the owner of the landfill.

(b) Is a nonhazardous industrial waste landfill described in section 11525(4)(a), (b), or (c).

(18) "Cement kiln dust" means particulate matter collected in air emission control devices serving Portland cement kilns.

(19) "Certificate of deposit" means a certificate of deposit that meets all of the following requirements:

(a) Is negotiable.

(b) Is held by a bank or other financial institution regulated and examined by a state or federal agency.

(c) Is fully insured by an agency of the United States government.

(d) Is in the sole name of the department.

(e) Has a maturity date of not less than 1 year.

(f) Is renewed not later than 60 days before the maturity date.

(20) "Certified health department" means a city, county, or district department of health certified under section 11507a.

(21) "Chemical recycling" means a manufacturing process for the conversion of source separated post-use polymers into basic raw materials, feedstocks, chemicals, and other products through processes that include pyrolysis (catalytic and noncatalytic), gasification, depolymerization, hydrogenation, solvolysis, and other similar chemical technologies. The recycled products produced include, but are not limited to, monomers, oligomers, plastics, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and adhesives. For the purposes of part 115, chemical recycling does not include incineration of plastics, waste-to-energy processes, or activities performed at a facility excluded from the definition of materials management facility by section 11504(25). Products sold as fuel are not recycled products. For purposes of part 115, chemical recycling is not solid waste management, solid waste processing, waste diversion, resource recovery, municipal solid waste incineration or combustion, the conversion of waste to energy, or identification, separation, or sorting of recyclable materials through mechanical processes.

(22) "Chemical recycling facility" means a manufacturing facility that receives, stores, and, using chemical recycling, converts post-use polymers. A chemical recycling facility is a manufacturing facility subject to applicable requirements of this act and rules promulgated under this act concerning air, water, waste, and land use or any other applicable regulation. A chemical recycling facility is not a solid waste processing plant, solid waste transfer facility, waste diversion center, resource recovery facility, or municipal solid waste incinerator.

(23) "Class 1 compostable material" means any of the following:

(a) Yard waste.

(b) Wood.

(c) Food waste.

(d) Paper products.

(e) Manure or animal bedding.

(f) Anaerobic digester digestate that does not contain free liquids.

(g) Compostable products.

(h) Dead animals unless infectious or managed under 1982 PA 239, MCL 287.651 to 287.683.

(i) Spent grain from breweries.

(j) Paunch.

(k) Food processing residuals.

(*l*) Aquatic plants.

(m) Any other material, including, but not limited to, fat, oil, or grease, that the department classifies as class 1 compostable material under section 11562 or that is approved as part of a large composting facility operations plan.

(n) A mixture of any of these materials.

(24) "Class 1 composting facility" means a composting facility where only class 1 compostable material is composted.

(25) "Class 2 compostable material" means mixed municipal solid waste, biosolids, state or federal controlled substances, and all other compostable material that is not listed or approved as a class 1 compostable material.

(26) "Class 2 composting facility" means a composting facility where class 2 compostable material or a combination of class 2 compostable material and class 1 compostable material is composted.

(27) "Coal ash", subject to subsection (28), means any of the following:

(a) Material recovered from systems for the control of air pollution from, or the noncombusted residue remaining after, the combustion of coal or coal coke, including, but not limited to, coal bottom ash, fly ash, boiler slag, flue gas desulfurization materials, or fluidized-bed combustion ash.

(b) Residuals removed from coal ash impoundments.

(28) For beneficial use 2, coal ash does not include coal fly ash except for the following if used at nonresidential property:

(a) Class C fly ash under ASTM C618-12A, "Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use in Concrete", by ASTM International.

(b) Class F fly ash under ASTM C618-12A, if that fly ash forms a pozzolanic-stabilized mixture by being blended with lime, Portland cement, or cement kiln dust.

(c) A combination of class C fly ash and class F fly ash under ASTM C618-12A if that combination forms a pozzolanic-stabilized mixture by being blended with lime, Portland cement, or cement kiln dust and is used as a road base, soil stabilizer, or road shoulder material under beneficial use 2.

(29) "Coal ash impoundment" means a natural topographic depression, man-made excavation, or diked area that is designed to hold and, after October 14, 2015, accepted an accumulation of coal ash and liquids or other materials approved by the department for treatment, storage, or disposal and did not receive department approval of its closure. A coal ash impoundment in existence before October 14, 2015 that receives waste after December 28, 2018, and that does not have a permit pursuant to part 31, is considered an open dump beginning December 28, 2020 unless the owner or operator has completed closure of the coal ash impoundment under section 11519b or obtained an operating license for the coal ash impoundment. Coal ash impoundment includes an existing coal ash impoundment.

(30) "Coal ash landfill" means a landfill that is used for the disposal of coal ash and may also be used for the disposal of inert materials and construction material used for purposes of meeting the definition of beneficial use 4, or other materials approved by the department.

(31) "Coal bottom ash" means ash particles from the combustion of coal that are too large to be carried in flue gases and that collect on furnace walls or at the bottom of the furnace.

(32) "Collection center" means a tract of land, building, unit, or appurtenance or combination thereof that is used to collect junk motor vehicles and farm implements under section 11530.

(33) "Commercial waste", subject to subsection (34), means solid waste generated by nonmanufacturing activities, including, but not limited to, solid waste from any of the following:

(a) Stores.

(b) Offices.

(c) Restaurants.

(d) Warehouses.

(e) Multifamily dwellings.

(f) Hotels and motels.

(g) Bunkhouses.

(h) Ranger stations.

(i) Crew quarters.

(j) Campgrounds.

(k) Picnic grounds.

(*l*) Day use recreation areas.

(m) Hospitals.

(n) Schools.

(34) Commercial waste does not include household waste, hazardous waste, or industrial waste.

(35) "Compost additive" means any of the following materials if added to finished compost to improve the quality of the finished compost:

(a) Products designed to enhance finished compost.

(b) Sugar beet limes.

(c) Wood ash.

(d) Drywall.

(e) Synthetic gypsum.

(f) Other materials approved by the department.

(36) "Compostable material" means organic material that can be converted to finished compost. Compostable material comprises class 1 compostable material and class 2 compostable material.

(37) "Compostable products" means utensils, food service containers, and other packaging and products that are certified by the Biodegradable Products Institute or an equivalent, recognized, third-party, independent verification body, as meeting either of the following requirements:

(a) ASTM D6400, "Standard Specification for Labeling of Plastics Designed to Be Aerobically Composted in Municipal or Industrial Facilities", by ASTM International.

(b) ASTM D6868, "Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to Be Aerobically Composted in Municipal or Industrial Facilities", by ASTM International.

(38) "Composting" means a process of biological decomposition of class 1 compostable material or class 2 compostable material that meets the following requirements:

(a) Is carried out as provided in either of the following:

(*i*) In a system using vermiculture.

(*ii*) Under controlled aerobic conditions using mechanical handling techniques such as physical turning, windrowing, or aeration or using other management techniques approved by the department. For the purposes of this subparagraph, aerobic conditions may include the presence of insignificant anaerobic zones within the composting material.

(b) Stabilizes the organic fraction into a material that can be stored, handled, and used easily, safely, and in an environmentally acceptable manner.

(39) "Composting facility" means a facility where composting occurs. However, composting facility does not include a site where only composting described in section 11555(1)(a), (b), or (e) occurs.

(40) "Consistency review" means evaluation of the administrative and technical components of an application for a permit or license or evaluation of operating conditions in the course of inspection, for the purpose of determining consistency with the requirements of part 115 and approved plans and specifications.

(41) "Corrective action" means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of constituents, as defined in a materials management facility's approved hydrogeological monitoring plan, released into the environment from a materials management facility, or the taking of other actions related to the release as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources that is consistent with subtitle D of the solid waste disposal act, 42 USC 6941 to 6949a, and regulations promulgated thereunder.

(42) "County approval agency" or "CAA" means the county board of commissioners, the municipalities in the county, or the regional planning agency, whichever submits a notice of intent to prepare a materials management plan under section 11571.

(43) "County board of commissioners" means the county board of commissioners or the elected county executive, as appropriate.

(44) "Custodial care" includes all of the following:

(a) Preventing deep-rooted vegetation from establishing on the final cover.

(b) Repairing erosion damage on the final cover.

(c) Maintaining stormwater controls.

(d) Maintaining limited access to the site.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2004, Act 35, Imd. Eff. Mar. 19, 2004;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 243, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11503 Definitions; D to G.

Sec. 11503. (1) "De minimis" refers to a small amount of material or number of items, as applicable, incidentally commingled with inert material for beneficial use by-products or with source separated material or incidentally disposed of with other solid waste.

(2) "Department", subject to section 11554, means the department of environment, Great Lakes, and energy.

(3) "Depolymerization" means a manufacturing process in which post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, or coatings.

(4) "Designated planning agency" or "DPA" means the planning agency designated under section 11571(10). Designated planning agency does not mean a regional planning agency unless the county approval agency identifies the regional planning agency as the DPA.

(5) "Director" means the director of the department.

(6) "Discharge" includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the environment that is or may become injurious to the environment, natural resources, or the public health, safety, or welfare.

(7) "Disposal area", subject to section 11555(6), means 1 or more of the following that accepts solid waste at a location as defined by the boundary identified in its construction permit, in engineering plans approved by the department, or in a notification or registration:

(a) A solid waste processing and transfer facility.

(b) A municipal solid waste incinerator.

(c) A landfill.

(d) A coal ash impoundment.

(e) Any other solid waste handling or disposal facility utilized in the disposal of solid waste, as determined by the department.

(8) "Diverted waste" means waste that meets all of the following requirements:

(a) Is generated by households, businesses, or governmental entities.

(b) Can lawfully be disposed of at a licensed landfill or municipal solid waste incinerator.

(c) Is separated from other waste.

(d) Is 1 or more of the following:

(*i*) Hazardous material.

(*ii*) Liquid waste.

(*iii*) Pharmaceuticals.

(*iv*) Electronics.

(*v*) Batteries.

(*vi*) Light bulbs.

(*vii*) Pesticides.

(*viii*) Thermostats, switches, thermometers, or other devices that contain elemental mercury.

(*ix*) Sharps.

(*x*) Other waste approved by the department that can be readily separated from solid waste for diversion to preferred methods of management and disposal.

(9) "Enforceable mechanism" means a legal method that authorizes this state, a county, a municipality, or another person to take action to guarantee compliance with a materials management plan. Enforceable mechanisms include agreements, laws, ordinances, rules, and regulations.

(10) "EPA" means the United States Environmental Protection Agency.

(11) "Escrow account" means an account that is managed by a bank or other financial institution whose account operations are regulated and examined by a federal or state agency and that complies with section 11523b.

(12) "Existing coal ash impoundment" means a coal ash impoundment that received coal ash before December 28, 2018, and that, as of that date, had not initiated elements of closure that include dewatering, stabilizing residuals, or placement of an engineered cover or otherwise closed pursuant to its part 31 permit or pursuant to R 299.4309 of the MAC and, therefore, is capable of receiving coal ash in the future. A coal ash impoundment that has initiated closure is considered an open dump unless the owner or operator has completed closure of the coal ash impoundment under section 11519b or obtained an operating license for the coal ash impoundment by December 28, 2020.

(13) "Existing coal ash landfill" means a coal ash landfill to which either of the following applies:

(a) The landfill received coal ash both before and after October 19, 2015.

(b) Construction of the landfill commenced before October 19, 2015, and the landfill received coal ash on or after October 19, 2015. For the purposes of this subdivision, construction of a landfill commenced before October 19, 2015 if both of the following requirements were met before that date:

(*i*) The owner or operator obtained the federal, state, and local approvals or permits necessary to begin physical construction.

(*ii*) A continuous, on-site physical construction program began.

(14) "Existing disposal area" means any of the following:

(a) A disposal area that has in effect a construction permit under this part.

(b) A disposal area that had engineering plans approved by the director before January 11, 1979.

(c) An industrial waste landfill that was authorized to operate by the director or by court order before

October 9, 1993.

(d) An industrial waste pile that was located at the site of generation on October 9, 1993.

(e) An existing coal ash impoundment.

(15) "Existing landfill unit" or "existing unit" means any landfill unit that received solid waste on or before October 9, 1993.

(16) "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(17) "Farm operation" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(18) "Fats, oils, or greases" means organic polar compounds that meet all of the following requirements:

(a) Contain multiple carbon chain triglyceride molecules.

(b) Are derived from animal or plant sources.

(c) Are generated at food manufacturing and food service establishments.

(d) Are generated by-products from food preparation activities.

(19) "Financial assurance" means the mechanisms used to demonstrate that the funds necessary to meet the cost of closure, postclosure maintenance and monitoring, and corrective action will be available to the department whenever they are needed for those purposes.

(20) "Financial test" means a corporate or local government financial test or guarantee approved under subtitle D of the solid waste disposal act, 42 USC 6941 to 6949a and regulations promulgated thereunder. An owner or operator may use a single financial test for more than 1 facility. Information submitted to the department to document compliance with the financial test shall include a list showing the name and address of each facility and the amount of funds assured by the financial test for each facility. For purposes of the financial test, the owner or operator shall aggregate the sum of the closure, postclosure, and corrective action costs it seeks to assure with any other environmental obligations assured by a financial test under state or federal law.

(21) "Finished compost" means organic matter that meets all of the following requirements:

(a) Has undergone biological decomposition and has been stabilized to a degree that is beneficial to plant growth without creating a nuisance.

(b) Is used or sold for use as a soil amendment, fertilizer, topsoil blend, growing medium amendment, or other similar use.

(c) With any compost additives, does not contain more than 1%, by weight, of foreign matter that will remain on a 4-millimeter screen or more than a de minimis amount of viable weed seeds.

(22) "Flue gas desulfurization material" means the material recovered from air pollution control systems that capture sulfur dioxide from the combustion of wood, coal, or fossil fuels, or other combustible materials, if the other combustible materials constitute less than 50% by weight of the total material combusted and the department determines in writing that the other combustible materials do not materially affect the character of the residue. Flue gas desulfurization material includes synthetic gypsum.

(23) "Food processing residuals" means any of the following:

(a) Residuals of fruits, vegetables, aquatic plants, or field crops, including such residuals generated by a brewery or distillery.

(b) Otherwise unusable parts of fruits, vegetables, aquatic plants, or field crops from the processing thereof.

(c) Otherwise unusable food products that do not meet size, quality, or other product specifications and that were intended for human or animal consumption.

(24) "Food waste" means an accumulation of animal or vegetable matter that was used or intended for human or animal food or that results from the preparation, use, cooking, dealing in, or storing of animal or vegetable matter for human or animal food if the accumulation is or is intended to be discarded. Food waste does not include fats, oils, or greases.

(25) "Foreign matter" means organic and inorganic constituents, other than sticks and stones, that will not readily decompose during composting and do not aid in producing compost, including glass, textiles, rubber, metal, ceramics, noncompostable plastic, and painted, laminated, or treated wood.

(26) "Foundry sand" means silica sand used in the metal casting process, including binding material or carbonaceous additives, from ferrous or nonferrous foundries.

(27) "Functional stability" means the stage at which a landfill does not pose a significant risk to the environment, natural resources, or the public health, safety, or welfare at a point of exposure, in the absence of active control systems.

(28) "GAAMPS" means generally accepted agricultural and management practices under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(29) "Gasification" means a manufacturing process in which post-use polymers are heated in an oxygen-controlled atmosphere and converted to syngas (carbon monoxide (CO) and hydrogen (H2)) and the syngas is converted into valuable raw materials or intermediate or final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, coatings, and plastic and chemical feedstocks.

(30) "General permit" means a permit that does both of the following:

(a) Covers a category of activities that the department determines will not negatively impact public health, safety, or welfare and will not have more than minimal short-term adverse impacts on the environment or natural resources.

(b) Includes requirements for a site plan, an operations plan, a facility final closure plan, and financial assurance.

(31) "General use compost" means finished compost that is produced from 1 of the following:

(a) Class 1 compostable material.

(b) Class 2 compostable material, including any combination of class 1 compostable material and class 2 compostable material, that meets the requirements listed in section 11553(5).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 1998, Act 466, Imd. Eff. Jan. 4, 1999;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 85, Imd. Eff. May 15, 2020;—Am. 2022, Act 243, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11504 Definitions; H to P.

Sec. 11504. (1) "Hauler" means a person who owns or operates a managed materials transporting unit.

(2) "Host community approval" means an agreement, resolution, letter, or other document indicating that the governing body of the municipality where the materials management facility is proposed to be located has reviewed and approved the development of that specific facility.

(3) "Household waste" means solid waste that is generated from single-family dwellings. Household waste does not include commercial waste, industrial waste, hazardous waste, or construction and demolition waste.

(4) "Hydrogenation" means the chemical reaction between molecular hydrogen and an element or compound, ordinarily in the presence of a catalyst.

(5) "Industrial waste" means solid waste that is generated by manufacturing or industrial processes at an industrial site and that is not a hazardous waste regulated under part 111.

(6) "Industrial waste landfill" means a landfill that is used for the disposal of any of the following, as applicable:

(a) Industrial waste that has been characterized for hazard and that has been determined to be nonhazardous under part 111.

(b) If the landfill is an existing disposal area, nonhazardous solid waste that originates from an industrial site.

(7) "Inert material" means any of the following:

(a) Rock.

(b) Trees, stumps, and other similar land-clearing debris, if all of the following conditions are met:

(*i*) The debris is buried on the site of origin or another site, with the approval of the owner of the site.

(*ii*) The debris is not buried in a wetland or floodplain.

(*iii*) The debris is placed at least 3 feet above the groundwater table as observed at the time of placement.

(*iv*) The placement of the debris does not violate federal, state, or local law or create a nuisance.

(c) Uncontaminated excavated soil or dredged sediment. Excavated soil or dredged sediment is considered uncontaminated if it does not contain more than de minimis amounts of solid waste and any of the following apply:

(*i*) The soil or sediment is not contaminated by a hazardous substance as a result of human activity. Soil or sediment that naturally contains elevated levels of hazardous substances above unrestricted residential or any other part 201 generic soil cleanup criteria is not considered contaminated for purposes of this subdivision. A soil or sediment analysis is not required under this subparagraph if, based on past land use, there is no reason to believe that the soil or sediment is contaminated.

(*ii*) For any hazardous substance that could reasonably be expected to be present as a result of past land use and human activity, the soil or sediment does not exceed the background concentration, as that term is defined in section 20101.

(*iii*) For any hazardous substance that could reasonably be expected to be present as a result of past land use and human activity, the soil or sediment falls below part 201 generic residential soil direct contact cleanup

criteria and hazardous substances in leachate from the soil or sediment, using, at the option of the generator, EPA method 1311, "Toxicity Characteristic Leaching Procedure", EPA method 1312, "Synthetic Precipitation Leaching Procedure", or any other leaching protocol approved by the department, fall below part 201 generic residential health based groundwater drinking water values or criteria, and the soil or sediment would not cause a violation of any surface water quality standard established under part 31 at the area of placement, disposal, or use.

(d) Excavated soil from a site of environmental contamination, corrective action, or response activity if the soil is not a listed hazardous waste under part 111 and if hazardous substances in the soil do not exceed generic soil cleanup criteria for unrestricted residential use as defined in section 20101 or background concentration as defined in section 20101, as applicable.

(e) Construction brick, masonry, pavement, or broken concrete that is reused for fill, rip rap, slope stabilization, or other construction, if all of the following conditions are met:

(*i*) The use of the material does not violate section 3108, part 301, or part 303.

(*ii*) The material is not materially contaminated. Typical surface oil staining on pavement or concrete from driveways, roadways, or parking lots is not material contamination. Material covered in whole or in part with paint that contains more than 0.5% lead is materially contaminated.

(*iii*) The material does not include exposed reinforcing bars.

(f) Portland cement clinker produced by a cement kiln using wood, fossil fuels, or solid waste as a fuel or feedstock, but not including cement kiln dust generated in the process.

(g) Asphalt pavement or concrete pavement that meets all of the following requirements:

(*i*) Has been removed from a public right-of-way.

(*ii*) Has been stockpiled or crushed for reuse as aggregate material.

(*iii*) Does not include exposed reinforcement bars.

(h) Cuttings, drilling materials, and fluids used to drill or complete a well installed pursuant to part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771, if the location of the well is not a facility under part 201.

(i) Any material determined by the department under section 11553(5) or (6) to be an inert material, either for general use or for a particular use.

(8) "Innovative technology facility" means a materials management facility that converts solid waste into energy or a usable product and that is not a materials recovery facility, a composting facility, or an anaerobic digester.

(9) "Insurance" means insurance that conforms to the requirements of 40 CFR 258.74(d) and is provided by an insurer that has a certificate of authority from the director of insurance and financial services to sell this line of coverage. An applicant for an operating license or general permit shall submit evidence of the required coverage by submitting both of the following to the department:

(a) A certificate of insurance that uses wording approved by the department.

(b) A certified true and complete copy of the insurance policy.

(10) "Landfill" means a type II landfill or type III landfill.

(11) "Landfill care fund" means a landfill care fund required by section 11525d(2).

(12) "Landfill care fund bond" means a surety bond, an irrevocable letter of credit, or a combination of these instruments in favor of the department used to establish a landfill care fund.

(13) "Large", in reference to a composting facility, means a composting facility to which both of the following apply:

(a) The site at any time contains more than 500 cubic yards of compostable material.

(b) The site does not qualify as a small or medium composting facility.

(14) "Lateral expansion" means a horizontal expansion of the solid waste boundary of any of the following:

(a) A landfill, other than a coal ash landfill, if the expansion is beyond the limit established in a construction permit or engineering plans approved by the department or a certified health department before January 11, 1979.

(b) A coal ash landfill, if either of the following applies:

(*i*) The expansion is beyond the limit established in a construction permit issued after December 28, 2018.

(*ii*) The expansion is made after October 19, 2015, and is a horizontal expansion of the outermost boundary, as defined by a construction certification or operating license, of an existing coal ash landfill.

(c) A coal ash impoundment, if the expansion is beyond the limit established in a construction permit or the horizontal limits of coal ash in place on or before October 14, 2015.

(15) "Letter of credit" means an irrevocable letter of credit that complies with 40 CFR 258.74(c).

(16) "License" means an operating license.

(17) "Lime kiln dust" means particulate matter collected in air emission control devices serving lime kilns.

(18) "Local health officer" means a local health officer as defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105, to which the department delegates certain duties under part 115.

(19) "Low-hazard industrial waste" means industrial material that has a low potential for groundwater contamination when managed in compliance with part 115. All of the following materials are low-hazard industrial wastes:

(a) Coal ash and wood ash.

(b) Cement kiln dust.

(c) Pulp and paper mill material.

(d) Scrap wood.

(e) Sludge from the treatment and conditioning of water for domestic use.

(f) Residue from the thermal treatment of petroleum contaminated soil, media, or debris.

(g) Sludge from the treatment and conditioning of water from a community water supply.

(h) Foundry sand.

(i) Mixed wood ash, scrap wood ash, and pulp and paper mill ash.

(j) Street cleanings.

(k) Asphalt shingles.

(*l*) New construction or production scrap drywall.

(m) Chipped or shredded tires.

(n) Copper slag.

(o) Copper stamp sands.

(p) Dredge material from nonremedial activities.

(q) Flue gas desulfurization material.

(r) Dewatered grinding slurry generated from public transportation agency road projects.

(s) Any material determined by the department under section 11553(7) to be a low-hazard industrial waste.

(20) "Low-hazard-potential coal ash impoundment" means a coal ash impoundment that is a diked surface impoundment, the failure or mis-operation of which is expected to result in no loss of human life and low economic or environmental losses principally limited to the impoundment owner's property.

(21) "MAC" means the Michigan Administrative Code.

(22) "Managed material" means solid waste, diverted waste, or recyclable material. Managed material does not include a material or product that contains iron, steel, or nonferrous metals and that is directed to or received by a scrap processor as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, or by a reuser of these metals.

(23) "Managed materials transporting unit" means a container, which may be an integral part of a truck or other piece of equipment, used for the transportation of managed materials.

(24) "Materials management facility" or, unless the context implies a different meaning, "facility" means any of the following, subject to subsection (25):

(a) A disposal area.

(b) A materials utilization facility.

(c) A waste diversion center.

(25) Materials management facility or facility does not include a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, or nonferrous metals into prepared grades of products suitable for consumption, reuse, or additional processing.

(26) "Materials management goals" means goals identified in the MMP pursuant to section 11578(1)(a).

(27) "Materials management plan" or "MMP" means a plan required under section 11571.

(28) "Materials recovery facility", subject to subsection (29), means a facility that meets both of the following requirements:

(a) Receives primarily source separated material and sorts, bales, or processes the source separated material for reuse, recycling, or utilization as a raw material or new product.

(b) On an annual basis, does not receive an amount of solid waste equal to or more than 15% of the total weight of material received by the facility unless the materials recovery facility is making reasonable effort and has an education program to reduce the amount of solid waste. Material disposed of as a result of recycling market fluctuations is not included in the 15% calculation.

(29) Materials recovery facility does not include any of the following:

(a) A retail, commercial, or industrial establishment that bales for off-site shipment managed material that it generates.

(b) A retail establishment that collects returnable beverage containers under 1976 IL 1, MCL 445.571 to

445.576.

(c) A beverage distributor, or its agent, that manages returnable beverage containers under 1976 IL 1, MCL 445.571 to 445.576.

(d) A facility or area used for reuse, recycling, or storage of recyclable materials solely generated by an industrial facility.

(e) A facility that is an end user or secondary processor and that uses as fuel or otherwise, processes, or stores material generated by industrial facilities.

(f) A facility that primarily manages material that was previously sorted or processed.

(g) An anaerobic digester.

(30) "Materials utilization" means recycling, composting, or converting material into energy rather than disposing of the material.

(31) "Materials utilization facility" means a facility that is any of the following:

(a) A materials recovery facility.

(b) A composting facility.

(c) An anaerobic digester, except at a manufacturing facility that generates its own feedstock.

(d) An innovative technology facility.

(32) "Medical waste" means that term as it is defined in section 13805 of the public health code, 1978 PA 368, MCL 333.13805.

(33) "Medium", in reference to a composting facility, means a composting facility to which all of the following apply:

(a) The site at any time contains more than 500 cubic yards of compostable material.

(b) The site does not qualify as a small composting facility.

(c) The site does not at any time contain more than 10,000 cubic yards of compostable material.

(d) The site does not at any time contain more than 10% by volume of class 1 compostable material other than yard waste.

(e) Unless approved by the department, the site does not at any time on any acre contain more than 5,000 cubic yards of compostable material, finished product, compost additives, or screening rejects.

(34) "Mixed wood ash" means the material recovered from air pollution control systems for, or the noncombusted residue remaining after, the combustion of any combination of wood, scrap wood, railroad ties, or tires, if railroad ties composed less than 35% by weight of the total combusted material and tires composed less than 10% by weight of the total combusted material.

(35) "Municipal solid waste" means household waste, commercial waste, waste generated by other nonindustrial locations, waste that has characteristics similar to that generated at a household or commercial business, or any combination thereof. Municipal solid waste does not include municipal wastewater treatment sludges, industrial process wastes, automobile bodies, combustion ash, or construction and demolition debris.

(36) "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 waste from single-family and multifamily dwellings, hotels, motels, and other residential sources, or such 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 part 111.

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

(c) The incinerator meets the requirements of part 115.

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

(e) The incinerator is not an incinerator that receives and burns only medical waste or only waste produced at 1 or more hospitals.

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

(38) "Municipal solid waste recycling rate" means the amount of municipal solid waste recycled or composted, divided by the amount of municipal solid waste recycled, composted, landfilled, or incinerated.

(39) "New coal ash impoundment" means a coal ash impoundment that first receives coal ash after December 28, 2018.

(40) "New disposal area" means a disposal area that requires a construction permit under this part and includes all of the following:

(a) A disposal area, other than an existing disposal area, that is proposed for construction.

(b) For a landfill, a lateral expansion, vertical expansion, or other expansion that results in an increase in the landfill's design capacity.

(c) A new coal ash impoundment, or a lateral expansion of a coal ash impoundment beyond the placement of waste as of October 14, 2015.

(d) For a disposal area other than a landfill or coal ash impoundment, an enlargement in capacity beyond that indicated in the construction permit or in engineering plans approved before January 11, 1979.

(e) For any existing disposal area, an alteration of the disposal area to a different disposal area type than was specified in the previous construction permit application or in engineering plans that were approved by the director or his or her designee before January 11, 1979.

(41) "Nonresidential property" means property not used or intended to be used for any of the following:

(a) A child day care center.

(b) An elementary school.

(c) An elder care and assisted living center.

(d) A nursing home.

(e) A single-family or multifamily dwelling unless the dwelling is part of a mixed use development and all dwelling units and associated outdoor residential use areas are located above the ground floor.

(42) "Operate" includes, but is not limited to, conducting, managing, and maintaining.

(43) "Part 115" means this part and rules promulgated under this part.

(44) "Perpetual care fund" means a trust fund, escrow account, or perpetual care fund bond required by section 11525(2).

(45) "Perpetual care fund bond" means a surety bond, an irrevocable letter of credit, or a combination of these instruments in favor of the department used to establish a perpetual care fund.

(46) "Planning area" means the geographic area to which a materials management plan applies.

(47) "Planning committee" means a committee appointed under section 11572.

(48) "Post-use polymer" means a plastic to which all of the following apply:

(a) It has been source separated.

(b) It has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste.

(c) It is not mixed with solid waste or hazardous waste on-site or during conversion at a chemical recycling facility.

(d) It is converted at a chemical recycling facility or, subject to applicable speculative accumulation time frames, stored at a chemical recycling facility before conversion.

(49) "Preexisting unit" means a landfill unit that is or was licensed under part 115 but has not received waste after October 9, 1993.

(50) "Pulp and paper mill ash" means the material recovered from air pollution control systems for, or the noncombusted residue remaining after, the combustion of any combination of coal, wood, pulp and paper mill material, wood or biomass fuel pellets, scrap wood, railroad ties, or tires, in a boiler, power plant, or furnace at a pulp and paper mill, if railroad ties composed less than 35% by weight of the total combusted material and tires composed less than 10% by weight of the total combusted material.

(51) "Pulp and paper mill material" means all of the following materials if generated at a facility that produces pulp or paper:

(a) Wastewater treatment sludge, including wood fibers, minerals, and microbial biomass.

(b) Rejects from screens, cleaners, and mills.

(c) Bark, wood fiber, and chips.

(d) Scrap paper.

(e) Causticizing residues, including lime mud and grit and green liquor dregs.

(f) Any material that the department determines has characteristics that are similar to any of the materials listed in subdivisions (a) to (e).

(52) "Pyrolysis" means a manufacturing process in which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and then are cooled, condensed, and converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, and plastic and chemical feedstocks that have economic utility as raw materials and products.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 85, Imd. Eff. May 15, 2020;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11505 Definitions; R, S.

Sec. 11505. (1) "RDDP" means a research, development, and demonstration project for a new or existing type II landfill unit or for a lateral expansion of a type II landfill unit.

(2) "Recyclable materials" means glass, metal, plastics, paper products, wood, rubber, textiles, food waste, yard clippings, and other materials that may be recycled or composted.

(3) "Recycling" means any process applied to materials that are no longer being used and that would have otherwise been disposed as waste, for the purpose of converting the materials into raw materials or intermediate or new products.

(4) "Regional planning agency" means the regional solid waste planning agency designated by the governor pursuant to section 4006 of subtitle D of the solid waste disposal act, 42 USC 6946.

(5) "Resource recovery facility" means machinery, equipment, structures, or any parts or accessories of machinery, equipment, or structures, installed or acquired for the primary purpose of recovering materials or energy from the waste stream.

(6) "Response activity" means an activity that is necessary to protect the environment, natural resources, or the public health, safety, or welfare, and includes, but is not limited to, evaluation, cleanup, removal, containment, isolation, treatment, monitoring, maintenance, replacement of water supplies, and temporary relocation of people.

(7) "Restricted use compost" means compost that is produced from class 2 compostable material, including any combination of class 1 compostable material and class 2 compostable material, that is not approved as inert under section 11553(5).

(8) "Reuse" means to remanufacture, use again, use in a different manner, or use after reclamation.

(9) "Rubbish" means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard waste, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the environment, natural resources, or the public health, safety, or welfare.

(10) "Salvaging" means the lawful and controlled removal of reusable materials from solid waste.

(11) "Scrap wood" means wood or wood product that is 1 or more of the following:

(a) Plywood, particle board, pressed board, oriented strand board, fiberboard, resonated wood, or any other wood or wood product mixed with glue, resins, or filler.

(b) Wood or wood product treated with creosote or pentachlorophenol.

(c) Any wood or wood product designated as scrap wood in rules promulgated by the department.

(12) "Sharps" means that term as defined in section 13807 of the public health code, 1978 PA 368, MCL 333.13807.

(13) "Slag" means the nonmetallic product resulting from melting or smelting operations for iron or steel.

(14) "Small", in reference to a composting facility, means a composting facility to which both of the following apply:

(a) The site at any time contains more than 500 cubic yards of compostable material but does not at any time contain 1,000 or more cubic yards of compostable material.

(b) The site does not at any time contain 5% or more by volume of class 1 compostable material other than yard waste.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11506 Definitions; S to Y.

Sec. 11506. (1) "Solid waste" means food waste, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial waste, solid industrial waste, and animal waste. However, solid waste does not include any of the following:

(a) Human body waste.

(b) Medical waste.

(c) Manure or animal bedding generated in the production of livestock and poultry, if managed in compliance with the appropriate GAAMPS.

(d) Liquid waste.

(e) Scrap metal, as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, directed to a scrap processor as defined in that section or to a reuser of scrap metal.

(f) Slag or slag products directed to a slag processor or to a reuser of slag or slag products.

(g) Sludges and ashes managed as recycled or nondetrimental materials appropriate for agricultural or silvicultural use pursuant to a plan approved by the department.

(h) The following materials that are used as animal feed, or are applied on, or are composted and applied on, farmland or forestland for an agricultural or silvicultural purpose at an agronomic rate consistent with GAAMPS:

(*i*) Food processing residuals and food waste.

(*ii*) Precipitated calcium carbonate from sugar beet processing.

(*iii*) Wood ashes resulting solely from a source that burns only wood that is untreated and inert.

(*iv*) Lime from kraft pulping processes generated before bleaching.

(*v*) Aquatic plants.

(i) Materials approved for emergency disposal by the department.

(j) Source separated materials.

(k) Coal ash, when used under any of the following circumstances:

(*i*) As a component of concrete, grout, mortar, or casting molds, if the coal ash does not have more than 6% unburned carbon.

(*ii*) As a raw material in asphalt for road construction, if the coal ash does not have more than 12% unburned carbon and passes Michigan test method for water asphalt preferential test, MTM 101, as set forth in the state transportation department's manual for the Michigan test methods (MTM).

(*iii*) As aggregate, road material, or building material that in ultimate use is or will be stabilized or bonded by cement, limes, or asphalt, or itself act as a bonding agent. To be considered to act as a bonding agent, the coal ash must have at least 10% available lime.

(*iv*) As a road base or construction fill that is placed at least 4 feet above the seasonal groundwater table and covered with asphalt, concrete, or other material approved by the department.

(*l*) Inert material.

(m) Soil that is washed or otherwise removed from sugar beets, has not more than 55% moisture content, and is registered as a soil conditioner under part 85. Any testing required to become registered under part 85 is the responsibility of the generator.

(n) Soil that is relocated under section 20120c.

(o) Diverted waste that is managed through a waste diversion center.

(p) Beneficial use by-products.

(q) Coal bottom ash, if substantially free of fly ash or economizer ash, when used as cold weather road abrasive.

(r) Stamp sands when used as cold weather road abrasive in the Upper Peninsula by any of the following:

(*i*) A public road agency.

(*ii*) Any other person pursuant to a plan approved by a public road agency.

(s) Any material that is reclaimed or reused in the process that generated it.

(t) Any secondary material that, as specified in or determined pursuant to 40 CFR part 241, is not a solid waste when combusted.

(u) Post-use polymers.

(v) Other wastes regulated by statute.

(2) "Solid waste management fund" means the solid waste management fund created in section 11550.

(3) "Solid waste processing and transfer facility" means a tract of land, a building or unit and any appurtenances of a building or unit, a container, or any combination of these that is used or intended for use in the handling, storage, transfer, or processing of solid waste, and is not located at the site of generation or the site of disposal of the solid waste.

(4) "Solvolysis" means a manufacturing process in which post-use polymers are purified with the aid of solvents, while heated at low temperatures or pressurized, or both, to make useful products while allowing additives and contaminants to be removed. The products of solvolysis include, but are not limited to, monomers, intermediates, and valuable chemicals and raw materials. Solvolysis includes, but is not limited to, the following:

(a) Hydrolysis.

(b) Aminolysis.

(c) Ammonolysis.

(d) Methanolysis.

(e) Glycolysis.

(5) "Source reduction" means any practice that reduces or eliminates the generation of waste at the source.

(6) "Source separated material" means any of the following materials if separated at the source of

generation or at a materials management facility that complies with part 115 and if not speculatively accumulated:

(a) Glass, metal, wood, paper products, plastics, rubber, textiles, food waste, electronics, latex paint, yard waste, or any other material approved by the department that is used for conversion into raw materials or intermediate or new products. For the purposes of this subdivision, raw materials or intermediate or new products include, but are not limited to, compost, biogas from anaerobic digestion, synthesis gas from gasification or pyrolysis, or other fuel. This subdivision does not prohibit material from being classified as a renewable energy resource as defined in section 11 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1011.

(b) Scrap wood and railroad ties used to fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55, for production of new wood products, or for other uses approved by the department.

(c) Chipped or whole tires used to fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55, or for other uses approved by the department. This subdivision does not prohibit material from being classified as a renewable energy resource as defined in section 11 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1011.

(d) Recovered paint solids if used to fuel an industrial boiler, kiln, power plant, gasification plant, or furnace, subject to part 55; if bonded with cement or asphalt; or if used for other uses approved by the department.

(e) Gypsum drywall generated from the production of wallboard used for stock returned to the production process or for other uses approved by the department.

(f) Flue gas desulfurization gypsum used for production of cement or wallboard or other uses approved by the department.

(g) Asphalt shingles that meet both of the following requirements:

(*i*) Do not contain asbestos, rolled roofing, wood, nails, or tar paper.

(*ii*) Are used as described in any of the following:

(A) As a component in hot mix asphalt, warm mix asphalt, or cold patch asphalt.

(B) To fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55.

(C) Mixed with recycled asphalt pavement at a maximum of 1 to 1 ratio by volume to produce a base that is covered by concrete or asphalt paving.

(D) Other uses approved by the department.

(h) Municipal solid waste incinerator ash that meets criteria specified by the department and that is used as daily cover at a disposal facility licensed pursuant to part 115.

(i) Utility poles or pole segments reused as poles, posts, or similar uses approved by the department in writing.

(j) Railroad ties reused in landscaping, embankments, or similar uses approved by the department in writing.

(k) Any materials and uses approved by the department under section 11553(8).

(*l*) Leaves that are ground or mixed with ground wood and sold as mulch for landscaping purposes if the volumes so managed are reported to the department in the manner provided in section 11560.

(m) Any material determined by the department in writing before September 16, 2014 to be a source separated material.

(n) Yard waste that is land applied on a farm in a manner consistent with GAAMPS.

(o) Yard waste, class 1 compostable material, and class 2 compostable material that are delivered to an anaerobic digester authorized by the department under part 115 to receive the material.

(p) Recyclable materials.

(7) "Stamp sands" means finely grained crushed rock resulting from mining, milling, or smelting of copper ore and includes native substances contained within the crushed rock and any ancillary material associated with the crushed rock.

(8) "Treated wood" means wood or wood product that has been treated with 1 or more of the following:

(a) Chromated copper arsenate (CCA).

(b) Ammoniacal copper quat (ACQ).

(c) Ammoniacal copper zinc arsenate (ACZA).

(d) Any other chemical designated in rules promulgated by the department.

(9) "Trust fund" means a fund held by a trustee who has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(10) "Type I public water supply", "type IIa public water supply", "type IIb public water supply", and "type III public water supply" mean those terms, respectively, as described in R 325.10502 of the MAC.

(11) "Type II landfill" means a landfill that receives household waste or municipal solid waste incinerator

ash, or both, and that may also receive other types of solid waste, such as any of the following:

(a) Construction and demolition waste.

(b) Sewage sludge.

(c) Commercial waste.

(d) Nonhazardous sludge.

(e) Hazardous waste from conditionally exempt small quantity generators.

(f) Industrial waste.

(12) "Type III landfill" means a landfill that is not a type II landfill or hazardous waste landfill. Type III landfill includes all of the following:

(a) A construction and demolition waste landfill.

(b) An industrial waste landfill.

(c) A low hazard industrial waste landfill.

(d) A surface impoundment authorized as an industrial waste landfill.

(e) A landfill that accepts only waste other than household waste, municipal solid waste incinerator ash, or hazardous waste from conditionally exempt small quantity generators.

(f) A coal ash landfill.

(g) Any coal ash impoundment, including, but not limited to, the following:

(*i*) An existing coal ash impoundment that is closed as a landfill pursuant to R 299.4309 of the MAC.

(*ii*) An existing coal ash impoundment where coal ash will remain after closure and that will be closed as a landfill pursuant to R 299.4309 of the MAC.

(13) "Vermiculture" means the controlled and managed process by which live worms degrade organic materials into worm castings or worm humus.

(14) "Waste diversion center" means property or a building, or a portion of property or a building, designated for the purpose of receiving or collecting diverted wastes and not used for residential purposes.

(15) "Wood" means trees, branches and associated leaves, bark, lumber, pallets, wood chips, sawdust, or other wood or wood product but does not include scrap wood, treated wood, painted wood or painted wood product, or any wood or wood product that has been contaminated during manufacture or use.

(16) "Wood ash" means any type of ash or slag resulting from the burning of wood.

(17) "Yard waste" means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings, less than 4 feet in length and 2 inches in diameter, that can be converted to compost. Yard waste does not include stumps, agricultural wastes, animal waste, roots, sewage sludge, Christmas trees or wreaths, food waste, or screened finished compost made from yard waste.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 65, Imd. Eff. May 31, 1995;—Am. 1996, Act 392, Imd. Eff. Oct. 3, 1996;—Am. 1998, Act 466, Imd. Eff. Jan. 4, 1999;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2010, Act 345, Imd. Eff. Dec. 21, 2010;—Am. 2012, Act 446, Imd. Eff. Dec. 27, 2012;—Am. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 615, Eff. Mar. 28, 2019;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11507 Recycling and reuse of materials; optimizing recycling opportunities; policies, practices, and benchmark recycling standards; development of methods for disposal of solid waste; construction and administration of Part 115; disposal, storage, or transportation of solid waste; compliance with Part 115.

Sec. 11507. (1) Optimizing recycling opportunities, including electronics recycling opportunities, and the reuse of materials are a principal objective of this state's solid waste management plan. Recycling and reuse of materials, including the reuse of materials from electronic devices, are in the best interest of the environment, natural resources, and the public health, safety, and welfare. This state should develop policies, practices, and goals that promote recycling and reuse of materials, waste reduction, and pollution prevention and that, to the extent practical, minimize the use of landfilling and municipal solid waste incineration as methods for disposal of waste. Policies and practices that promote recycling and reuse of materials, including materials from electronic devices, result in conservation of raw materials and landfill space and avoid the contamination of soil and groundwater from heavy metals and other pollutants.

(2) It is the goal of this state to achieve through the benchmark recycling standards a 45% municipal solid waste recycling rate and, as an interim step, by 2029, a 30% municipal solid waste recycling rate.

(3) The department and a local health officer shall assist in developing and encouraging methods for the disposal of solid waste that are environmentally sound, that maximize the utilization of valuable resources,

and that encourage resource conservation including source reduction and source separation.

(4) Part 115 shall be construed and administered to encourage and facilitate all persons to engage in source separation of material from solid waste, and other environmentally sound measures to prevent materials from entering the waste stream or to remove materials from the waste stream.

(5) A person shall not dispose, store, or transport solid waste in this state unless the person complies with part 115.

(6) Part 115 is intended to encourage the continuation of the private sector in materials management, disposal, and transportation in compliance with part 115. Part 115 is not intended to prohibit salvaging.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11507a Solid waste management program; certification; grounds for rescission of certification.

Sec. 11507a. Under rules promulgated by the department, the department may certify a city, county, or district health department to perform a solid waste management program or designated activities as prescribed in part 115. The department may rescind certification under either of the following circumstances:

(a) Upon request of the certified health department.

(b) After reasonable notice and an opportunity for a hearing if the department finds that the certified health department is not performing the program or designated activities as required.

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2004, Act 39, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11508 Operation of materials management facility; requirements; registration application.

Sec. 11508. (1) A person shall not operate a materials management facility unless all of the following requirements are met:

(a) The owner or operator has complied with any applicable requirement of part 115 to notify the department, register with the department, obtain an approval from the department under a general permit, or obtain a construction permit and operating license from the department.

(b) The operation is in compliance with the terms of any registration, general permit, construction permit, or operating license issued for the materials management facility under part 115.

(c) Subject to subsection (2)(a) to (c), the facility is consistent with the MMP. This subdivision does not apply to a disposal area described in section 11509(1)(b) or 11513(1).

(2) The department shall deny an application for a registration, for approval under a general permit, or for a construction permit or operating license for a materials management facility unless the department has, under section 11575(9), approved an MMP for the planning area where the facility is located or proposed to be located and the facility is consistent with the MMP, as determined under section 11585. However, all of the following apply:

(a) Before an MMP is initially approved by the department under section 11575(9), the department may issue a construction permit for a solid waste processing and transfer facility or an approval under a general permit or a registration for a materials utilization facility if the county approval agency and the legislative body of the municipality in which the facility is or is proposed to be located have each notified the department in writing that they approve the issuance.

(b) Proposed landfill expansions shall follow the siting process of the existing solid waste management plan until an MMP for the planning area is approved by the department.

(c) Before an MMP for the planning area has been approved by the department, materials utilization facilities that are required to provide a notification or registration to the department under part 115 may be sited under local zoning ordinances.

(3) A notification or application under part 115 for a construction permit, operating license, approval under a general permit, or registration required to operate a materials management facility; a notice of intent to prepare a materials management plan; a bond; a risk pooling financial mechanism; evidence of financial assurance; a request for the reduction of the amount of a financial assurance mechanism; an agreement

governing the operation of a perpetual care fund trust fund or escrow account; an application for a grant or loan; or a report or other information required to be submitted to the department under part 115 shall meet all of the following requirements:

(a) Be on a form and in a medium provided or approved by the department.

(b) Contain relevant information required by the department.

(c) If an application, be accompanied by any applicable application fee provided for by this part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 2
DISPOSAL AREAS

324.11509 Construction permit for establishment of disposal area; application; engineering plan; construction permit application fees; resubmission of application with additional information and fee; modification or renewal of permit; single permit multiple types of disposal areas; disposition of fees; approval of new type II landfill; restrictions; "contiguous" defined.

Sec. 11509. (1) This section and sections 11510 to 11512 apply to disposal areas other than the following:

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

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

(2) A person shall not establish a disposal area except as authorized by a construction permit issued by the department pursuant to part 13. A person proposing the establishment of a disposal area shall submit the application for a construction permit to the appropriate local health officer. However, if the disposal area is located in a county or city that does not have a certified health department, the application shall be submitted directly to the department. An application for a construction permit shall be accompanied by engineering plans.

(3) An application for a construction permit for a landfill shall be accompanied by an application fee in the following amount:

(a) For a new landfill, the following:

(*i*) For a type II landfill, $3,000.00.

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

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

(b) For a lateral expansion of a landfill, the following:

(*i*) For a type II landfill, $2,000.00.

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

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

(c) For a vertical expansion of an existing landfill, the following:

(*i*) For a type II landfill, $1,500.00.

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

(*iii*) For an industrial waste landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, $500.00.

(d) For a new coal ash impoundment, $1,000.00.

(e) For a lateral or vertical expansion of a coal ash impoundment, $750.00.

(4) An application for a construction permit for a disposal area that is not a landfill shall be accompanied by an application fee in the following amount:

(a) For a new disposal area for municipal solid waste, or a combination of municipal solid waste and waste listed in subdivision (b), $2,000.00.

(b) For a new disposal area for industrial waste, or construction and demolition waste, $1,000.00.

(c) For the expansion of an existing disposal area for any type of waste, $500.00.

(5) If an application is returned to the applicant as administratively incomplete, the applicant may, within 1 year after the application is returned, resubmit the application, together with the additional information as needed to address the reasons for being incomplete, without paying an additional application fee. If a permit is denied or an application is withdrawn, an applicant for a construction permit, within 1 year after the permit

denial or application withdrawal, may resubmit the application, together with the additional information as needed to address the reasons for denial or withdrawal, without paying an additional application fee.

(6) Subject to section 11510(2)(d), an application for a modification to a construction permit or for renewal of a construction permit that has expired shall be accompanied by a fee of $500.00.

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

(8) The department shall deposit permit application fees collected under this section in the solid waste staff account of the solid waste management fund.

(9) The department shall not approve an application for a construction permit for a new type II landfill that is not contiguous to an already permitted type II landfill or for a new municipal solid waste incinerator unless the approval is requested by the county board of commissioners and the department determines that the landfill or incinerator is needed for the planning area. The county board of commissioners' request shall include a demonstration that materials utilization options have been exhausted. The department's determination of need shall be based on public health, solid waste disposal capacity, and economic issues that would arise without the new site.

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

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

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

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

(b) On 2 or more properties owned by the same person if the properties are 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;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11510 Advisory analysis of proposed disposal area; duties of department upon receipt of construction permit application.

Sec. 11510. (1) Before submitting a construction permit application under section 11509 for a new disposal area, a person shall request a local health officer or the department to provide an advisory analysis of the proposed disposal area. Beginning 15 days after the request, and notwithstanding an analysis result, the person may file an application for a construction permit.

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

(a) Immediately notify the clerk of the municipality in which the disposal area is located or proposed to be located, the local soil erosion and sedimentation control agency under part 93, each division within the department and the department of natural resources that has responsibilities in land, air, or water management, the regional planning agency, and the designated planning agency for the planning area.

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

(*i*) A map indicating the location of the proposed disposal area.

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

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

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

(d) Conduct a consistency review of the proposed disposal area, including the site, plans, and application, to determine if they comply with part 115. The review shall be conducted by persons qualified in

hydrogeology and, if the disposal area is a landfill, landfill engineering. The department shall not issue a construction permit unless the persons conducting the review acknowledge that the application package complies with the requirements of part 115. The construction permit may contain a stipulation specifically applicable to the site and operation. An expansion of the area of a disposal area, an enlargement in capacity of a disposal area, a change in the solid waste boundary, or an alteration of a disposal area to a different type of disposal area than had been specified in the previous construction permit application constitutes a new proposal for which a new construction permit, rather than a modification of a construction permit, is required. The upgrading of a disposal area type required by the department to comply with part 115 or to comply with a consent order does not require a new construction permit.

(e) Notify the Michigan aeronautics commission if the disposal area is a landfill that is a new site or a lateral expansion or vertical expansion of an existing unit proposed to be located within 5 miles of a runway or a proposed runway extension contained in a plan approved by the Michigan aeronautics commission of an airport licensed and regulated by the Michigan aeronautics commission. The department shall make a copy of the application available to the Michigan aeronautics commission. If, not more than 60 days after receiving notification from the department, the Michigan aeronautics commission informs the department that operation of the proposed disposal area would present a potential hazard to air navigation and presents the basis for its findings, the department may either recommend appropriate changes in the location, construction, or operation of the proposed disposal area or deny the application for a construction permit. The department shall give an applicant an opportunity to rebut a finding of the Michigan aeronautics commission that the operation of a proposed disposal area would present a potential hazard to air navigation.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 1998, Act 397, Imd. Eff. Dec. 17, 1998;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11511 Construction permit; approval or denial of issuance; expiration; renewal; fee.

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 215, Imd. Eff. Nov. 10, 2011;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11511a Coal ash landfill, coal ash impoundment, or lateral expansion of landfill or impoundment; standard and location requirements; construction permit; detection monitoring program.

Sec. 11511a. (1) A new coal ash landfill, a new coal ash impoundment, or a new lateral expansion of a coal ash landfill or coal ash impoundment shall comply with the requirements of R 299.4304, R 299.4305, and R 299.4307 to R 299.4317 of the MAC, except that the minimum design standard for a new coal ash landfill, a new coal ash impoundment, or a new lateral expansion of a coal ash landfill or coal ash impoundment pursuant to R 299.4307(4) of the MAC is solely R 299.4307(4)(b) of the MAC and not R 299.4307(4)(a), (c), or (d) of the MAC.

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

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

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

(b) The landfill, impoundment, or expansion, respectively, complies with R 299.4306 of the MAC.

(c) The owner or operator has provided to the department a detection monitoring program in a hydrogeological monitoring plan that complies with R 299.4440 to R 299.4445 and R 299.4905 to R 299.4908 of the MAC, as applicable. However, R 299.4440(3) and R 299.4440(6) of the MAC do not apply to coal ash impoundments or coal ash landfills. The waiver described in R 299.4440(2) of the MAC is not available to coal ash impoundments or coal ash landfills. Groundwater sampling related to coal ash impoundments or coal ash landfills shall not be field filtered. The constituents monitored in the detection monitoring program shall include all of the following:

(*i*) Boron.

(*ii*) Calcium.

(*iii*) Chloride.

(*iv*) Fluoride.

(*v*) Iron.

(*vi*) pH.

(*vii*) Sulfate.

(*viii*) Total dissolved solids.

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

(*i*) Section 11519b(2) and (4).

(*ii*) A schedule, approved by the department, of remedial measures, including a sequence of actions or operations, that leads to compliance with part 115 within a reasonable time period but not later than December 28, 2020.

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

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: Former MCL 324.11511a, which pertained to permit to construct, modify, or expand landfill, was repealed by Act 38 of 2004, Eff. Jan 1, 2006.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11511b RDDP; research, development, and demonstration project.

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

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

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

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

(a) A description of the RDDP goals.

(b) Details of the design, construction, and operation of the RDDP as necessary to ensure protection of the environment, natural resources, and the public health, safety, and welfare. The design shall be at least as protective of the environment, natural resources, and the public health, safety, and welfare as other designs that are required under part 115.

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

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

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

(5) The department may authorize the addition of liquids, including, but not limited to, septage waste or other liquid waste, to solid waste in an RDDP if the applicant has demonstrated that the addition is necessary to accelerate or enhance the biostabilization of the solid waste and is not merely a means of disposal of the liquids. If an RDDP is intended to accelerate or enhance biostabilization of solid waste, the construction permit application shall include, in addition to the information required under subsection (4), all of the following:

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

(*i*) Increased presence of liquids.

(*ii*) Accelerated degradation of the waste.

(*iii*) Increased gas pressure buildup.

(*iv*) Other relevant factors.

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

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

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

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

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

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

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

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

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

(c) Include all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

History: Add. 2005, Act 236, Imd. Eff. Nov. 22, 2005;—Am. 2011, Act 215, Imd. Eff. Nov. 10, 2011;—Am. 2016, Act 437, Eff. Apr. 4, 2017;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512 Disposal of solid waste at licensed disposal area; license required to conduct, manage, maintain, or operate disposal area; application; contents; fee; certification; resubmitting application; additional information or corrections; operation of incinerator without operating license; additional fees; operation of coal ash landfill and coal ash impoundment; application; fees; public notice and meeting; hydrogeologic monitoring program; annual report.

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

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

(3) Except as otherwise provided in this section, a person shall not conduct, manage, maintain, or operate a disposal area except as authorized by an operating license issued by the department pursuant to part 13. The owner or operator of the disposal area shall submit a license application to the department through a certified health department. Existing coal ash impoundments are exempt from the licensing requirements of this part through December 28, 2020. If the disposal area is located in a county or city that does not have a certified health department, the application shall be made directly to the department. A person authorized by part 115 to operate more than 1 type of disposal area at the same facility may apply for a single license.

(4) An applicant for a license for a type II or type III landfill shall submit evidence of financial assurance that meets the requirements of section 11523a, the maximum waste slope in the active portion, an estimate of remaining permitted capacity, and documentation of the amount of waste received at the disposal area during the previous license period or expected to be received, whichever is greater.

(5) An application for a license for a disposal area other than an existing coal ash impoundment shall include a certification under the seal of a licensed professional engineer verifying that the construction of the disposal area has proceeded according to the approved plans. An applicant for a license for an existing coal ash impoundment shall submit with the application documentation in the applicant's possession or control regarding the construction of the impoundment. If construction of a portion of a landfill is not complete, the owner or operator shall submit additional construction certification of that portion of the landfill under section 11516(3).

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

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

(8) The application for a type II landfill operating license shall be accompanied by the following fee for the

5-year term of the operating license, subject to subsection (9):

(a) Landfills receiving less than 100 tons per day, $500.00.

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

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

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

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

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

(g) Landfills receiving more than 3,000 tons per day, $33,000.00.

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

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

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

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

(10) The operating license application for a type III landfill shall be accompanied by a fee of $5,000.00.

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

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

(13) The department shall deposit the fees collected under subsections (11) and (12) in the coal ash care fund created in section 11550.

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

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

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

(15) The notices under subsection (14) shall meet all of the following requirements:

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

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

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

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

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

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

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

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

(18) The operating license application for a solid waste processing and transfer facility that manages more than 200 cubic yards at any time, or other disposal area that is not a landfill or surface impoundment shall be accompanied by a fee of $1,000.00.

(19) Except as provided in subsection (13), the department shall deposit operating license application fees

collected under this section in the perpetual care account of the solid waste management fund.

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

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

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

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

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

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

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

(b) Complies with part 55.

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

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

(a) Industrial waste.

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

(24) The owner or operator of a landfill shall annually submit a report to the department and the county and municipality in which the landfill is located that specifies the tonnage and type of solid waste received by the landfill during the year itemized, to the extent possible, by county, state, or country of origin and the amount of remaining disposal capacity at the landfill. Remaining disposal capacity shall be calculated as the permitted capacity less waste in place for any area that has been constructed and is not yet closed plus the permitted capacity for each area that has a permit for construction under part 115 but has not yet been constructed. The report shall be submitted within 45 days after the end of each state fiscal year. By January 31 of each year, the department shall submit to the legislature a report summarizing the information obtained under this subsection.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512a Issuance of license for coal ash landfill or a coal ash impoundment; requirements.

Sec. 11512a. (1) The department shall not issue a license to a coal ash landfill or a coal ash impoundment unless the applicant has provided to the department both of the following:

(a) An approved hydrogeological monitoring program that does both of the following:

(*i*) Complies with R 299.4440 to R 299.4445, if applicable, and R 299.4905 to R 299.4908 of the part 115 rules.

(*ii*) Includes a detection monitoring program that meets the requirements of section 11511a(3).

(b) All reports and other information required under 40 CFR 257.90 for the preceding 5 years, as applicable. Based on this information, the department shall determine whether any additional licensing requirements are necessary for the coal ash landfill or coal ash impoundment. Any report or other information available on the applicant's website or already submitted to the department is not required to be provided with the application.

(2) The department shall not issue a license to a coal ash landfill unless the applicant has provided to the

department a run-on and run-off control system plan that complies with 40 CFR 257.81(c)(1) and was prepared and certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised every 5 years in compliance with 40 CFR 257.81(c)(4).

(3) The department shall not issue a license to a coal ash impoundment unless the applicant has provided to the department an inflow design flood control system plan that complies with 40 CFR 257.82(c)(1) and was prepared and certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised every 5 years in compliance with 40 CFR 257.82(c)(4).

(4) The department shall not issue a license to a coal ash landfill or a coal ash impoundment unless that landfill or impoundment complies with section 11511a(3) and, if applicable, section 11519b(4) or a schedule, approved by the department, of remedial measures, including a sequence of actions or operations, that leads to compliance with this part within a reasonable time period but not more than 2 years after the effective date of the amendatory act that added this subsection.

(5) The department shall not issue a license for a coal ash impoundment that is not a low-hazard-potential coal ash impoundment unless the applicant has provided to the department an emergency action plan that complies with 40 CFR 257.74(a)(3) and was prepared and certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules.

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512b Active gas collection and control system; prevention of the migration of explosive gases; system requirements; compliance with gas migration monitoring plan; alternative gas venting.

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

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

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

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

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

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

(A) Is at least 6 inches in diameter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Soil conditions.

(b) Hydrogeologic conditions surrounding the landfill.

(c) Hydraulic conditions surrounding the landfill.

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

(4) A landfill that accepts industrial waste or other nonmunicipal solid waste with the potential to generate gas and that does not utilize an active gas collection and control system shall be designed with a system that allows gas venting from the entire landfill surface. The owner or operator of the landfill shall perform an analysis to determine the spacing needed between gas venting trenches for an effective system. The system shall be designed with a continuous layer, which may be utilized as part of the infiltration layer that protects the final cover liner from the waste and minimizes the effect of settlement. The continuous layer shall meet all of the following requirements:

(a) Be located below the capping layer.

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

(c) Consist of at least 1 foot of granular soil with hydraulic conductivity of at least 1.0x10-3 cm/sec and a series of flexible, perforated pipes connected to a series of outlets or an alternative design approved by the department as providing equivalent performance.

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512d Installation of monitoring port; sampling of gas extractions for effectiveness; surface monitoring design plan; submission and retention of records.

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

(2) The owner or operator of a landfill with an active gas collection and control system shall sample each

gas extraction well for nitrogen or oxygen and for methane, pressure, temperature, liquid level, and, if existing wellheads allow flow measurement, flow. The owner or operator shall monitor gas flow to the control device, methane content at the control device, and other parameters as specified in an approved monitoring plan.

(3) The owner or operator of a landfill shall sample each gas extraction well monthly for the parameters, other than liquid level, listed in subsection (2). Except as provided in this subsection, the liquid level in each well shall be monitored at least semi-annually. If for 2 consecutive monitoring events the liquid level in a well exceeds 50% but does not exceed 75% of the screened interval length, the owner or operator shall submit to the department for review a liquids removal evaluation and corrective action report for the well, unless the well has a functional, operated liquid pump. If the liquid level in a well exceeds 75% of the screened interval length during a monitoring event, then the liquid level monitoring frequency for that well shall be increased to quarterly. If the liquid level in a well exceeds 75% of the screened interval length for 2 consecutive monitoring events, the owner or operator of the landfill shall install a liquids pump, unless the department approves an alternative corrective action plan. If the liquid level in a well did not exceed 50% for the immediately preceding 2 consecutive monitoring events, the owner or operator may petition the department for a decreased monitoring frequency. However, decreased monitoring shall be conducted at least annually. For the purposes of the petition, the 2 consecutive monitoring events may include monitoring conducted before the effective date of the amendatory act that added this section.

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

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

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

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

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

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

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

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

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

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

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

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

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512f Type II landfill; revised engineering plans; compliance requirements; report.

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

(a) If, on the effective date of the amendatory act that added this section, the landfill has an active gas collection and control system and is subject to monthly wellhead monitoring pursuant to the new source performance standards under 40 CFR part 60, the owner or operator shall submit revised engineering plans that incorporate the approved new source performance standard plans within 90 days after the effective date of the amendatory act that added this section. The revised plans need not require upgrading of the initial active gas collection and control system in previously constructed areas unless it is necessary to correct surface emissions of methane at concentrations exceeding 500 parts per million above background that cannot be corrected within 1 quarterly monitoring period by following the procedures of 40 CFR 60.765(c)(4)(i) to

(iv), to correct a nuisance odor violation, or to maintain vacuum requirements at the wellhead located farthest from the blower. The design requirements of section 11512b(2) apply to lateral extensions, lateral expansions, and all new units at the facility.

(b) If, on the effective date of the amendatory act that added this section, the landfill has an active gas collection and control system and is not subject to monthly wellhead monitoring pursuant to the new source performance standards under 40 CFR part 60, the owner or operator shall submit revised plans within 1 year after the effective date of the amendatory act that added this section. The revised plans need not require upgrading of the initial system in previously constructed areas unless it is necessary to correct surface emissions exceeding 500 parts per million of methane above background that cannot be corrected within 1 quarterly monitoring period by following the procedures of 40 CFR 60.765(c)(4)(i) to (iv), to correct a nuisance odor violation, or to maintain vacuum requirements at the well located furthest from the blower. The design requirements of section 11512b(2) apply to lateral extensions and all new units at the landfill.

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

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

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

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

(4) The owner or operator of a type II landfill shall submit plans to the department before beginning an active gas collection and control system expansion project. Repairs, changes, or installations are not considered to be an expansion project if they are minor and necessary for proper maintenance of the existing active gas collection and control system. The plans shall identify gas extraction well locations, include a schedule of extraction well depths, and identify gas well pump locations, compressed air and pump force main locations, header and lateral vacuum pipe locations, condensate drip leg and sump locations, and any other relevant infrastructure, as well as construction details for these items. If, during construction, conditions require that any of the approved or proposed extraction well locations deviate more than 50 feet from the proposed location or more than 25% from the proposed depth, the owner or operator shall submit to the department 1 of the following:

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

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

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

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

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

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

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

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

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512h Schedule for operating and monitoring an active gas collection and control system; surface emission scans.

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

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

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

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

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

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

(*i*) Surface emission scans detecting methane at concentrations exceeding 500 parts per million above background that cannot be corrected within 1 quarterly period by following the procedures of 40 CFR 60.765(c)(4)(i) to (iv).

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

(*iii*) Nuisance odors.

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

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

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

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

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11513 Operation of solid waste processing and transfer facility; notification and

reporting requirements; registration application; applicability to existing operations.

Sec. 11513. (1) Subject to subsection (4), unless the person has notified the department, a person shall not operate a solid waste processing and transfer facility that does not at any time have on-site more than 50 cubic yards of solid waste and that is not designed to accept waste from vehicles with mechanical compaction devices. Notification shall be given upon initial operation and, subsequently, within 45 days after the end of each state fiscal year. The subsequent notices shall report the amount of solid waste managed at the facility during the preceding state fiscal year.

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

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

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

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

(b) For a disposal area described in subsection (1) or (2), the operator shall submit to the department the notification or application for registration required under those subsections within 1 year after the effective date of the amendatory act that added this subsection.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11514 Materials prohibited from disposal in landfill; disposal of yard clippings; notice of prohibitions; report.

Sec. 11514. (1) A person shall not knowingly deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, knowingly allow disposal in the landfill of, any of the following:

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

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

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

(d) More than a de minimis amount of yard waste, unless it meets the requirements of section 11555(1)(j).

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

(a) Used oil as defined in section 16701.

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

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

(d) Regulated hazardous waste as defined in R 299.4104 of the MAC.

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

(*i*) Household waste other than septage waste.

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

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

(f) Sewage.

(g) PCBs as defined in 40 CFR 761.3.

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

(3) A person shall not knowingly deliver to a municipal solid waste incinerator for disposal, or, if the person is an owner or operator of a municipal solid waste incinerator, knowingly allow disposal in the incinerator of, more than a de minimis amount of yard waste, unless the requirements of section 11555(1)(j) are met.

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 34, Imd. Eff. Mar. 29, 2004;—Am. 2005, Act 243, Imd. Eff. Nov. 22, 2005;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2008, Act 394, Imd. Eff. Dec. 29, 2008;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11514b Disposal of certain technologically enhanced naturally occurring radioactive material (TENORM) in type II landfill prohibited; annual report; disposal requirements; TENORM defined.

Sec. 11514b. (1) A person shall not deliver to a type II landfill in this state for disposal and the owner or operator of a type II landfill shall not permit disposal in the landfill of technologically enhanced naturally occurring radioactive material 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) The owner or operator of a type II 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) Within 45 days after the end of each state fiscal year, the owner or operator of a type II landfill shall submit to the department an annual report that summarizes the information obtained under subsection (2) for all TENORM disposed at the landfill during the previous state fiscal year.

(5) The owner or operator of a type II landfill that disposes of TENORM with a concentration of radium-226 more than 25 picocuries per gram, a concentration of radium-228 more than 25 picocuries per gram, or a concentration of lead-210 more than 25 picocuries per gram shall do all 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.

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

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

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

(*iii*) 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.

(6) As used in this section, "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.

History: Add. 2018, Act 688, Eff. Mar. 28, 2019;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11515 Inspection of site; compliance with part 115 as condition of eligibility for permit, license, or registration; written inspection report; authorized representative defined.

Sec. 11515. (1) The department or an authorized representative of the department may inspect and investigate conditions relating to the generation, storage, processing, transportation, management, or disposal of solid waste or any material regulated under part 115. In conducting an inspection or investigation, the department or its authorized representative may, at reasonable times and after presenting credentials and stating its authority and purpose, do any of the following:

(a) Enter any property.

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

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

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

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

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

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

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

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

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

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

(b) A local health officer.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11516 Final decision on license application; expiration and renewal of operating license; issuance of license as authority to accept waste for disposal; final exterior landfill slope requirements.

Sec. 11516. (1) Before making a final decision on an operating license application under section 111512, the department shall review the application for consistency with the requirements of part 115. The department shall notify the clerk of the municipality in which the disposal area is located and the applicant of its approval or denial of a license application within 10 days after the final decision is made.

(2) An operating license expires 5 years after the date of issuance. An operating license may be renewed

before expiration upon payment of a renewal application fee specified in section 11512 if the licensee is in compliance with part 115.

(3) Issuance of an operating license by the department authorizes the licensee to accept waste for disposal in certified portions of the disposal area for which a bond was established under section 11523 and, for type II landfills, for which financial assurance was demonstrated under section 11523a. If the construction of a portion of a landfill licensed under this section is not complete by the time the license application is submitted, the owner or operator of the landfill shall submit a certification under the seal of a licensed professional engineer verifying that the construction of that portion of the landfill has proceeded according to the approved plans at least 60 days before the anticipated date of waste disposal in that portion of the landfill. If the department does not deny the certification within 60 days of receipt, the owner or operator may accept waste for disposal in the certified portion. In the case of a denial, the department shall issue a written statement of the reasons why the construction or certification is not consistent with part 115 or the approved plans.

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

(a) To install berms for erosion control.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: In subsection (1), the reference to “section 111512” evidently should be to “section 11512”.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11517 Approval of closure certification and postclosure plan; modification of postclosure care period; release from postclosure care; duties of owner or operator.

Sec. 11517. (1) After the department approves the closure certification for a landfill unit under section 11523a, the owner or operator shall conduct postclosure care of that unit in compliance with a postclosure plan approved by the department and shall maintain financial assurance in compliance with part 115 including any additional financial assurance required based on an extension of the postclosure care period under subsection (3). The postclosure plan may include monitoring and maintenance provisions not otherwise required by part 115 if designed to achieve and demonstrate functional stability, such as monitoring settlement. Postclosure care shall be conducted for 30 years, except as provided under subsection (2) or (3), and consist of at least all of the following conducted as required by part 115:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11518 Landfill and coal ash impoundment; instrument imposing restrictive covenant on land; filing; contents of covenant; authorization; exemption; construction of part 115.

Sec. 11518. (1) When a landfill cell is first licensed, an instrument that imposes a restrictive covenant upon the land involved shall be executed by all of the owners of the land and the department. If the land is owned by this state, the state administrative board shall execute the covenant on behalf of this state. The department or a local health officer shall file the instrument imposing the restrictive covenant for record in the office of the register of deeds of the county, or counties, in which the land is located. The covenant shall state that the land described in the covenant will be used as a landfill and that neither the property owners, their servants, agents, or employees, nor any of their heirs, successors, lessees, or assigns shall, without authorization from the department, engage in filling, grading, excavating, drilling, or mining on the property during the first 50 years following approval by the department of the landfill's closure certification under section 11523a. In giving authorization, the department shall consider the original design, type of operation, material deposited, and the stage of decomposition of the fill. The department may grant an exemption from this section if the land involved is federally owned or if agreements existing between the landowner and the licensee on January 11, 1979 are not renegotiable.

(2) Part 115 does not prohibit the department from conveying, leasing, or permitting the use of state land

for a disposal area or a resource recovery facility as provided by applicable state law.

(3) When a disposal area that is a coal ash impoundment is first licensed under this part, an instrument that imposes a restrictive covenant upon the land involved shall be executed by all of the owners of the land and the department. If the land is owned by this state, the state administrative board shall execute the covenant on behalf of this state. The department or a local health officer shall file the instrument imposing the restrictive covenant for record in the office of the register of deeds of the county, or counties, the land is located. The covenant shall state that the land described in the covenant will be used as a coal ash impoundment and that neither the property owners, their servants, agents, or employees, nor any of their heirs, successors, lessees, or assigns shall, without authorization from the department, engage in filling, grading, excavating, drilling, or mining on the property during the first 50 years following completion of the impoundment. In giving authorization, the department shall consider the original design, type of operation, material deposited, and any removal of the materials as part of the closure of the impoundment.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519 Specifying reasons for denial of permit, operating license, or registration; cease and desist order; grounds for order revoking, suspending, or restricting permit, license, or registration; contested case hearing; violation or inconsistency; summary suspension of permit or license; judicial review.

Sec. 11519. (1) The department shall specify, in writing, the reasons for denial of an application for a permit, an operating license, an approval under a general permit, or a registration, including the sections of part 115 that may be violated by granting the application and the manner in which the violation may occur.

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

(a) A local health officer or the department may issue a cease and desist order specifying a schedule of closure or remedial action in compliance with part 115 or may enter a consent agreement specifying a schedule of closure or remedial action under part 115.

(b) The department may issue a final order revoking, suspending, or restricting the permit, license, approval under a general permit, or registration or a notification after a contested case hearing as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) The department may issue an order summarily suspending the permit, license, approval under a general permit, or registration or a notification, if the department determines that the violation or inconsistency constitutes an emergency or poses an imminent risk of injury to the environment, natural resources, or the public health, safety, or welfare. Summary suspension may be ordered effective on the date specified in the order or upon service of a certified copy of the order on the owner or operator, whichever is later, and remains effective during the proceedings. The proceedings shall be commenced within 7 days after the issuance of the order and shall be promptly determined.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519a Duties of owner or operator of a coal ash impoundment or a coal ash landfill; compliance with federal regulations; assessment.

Sec. 11519a. (1) The owner or operator of an existing coal ash impoundment or a coal ash impoundment licensed under this part shall do all of the following:

(a) Comply with R 299.4311 of the part 115 rules.

(b) Ensure that the impoundment is not in violation of part 31 or part 55 and does not create a nuisance.

(c) Comply with the requirements of 40 CFR 257.83, as applicable. The inspection report required by 40 CFR 257.83(b)(2) shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115

rules.

(d) Comply with the requirements of 40 CFR 257.74(a)(2). The hazard potential classification assessment reports shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This assessment shall be revised every 5 years pursuant to 40 CFR 257.74(f)(2).

(e) Maintain in the operating record a history of construction that complies with 40 CFR 257.74(c)(1)(*i*) to (*xi*).

(f) Comply with 40 CFR 257.74(d). The periodic structural stability assessment reports shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This assessment shall be revised every 5 years pursuant to 40 CFR 257.74(f)(2).

(g) Comply with 40 CFR 257.74(e). The periodic safety factor assessment reports shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This assessment shall be revised every 5 years pursuant to 40 CFR 257.74(f)(2).

(h) Implement the detection monitoring program required in sections 11511a(3) and 11512a(1)(a).

(i) Comply with requirements of 40 CFR 257.82, as applicable. The inflow design flood control plan shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised at least every 5 years pursuant to 40 CFR 257.82(c)(4).

(2) The owner or operator of an existing coal ash landfill or coal ash impoundment or a coal ash landfill or impoundment licensed under this part shall do all of the following:

(a) Maintain a fugitive dust control plan that complies with 40 CFR 257.80(b) and is certified by a registered professional engineer pursuant to R 299.4910(9) of the part 115 rules. An annual fugitive dust control report shall be prepared and completed in compliance with 40 CFR 257.80(c).

(b) Maintain an up-to-date operating record in compliance with 40 CFR 257.105.

(c) Maintain an up-to-date publicly accessible internet site in compliance with 40 CFR 257.107.

(3) The owner or operator of an existing coal ash landfill or a coal ash landfill licensed under this part shall comply with both of the following:

(a) The requirements of 40 CFR 257.84, as applicable. The inspection report required by 40 CFR 257.84(b)(2) shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules.

(b) The requirements of 40 CFR 257.81, as applicable. The run-on and run-off control system plan shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised every 5 years pursuant to 40 CFR 257.81(c)(4).

(4) Within 1 year after the effective date of the amendatory act that added this subsection, the owner or operator of an existing coal ash landfill or existing coal ash impoundment shall assess whether the landfill or impoundment is located in an unstable area as defined in R 299.4409 of the part 115 rules. If the owner or operator determines that the landfill, the impoundment, or a unit thereof is located in an unstable area, the owner or operator shall cease placing coal ash into the landfill, impoundment, or unit and proceed to close the landfill, impoundment, or unit in compliance with this part and the rules promulgated under this part.

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519b Placement of coal ash and associated liquids; assessment monitoring program; response action plan; closure of facility.

Sec. 11519b. (1) Placement of coal ash and associated liquids into an existing coal ash impoundment or coal ash impoundment licensed under this part is permitted and shall be conducted consistent with section 11519a and this section.

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

(a) Antimony.

(b) Arsenic.

(c) Barium.

(d) Beryllium.

(e) Cadmium.

(f) Chromium.
(g) Cobalt.
(h) Copper.
(i) Lead.
(j) Lithium.
(k) Nickel.
(*l*) Mercury.
(m) Molybdenum.
(n) Selenium.
(o) Silver.
(p) Thallium.
(q) Vanadium.
(r) Zinc.
(s) Radium 226 and 228 combined.

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

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

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

(6) The owner or operator of a coal ash impoundment shall begin to implement closure as described in R 299.4309(7) of the MAC not more than 6 months after the final placement of coal ash within the impoundment and shall diligently pursue the closure. The closure shall be completed in compliance with 40 CFR 257.102(f)(1) and (2).

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

(8) If a coal ash impoundment is closed by December 28, 2020, and the department accepts the certification of the closure, the owner is not required to provide financial assurance under section 11523 or pay into a perpetual care fund under section 11525.

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

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

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

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

(a) The financial assurance under section 11523 and perpetual care fund under section 11525 shall be terminated.

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

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

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519c Groundwater contamination in unlined coal ash impound; owner or operator duties; "unlined coal ash impoundment" defined.

Sec. 11519c. (1) If assessment monitoring of an unlined coal ash impoundment confirms the presence of groundwater contamination in excess of maximum contaminant levels in effect as provided in section 6 of the safe drinking water act, 1976 PA 399, MCL 325.1006, or a groundwater protection standard established under 40 CFR 257.95(h), the owner or operator of the coal ash impoundment shall do all of the following:

(a) Notify the department of the confirmation within 14 days.

(b) Cease acceptance of coal ash at the impoundment within 180 days after the confirmation.

(c) Begin to implement closure as described in R 299.4309(7) of the part 115 rules not more than 180 days after such confirmation and diligently pursue the closure. The closure shall be completed in compliance with 40 CFR 257.102(c), with 40 CFR 257.102(f)(1) and (2), or with 40 CFR 257.103.

(d) Prepare a response action plan in compliance with R 299.4442 of the part 115 rules and submit the response action plan to the department for review and approval. Upon receipt of department approval, the owner or operator shall implement and diligently pursue the response action plan and shall comply with R 299.4443 to 299.4445 of the part 115 rules.

(2) For purposes of this section, "unlined coal ash impoundment" means a coal ash impoundment without a liner as described in 40 CFR 257.70(b) or another construction or system in place that is determined by the department to be as protective as a liner as described in 40 CFR 257.70(b).

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11520 Disposition of fees; special fund; disposition of solid waste on private property.

Sec. 11520. (1) Fees collected by a health officer under this part shall be deposited with the city or county treasurer. The treasurer shall deposit the fees in a special fund designated for use in implementing this part. If an ordinance or charter provision prohibits such a special fund, the fees shall be deposited and used in compliance with the ordinance or charter provision.

(2) Part 115 does not prohibit an individual from disposing of solid waste from the individual's own household upon the individual's own land if the disposal does not create a nuisance or hazard to health. Solid waste accumulated as a part of an improvement or the planting of privately owned farmland may be disposed of on the property if the method used is not injurious to human life or property and does not create a nuisance.

SUBPART 3 WASTE DIVERSION CENTERS

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11521 Repealed. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to the management of yard clippings.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 3
WASTE DIVERSION CENTERS

324.11521b Operator of waste diversion center; duties; requirements; rejection of diverted waste.

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

(a) On an annual basis, not receive an amount of solid waste equal to or greater than 15%, by weight, of the diverted waste received by the facility.

(b) Ensure that personnel operating the waste diversion center are knowledgeable about the safe management of the types of diverted waste that are accepted at the waste diversion center.

(c) Manage the diverted waste in a manner that prevents the release of any diverted waste or component of diverted waste to the environment.

(d) Not store diverted waste overnight at the waste diversion center except in a secure location and with containment that is adequate to prevent any release of diverted waste.

(e) Within 1 year after diverted waste is collected by the waste diversion center, transfer that diverted waste to another waste diversion center, a recycling facility, or a disposal facility that meets the requirement of section 11508(1)(a), for processing, recycling, or disposal.

(f) Not process diverted waste except to the extent necessary for the safe and efficient transportation of the diverted waste.

(g) Record the types and quantities of diverted waste collected, the period of storage, and where the diverted waste was transferred, processed, recycled, or disposed of. The operator shall maintain the records for at least 3 years and shall make the records available to the department upon request.

(h) Allow access to the waste diversion center only when a responsible individual is on duty.

(i) As appropriate for the type of diverted waste, protect the area where the diverted waste is accumulated from weather, fire, physical damage, and vandals.

(j) Keep the waste diversion center clean and free of litter and operate in a manner that does not create a nuisance or hazard to the environment, natural resources, or the public health, safety, or welfare.

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

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

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

(2) The operator of a waste diversion center may reject any diverted waste.

History: Add. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11522 Repealed. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to open burning of grass clippings, leaves, or household waste.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 4
FINANCIAL ASSURANCE

324.11523 Financial assurance; bond requirements; interest; termination; noncompliance with closure and postclosure monitoring and maintenance requirements; expiration or cancellation notice; effect of bankruptcy action; alternate financial assurance; risk pooling financial mechanism.

Sec. 11523. (1) The department shall not issue a license to operate a disposal area until the applicant has filed, as a part of the application for a license, evidence of the following financial assurance, as applicable:

(a) Subject to section 11523b, financial assurance for a landfill described in this subdivision shall be a bond in an amount equal to $20,000.00 per acre of licensed landfill within the solid waste boundary. However, the total amount of the bond shall not be less than $20,000.00 or more than $2,000,000.00. Each bond shall provide assurance for the maintenance of the landfill site or a portion thereof for a period of 30 years beginning when the department approved a closure certification as described in section 11523a(5)(b) for the landfill or portion thereof, respectively. In addition to this bond, the owner or operator of a landfill described in this subdivision shall maintain a perpetual care fund. All of the following landfills are subject to this subdivision, unless the owner or operator of the landfill, by written notice to the department, elects to provide financial assurance under subdivision (b):

(*i*) A preexisting unit at a type II landfill.

(*ii*) A type II landfill that stopped receiving waste and was certified as closed before April 9, 1997.

(*iii*) A type III landfill that stopped receiving waste before the effective date of the amendatory act that

added this subparagraph.

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

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

(c) Financial assurance for an existing coal ash impoundment shall be a bond in an amount equal to $20,000.00 per acre within the impoundment boundary. However, the total amount of the bond shall not be less than $20,000.00 or more than $1,000,000.00. The bond shall provide assurance for the maintenance of the coal ash impoundment or a portion thereof for a period of 30 years after the coal ash impoundment or any approved portion is completed. In addition to the bond, the owner or operator of an existing coal ash impoundment shall maintain a perpetual care fund. For applications for a license to operate submitted to the department after December 28, 2020, an applicant that demonstrates that it meets the requirements of R 299.9709 of the MAC may utilize the financial test under that rule for an amount not exceeding 95% of the closure, postclosure, and corrective action cost estimate.

(d) Financial assurance established for a licensed solid waste processing and transfer facility or incinerator shall be a bond in the amount of $20,000.00. The financial assurance shall be maintained in effect for 2 years after the disposal area is closed.

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

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

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

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

(3) An owner or operator of a materials management facility who elects to post cash as a bond shall accrue interest on that bond quarterly at the annual rate of 6%, except that the interest rate payable to an owner or operator shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. Interest shall be paid to the owner or operator upon release of the bond by the department. Any interest greater than 6% shall be deposited in the state treasury to the credit of the general fund. An owner or operator who uses a certificate of deposit as a bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department.

(4) An owner or operator of a disposal area that is not a landfill may, beginning 2 years after closure of the disposal area, request that the department terminate the bond required under this section. Within 60 days after the request is made, the department shall approve or deny the request in writing. The department shall approve the request if all waste and waste residues have been removed from the disposal area and closure has been certified by a licensed professional engineer and approved by the department.

(5) If the owner or operator violates the closure and postclosure monitoring and maintenance requirements

of part 115, the department may utilize a bond required under this section for the closure and postclosure monitoring and maintenance of a disposal area to the extent necessary to correct the violations. At least 7 days before utilizing the bond, the department shall issue a notice of violation or other order that alleges violation of part 115 and shall provide the owner or operator an opportunity for a hearing. This subsection does not apply to a perpetual care fund.

(6) The terms of a surety bond, irrevocable letter of credit, insurance policy, or perpetual care fund bond shall require the issuing institution to notify both the department and the owner or operator at least 120 days before the expiration date or cancellation of the bond. If the owner or operator does not extend the effective date of the bond, or establish alternate financial assurance within 90 days after receipt of an expiration or cancellation notice from the issuing institution, both of the following apply:

(a) The department may draw on the bond.

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

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

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

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

(10) Before closure of a landfill, if money is disbursed from the perpetual care fund, the department may require a corresponding increase in the amount of a required bond if necessary to meet the requirements of this section.

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

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

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

(b) The mechanism is irrevocable and renews automatically unless, not less than 120 days before the automatic renewal date, the insurer, surety, bank, or other financial institution notifies the department and the owners or operators of the covered facilities that the mechanism will not be renewed, and the department agrees in writing to termination of the mechanism.

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

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11523a Operation of landfill subject to MCL 324.11523(1)(b).

Sec. 11523a. (1) The department shall not issue a license to operate a landfill that is subject to section 11523(1)(b) unless the applicant demonstrates that the combination of the landfill care fund and the financial capability of the applicant as evidenced by a financial test provides financial assurance in an amount not less than that required by this section. An applicant may utilize a financial test for an amount not more than 70% of the closure, postclosure, and corrective action cost estimate. For applications for a license to operate submitted on or after the date 2 years after the effective date of the amendatory act that added subsection (3)(c), an applicant may utilize a financial test for an amount more than 70% but not more than 95% of the closure, postclosure, and corrective action cost estimate if the owner or operator demonstrates that the owner or operator passes a financial test under and otherwise meets the requirements of R 299.9709 of the MAC.

(2) An applicant may demonstrate compliance with this section by submitting to the department evidence that the applicant has financial assurance for any existing unit or new unit in an amount equal to or more than the sum of the following standardized costs:

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

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

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

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

(*iv*) A supplemental cost of $9,000.00 per acre, to construct a passive gas collection system in the final cover or a supplemental cost of $15,000.00 per acre for an active gas collection and control system, for those areas without a gas collection and control system already installed.

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

(*i*) A final cover maintenance cost of $400.00 per acre per year.

(*ii*) A leachate disposal cost of $400.00 per acre per year.

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

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

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

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

(*vii*) A groundwater monitoring cost of $2,000.00 per monitoring well per year.

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

(c) A corrective action cost estimate, if any. The corrective action cost estimate shall be a detailed written estimate, in current dollars, of the cost of hiring a third party to perform corrective action in compliance with part 115.

(3) Instead of using some or all of the standardized costs specified in subsection (2), an applicant may use the site-specific costs of closure or postclosure maintenance and monitoring. A site-specific cost estimate shall be a written estimate, in current dollars, of the cost of hiring a third party to perform the activity. For the purposes of this subsection, a parent corporation or a subsidiary of the owner or operator is not a third party. Site-specific cost estimates shall comply with the following, as applicable:

(a) For closure, be based on the cost to close the largest area of the landfill requiring a final cover at any time during the active life, when the extent and manner of its operation would make closure the most expensive, in compliance with the approved closure plan. The closure cost estimate shall not incorporate any salvage value from the sale of structures, land, equipment, or other assets associated with the facility at the time of final closure.

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

(c) For costs for operation and maintenance of an on-site wastewater treatment facility managing leachate

at a landfill that are substituted for the standardized leachate disposal and transportation costs of this section, be based on an engineering evaluation of total wastewater flow and include utilities, staffing, and incidental costs to maintain and ensure compliance with all applicable permits.

(4) The owner or operator of a landfill subject to this section shall, during the active life of the landfill and during the postclosure care period, annually adjust the financial assurance cost estimates and corresponding amount of financial assurance for inflation. The standard closure cost estimate and corrective action cost estimate shall be adjusted for inflation by multiplying the cost estimate by an inflation factor derived from the most recent United States Department of the Interior, Bureau of Reclamation Composite Index published by the United States Department of Commerce or another index that is more representative of the costs of closure and postclosure monitoring and maintenance as approved by the department. The owner or operator shall document the adjustment on a form consistent with part 115 as provided or approved by the department and shall place the documentation in the operating record of the facility.

(5) The owner or operator of a landfill subject to this section may request that the department authorize a reduction in the approved cost estimates and corresponding financial assurance for the landfill. Within 60 days after receiving the financial assurance reduction request under this subdivision, the department shall approve or deny the request in writing. A denial shall state the reasons for the denial. A financial assurance reduction request shall certify completion of any of the following activities:

(a) Partial closure of the landfill. The current closure cost estimate for partially closed portions of a landfill unit may be reduced by 80%, if the maximum waste slope on the unclosed portions of the unit does not exceed 25%. The percentage of the cost estimate reduction approved by the department for the partially closed portion shall be reduced 1% for every 1% increase in the slope of waste over 25% in the active portion. An owner or operator requesting a reduction in financial assurance for partial closure shall submit with the request a certification under the seal of a licensed professional engineer of both of the following:

(*i*) That a portion of the licensed landfill unit has reached final grades and has had a final cover installed in compliance with the approved closure plan and part 115.

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

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

(*i*) Approve the certification and notify the owner or operator that the closure cost estimate may be reduced to zero.

(*ii*) Disapprove the certification and provide the owner or operator with a detailed written statement of the reasons the department has determined that closure certification has not been conducted in compliance with part 115 or an approved closure plan.

(c) Postclosure maintenance and monitoring. A landfill owner or operator may request a reduction in the postclosure cost estimate and corresponding financial assurance for 1 year or more of postclosure maintenance and monitoring if final closure of a landfill unit has been completed and the landfill has been monitored and maintained in compliance with the approved postclosure plan. Within 60 days after receiving a cost estimate reduction request, the department shall grant written approval or issue a written denial stating the reason for denial. If the department grants the request, the owner or operator may reduce the postclosure cost estimate to reflect the number of years remaining in the postclosure period. The department shall deny the request if the owner or operator has not performed the specific tasks consistent with part 115 and an approved postclosure plan. The department shall not grant a request under this subdivision to reduce the postclosure cost estimate and the corresponding financial assurance to below the maximum required perpetual care fund amount specified in section 11525(3) unless the owner or operator has demonstrated within the past 5-year period that the landfill is on target to achieve functional stability as described in section 11517 within the time remaining in the postclosure period.

(6) The owner or operator of a landfill subject to this section may request a reduction in the amount of 1 or more of the financial assurance mechanisms in place. If the combined value of the remaining financial assurance mechanisms equals the amount required under this section, the department shall approve the request.

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11523b Trust fund or escrow account.

Sec. 11523b. (1) The owner or operator of a landfill or coal ash impoundment may establish a trust fund or escrow account to fulfill the requirements of sections 11523 and 11523a.

(2) All earnings and interest from a trust fund or escrow account shall be credited to the fund or account. However, the custodian may be compensated for reasonable fees and costs for the custodian's responsibilities as custodian. The custodian shall ensure the filing of all required tax returns for which the trust fund or escrow account is liable and shall disburse funds from earnings to pay taxes owed by the trust fund or escrow account, without permission of the department.

(3) The custodian shall annually, 30 days preceding the anniversary date of establishment of the fund, furnish to the owner or operator and to the department a statement confirming the value of the fund or account as of the end of the month immediately preceding the submittal of the report.

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

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

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

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

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11524 Repealed. 2013, Act 250, Imd. Eff. Dec. 26, 2013.

Compiler's note: The repealed section pertained to request for reduction in amount of financial assurance.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525 Perpetual care fund; applicability.

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

(2) The owner or operator of a landfill or coal ash impoundment shall establish and maintain a perpetual care fund for a period of 30 years after final closure of the landfill or coal ash impoundment as specified in this section. A perpetual care fund may be established as a trust fund, an escrow account, or a perpetual care fund bond and may be used to demonstrate financial assurance for a landfill or coal ash impoundment.

(3) Except as otherwise provided in this section, the owner or operator of a landfill shall increase the amount of the perpetual care fund 75 cents for each ton or portion of a ton of solid waste, other than materials described in subsection (4), that is disposed of in the landfill until the fund reaches the maximum required fund amount. As of July 1, 2018, the maximum required fund amount for a landfill or coal ash impoundment is $2,257,000.00. The department shall annually adjust this amount for inflation by multiplying the amount by an inflation factor derived from the most recent United States Department of the Interior, Bureau of Reclamation Composite Index published by the United States Department of Commerce or another index more representative of the costs of closure and postclosure monitoring and maintenance as approved by the department. The department shall round the resulting amount to the nearest thousand dollars. Increases to the amount of a perpetual care fund required under this subsection shall be calculated based on solid waste disposed of in the landfill as of the end of the state fiscal year and shall be made within 30 days after the end of each state fiscal year.

(4) The owner or operator of a landfill or coal ash impoundment shall increase the amount of the perpetual care fund 7.5 cents for each ton or portion of a ton of the following that are disposed of after December 28, 2018 until the fund reaches the maximum required fund amount under subsection (3):

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

(b) Wastewater treatment sludge or sediments from wood pulp or paper producing industries that is disposed of in a landfill if the landfill is used only for the disposal of these materials or these materials are permanently segregated in the landfill.

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

(5) The owner or operator of a landfill that is used only for the disposal of a mixture of 2 or more of the materials described in subsection (4)(a) to (c) or in which a mixture of 2 or more of these materials are permanently segregated shall increase the amount of the perpetual care fund 7.5 cents for each ton or portion of a ton of these materials that are disposed of in the landfill.

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

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

(8) The custodian of a perpetual care fund trust fund or escrow account shall be a bank or other financial institution that has the authority to act as a custodian and whose account operations are regulated and examined by a federal or state agency. Until the perpetual care fund trust fund or escrow account reaches the maximum required fund amount, the custodian of the perpetual care fund trust fund or escrow account shall credit any interest and earnings of the perpetual care fund trust fund or escrow account to the perpetual care fund trust fund or escrow account. After the perpetual care fund trust fund or escrow account reaches the maximum required fund amount, any interest and earnings shall be distributed as directed by the owner or operator. The custodian may be compensated from the fund for reasonable fees and costs incurred in discharging the custodian's responsibilities. The custodian of a perpetual care fund trust fund or escrow account shall make an accounting to the department within 30 days following the close of each state fiscal year.

(9) The custodian of a perpetual care fund shall not disburse any funds to the owner or operator of a landfill or coal ash impoundment for the purposes of the perpetual care fund except upon the prior written approval of the department. However, the custodian shall ensure the filing of all required tax returns for which the perpetual care fund is liable and shall disburse funds to pay taxes owed by the perpetual care fund without permission of the department. The owner or operator of the landfill or coal ash impoundment shall provide notice of requests for disbursement and the department's denials and approvals to the custodian of the perpetual care fund. The owner or operator of a landfill or coal ash impoundment may request disbursement of funds from a perpetual care fund if the amount of money in the fund exceeds the maximum required fund amount under subsection (3), unless a disbursement for that reason has been approved by the department within the preceding 180 days. The department shall approve the disbursement if the total amount of financial assurance maintained meets the requirements of section 11523(1)(a) or (c), as applicable.

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

(11) Upon approval by the department of a request to terminate financial assurance for a landfill or coal ash impoundment under section 11525b, any money in the perpetual care fund for that landfill or coal ash impoundment shall be disbursed by the custodian to the owner of the landfill or coal ash impoundment unless an agreement between the owner and the operator provides otherwise.

(12) The owner of a landfill or coal ash impoundment shall provide notice to the custodian of the perpetual care fund for that landfill or coal ash impoundment if there is a change of ownership of the landfill. The custodian shall maintain records of ownership of a landfill or coal ash impoundment during the period of existence of the perpetual care fund.

(13) This section does not relieve an owner or operator of a landfill or coal ash impoundment of any liability that the owner or operator may have under part 115 or as otherwise provided by law.

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

(15) A perpetual care fund that is established as a trust fund or escrow account may be replaced with a perpetual care fund that is established as a perpetual care fund bond that complies with this section. Upon such replacement, the department shall authorize the custodian of the trust fund or escrow account to disburse the money in the trust fund or escrow account to the owner of the landfill or coal ash impoundment unless an agreement between the owner and operator specifies otherwise.

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

(a) Payments into the standby trust fund or escrow account as specified in subsection (3).

(b) Annual accountings as required in subsection (8).

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

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

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 1996, Act 506, Imd. Eff. Jan. 9, 1997;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525a Owner or operator of landfill or coal ash impoundment; surcharge; payment of surcharge; deposit.

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

(a) Except as provided in subdivision (b), for a landfill or coal ash impoundment that is not a captive facility, 36 cents for each ton or portion of a ton of solid waste or municipal solid waste incinerator ash that is disposed of in the landfill or coal ash impoundment before October 1, 2027.

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

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

(*i*) 100,000 or more tons of waste, $3,000.00.

(*ii*) 75,000 or more but less than 100,000 tons of waste, $2,500.00.

(*iii*) 50,000 or more but less than 75,000 tons of waste, $2,000.00.

(*iv*) 25,000 or more but less than 50,000 tons of waste, $1,000.00.

(*v*) Less than 25,000 tons of waste, $500.00.

(2) Within 30 days after the end of each quarter of a state fiscal year, the owner or operator of a landfill or coal ash impoundment that is not a captive facility shall pay the surcharge under subsection (1)(a) for waste received during that quarter of the state fiscal year. Within 30 days after the end of a state fiscal year, the owner or operator of a type III landfill or coal ash impoundment that is a captive facility shall pay the surcharge under subsection (1)(b) for waste received during that state fiscal year.

(3) If the owner or operator of a landfill or coal ash impoundment is required to pay the surcharge under subsection (1), the owner or operator shall pass through and collect the surcharge from any person that generated the solid waste or arranged for its delivery to the hauler or solid waste processing and transfer facility, notwithstanding the provisions of any agreement to the contrary or the absence of any agreement.

(4) Surcharges collected under this section must be forwarded to the state treasurer for deposit in the solid

waste staff account of the solid waste management fund.

History: Add. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2011, Act 149, Imd. Eff. Sept. 21, 2011;—Am. 2013, Act 72, Imd. Eff. June 25, 2013;—Am. 2015, Act 82, Eff. Oct. 1, 2015;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2019, Act 77, Imd. Eff. Sept. 30, 2019;—Am. 2022, Act 246, Eff. Mar. 29, 2023;—Am. 2023, Act 140, Imd. Eff. Sept. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525b Continuous financial assurance coverage required; request for termination of financial assurance requirements.

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

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

(3) If the owner or operator of a landfill or coal ash impoundment has completed postclosure maintenance and monitoring in compliance with part 115 and the approved postclosure plan, the owner or operator may request that financial assurance required by sections 11523 and 11523a be terminated. The person requesting termination of financial assurance shall submit to the department a statement that the landfill or coal ash impoundment has been monitored and maintained in compliance with part 115 and the approved postclosure plan for the postclosure period specified in section 11523 and shall certify that the landfill or coal ash impoundment is not subject to corrective action under section 11512(21). Within 60 days after receiving a statement under this subsection, the department shall perform a consistency review of the submitted statement and do 1 of the following:

(a) Approve the statement, notify the owner or operator that the owner or operator is no longer required to maintain financial assurance, return or release all financial assurance mechanisms, and, if the perpetual care fund was established as a trust fund or escrow account, notify the custodian of the perpetual care fund to disburse money from the fund as provided in section 11525(11).

(b) Disapprove the statement and provide the owner or operator with a detailed written explanation of the reasons why the department has determined that postclosure maintenance and monitoring and corrective action, if any, have not been conducted in compliance with part 115 or the approved postclosure plan.

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

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

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

History: Add. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525d Landfill care fund; applicability; liability under part 115; cause of action.

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

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

(3) The owner or operator of a landfill may increase the amount of the landfill care fund above the amount

otherwise required by this section at the owner's or operator's discretion.

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

(5) The custodian of a landfill care fund trust fund or escrow account shall not disburse any funds to the owner or operator of a landfill for the purposes of the landfill care fund and the issuer or holder of a landfill care fund bond shall not reduce the amount of the bond except upon the prior written approval of the department. However, the custodian shall ensure the filing of all required tax returns for which the landfill care fund is liable and shall disburse funds to pay taxes owed by the landfill care fund, without permission of the department. The owner or operator of the landfill shall provide notice of requests for disbursement from a landfill care fund trust fund or escrow account or reduction of a landfill care fund bond and the department's denials and approvals to the custodian of the landfill care fund trust fund or escrow account or the issuer or holder of the landfill care fund bond. Requests for disbursement from a landfill care fund trust fund or escrow account or a reduction of a landfill care fund bond shall be submitted not more frequently than semiannually. The owner or operator of a landfill may request disbursement of funds from a landfill care fund trust fund or escrow account or a reduction of a landfill care fund bond. The department shall approve the request if the total amount of financial assurance maintained meets the requirements of section 11523a.

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

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

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

(9) This section does not relieve an owner or operator of a landfill of any liability the owner or operator may have under part 115 or as otherwise provided by law.

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

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

(12) An owner or operator of a landfill that uses a landfill care fund bond to satisfy the requirements of this section shall also establish a standby trust fund or escrow account. All payments made under the terms of the landfill care fund bond shall be deposited by the custodian directly into the standby trust fund or escrow account in compliance with instructions from the department. The standby trust fund or escrow account shall meet the requirements for a trust fund or escrow account established as a landfill care fund under subsection (2), except that, until the standby trust fund or escrow account is funded pursuant to the requirements of this subsection, annual accountings of the standby trust fund or escrow account are not required.

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

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

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

History: Add. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525f Establishment and approval of other bonds.

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

History: Add. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 5
MISCELLANEOUS

324.11526 Inspection of managed materials transporting unit; determination; administration; inspections.

Sec. 11526. (1) The department, a local health officer, or a law enforcement officer of competent jurisdiction may inspect a managed materials transporting unit that is being used to transport managed materials along a public road to determine any of the following:

(a) If the managed materials transporting unit is designed, maintained, and operated in a manner to prevent littering.

(b) If the owner or operator of the managed materials transporting unit is performing in compliance with part 115.

(2) To protect the environment, natural resources, and the public health, safety, and welfare from items and substances being illegally disposed of in landfills in this state, the department shall do all of the following:

(a) Ensure that each materials management facility is in full compliance with part 115.

(b) Provide for the inspection, for compliance with part 115, of each licensed disposal area at least 4 times annually and each materials utilization facility that is approved under a general permit or registered under part 115 at least once annually. Each inspection shall be conducted by the department or a health officer. The department or the health officer shall do both of the following:

(*i*) Prepare a written inspection report.

(*ii*) Submit a copy of the inspection report to the municipality in which the licensed disposal area is located if the municipality arranges with the department or the health officer to pay the cost of duplicating and mailing the reports.

(c) Ensure that all persons disposing of solid waste are doing so in compliance with part 115.

(3) The department and the department of state police may conduct random inspections of waste being transported to a materials management facility in this state. Inspections under this subsection may be conducted during transportation or at the materials management facility.

(4) An inspection described in this section may also be conducted upon receipt of a complaint or as the department determines to be necessary to ensure compliance with part 115.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 43, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526a Solid waste generated out of state; acceptance by owner or operator of landfill prohibited; exceptions; disposal capacity.

Sec. 11526a. (1) The owner or operator of a landfill shall not accept for disposal in this state solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of this state unless 1 or more of the following conditions are met:

(a) The solid waste is composed of a uniform type of item, material, or substance, other than municipal

solid waste incinerator ash, that meets the requirements for disposal in a landfill under part 115.

(b) The solid waste was received through a facility that has documented that it has removed from the solid waste being delivered to the landfill those items that are prohibited from disposal in a landfill.

(c) The country, state, province, or local jurisdiction in which the solid waste was generated is approved by the department for inclusion on the list compiled by the department under section 11526b.

(2) Notwithstanding any other provision of part 115, if there is sufficient disposal capacity for a planning area's disposal needs in or within 130 miles of the planning area, the department is not required to issue a construction permit for a new landfill or municipal solid waste incinerator in the planning area.

History: Add. 2004, Act 40, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526b Compliance with MCL 324.11526b required; notice requirements; compilation of list; documentation.

Sec. 11526b. (1) Not later than October 1, 2004, the department shall do all of the following:

(a) Notify each state, the country of Canada, and each province in Canada that landfills in this state will not accept for disposal solid waste that does not comply with section 11526a.

(b) Compile a list of countries, states, provinces, and local jurisdictions that prohibit from disposal in a landfill the items prohibited from disposal in a landfill located in this state or that prevent from disposal in a landfill the items prohibited from disposal in a landfill located in this state through enforceable solid waste disposal requirements that are comparable to this part.

(c) Prepare and provide to each landfill in the state a copy of a list of the countries, states, provinces, and local jurisdictions compiled under subdivision (b).

(2) The department shall include a country, state, province, or local jurisdiction on the list described in subsection (1) if the country, state, province, or local jurisdiction, or another person, provides the department with documentation that the country, state, province, or local jurisdiction prohibits from disposal in a landfill the items prohibited from disposal in a landfill located in this state or that it prevents from disposal in a landfill the items prohibited from disposal in a landfill located in this state through enforceable solid waste disposal requirements that are comparable to this part. Such documentation shall include all pertinent statutes, administrative regulations, and ordinances.

History: Add. 2004, Act 37, Imd. Eff. Mar. 29, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526c Order restricting or prohibiting solid waste transportation or disposal in this state.

Sec. 11526c. (1) The director may issue an order restricting or prohibiting the transportation or disposal in this state of solid waste originating within or outside of this state if both of the following apply:

(a) The director, after consultation with appropriate officials, has determined that the transportation or disposal of the solid waste poses a substantial threat to the public health or safety or to the environment.

(b) The director determines that the restriction or prohibition on the transportation or disposal of the solid waste is necessary to minimize or eliminate the substantial threat to public health or safety or to the environment.

(2) At least 30 days before the director issues an order under subsection (1), the department shall post the proposed order and its effective date on its website with information on how a member of the public can comment on the proposed order and shall provide a copy of the proposed order to the members of the standing committees of the senate and house of representatives that consider legislation pertaining to public health or the environment. Before issuing the order, the director shall consider comments received on the proposed order. The department shall post the final order on its website beginning not later than the final order's effective date. This subsection does not apply in an emergency situation described in subsection (3).

(3) In an emergency situation posing an imminent and substantial threat to public health or safety or to the environment, the director, before issuing an order under subsection (1), shall provide a copy of the proposed order to the members of the standing committees of the senate and house of representatives that consider legislation pertaining to public health or the environment and publicize the proposed order in any manner appropriate to help ensure that interested parties are provided notice of the proposed order and its effective

date. The department shall post the final order on its website as soon as practicable.

(4) An order issued pursuant to this section shall expire 60 days after it takes effect, unless the order provides for an earlier expiration date.

(5) Subsections (2) and (3) do not apply to the reissuance of an order if the reissued order takes effect upon the expiration of the identical order it replaces. However, the department shall post the reissued order on its website beginning not later than the reissued order's effective date.

(6) A person may seek judicial review of an order issued under this section as provided in section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(7) The director shall rescind an order issued under this section when the director determines that the threat upon which the order was based no longer exists.

History: Add. 2004, Act 36, Imd. Eff. Mar. 29, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526e Disposal of municipal solid waste generated outside of United States; applicability of subsections (1) and (2).

Sec. 11526e. (1) Subject to subsection (3), a person shall not deliver for disposal, in a landfill or incinerator in this state, municipal solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of the United States.

(2) Subject to subsection (3), the owner or operator of a landfill or incinerator in this state shall not accept for disposal municipal solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of the United States.

(3) Subsections (1) and (2) apply notwithstanding any other provision of this part. However, subsections (1) and (2) do not apply unless congress enacts legislation under clause 3 of section 8 of article I of the constitution of the United States authorizing such prohibitions. Subsections (1) and (2) do not apply until 90 days after the effective date of such federal legislation or 90 days after the effective date of the amendatory act that added this section, whichever is later.

History: Add. 2006, Act 57, Imd. Eff. Mar. 13, 2006.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11527 Delivery of waste to licensed disposal area or solid waste processing and transfer facility; hauler recycling services.

Sec. 11527. (1) A hauler transporting solid waste over a public road in this state shall deliver all solid waste to a disposal area licensed under part 115 or a solid waste processing and transfer facility licensed or registered or for which a notification has been submitted under part 115.

(2) A hauler operating within a county with a materials management plan prepared by the department shall provide recycling services that meet the requirements of the benchmark recycling standard for single-family residences for which it provides solid waste hauling services within that county.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11527a Website listing materials prohibited from disposal; notice to customers.

Sec. 11527a. (1) The department shall post on its website a list of materials prohibited from disposal in a landfill under section 11514 and appropriate disposal options for those materials.

(2) A solid waste hauler that disposes of solid waste in a landfill shall annually notify each of its customers of each of the following:

(a) The materials that are prohibited from disposal in a landfill under section 11514.

(b) The appropriate disposal options for those materials as described on the department's website.

(c) The department's website address where the disposal options are described.

History: Add. 2004, Act 42, Imd. Eff. Mar. 29, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11528 Managed materials transporting unit; watertight; construction, maintenance, and operation; ordering unit out of service.

Sec. 11528. (1) A managed materials transporting unit used for food waste, industrial or domestic sludges, or other moisture laden materials not specifically covered by part 121 shall be watertight and constructed, maintained, and operated to prevent littering. A managed materials transporting unit shall be designed and operated to prevent littering or any other nuisance.

(2) The department, a local health officer, or a law enforcement officer may order a managed materials transporting unit out of service if the unit does not comply with the requirements of part 115. Continued use of a managed materials transporting unit ordered out of service is a violation of this part.

(3) A hauler that is responsible for a vehicle that contributes to a violation of part 115 is rebuttably presumed to have committed the violation.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11529 Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to permit and license exemptions for certain solid waste transfer facilities.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11530 Collection center for junk motor vehicles and farm implements; competitive bidding; bonds; “collect” defined.

Sec. 11530. (1) A municipality or county may establish and operate a collection center for junk motor vehicles and farm implements.

(2) A municipality or county may collect junk motor vehicles and farm implements and dispose of them through its collection center through the process of competitive bidding.

(3) A municipality or county may issue bonds as necessary pursuant to Act No. 342 of the Public Acts of 1969, being sections 141.151 to 141.153 of the Michigan Compiled Laws, to finance the cost of constructing or operating facilities to collect junk motor vehicles or farm implements. The bonds shall be general obligation bonds and shall be backed by the full faith and credit of the municipality or county.

(4) As used in this section, "collect" means to obtain a vehicle pursuant to section 252 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.252 of the Michigan Compiled Laws, or to obtain a vehicle or farm implement and its title pursuant to a transfer from the owner.

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

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11531 Solid waste removal; frequency; disposal; ordinance.

Sec. 11531. (1) A municipality or county shall ensure that all solid waste is removed from the site of generation frequently enough to protect the environment, natural resources, and the public health, safety, and welfare and is delivered to a materials management facility that meets the requirements of section 11508(1)(a), except waste that is permitted by state law or rules promulgated by the department to be disposed of at the site of generation.

(2) An ordinance adopted before February 8, 1988 by a county or municipality incidental to the financing of a publicly owned disposal area or areas under construction that directs that all or part of the solid waste generated in that county or municipality be directed to the disposal area or areas is an acceptable means of compliance with subsection (1), notwithstanding that the ordinance, in the case of a county, has not been approved by the governor. This subsection does not validate or invalidate an ordinance adopted on or after February 8, 1988 as an acceptable means of compliance with subsection (1).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11532 Impact fees; agreement; collection, payment, and disposition; reduction; use of revenue; trust fund; board of trustees; membership and terms; expenditures from trust fund.

Sec. 11532. (1) Except as provided in subsection (2), a municipality may impose an impact fee of not more than 30 cents per ton on solid waste, including municipal solid waste incinerator ash, that is disposed of in a landfill located within the municipality that is utilized by the public and utilized to dispose of solid waste collected from 2 or more persons. However, if the landfill is located within a village, the impact fee shall be imposed only by the township pursuant to an agreement with the village. An impact fee shall be assessed uniformly on all wastes accepted for disposal.

(2) A municipality may enter into an agreement with the owner or operator of a landfill to establish a higher impact fee than that provided for in subsection (1).

(3) The impact fees imposed under this section shall be collected by the owner or operator of a landfill and shall be paid to the municipality quarterly by the thirtieth day after the end of each calendar quarter. However, the impact fees allowed to be assessed to each landfill under this section shall be reduced by any amount of revenue paid to or available to the municipality from the landfill under the terms of any preexisting agreements, special use permit conditions, court settlement agreement conditions, and trusts.

(4) Unless a trust fund is established by a municipality pursuant to subsection (5), the revenue collected by a municipality pursuant to subsection (1) shall be deposited in its general fund. Subject to subsection (8), the revenue shall be used for any purpose that promotes the public health, safety, or welfare of the citizens of the municipality.

(5) A municipality may establish a trust fund to receive revenue collected pursuant to this section. The trust fund shall be administered by a board of trustees. The board of trustees shall consist of the following members:

(a) The chief elected official of the municipality.

(b) A resident of the municipality appointed by the governing body of the municipality.

(c) An individual approved by the owners or operators of the landfills within the municipality and appointed by the governing body of the municipality.

(6) Individuals appointed to serve on the board of trustees under subsection (5)(b) and (c) shall serve for terms of 2 years.

(7) Subject to subsection (8), money in a trust fund under subsection (5) may be expended, pursuant to a majority vote of the board of trustees, for any purpose that promotes the public health, safety, or welfare of the citizens of the municipality.

(8) Revenue collected pursuant to this section shall not be used to bring or support a lawsuit or other legal action against a landfill owner or operator that is collecting an impact fee under subsection (3) unless the owner or operator of the landfill has instituted a lawsuit or other legal action against the municipality.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11533 Promulgation of rules for implementation of part 115.

Sec. 11533. The department may promulgate rules to implement this part. The rules may include, but are not limited to, standards for any of the following:

(a) Hydrogeologic investigations.

(b) Monitoring.

(c) Liner materials.

(d) Leachate collection and treatment, if applicable.

(e) Groundwater separation distances.

(f) Environmental assessments.

(g) Gas control.

(h) Soil erosion.

(i) Sedimentation control.

(j) Groundwater and surface water quality.

(k) Noise.

(*l*) Air pollution odors.

(m) The use of floodplains and wetlands.

(n) Managed materials transporting units.
(o) Grants.
(p) Materials management planning.
(q) Closure and postclosure.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 44, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11534-324.11538 Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed sections pertained to municipal planning committees and agencies and the approval of county management plans and the promulgation of rules.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 6
INCINERATORS AND OPEN BURNING

324.11539 Open burning of yard waste or leaves; prohibition; effect of local ordinance and part 55; open burning of household waste, materials; application of subpart 7; violations and penalties; open burning of certain storage bins; disposal of unserviceable flag.

Sec. 11539. (1) The open burning of yard waste or leaves is prohibited in any municipality having a population of 7,500 or more, unless specifically authorized by local ordinance. Within 30 days after adoption of such an ordinance, the clerk of the municipality shall notify the department of its adoption.

(2) Subsection (1) does not permit a county or municipality to authorize open burning of yard waste or leaves by an ordinance that is prohibited under part 55 or rules promulgated under part 55.

(3) A person shall not conduct open burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials.

(4) Subpart 7 does not apply to an individual who violates subsection (3) by open burning of waste from that individual's household. The individual is responsible for a state civil infraction and is subject to the following:

(a) For a first offense within a 3-year period, a warning by the judge or magistrate.

(b) For a second offense within a 3-year period, a civil fine of not more than $75.00.

(c) For a third offense within a 3-year period, a civil fine of not more than $150.00.

(d) For a fourth or subsequent offense within a 3-year period, a civil fine of not more than $300.00.

(5) Notwithstanding section 5512, the department shall not promulgate or enforce a rule that extends the prohibition under subsection (3) to materials not listed in subsection (3).

(6) Part 115, part 55, or rules promulgated under part 55 do not prohibit a person from conducting open burning of wooden fruit or vegetable storage bins constructed from untreated lumber if all of the following requirements are met:

(a) The burning is conducted for disease or pest control.

(b) The burning is not conducted at any of the following locations:

(*i*) Within a priority I area as listed in table 33 or a priority II area as listed in table 34 of R 336.1331 of the MAC.

(*ii*) In a city or village.

(*iii*) Within 1,400 feet outside the boundary of a city or village.

(7) Subsections (5) and (6) do not authorize open burning that is prohibited by a local ordinance.

(8) A congressionally chartered patriotic organization that disposes of an unserviceable flag of the United States by burning that flag is not subject to regulation or sanction for violating state law or a local ordinance pertaining to open burning.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

Administrative rules: R 299.4101 et seq. of the Michigan Administrative Code.

324.11539a Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to an update report of solid waste management plans to the legislature.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11540 Incinerator operator or owner; compliance with permit and license requirements of subpart 2.

Sec. 11540. (1) The owner or operator of an incinerator may, but is not required to, comply with the disposal area construction permit and operating license requirements of subpart 2 if both of the following conditions are met:

(a) Solid waste to be incinerated is managed in a properly enclosed area in a manner that prevents fugitive dust, litter, leachate generation, precipitation runoff, or any release of solid waste to the air, soil, surface water, or groundwater.

(b) The incinerator has a permit issued under part 55.

(2) An incinerator that, as authorized by subsection (1), does not comply with the construction permit and operating license requirements of subpart 2 is subject to the planning provisions of part 115 and must be included in the county materials management plan for the county in which the incinerator is located.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

Administrative rules: R 299.4101 et seq. of the Michigan Administrative Code.

324.11540a Repealed. 2010, Act 345, Eff. Mar. 1, 2011.

Compiler's note: The repealed section pertained to promulgation of rules affecting inert material before March 1, 2011.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11541 Municipal solid waste incinerator; materials management plan; implementation schedule.

Sec. 11541. (1) Within 9 months after the completion of construction of a municipal solid waste incinerator, the owner or operator shall submit a plan to the department for a program that, to the extent practicable, reduces the incineration of noncombustible materials and dangerous combustible materials and their hazardous by-products at the incinerator. The plan shall include an implementation schedule. Within 30 days after receiving the plan, the department shall approve or disapprove the plan and notify the owner or operator in writing. In reviewing the plan, the department shall consider the current materials management plan for the planning area where the incinerator is located and available markets, disposal alternatives, and collection practices for the managed materials. If the department disapproves a plan, the notice shall specify the reasons for disapproval. If the department disapproves the plan, the owner or operator shall, within 30 days after receipt of the department's disapproval, submit a revised plan that addresses all of the reasons for disapproval specified by the department. The department shall approve or disapprove the revised plan within 30 days after receiving the revised plan and notify the owner or operator in writing. If the department disapproves the revised plan, the notice shall specify the reasons for disapproval. If the department disapproves the revised plan, the department may continue with the approval process under this subsection or take appropriate enforcement action.

(2) Not later than 6 months after the approval of the plan by the department under subsection (1), the owner or operator shall implement the plan in compliance with the implementation schedule. The operation of a municipal solid waste incinerator without an approved plan under this section subjects the owner or operator, or both, to the sanctions provided by this part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11542 Municipal solid waste incinerator ash; disposal.

Sec. 11542. (1) Except as provided in subsection (5) and except for municipal solid waste incinerator ash that is described and used as provided in section 11506(6)(h), municipal solid waste incinerator ash shall be disposed of in 1 of the following:

(a) A landfill that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A synthetic liner at least 60 mils thick.

(C) A compacted clay liner of 5 feet or more with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second.

(D) A leak detection and leachate collection system.

(E) A compacted clay liner at least 3 feet thick with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second or a synthetic liner at least 40 mils thick.

(b) A landfill that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A composite liner, as defined in R 299.4102 of the part 115 rules.

(C) A leak detection and leachate collection system.

(D) A second composite liner.

(*iv*) If contaminants that may threaten the public health, safety, or welfare, or the environment are found in the leachate collection system described in subparagraph (*iii*)(C), the owner or operator of the landfill shall determine the source and nature of the contaminants and make repairs, to the extent practicable, that will prevent the contaminants from entering the leachate collection system. If the department determines that the source of the contaminants is caused by a design failure of the landfill, the department, notwithstanding an approved construction permit or operating license, may require landfill cells at that landfill that will be used for the disposal of municipal solid waste incinerator ash, which are under construction or will be constructed in the future at the landfill, to be constructed in conformance with improved design standards approved by the department. However, this subparagraph does not require the removal of liners or leak detection and leachate collection systems that are already in place in a landfill cell under construction.

(c) A landfill that is a monitorable unit, as defined in R 299.4104 of the part 115 rules, and that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A synthetic liner at least 60 mils thick.

(C) Immediately below the synthetic liner, either 2 feet of compacted clay with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second or a bentonite geocomposite liner, as specified in R 299.4914 of the part 115 rules.

(D) At least 10 feet of either natural or compacted clay with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second, or equivalent.

(d) A landfill with a design approved by the department that will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the design requirements of subdivisions (a) to (c).

(e) A type II landfill, as described in R 299.4105 of the part 115 rules if both of the following conditions apply:

(*i*) The ash was generated by a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit.

(*ii*) The ash from any individual municipal solid waste incinerator is disposed of pursuant to this subdivision for a period not to exceed 60 days.

(2) Except as provided in subsection (3), a landfill that is constructed pursuant to the design described in subsection (1) shall be capped following its closure by all of the following in descending order:

(a) Six inches of top soil with a vegetative cover.

(b) Two feet of soil to protect against animal burrowing, temperature, erosion, and rooted vegetation.

(c) An infiltration collection system.

(d) A synthetic liner at least 30 mils thick.

(e) Two feet of compacted clay with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second.

(3) A landfill that receives municipal solid waste incinerator ash under this section may be capped with a design approved by the department that will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the design requirements of subsection (2).

(4) If leachate is collected from a landfill under this section, the leachate shall be monitored and tested in accordance with this part and the rules promulgated under this part.

(5) As an alternative to disposal described in subsection (1), the owner or operator of a municipal solid waste incinerator may process municipal solid waste incinerator ash through mechanical or chemical methods, or both, to substantially diminish the toxicity of the ash or its constituents or limit the leachability of the ash or its constituents to minimize threats to human health and the environment, if processing is performed on the site of the municipal solid waste incinerator or at the site of a landfill described in subsection (1), if the process has been approved by the department as provided by rule, and if the ash is tested after processing in accordance with a protocol approved by the department as provided by rule. The department shall approve the process and testing protocol under this subsection only if the process and testing protocol will protect human health and the environment. In making this determination, the department shall consider all potential pathways of human and environmental exposure, including both short-term and long-term, to constituents of the ash that may be released during the reuse or recycling of the ash. The department shall consider requiring methods to determine the leaching, total chemical analysis, respirability, and toxicity of reused or recycled ash. A leaching procedure shall include testing under both acidic and native conditions. If municipal solid waste incinerator ash is processed in accordance with the requirements of this subsection and the processed ash satisfies the testing protocol approved by the department as provided by rule, the ash may be disposed of in a municipal solid waste landfill, as defined by R 299.4104 of the part 115 rules, licensed under this part or may be used in any manner approved by the department. If municipal solid waste incinerator ash is processed as provided in this subsection, but does not comply with the testing protocol approved by the department as provided by rule, the ash shall be disposed of in accordance with subsection (1).

(6) The disposal of municipal solid waste incinerator ash within a landfill that is in compliance with subsection (1) does not constitute a new proposal for which a new construction permit is required under section 11509, if a construction permit has previously been issued under section 11509 for the landfill and the owner or operator of the landfill submits 6 copies of an operating license amendment application to the department for approval pursuant to part 13. The operating license amendment application shall include revised plans and specifications for all facility modifications including a leachate disposal plan, an erosion control plan, and a dust control plan which shall be part of the operating license amendment. The dust control plan shall contain sufficient detail to ensure that dust emissions are controlled by available control technologies that reduce dust emissions by a reasonably achievable amount to the extent necessary to protect human health and the environment. The dust control plan shall provide for the ash to be wet during all times that the ash is exposed to the atmosphere at the landfill or otherwise to be covered by daily cover material; for dust emissions to be controlled during dumping, grading, loading, and bulk transporting of the ash at the landfill; and for dust emissions from access roads within the landfill to be controlled. With the exception of a landfill that is in existence on June 12, 1989 that the department determines is otherwise in compliance with this section, the owner or operator of the landfill shall obtain the operating license amendment prior to initiating construction. Prior to operation, the owner or operator of a landfill shall submit to the department certification from a licensed professional engineer that the landfill has been constructed in accordance with the approved plan and specifications. When the copies are submitted to the department, the owner or operator of the landfill shall send a copy of the operating license amendment application to the municipality where the landfill is located. At least 30 days prior to making a final decision on the operating license amendment, the department shall hold at least 1 public meeting in the vicinity of the landfill to receive public comments. Prior to a public meeting, the department shall publish notice of the meeting in a newspaper serving the local area.

(7) The owner or operator of a municipal solid waste incinerator or a disposal area that receives municipal solid waste incinerator ash shall allow the department access to the facility for the purpose of supervising the collection of samples or obtaining samples of ash to test or to monitor air quality at the facility.

(8) As used in subsection (1), "landfill" means a landfill or a specific portion of a landfill.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10,

2004;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11543 Municipal solid waste incinerator ash; transportation.

Sec. 11543. (1) If municipal solid waste incinerator ash is transported, it shall be transported in compliance with section 720 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.720 of the Michigan Compiled Laws.

(2) If municipal solid waste incinerator ash is transported by rail, it shall be transported in covered, leakproof railroad cars.

(3) The outside of all vehicles and accessory equipment used to transport municipal solid waste incinerator ash shall be kept free of the ash.

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

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11544 List of laboratories capable of performing test provided for in MCL 324.11542; compilation; publication; definitive testing; fraudulent or careless testing.

Sec. 11544. (1) The department shall compile a list of approved laboratories that are capable of performing the test provided for in section 11542.

(2) The department shall publish the list compiled under subsection (1) on or before July 1, 1989, and shall after that date make the list available to any person upon request.

(3) Except as provided in subsection (4), a test conducted by an approved laboratory from the list compiled under subsection (1) is definitive for purposes of this part.

(4) If the department has reason to believe that test results provided by an approved laboratory are fraudulent or that a test was carelessly performed, the department may conduct its own test or may have an additional test performed at the department's expense.

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

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11545 Incineration of used oil prohibited; “oil” defined.

Sec. 11545. Beginning June 21, 1993, a municipal solid waste incinerator shall not incinerate used oil. As used in this section, used oil has the meaning ascribed to this term in part 167.

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

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 7
ENFORCEMENT

324.11546 Action for appropriate relief; penalties for violation or noncompliance; restoration; return; civil action.

Sec. 11546. (1) The department or a local health officer may request that the attorney general bring an action in the name of the people of this state, or a municipality or county may bring an action based on facts arising within its boundaries, for any appropriate relief, including injunctive relief, for a violation of part 115.

(2) In addition to any other relief provided by this section, the court may impose on any person who violates part 115 a civil fine as follows:

(a) Except as provided in subdivision (b), not more than $10,000.00 for each day of violation.

(b) For a second or subsequent violation, not more than $25,000.00 for each day of violation.

(3) In addition to any other relief provided by this section, the court may order a person who violates part 115 to restore, or to pay to this state an amount equal to the cost of restoring, the natural resources of this state affected by the violation to their original condition before the violation, and to pay to this state the costs of

surveillance and enforcement incurred by this state as a result of the violation.

(4) In addition to any other relief provided by this section, the court shall order a person who violates section 11526e to return, or to pay to this state an amount equal to the cost of returning, the solid waste that is the subject of the violation to the country in which that waste was generated.

(5) Part 115 does not preclude any person from commencing a civil action based on facts that may constitute a violation of part 115.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 41, Imd. Eff. Mar. 29, 2004;—Am. 2006, Act 56, Imd. Eff. Mar. 13, 2006;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11547, 324.11548 Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed sections pertained to the establishment of a grant program to provide financial assistance to the county or regional planning agencies and the legislative intent regarding private sector participation.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11549 Violation as misdemeanor; violation as felony; penalty; separate offenses.

Sec. 11549. (1) A person who violates part 115 is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 for each violation and costs of prosecution and, if in default of payment of fine and costs, imprisonment for not more than 6 months.

(2) A person who knowingly violates section 11526e is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(3) Each day upon which a violation described in this section occurs is a separate offense.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2006, Act 58, Imd. Eff. Mar. 13, 2006;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 8
FUNDS AND GRANTS

324.11550 Solid waste management fund; creation; deposit of money into fund; establishment of solid waste staff account and perpetual care account; expenditures; grants and loans for recycling programs; report; coal ash care fund; creation; deposit of money; expenditures.

Sec. 11550. (1) The solid waste management fund is created within the state treasury. The state treasurer may receive money from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The department shall be the administrator of the fund for auditing purposes.

(2) Money in the solid waste management fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) The state treasurer shall establish, within the solid waste management fund, a solid waste staff account and a perpetual care account.

(4) Subject to subsection (5), money shall be expended from the solid waste staff account, upon appropriation, only for the following purposes:

(a) Preparing generally applicable guidance regarding the materials management facility program or its implementation or enforcement.

(b) Reviewing and acting on any notification, registration, application for approval under a general permit, application for a permit or license, permit or license revision, or permit or license renewal under part 115, including the cost of public notice and public hearings.

(c) Providing an advisory analysis under section 11510(1).

(d) General administrative costs of running the permit, license, registration, and notification program under part 115, including permit, license, registration, and notification tracking and data entry.

(e) Inspection of materials management facilities and open dumps.

(f) Implementing and enforcing the conditions of any permit, license, approval under a general permit, registration, or order under part 115.

(g) Groundwater monitoring audits at disposal areas that are or have been licensed under this part or at any other materials management facility that requires groundwater monitoring because of a release or suspected release.

(h) Reviewing and acting upon corrective action plans for materials management facilities, if required under part 115.

(i) Review of certifications of closure under part 115.

(j) Postclosure maintenance and monitoring inspections and review under part 115.

(k) Review of bonds and financial assurance documentation at materials management facilities, if required under part 115.

(*l*) Materials management planning.

(m) Materials utilization education and outreach.

(n) Development of a materials utilization and recycled materials market directory.

(o) Administration of grants and loans under part 115 for planning, market development and recycling infrastructure, outreach, and education.

(p) Up to 1 full-time equivalent employee for the Michigan economic development corporation to address recycled materials market development.

(5) Money shall be expended from the perpetual care account, upon appropriation, only for the following activities at materials management facilities for which the requirements of section 11508(1)(a) are or were met and for which fees have been collected and deposited into the perpetual care account:

(a) To conduct postclosure maintenance and monitoring if the owner or operator is no longer required to do so.

(b) To conduct closure, postclosure maintenance and monitoring, and necessary corrective action if the owner or operator has failed to do so. Money shall be expended from the account only after funds from any other financial assurance mechanisms held by the owner or operator have been expended and the department has made reasonable efforts to obtain funding from other sources.

(6) Subject to appropriations, the department shall provide grants for the following purposes:

(a) The recycling markets program established under subsection (7).

(b) The local recycling innovation program established under subsection (8).

(c) The recycling access and voluntary participation program established under subsection (9).

(7) The department shall establish a recycling markets program. The program shall provide grants or loans for acquiring equipment or technology, for research and development, or for associated activities to provide for new or increased use of recycled materials or to support the development of recycling markets. Local units of government and nonprofit and for-profit entities are eligible for funding under the program. The funding is not limited to entities in counties with approved materials management plans. In addition to any other reporting requirements established by the department, grant recipients under the program shall provide information on the materials managed.

(8) The department shall establish a local recycling innovation program. The program shall provide grants or loans for developing local recycling infrastructure, for recycling education campaigns for residents and businesses, technology, or other activities that result in increasing recycling access, quality, or participation, for reducing waste, or for sustainable materials management. Local units of government and nonprofit and for-profit entities are eligible for funding under the program. The funding is not limited to entities in counties with approved materials management plans. In addition to any other reporting requirements established by the department, grant recipients under the program shall provide the department information on the materials managed.

(9) The department shall establish a recycling access and voluntary participation program. The program shall provide grants or loans to assist local units of government in implementing best materials utilization practices or identifying ways to innovate and to collaborate with other local units and the private sector. To be eligible for a grant, a local unit of government must be a county that meets, or a municipality located within a county that meets, both of the following requirements:

(a) Has a materials management plan.

(b) Has documented progress toward meeting or has met its benchmark recycling standards and ultimately the municipal solid waste recycling rate goal under section 11507.

(10) The department shall publish and make available to grant and loan applicants criteria upon which the grants and loans will be made.

(11) By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for

issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities of the previous fiscal year funded by the staff account of the solid waste management fund. This report shall include, at a minimum, all of the following as they apply to the department:

(a) The number of full-time equated positions performing solid waste management authorization, compliance, and enforcement activities.

(b) All of the following information related to the construction permit applications received under section 11509:

(*i*) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

(*ii*) The number of applications determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(*iii*) The percentage and number of applications determined to be administratively complete for which a final decision was made within the period required by part 13.

(c) All of the following information related to the operating license applications received under section 11512:

(*i*) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

(*ii*) The number of applications determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(*iii*) The percentage and number of applications determined to be administratively complete for which a final decision was made within the period required by part 13.

(d) The number of inspections conducted at licensed disposal areas as required by section 11519 and the number of inspections conducted at materials utilization facilities as required by section 11526.

(e) The number of letters of warning sent to licensed disposal areas.

(f) The number of contested case hearings and civil actions initiated and completed, the number of voluntary consent orders and administrative orders entered or issued, and the amount of fines and penalties collected through such actions or orders.

(g) For each enforcement action that includes a penalty, a description of the corrective actions required by the enforcement action.

(h) The number of solid waste complaints received, investigated, resolved, and not resolved by the department.

(i) The amount of revenue in the staff account of the solid waste management fund and the amount of revenue in the coal ash care fund at the end of the fiscal year.

(12) The coal ash care fund is created within the state treasury. The state treasurer may receive money from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(13) Money shall be expended from the coal ash care fund, upon appropriation, only for the following purposes relating to coal ash impoundments and coal ash landfills:

(a) Preparing generally applicable guidance regarding the solid waste permit and license program or its implementation or enforcement.

(b) Reviewing and acting on any application for a permit or license, permit or license revision, or permit or license renewal, including the cost of public notice and public hearings.

(c) Performing an advisory analysis under section 11510(1).

(d) General administrative costs of running the permit and license program, including permit and license tracking and data entry.

(e) Inspection of licensed disposal areas and open dumps.

(f) Implementing and enforcing the conditions of any permit or license.

(g) Groundwater monitoring audits at disposal areas that are or have been licensed under this part.

(h) Reviewing and acting upon corrective action plans for disposal areas that are or have been licensed under this part.

(i) Review of certifications of closure.

(j) Postclosure maintenance and monitoring inspections and review.

(k) Review of bonds and financial assurance documentation at disposal areas that are or have been licensed under this part.

History: Add. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 201, Imd. Eff. Oct. 15, 2020;—Am. 2022, Act 248, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 9
BENEFICIAL USE BY-PRODUCTS

324.11551 Beneficial use by-product; qualification; requirements; analysis of representative sample by initial generator; determination; storage and use; beneficial uses 1 and 2 at and along roadways; registration or licensure under MCL 290.531 to 290.538; submission of information; open dumping; notice to prospective transferee.

Sec. 11551. (1) Except for a material that the department approves as a beneficial use by-product under section 11553(3) or (4), to qualify as a beneficial use by-product, a material or the use of the material, as applicable, shall meet all of the following requirements:

(a) The material is not a part 111 hazardous waste or mixed with a hazardous waste.

(b) The material is not stored at the site of generation or use for more than 3 years, or the amount that is transferred off site for use during a 3-year period equals at least 75% by weight or volume of the amount of that material stored on site for beneficial use at the beginning of the 3-year period.

(c) The material is stored in a manner that maintains its usefulness, controls wind dispersal, and prevents loss of the material beyond the storage area.

(d) The material is stored in a manner that does not cause groundwater to no longer be fit for 1 or more protected uses, does not cause a violation of a part 31 surface water quality standard, and otherwise does not violate part 31.

(e) The material is transported in a manner that prevents accidental leakage, spillage, or wind dispersal.

(f) The use of the material is for a legitimate beneficial purpose other than a means to discard the material and the material is used according to generally accepted engineering, industrial, or commercial standards for that use.

(g) For beneficial use 2, the material, if specified below, meets the following environmental standards using, at the option of the generator of the by-product, EPA method 1311, 1312, or ASTM test method 3987:

Constituent-maximum leachate mg/l	Coal ash or wood ash	Pulp and paper mill ash, mixed wood ash	Foundry sand	Cement kiln dust, lime kiln dust	Water softening limes, dewatered grinding sludge	Stamp sand	Spent media from sand blasting
Arsenic – 0.2	X	X	X	X	X		
Boron – 10	X						
Cadmium – 0.1	X	X		X	X		
Chromium – 2.0	X						X
Lead – 0.08	X	X	X	X	X		
Mercury – 0.04	X	X		X	X		
Copper – 20		X			X	X	
Nickel – 2.0		X	X		X		X
Selenium – 1.0	X				X		
Thallium – 0.04	X			X			
Zinc – 48	X	X			X		

(h) For beneficial use 3, the material or use of the material, as applicable, meets all of the following requirements:

(*i*) The material is coal bottom ash, wood ash, pulp and paper mill material, pulp and paper mill ash, mixed wood ash, foundry sand from ferrous or aluminum foundries, cement kiln dust, lime kiln dust, lime water softening residuals, flue gas desulfurization gypsum, soil washed or otherwise removed from sugar beets, or dewatered concrete grinding slurry from public transportation agency road projects.

(*ii*) The amount of any constituent listed below applied to an area of land over any period of time does not exceed the following:

CONSTITUENT	CUMULATIVE LOAD POUNDS PER ACRE
Arsenic	37
Cadmium	35
Copper	1,335
Lead	267
Mercury	15
Nickel	374
Selenium	89
Zinc	2,492

(*iii*) If the department of agriculture and rural development determines, based on peer-reviewed scientific literature, that any other constituent is subject to a cumulative loading requirement, the amount of that constituent applied to an area of land over any period of time does not exceed that cumulative loading requirement. The cumulative load for that constituent shall be calculated as follows: constituent concentration (mg/kg dry weight) x conversion factor of 0.002 (concentration to pounds per dry ton) x the material application rate in dry tons per acre.

(i) For beneficial use 5, the material is foundry sand from ferrous or aluminum foundries and representative sampling of the foundry sand using either a totals analysis, a leachate analysis (using EPA method 1311, EPA method 1312, ASTM method 3987, or other leaching protocol approved by the department), or any combination of the 2 types of analyses demonstrates that none of the following maximum concentrations are exceeded:

CONSTITUENT	TOTALS ANALYSIS MG/KG	LEACHATE ANALYSIS MG/L
Antimony	4.3	0.006
Cobalt	0.8	0.04
Copper	5,800	1
Iron	23,185	2.0
Lead	700	0.004
Manganese	1,299	0.86
Molybdenum	5	0.073
Nickel	100	0.1
Thallium	2.3	0.002
Vanadium	72	0.0045
Zinc	2,400	2.4
Benzene	0.1	0.005
Formaldehyde	26	1.3
Phenol	88	4.4
Trichloroethylene	0.1	0.005

(2) The determination whether a material meets the requirements of subsection (1)(a) or (g) shall be based on the analysis of a representative sample of the material by the initial generator. The initial generator shall maintain records of the test results for not less than 10 years after the date the material was sent off site and

make the records available to the department upon request. The generator shall resample and analyze the material when raw materials or processes change in a way that could reasonably be expected to materially affect analysis results.

(3) Except as otherwise provided in this act, storage and use of beneficial use by-products shall comply with all other applicable provisions of this act.

(4) The storage of a material for beneficial use 3 that complies with regulation no. 641, commercial fertilizer bulk storage, R 285.641.1 to R 285.641.18 of the Michigan administrative code, shall be considered to comply with the storage requirements of this part.

(5) A person that actively manages and reuses a beneficial use by-product that has already been used in compliance with this part may rely on analytical data from the prior use.

(6) All of the following apply to beneficial uses 1 and 2 at and along roadways:

(a) Routine repair and replacement of roadways constructed using beneficial use materials does not constitute generation of beneficial use by-products triggering the requirements of this section if the beneficial use by-products remain or are reused at the same roadway and are used in a manner that meets the definition of beneficial use 1 or beneficial use 2, as appropriate. If the beneficial use by-products will be reused at some place other than the same roadway, then the requirements applicable to generators of beneficial use by-products must be met, except as follows:

(*i*) As set forth in subsection (5).

(*ii*) The requirements of section 11552 apply only if the category of beneficial use will change.

(b) For beneficial use 2, the requirement that beneficial use materials be covered by concrete, asphalt, or 6 inches of gravel applies at the time of placement and use. The development of potholes, shoulder erosion, or similar deterioration does not result in a violation of this part.

(c) If road materials containing beneficial use by-products are ground, reheated, or melted for reuse, the requirements of part 55 must be met.

(d) This part does not prohibit the state transportation department from seeking additional data or information for road building materials or from requiring that road building materials meet state transportation department specifications and standards.

(7) For beneficial use 3, the material that is offered for sale or use shall be annually registered or licensed under part 85 or 1955 PA 162, MCL 290.531 to 290.538. In addition to the information required under part 85 or 1955 PA 162, MCL 290.531 to 290.538, the following information shall be submitted to the department of agriculture and rural development with the license or registration application:

(a) Directions for use to ensure that the material is applied at an agronomic rate that has been reviewed by a certified crop advisor.

(b) A laboratory analysis report that contains all of the following:

(*i*) Sampling results that demonstrate that the material does not pose harm to human health or the environment. One method by which this demonstration can be made is by sampling results that comply with both of the following:

(A) The levels established pursuant to the association of American plant food control officials' statement of uniform interpretation and policy #25, as follows:

(I) A fertilizer with a phosphorus or micronutrient guarantee shall apply the policy in its entirety.

(II) A fertilizer with only a nitrogen, potassium, or secondary nutrient guarantee shall use the micronutrients column in the policy and apply a multiplier of 1 to determine the maximum allowable concentration of each metal.

(III) A soil conditioner or liming material shall use the micronutrients column in the policy and apply a multiplier of 1 to determine the maximum allowable concentration of each metal.

(B) The part 201 generic residential soil direct contact cleanup criteria for volatile organic compounds (as determined by U.S. EPA method 8260), semivolatile organic compounds (as determined by U.S. EPA method 8270c), and dioxins (as determined by U.S. EPA method 1613b). Results for dioxins shall be reported on a dry weight basis, and total dioxin equivalence shall be calculated and reported utilizing the U.S. EPA toxic equivalency factors (U.S. EPA/100/R10/005).

(*ii*) For a fertilizer, all of the following used by a certified crop advisor to determine an agronomic rate consistent with generally accepted agricultural and management practices:

(A) A demonstration that the material contains the minimum percentage of each plant nutrient guaranteed or claimed to be present.

(B) The percentage of dry solids, nitrogen, ammonium nitrogen, nitrate nitrogen, phosphorus, and potassium in the material.

(C) The levels of calcium, magnesium, acidity or basicity measured by pH, sulfur, chromium, copper, silver, chlorine, and boron.

(*iii*) For a soil conditioner or a liming material, all of the following used by a certified crop advisor to determine an agronomic rate consistent with generally accepted agricultural and management practices:

(A) The percentage of dry solids in the material.

(B) The levels of calcium, magnesium, acidity or basicity measured by pH, sulfur, chromium, copper, silver, chlorine, and boron.

(*iv*) For a soil conditioner, scientifically acceptable data that give reasonable assurance that the material will improve the physical nature of the soil by altering the soil structure by making soil nutrients more available or otherwise enhancing the soil media resulting in beneficial crop response or other plant growth.

(*v*) For a liming material, scientifically acceptable data demonstrating that the material will correct soil acidity.

(8) When a material is licensed or registered as described in subsection (7), the laboratory analysis report and the scientifically acceptable data submitted with a prior application may be resubmitted for a subsequent application unless the raw materials or processes used to generate the material change in a way that could reasonably be expected to materially affect the laboratory analysis report or scientifically acceptable data.

(9) This part does not authorize open dumping prohibited by the solid waste disposal act, 42 USC 6901 to 6992k.

(10) If an owner of property has knowledge that a material has been used on the property for beneficial use 2, before transferring the property, the owner shall provide notice to a prospective transferee that the material was used for beneficial use 2, including the date and location of the use, if known. If a contractor, consultant, or agent of an owner of property uses a material on the property for beneficial use 2, the contractor, consultant, or agent shall provide notice to the owner that the material was used for beneficial use 2, including the date and location of the use.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11551a Beneficial use by-product not required.

Sec. 11551a. This part does not require the use of any beneficial use by-product, including, but not limited to, the uses and beneficial use by-products identified in sections 11502 to 11506, by any governmental entity or any other person.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11552 Notice; report; confidentiality.

Sec. 11552. (1) Written notice shall be submitted to the department before a beneficial use by-product is used for beneficial use 2 as construction fill at a particular site for the first time, if the amount used will exceed 5,000 cubic yards. The generator of the beneficial use by-product shall submit the notice unless the generator transfers material to a broker, in which case the broker shall submit the notice.

(2) By October 30 of each year, any generator or broker of more than 1,000 cubic yards of material used as beneficial use by-products for beneficial use 1, 2, or 4 in the immediately preceding period of October 1 to September 30 or any person that uses or reuses more than 1,000 cubic yards of a source separated material in that period shall submit a report to the department containing all of the following information, as applicable:

(a) The business name, address, telephone number, and name of a contact person for the generator, broker, or other person.

(b) The types and approximate amounts of beneficial use by-products generated, brokered, and stored during that period.

(c) The approximate amount of beneficial use by-products shipped off site during that period and the uses and conditions of use.

(d) The amount of source separated materials used or reused.

(3) A generator or broker may designate the information required in the report under subsection (2)(b) and (c) as confidential business information. If the scope of a request for public records under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, includes information designated by the generator or broker as confidential, the department shall promptly notify the generator or broker of the request, including the date the request was received by the department and, pursuant to that section, shall issue a notice

extending for 10 business days the period during which the department shall respond to the request. The department shall grant the request for the information unless, within 12 business days after the date the request was received by the department, the generator or broker demonstrates to the satisfaction of the department that the information designated as confidential should not be disclosed because the information constitutes a trade secret or secret process or is production or commercial information the disclosure of which would jeopardize the competitive position of the generator or broker. If there is a dispute over the release of information between the generator or broker and the person requesting the information, the director shall grant or deny the request. The department shall notify the generator or broker of a decision to grant the request at least 2 days before the release of the requested information.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11553 Promoting and fostering use of wastes and by-products for recycling or beneficial purposes; approval of material, use, or material and use; request; approval or denial by department; determination made prior to September 16, 2014; applicability to material used under part 115.

Sec. 11553. (1) Consistent with the requirements of part 115, the department shall apply this section so as to promote and foster the use of wastes and by-products for recycling or beneficial purposes.

(2) Any person may request the department, consistent with the definitions and other terms of part 115, to approve a material, a use, or a material and use as a source separated material; a beneficial use by-product for beneficial use 1, 2, 4, or 5; an inert material; a low-hazard industrial waste; nondetrimental material managed for agricultural or silvicultural use; or another material, use, or material and use that can be approved under part 115. Among other things, a person may request the department to approve a use that does not meet the definition of beneficial use 2 under section 11502(8)(a) because the property is not nonresidential property or under section 11502(8)(a), (b), or (c) because the material exceeds 4 feet in thickness. A request under this subsection shall be in writing and contain a description of the material including the process generating it; results of analyses of representative samples of the material for any hazardous substances that the person has knowledge or reason to believe could be present in the material, based on its source, its composition, or the process that generated it; and, if applicable, a description of the proposed use. The analysis and sampling of the material under this subsection shall be consistent with the methods identified in "Standard Methods for the Examination of Water and Wastewater, 20th Edition," (jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation) or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), AND V (2015); 1 or more peer-reviewed standards developed by a national or international organization, such as ASTM International; or 1 or more standards or methods approved by the department or the EPA. The department shall approve or deny the request in writing within 150 days after the request is received, unless the parties agree to an extension. If the department determines that the request does not include sufficient information, the department shall, not more than 60 days after receipt of the request, notify the requester. The notice shall specify the additional information that is required. The 150-day period is tolled until the requestor submits the information specified in the notice. If the department approves a request under this subsection, the approval shall include the following statement: "This approval does not require any use of any beneficial use by-product by a governmental entity or any other person." The department may impose conditions and other requirements consistent with the purposes of part 115 on a material, a use, or a material and use approved under this section that are reasonably necessary for the use. If a request is approved with conditions or other requirements, the approval shall specifically state the conditions or other requirements. If the request is denied, the denial shall, to the extent practical, state with specificity all of the reasons for denial. If the department fails to approve or deny the request within the 150-day period, the request is considered approved. A person requesting approval under this subsection may seek review of any final department decision pursuant to section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(3) The department shall approve a material for a specified use as a beneficial use by-product if all of the following requirements are met:

(a) The material is an industrial or commercial material that is or has the potential to be generated in high volumes.

(b) The proposed use serves a legitimate beneficial purpose other than providing a means to discard the

material.

(c) A market exists for the material or there is a reasonable potential for the creation of a new market for the material if it is approved as a beneficial use by-product.

(d) The material and use meet all federal and state consumer protection and product safety laws and regulations.

(e) The material meets all of the following requirements:

(*i*) Any hazardous substances in the material do not pose a direct contact health hazard to humans.

(*ii*) The material does not leach, decompose, or dissolve to form a leachate that exceeds either of the following:

(A) Part 201 generic residential groundwater drinking water criteria.

(B) Surface water quality standards established under part 31.

(*iii*) The material does not produce emissions that violate part 55 or that create a nuisance.

(4) The department may approve a material for a specified use as a beneficial use by-product or as restricted use compost if the material meets the requirements of subsection (3)(a), (b), (c), and (d) but fails to meet the requirements of subsection (3)(e) and if the department determines that the material and use are protective of the environment, natural resources, and the public health, safety, and welfare. In making the determination, the department shall consider the potential for exposure and risk to the environment, natural resources, and the public health, safety, and welfare given the nature of the material, its proposed use, and the environmental fate and transport of any hazardous substances in the material in soil, groundwater, or other relevant media.

(5) The department shall approve a material as inert or as general use compost if all of the following requirements are met:

(a) The material is proposed to be used for a legitimate purpose other than a means to dispose of the material.

(b) Substances in the material do not pose a direct contact health hazard to humans.

(c) The material does not leach, decompose, or dissolve in water or other liquids likely to be found at the area of placement, disposal, or use to form a leachate that exceeds either of the following:

(*i*) Part 201 generic residential groundwater drinking water criteria.

(*ii*) Surface water quality standards established under part 31.

(d) The material does not produce emissions that violate part 55 or that create a nuisance.

(6) The department may approve a material as inert if the material meets the requirements of subsection (5)(a) but fails to meet the requirements of subsection (5)(b), (c), or (d) and if the department determines that the material is protective of the environment, natural resources, and the public health, safety, and welfare. In making the determination, the department shall consider the potential for exposure and risk to the environment, natural resources, and the public health, safety, and welfare given the nature of the material, its proposed use, and the environmental fate and transport of any hazardous substances in the material in soil, groundwater, or other relevant media.

(7) The department shall approve a material as a low-hazard industrial waste if hazardous substances in representative samples of the material do not leach, using, at the option of the generator, EPA method 1311, "Toxicity Characteristic Leaching Procedure", EPA method 1312, "Synthetic Precipitation Leaching Procedure", or any other method approved by the department that more accurately simulates mobility, above the higher of the following:

(a) One-tenth the hazardous waste toxicity characteristic threshold as set forth in rules promulgated under part 111.

(b) Ten times the generic residential groundwater drinking water cleanup criteria as set forth in rules promulgated under part 201.

(8) The department shall approve a material as a source separated material if the person who seeks the designation demonstrates that the material can be recycled or converted into raw materials or new products by being returned to the original process from which it was generated, by use or reuse as an ingredient in an industrial process to make a product, or by use or reuse as an effective substitute for a commercial product. To qualify as a source separated material, the material, product, or reuse must meet all federal and state consumer protection and product safety laws and regulations and must not create a nuisance. If a material will be applied to or placed on land, or will be used to produce products that are applied to or placed on land, the material must qualify as an inert material or beneficial use by-product.

(9) Any written determination by the department made before September 16, 2014, designating a material as an inert material, an inert material appropriate for general reuse, an inert material appropriate for reuse at a specific location, an inert material appropriate for specific reuse instead of virgin material, a source separated material, a low-hazard industrial waste, or a non-solid-waste material remains in effect according to its terms

or until forfeited in writing by the person who received the determination. Upon termination, expiration, or forfeiture of the written determination, the current requirements of part 115 control. The amendments made to this part by 2014 PA 178 do not rescind, invalidate, limit, or modify any such prior determination in any way.

(10) Notwithstanding any other provision of part 115, a person in possession of material that is designated or approved for beneficial use or as inert material or in possession of material from an industrial facility that is designated or approved as source separated material is not subject to regulation as a materials management facility if the person manages and uses the material as provided in part 115 for that material.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2022, Act 248, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11554 Administration and enforcement of part 115.

Sec. 11554. The department of agriculture and rural development, and not the department of environment, Great Lakes, and energy, shall administer and enforce part 115 in connection with any material that is licensed or registered under part 85 or 1955 PA 162, MCL 290.531 to 290.538.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2022, Act 248, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 10
MATERIALS UTILIZATION FACILITIES

324.11555 Management of compostable materials; temporary accumulation of yard waste; composting on a farm; composting facility; location requirements; list of composting facilities.

Sec. 11555. (1) Compostable material shall be managed by 1 of the following means:

(a) Composted on the property where the compostable material is generated.

(b) If yard waste, temporarily accumulated subject to subsection (2).

(c) Composted at a class 1 composting facility where the quantity of compostable material does not at any time exceed 500 cubic yards and does not create a nuisance.

(d) Composted at a small composting facility for which notification has been given under section 11568(3), if applicable.

(e) Composted on a farm as described by subsection (3).

(f) Composted at a medium composting facility registered under section 11568(3), if applicable.

(g) Composted at any of the following that has received approval under a general permit under section 11568(3), if applicable:

(*i*) A large composting facility.

(*ii*) A small or medium class 1 composting facility that meets the requirements of subsection (4) and where the total volume of class 1 compostable material other than yard waste exceeds 10% of the total volume of compostable material on-site, unless otherwise approved by the department.

(*iii*) A class 2 composting facility.

(h) Decomposed in a controlled manner using a closed container to create and maintain anaerobic conditions if in compliance with part 55 and otherwise approved by the department under part 115.

(i) Composted by a type II landfill if the following requirements are met:

(*i*) The landfill reports annually the number of cubic yards of compost managed.

(*ii*) The composting and use meet the following requirements:

(A) Take place on property described in the landfill construction permit.

(B) Are described in and consistent with the landfill operations plans.

(C) Are otherwise in compliance with this act.

(*iii*) Yard waste or unfinished compost is not used as daily cover.

(j) Disposed of in a landfill or an incinerator. This subdivision applies to yard waste only if all of the following requirements, as applicable, are met:

(*i*) The yard waste is any of the following:

(A) Diseased or infested.

(B) Plants that are prohibited species or restricted species, as defined in part 413, and that were collected

through an eradication or control program.

(C) A state or federal controlled substance.

(D) Contaminated, with hazardous material as determined by the department.

(*ii*) The yard waste includes no more than a de minimis amount of yard waste other than that described in subparagraph (*i*).

(*iii*) For yard waste described in subparagraph (*i*)(A), (B), or (C), if the yard waste is composted, use of the compost may contribute to the spread of the disease or infestation or of viable invasive plant or controlled substance seeds or other propagules.

(2) A person may temporarily accumulate yard waste under subsection (1)(b) at a site not designed for composting if all of the following requirements are met:

(a) The accumulation does not create a nuisance or result in a violation of this act.

(b) The yard waste is not mixed with other compostable material.

(c) No more than 1,000 cubic yards are placed on-site unless a greater volume is approved by the department.

(d) Yard waste placed on-site on or after April 1 but before December 1 is moved to another location and managed as provided in subsection (1) within 30 days after being placed on-site. The department may approve a longer time period based on a demonstration that additional time is necessary.

(e) Yard waste placed on-site on or after December 1 but before the next April 1 is moved to another location and managed as provided in subsection (1) by the next April 1 after the yard waste is placed on-site.

(f) The owner or operator of the site maintains and makes available to the department records necessary to demonstrate that the requirements of this subsection are met.

(g) The owner or operator of the site annually notifies the department that it is a temporary yard waste accumulation site.

(3) A person may compost class 1 compostable material on a farm under subsection (1)(e) if all of the following requirements are met:

(a) All the compost is used on the farm.

(b) The composting does not result in a violation of this act and is done in compliance with GAAMPS.

(c) Any of the following apply:

(*i*) Only class 1 compostable material that is generated on the farm and does not contain paper products, dead animals, or compostable products is composted.

(*ii*) There is not more than 5,000 cubic yards of class 1 compostable material on the farm at any time.

(*iii*) All of the following requirements are met:

(A) The farm operation accepts class 1 compostable material only to assist in management of waste material generated by the farm operation or to supply the nutrient needs of the farm as determined by a certified crop advisor, Michigan agriculture environmental assurance program technician, comprehensive nutrient management plan writer, licensed professional engineer, or staff of the department of agriculture and rural development who administer the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(B) The farm operation does not accept compostable material generated at a location other than the farm for monetary or other valuable consideration.

(C) The owner or operator of the farm registers with the department of agriculture and rural development and certifies that the farm operation meets and will continue to meet the requirements of sub-subparagraphs (A) and (B).

(4) The owner or operator of a composting facility that is subject to a requirement for notification, registration, or approval under a general permit under section 11568(3) shall meet the following requirements, as applicable:

(a) Composting and management of the site occurs in a manner that meets all of the following requirements:

(*i*) Does not result in an accumulation of compostable material for a period of over 3 state fiscal years unless the site has the capacity to compost the compostable material and the owner or operator of the site can demonstrate, beginning with the third full state fiscal year after commencement of operation and each state fiscal year thereafter, unless a longer time is approved by the department, that the amount of compostable material and compost that is transferred off-site in a state fiscal year is not less than 75% by weight or volume, accounting for natural volume reduction, of the amount of compostable material and compost that was on-site at the beginning of the state fiscal year.

(*ii*) Results in finished compost with not more than 1%, by weight, of foreign matter that will remain on a 4-millimeter screen.

(*iii*) If yard waste is collected in bags other than paper bags or compostable bags meeting ASTM D6400 "Standard Specification for Compostable Plastics", by ASTM International, debags the yard waste by the end

of each business day.

(*iv*) Prevents the pooling of water by maintaining proper slopes and grades.

(*v*) Operates in compliance with parts 31 and 55.

(*vi*) Does not attract or harbor rodents or other vectors.

(b) The owner or operator maintains, and makes available to the department, all of the following records:

(*i*) Records identifying the volume of compostable material accepted by the facility each month, the volume of compostable material and of compost transferred off-site each month, and the volume of compostable material on-site on October 1 each year.

(*ii*) Records demonstrating that the composting is performed in a manner that prevents nuisances and minimizes anaerobic conditions. Unless otherwise provided by the department, these records shall include carbon-to-nitrogen ratios, the amount of leaves and the amount of grass in tons or cubic yards, temperature readings, moisture content readings, and lab analysis of finished compost products.

(c) If the site is a small composting facility, the site is operated in compliance with the following location conditions:

(*i*) If the site was in operation on December 1, 2007, the management or storage of compost, compostable material, and residuals does not expand from its location on that date to an area that is within the following distance from any of the following features:

(A) 50 feet from a property line.

(B) 200 feet from a residence.

(C) 100 feet from a body of surface water, including a lake, stream, or wetland.

(*ii*) If the site begins operation after December 1, 2007, the management and storage of compost, compostable material, and residuals occur at least the following distance from each of the following features:

(A) 50 feet from a property line.

(B) 200 feet from a residence.

(C) 100 feet from a body of surface water, including a lake, stream, or wetland.

(D) 2,000 feet from a type I or type IIa water supply well.

(E) 800 feet from a type IIb or type III water supply well.

(F) 500 feet from a church or other house of worship, hospital, nursing home, licensed day care center, or school, other than a home school.

(G) 4 feet above groundwater.

(5) A local unit of government may impose location requirements that are more restrictive than those in subsection (4)(c)(*i*) and (*ii*). However, the local requirements shall not be so restrictive that a facility that meets the requirements of the siting process in the materials management plan cannot be established.

(6) A site at which compostable material is managed in compliance with this section, other than a site described in subsection (1)(i) or (j), is not a disposal area.

(7) The department shall maintain and post on its website a list of composting facilities for which notification has been given, which are registered, or which are approved under a general permit under section 11568(3). Except as provided in section 11514, a hauler shall not deliver yard waste to a site that is not on the list. A contract between a local unit of government and a hauler for curbside pick-up of yard waste or collection of yard waste from a drop-off location shall require the delivery of the yard waste to a site on the list.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11556 Class 1 and 2 compostable materials; composting of dead animals.

Sec. 11556. (1) A person who composts class 1 compostable material shall do so at 1 of the following:

(a) A composting facility as described in section 11555(1)(c).

(b) A small or medium class 1 composting facility that meets the requirements of section 11555(4) and where the total volume of class 1 compostable material other than yard waste is equally distributed and does not exceed 5% for a small composting facility, or 10% for a medium composting facility, of the total volume of compostable material on-site or a greater percentage if approved by the department.

(c) A composting facility described in section 11555(1)(g).

(2) Class 1 compostable material is considered to be source separated for conversion into compost if the class 1 compostable material is composted at a site that is described in and meets the requirements of section 11555(4) or section 11557(2).

(3) Composting of class 2 compostable material shall be done at a class 2 composting facility. Class 2 compostable material is considered to be source separated for conversion into compost if the class 2 compostable material is composted at a class 2 composting facility.

(4) Composting of dead animals using bulking agents as defined in section 3 of 1982 PA 239, MCL 287.653, is subject to part 115 if the composting occurs at any of the following:

(a) A farm that maintains more than 5,000 cubic yards of bulking agents from a source other than the farm.

(b) A slaughtering facility that, for composting purposes, maintains on-site more than 5,000 cubic yards of bulking agents as defined in section 3 of 1982 PA 239, MCL 287.653.

(c) A facility that manages dead animals from more than 1 farm or slaughtering facility.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11557 Location of composting facilities; notification requirements near airport.

Sec. 11557. (1) The location at a medium or large composting facility, or a class 1 or class 2 composting facility, where class 1 and class 2 compostable material, finished compost, and residuals were managed and stored on the effective date of the amendatory act that added this section shall not be expanded to an area that is within the following distance from any of the following features:

(a) 100 feet from a property line.

(b) 300 feet from a residence.

(c) 200 feet from a body of surface water, including a lake, stream, or wetland.

(2) If a medium or large composting facility or a class 1 or 2 composting facility begins operation after the effective date of the amendatory act that added this section, the management and storage of class 1 and class 2 compostable material, compost, and residuals shall not occur in a wetland or floodplain, or in an area that is within the following distance from any of the following features:

(a) 100 feet from a property line.

(b) 300 feet from a residence.

(c) 200 feet from a body of surface water, including a lake, stream, or wetland.

(d) 2,000 feet from a type I or type IIa water supply well.

(e) 800 feet from a type IIb or type III water supply well.

(f) 4 feet above groundwater.

(g) 500 feet from a church or other house of worship, a hospital, a nursing home, a licensed day care center, or a school, other than a home school.

(3) Not later than 90 days after the establishment of a new class 1 or class 2 composting facility or the expansion of the location at a class 1 or class 2 composting facility where compostable material, finished compost, and residuals were managed and stored on the effective date of the amendatory act that added this section, the owner or operator of the composting facility shall, if the composting facility is located within 5 miles of the end of an airport runway that is used by turbojet or piston type aircraft, notify in writing the affected airport and the Federal Aviation Administration.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11558 Large class 1 composting facilities; owner or operator responsibilities; separation of class 2 compostable materials.

Sec. 11558. (1) The owner or operator of a large class 1 composting facility shall submit to the department the following items:

(a) A site map.

(b) An operations plan.

(c) An odor management plan.

(d) A training plan.

(e) A fire prevention plan.

(f) A facility closure plan.

(2) The owner or operator of a large class 1 composting facility shall ensure that all of the following requirements are met:

(a) Finished compost is tested in compliance with section 11564.

(b) The compostable material is not stored in a manner constituting speculative accumulation. The owner or operator of the large composting facility shall maintain and make available to the department records to demonstrate compliance with this requirement.

(c) Composting does not result in standing water or attract or harbor rodents or other vectors.

(d) Unless approved by the department, the composting operations do not result in more than the following volume on any acre:

(*i*) 5,000 cubic yards of compostable material, finished compost, compost additives, or screening rejects or any combination thereof.

(*ii*) 10,000 cubic yards of compostable material if the site is using forced air static pile composting.

(e) The composting facility complies with wellhead protection programs.

(3) Class 2 compostable material shall be separated out from other solid waste and maintained separately until used to produce compost, unless otherwise authorized by the department.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11560 Annual report.

Sec. 11560. The owner or operator of a composting facility that is required to notify or register under part 115 or that is approved under a general permit shall, within 45 days after the end of each state fiscal year, report to the department all of the following information for that fiscal year:

(a) The amount of compostable material brought to the site, by county of origin.

(b) The amount of finished compost removed from the site.

(c) The amount of unfinished compostable material removed from the site.

(d) The volume of residuals removed from the site.

(e) The total amount of compostable material, compost, and residuals on-site at the end of the fiscal year.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11561 Characterization of finished compost; use of compost; approval by department.

Sec. 11561. (1) A person shall not use compost produced from class 2 compostable material unless the department approves the class 2 compostable material as appropriate for the use under part 115.

(2) A person shall not compost solid waste unless the person has filed a petition under R 299.4118a of the MAC and obtained approval from the department. To characterize the finished compost, the petitioner shall include all of the following information in the petition, in addition to the information required in R 299.4118a of the MAC:

(a) The type of waste and its potential for creating a nuisance or environmental contamination.

(b) The time required for compost to reach maturity, as determined by a reduction of organic matter content during composting. Organic matter content shall be determined by measuring the volatile residues content using a method that is approved by the department or EPA method 160.4, contained in "Methods for Chemical Analysis of Water and Waste", EPA-600, Revision 8, July 2014, Update V.

(c) The foreign matter content of finished compost. The foreign matter content shall be determined as follows:

(*i*) A weighed sample of the finished compost is sifted through a 4.0-millimeter screen.

(*ii*) The foreign matter remaining on the screen is separated and weighed.

(*iii*) The weight of the separated foreign matter is divided by the weight of the finished compost.

(*iv*) The quotient under subparagraph (*iii*) is multiplied by 100.

(d) Particle size, as determined by sieve analysis.

(3) The department shall approve a material for use as compostable material if the person who proposes the use demonstrates all of the following:

(a) The material has or will be converted to compost under controlled conditions at a class 2 composting facility.

(b) The material will not be a source of environmental contamination or cause a nuisance.

(c) The end user will be given written instructions on the proper use of the finished compost.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11562 Petition for classification; pilot composting project; testing parameters.

Sec. 11562. (1) A person may petition the department to do any of the following:

(a) Classify a solid waste, a class 2 compostable material, or a combination of class 1 compostable material and class 2 compostable material, as a class 1 compostable material.

(b) Classify compost produced from solid waste, class 2 compostable material, or a combination of class 1 compostable material and class 2 compostable material, as general use compost.

(2) A petition under subsection (1) shall meet the requirements of R 299.4118a of the MAC. If authorized by the department in writing, a person may conduct a pilot composting project to support a petition under subsection (1).

(3) In granting a petition under subsection (1), the department shall specify which parameters listed in section 11565 shall be tested under subsection (4). The department's decision shall be based on both of the following:

(a) The difference between the concentration of a given parameter in the compost and the criteria for that parameter described in section 11553(5)(c)(*i*).

(b) The variability of the results among the samples.

(4) If a material is classified as a class 1 compostable material by the department based on the petition under subsection (1), the operator shall test compost produced from the class 1 compostable material when both of the following apply:

(a) There is a significant change in the process that generated the compost.

(b) The change has the potential to alter the classification of the finished compost as general use compost under section 11553(5).

(5) If any finished compost produced from class 2 compostable material that has been classified as a general use compost fails to meet the requirements for a general use compost under section 11553(5), both of the following apply:

(a) The finished compost is reclassified as a restricted use compost.

(b) The owner or operator of the composting facility shall notify the department within 10 business days after receipt of information that the finished compost no longer meets the requirements to be classified as general use compost, and shall do 1 of the following with the finished compost:

(*i*) Dispose of the remaining finished compost at a properly licensed landfill.

(*ii*) Stockpile the finished compost on-site until the generator re-petitions the department and the department reclassifies the compost as provided in this section.

(*iii*) Use the finished compost for a specified use if approved for that specified use under section 11553(4).

(6) If finished compost produced by a composing facility is restricted use compost, the owner or operator of the composting facility shall do the following, as applicable:

(a) Retest the finished compost annually, or biennially if the department has determined that the test results demonstrate insignificant variability over a 2-year period, using the procedures specified in R 299.4118a of the MAC. The owner or operator shall submit the test results to the department. The department shall specify a more frequent schedule for testing if the characteristics of the material vary significantly.

(b) If the owner or operator of the composting facility receives information that test results show a significant increase in any parameter or a significant decrease in pH from previous test results, notify the department within 10 business days and do any of the following with the finished compost:

(*i*) Dispose of the finished compost at a properly licensed landfill.

(*ii*) Stockpile the finished compost on-site until the generator re-petitions the department and the department reclassifies the compost under this section.

(*iii*) Use the finished compost for a use specified by the department under section 11553(3).

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Compiler's note: In subsection (6), the reference to "composing facility" evidently should read "composting facility."

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11563 Sale of general use compost; labeling requirements; management of restricted use compost.

Sec. 11563. (1) General use compost offered for sale shall be accompanied by a label, in the case of bagged compost, or an information sheet in the case of bulk sales. The label or information sheet shall contain all of the following information:

(a) The name and generator of the compost.

(b) The feedstock and bulking agents used to produce the compost.

(c) Use instructions, including application rates and any restrictions on use.

(d) If the compost is marketed as a fertilizer, micronutrient, or soil conditioner, the label shall list the applicable parameters under section 11565 and comply with the requirements of part 85, if applicable.

(e) If the compost is marketed as a liming material, the label shall list the applicable parameters under section 11565 and shall include a statement indicating that the generator of the compost is in compliance with the applicable requirements of 1955 PA 162, MCL 290.531 to 290.538. The label shall specify the generator's liming license number.

(f) A statement indicating how the user of the compost can obtain the results of all testing, including test parameters and concentration levels.

(2) Restricted use compost shall be managed as provided in any of the following:

(a) Disposed of at a properly licensed landfill.

(b) Stockpiled on-site until the generator petitions the department under section 11562 and the department reclassifies the compost as provided in that section.

(c) Used for a use specified by the department under section 11553(3).

(d) If offered for sale, accompanied by a label, in the case of bagged compost, or an information sheet in the case of bulk sales. The label or information sheet shall contain both of the following:

(*i*) The information required by subsection (1).

(*ii*) A statement that the compost has been approved for use by this state and further indicating how the user of the compost may obtain the results of all testing including test parameters, concentration levels, and the applicable standards.

(3) The department may impose conditions for use of restricted use compost to ensure the protection of the environment, natural resources, or the public health, safety, or welfare.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11564 Testing of finished compost; compliance.

Sec. 11564. (1) The following sites shall test their finished compost in compliance with the US Composting Council's Seal of Testing Assurance, unless the department has approved an alternate procedure:

(a) Class 1 composting facilities that produce over 2,000 cubic yards of finished compost per year. The finished compost shall be analyzed for the parameters listed in section 11565.

(b) Class 2 composting facilities. The finished compost shall be analyzed for the parameters listed in section 11565 and, if the compost is produced from class 2 compostable material, other parameters identified in the facility's general permit.

(2) All sites not listed in subsection (1) shall test at least 1 sample of finished compost per 4,000 cubic yards or 2,000 tons per year for the parameters listed in section 11565, unless the department has approved an alternate procedure.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11565 General use parameters for compost.

Sec. 11565. All of the following are general use parameters for compost:

(a) pH.

(b) Carbon-to-nitrogen ratio.

(c) Soluble salts.

(d) Total available nitrogen.

(e) Phosphorus reported as P2O5.

(f) Potassium reported as K2O.

(g) Calcium.

(h) Magnesium.
(i) Chloride.
(j) Sulfate.
(k) Arsenic.
(*l*) Cadmium.
(m) Copper.
(n) Lead.
(o) Mercury.
(p) Molybdenum.
(q) Nickel.
(r) Selenium.
(s) Zinc.
(t) Pathogens.
(u) Fecal coliforms.
(v) Salmonella.
(w) Percent organic matter.
(x) Percent foreign matter.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11567 Creation of soil-like product; blending requirements; gypsum drywall.

Sec. 11567. (1) A person may blend low-hazard industrial waste or compost additives with general use compost or compost produced from yard waste to create a soil-like product if all of the following conditions are met, as applicable:

(a) The blending occurs at a class 1 or class 2 composting facility.

(b) The mixture meets the requirements of section 11553(5) or other requirements approved by the department.

(c) If the blending is with general use compost, the blending occurs within 30 days after the low-hazard industrial waste or compost additives are collected at the class 1 or class 2 composting facility.

(2) Gypsum drywall may be added to finished compost if the gypsum drywall constitutes less than 50% of the compost by weight and is less than 1/4 inch in diameter.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11568 Materials utilization facility; reporting and compliance requirements; anaerobic digester; application; approval; fees.

Sec. 11568. (1) The operator of a materials utilization facility shall comply with all of the following:

(a) The operator shall operate the facility in a manner that does not create a nuisance or a hazard to the environment, natural resources, or the public health, safety, or welfare and shall keep the facility clean and free of litter.

(b) The operator shall comply with this act, including parts 31 and 55, and not create a facility as defined in section 20101.

(c) Unless exempted, the operator shall record the types and quantities in tons, or cubic yards for composting facilities, of material collected, the period of storage, the planning area of origin of the material, and where the material is transferred, processed, recycled, or disposed. The operator shall report to the department this information for each state fiscal year within 45 days after the end of the state fiscal year.

(d) On an annual basis, the weight of solid waste residuals shall be less than 15% of the total weight of material received unless the requirements of subdivision (b) of the definition of materials recovery facility in section 11504 are met.

(e) The facility shall be operated by personnel who are knowledgeable about the safe management of the types of material that are accepted and utilized.

(f) The operator shall limit access to the facility to a time when a responsible individual is on duty.

(g) The operator shall not store material overnight at the facility except in a secure location and with

adequate containment to prevent any release of material.

(h) Within 1 year after material is collected by the facility, the material shall be transported from the facility for use in production of ultimate end use products or disposal. This subdivision does not apply to a composting facility.

(i) The material shall be protected, as appropriate for the type of material, from weather, fire, physical damage, and vandalism.

(j) Operations shall not attract or harbor rodents or other vectors.

(k) If salvaging is permitted, salvaged material shall be removed from the site at the end of each business day or salvaging shall be confined to a storage area that is approved by the department.

(*l*) Handling and processing equipment that is of adequate size, quantity, and operating condition shall be available as needed to ensure proper management of the facility. If the handling or processing equipment is inoperable for more than 72 hours, an alternative method that is approved by the department shall be used to manage the material.

(m) Solid waste shall not be burned at the facility.

(2) The operator of a materials recovery facility, including an electronic waste processor not required to report under part 173, shall comply with both of the following:

(a) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate a materials recovery facility that sorts, bales, or processes more than 100 tons of material per year and does not have more than 100 tons of managed material on-site at any time unless the owner or operator has registered the materials recovery facility with the department. The application for registration shall be accompanied by a fee of $750.00. The term of the registration is 5 years.

(b) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate a materials recovery facility that has more than 100 tons of managed material on-site at any time unless the owner or operator has obtained approval of the materials recovery facility under a general permit, subject to subsections (6) to (9).

(3) The operator of a composting facility shall comply with all of the following:

(a) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate a small class 1 composting facility unless the owner or operator has notified the department. Notification shall be given upon initial operation and, subsequently, within 45 days after the end of each state fiscal year. The subsequent notices shall report the amount of compostable material managed at the facility during the state fiscal year.

(b) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate a medium class 1 composting facility unless the owner or operator has registered with the department. The application for registration shall be accompanied by a fee of $750.00. The term of the registration is 5 years.

(c) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate a class 2 composting facility or a large class 1 composting facility unless approved by the department under a general permit, subject to subsections (6) to (9).

(4) The operator of an anaerobic digester shall comply with all of the following:

(a) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate an anaerobic digester if the anaerobic digester manages source separated material generated on-site and if not more than 20% of the material managed is generated off-site unless the owner or operator has notified the department. Notification shall be given upon initial operation and, subsequently, within 45 days after the end of each state fiscal year. The subsequent notices shall report the amount of material managed at the anaerobic digester during the state fiscal year.

(b) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate an anaerobic digester if the anaerobic digester manages source separated material generated on-site and if more than 20% of the material managed is generated off-site unless the owner or operator has registered the anaerobic digester with the department. The application for registration shall be accompanied by a fee of $750.00. The term of the registration is 5 years.

(c) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate an anaerobic digester that manages only source separated material, manures, bedding, or crop residuals that are generated off-site unless approved by the department under a general permit, subject to subsections (6) to (9).

(d) Liquid digestate that is generated by the anaerobic digester shall be managed by 1 or more of the following:

(*i*) On-site treatment and discharge by a facility that is permitted under part 31 or is otherwise approved by the department.

(*ii*) Discharge, by sewer or pipeline, to an off-site publicly owned treatment works or other facility that is permitted under part 31 or is otherwise approved by the department.

(*iii*) Discharge, by pumping and hauling, to an off-site publicly owned treatment works or other facility that is permitted under part 31 or is otherwise approved by the department.

(*iv*) Covered storage, as approved by the department, on-site for not less than 180 days followed by land application under R 299.4111 of the MAC.

(5) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate an innovative technology facility unless approved by the department under a general permit, subject to subsections (6) to (9).

(6) If the owner or operator of a materials utilization facility in operation on the effective date of the amendatory act that added this section is required to obtain approval under a general permit and submits a complete application for approval by the deadline for obtaining approval, the owner or operator is considered to be in compliance with the approval requirement pending the department's approval or denial of the application.

(7) An application for approval under a general permit under this section shall be accompanied by a fee of $1,000.00. The department shall approve or deny the application within 90 days after receiving a complete application. If the application is denied, within 6 months after the denial, the applicant may resubmit the application together with additional information or corrections necessary to address the reason for denial, without paying an additional application fee.

(8) The term of approval under a general permit under this section is 5 years, except that the term of approval under an innovative technology general permit is 2 years.

(9) An approval under a general permit under this section may be renewed upon the submittal of a timely and sufficient application. To be considered timely and sufficient for purposes of section 91 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.291, an application for renewal of a general permit approval shall meet both of the following requirements:

(a) Contain the information as required by the applicable general permit application.

(b) Be received by the department not later than 90 days before the expiration of the preceding authorization.

(10) Fees collected under this subpart shall be deposited in the perpetual care account established under section 11550.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11569 Materials utilization facilities; site map and operations plan; final closure plan; notification requirements.

Sec. 11569. (1) With a registration or an application for approval under a general permit required under section 11568, the owner or operator of a materials utilization facility shall submit a site map and operations plan for the materials utilization facility. With an application for approval under a general permit, the owner or operator shall submit a final closure plan. Pending registration or authorization under a general permit of a materials utilization facility in operation on the effective date of the amendatory act that added this section, the department shall review the operating requirements for the facility. If the department determines upon review that the operating requirements do not comply with part 115, the department shall issue a schedule of remedial measures that will lead to compliance within a reasonable period of time not to exceed 1 year from the determination of noncompliance.

(2) If an increase in the volume or change in the type of material managed by a materials utilization facility triggers a requirement for notification, registration, or approval under a general permit, the owner or operator of the facility shall submit the notification, complete application for registration, or complete application for approval under a general permit within 90 days.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 11
MATERIALS MANAGEMENT PLANS

324.11571 Approved materials management plan (MMP); county approval; notification of intent; requirements; time period; county approval agency (CAA); duties; electronic mail.

Sec. 11571. (1) The department shall ensure that each county has an approved materials management plan. The approved solid waste management plan in effect on the effective date of the amendatory act that added this section remains in effect until a materials management plan has been approved for the planning area under this subpart. Before a materials management plan is approved for a county pursuant to section 11575, a solid waste management plan may be amended pursuant to the procedures that applied under section 11533 and former sections 11534 to 11537a immediately before the effective date of the amendatory act that added this section.

(2) The planning area of a single MMP may include 2 or more counties if the county boards of commissioners of those counties agree to the joint exercise of the powers and performance of the duties under this subpart of the county boards of commissioners and of the county approval agencies. In addition, if the department is responsible for preparing the MMP for 2 or more counties under section 11575, the department may include those counties in the planning area of a single MMP and may exercise its powers and perform its duties under this subpart for those counties jointly.

(3) Multicounty MMPs are subject to the same procedure for approval as single-county MMPs, and each county board of commissioners shall take formal action on a multicounty MMP as appropriate. A multicounty MMP shall include a process to ensure that the requirements of section 11578 are met.

(4) All of the municipalities of a county shall be included in the planning area of a single MMP. However, a municipality located in 2 counties that are not in the same planning area may request that the entire municipality be included in the planning area for 1 of those counties and excluded from the planning area of the other county. A municipality that is adjacent to a county boundary may request that it be included in the planning area of the MMP for the adjacent county. A request under this subsection shall be submitted to and is subject to the approval of the county board of commissioners of each of the affected counties.

(5) Within 180 days after the effective date of the amendatory act that added this section, the department shall, in writing, request the county board of commissioners of each county to submit to the department a notice of intent to prepare an MMP. Within 180 days after the request is delivered, the county board of commissioners shall submit the notice of intent. If the county board of commissioners declines to prepare an MMP, all of the following apply:

(a) The county board of commissioners shall notify the municipalities in the county and the regional planning agency for the county of its decision.

(b) All the municipalities in the county, acting jointly, or the regional planning agency may, within the remaining balance of the 180-day time period applicable to the county board of commissioners, submit to the department a notice of intent to prepare an MMP.

(c) Upon request of the municipalities or regional planning agency, the department may extend the deadline under subdivision (b) to allow the municipalities and regional planning agency an opportunity to determine which will submit the notice of intent.

(6) If a notice of intent is not submitted to the department by the applicable deadline under subsection (5), the department may prepare an MMP for the county, subject to section 11575(11).

(7) A notice of intent under subsection (5) shall meet the following requirements, as applicable:

(a) State that the county board of commissioners, all the municipalities in the county, acting jointly, or the regional planning agency for the county, whichever submits the notice of intent, will prepare an MMP and will be the county approval agency.

(b) For a county with a population of less than 250,000, be accompanied by both of the following:

(*i*) Documentation that the county approval agency consulted with each adjacent county regarding the option of preparing a multicounty MMP pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(*ii*) Documentation of the outcome of the consultations, including a copy of any interlocal agreement identifying the process for creating a multicounty MMP.

(c) For a county with a population of 250,000 or more, be accompanied by both of the following:

(*i*) Documentation that the county approval agency submitted to the county board of commissioners of each adjacent county a request to respond within 30 days indicating the adjacent county's interest in the option of preparing a multicounty MMP pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(*ii*) Documentation of the outcome of the request, including a copy of any interlocal agreement identifying the process for creating a multicounty MMP.

(8) The submittal of a notice of intent under subsection (5) commences the running of a 3-year deadline for

municipal approval of the MMP and submission of the MMP to the department under section 11575.

(9) Not more than 30 days after the submission of a notice of intent to the department under subsection (5), the CAA shall do all of the following:

(a) Submit a copy of the notice of intent to the legislative body of each municipality located within the planning area.

(b) Publish the notice of intent in a newspaper or by electronic media having major circulation or viewership in the planning area.

(c) Request publication of the notice of intent on websites of local units of government in the planning area and other multimedia outlets as appropriate.

(10) The CAA shall also do all of the following:

(a) Within 120 days after submitting the notice of intent, designate a planning agency and an individual within the DPA who shall serve as the DPA's contact person for the purposes of this subpart.

(b) Appoint a planning committee under section 11572.

(c) Oversee the creation and implementation of the DPA's work program under section 11587(4).

(d) Upon request of the department, submit a report on progress in the preparation of the MMP.

(11) All submittals and notices under this section and sections 11572 to 11576 shall be in writing. A written notice may be given by electronic mail if the recipient has indicated that the recipient will receive notice by electronic mail and has specified the electronic mail address to which the notice is to be sent.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11572 Planning committee; membership; terms.

Sec. 11572. (1) Within 180 days after the CAA submits a notice of intent to the department under section 11571, the CAA shall appoint a planning committee. The planning committee is a permanent body. Initial planning committee members shall be appointed for 5-year terms. Their immediate successors shall be appointed for 2-, 3-, 4-, or 5-year terms such that, as nearly as possible, the same number are appointed for each term length. Subsequently, members shall be appointed for terms of 5 years. A member may be reappointed.

(2) If a vacancy occurs on the planning committee, the CAA shall make an appointment for the unexpired term in the same manner as the original appointment. The CAA may remove a member of the planning committee for incompetence, dereliction of duty, or malfeasance, misfeasance, or nonfeasance in office.

(3) The first meeting of the planning committee shall be called by the designated planning agency. At the first meeting, the planning committee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. A majority of the members of the planning committee constitute a quorum for the transaction of business at a meeting of the planning committee. For the purposes of determining the quorum, the number of members of the planning committee is the number as established under subsection (4), excluding any unfilled vacancies created in the past 90 days. The affirmative vote of a majority of the number of members of the planning committee as established under subsection (4) is required for official action of the planning committee. A planning committee shall adopt procedures for the conduct of its business.

(4) A planning committee shall consist of the following members:

(a) A representative of a solid waste disposal facility operator that provides service in the planning area.

(b) A representative of a hauler that provides service in the planning area.

(c) A representative of a materials recovery facility operator that provides service in the planning area.

(d) A representative of a composting facility or anaerobic digester operator that provides service in the planning area.

(e) A representative of a waste diversion, reuse, or reduction facility operator that provides service in the planning area.

(f) A representative of an environmental interest group that has members residing in the planning area.

(g) An elected official of the county.

(h) An elected official of a township in the planning area.

(i) An elected official of a city or village in the planning area.

(j) A representative of a business that generates a managed material in the planning area.

(k) A representative of the regional planning agency whose territory includes the planning area.

(*l*) Any additional members appointed under subsections (5) or (6) or section 11578(3), as applicable.

(5) The CAA may appoint to the planning committee as an additional regular member 1 representative that does business in or resides in an adjacent municipality outside the planning area.

(6) CAAs preparing a multicounty MMP under section 11571 shall appoint a single planning committee. For each county, both of the following additional members may be appointed to the planning committee:

(a) An elected official of the county or a municipality in the planning area.

(b) A representative from a business that generates managed materials within the planning area.

(7) If the CAA has difficulty finding qualified individuals to serve on the planning committee, the department may approve a reduction in the number of members of the planning committee. However, at a minimum, the planning committee shall include all of the following members:

(a) A representative of the solid waste disposal industry that provides service in the planning area.

(b) A representative of a materials utilization facility that provides service in the planning area.

(c) Two individuals, each of whom is either a member of an environmental interest group who resides in the planning area or a representative of the regional planning agency.

(d) An elected official of the county.

(e) An elected official of a township in the planning area.

(f) An elected official of a city or village in the planning area.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11573 Planning committee; responsibilities.

Sec. 11573. In addition to its other responsibilities under part 115, the planning committee shall do all of the following:

(a) Direct the DPA in the preparation of the MMP.

(b) Review and approve the DPA's work program under section 11587(4).

(c) Identify relevant local materials management policies and priorities.

(d) Ensure coordination in the preparation of the MMP.

(e) Advise counties and municipalities with respect to the MMP.

(f) Ensure that the DPA is fulfilling the requirements of part 115 as to both the content of the MMP and public participation. The planning committee shall notify the DPA of any deficiencies. If the deficiencies are not addressed by the DPA to the planning committee's satisfaction, the planning committee shall notify the CAA. If the deficiencies are not addressed by the CAA to the planning committee's satisfaction, the planning committee shall notify the department. The department shall address the deficiencies and may prepare the MMP under section 11575(11).

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11574 Designated planning agency (DPA); responsibilities; copies; revisions; formal action.

Sec. 11574. (1) In addition to its other responsibilities under part 115, a DPA shall do all of the following:

(a) Serve as the primary government resource in the planning area for information about the MMP and the MMP development process.

(b) Under the direction of the planning committee, prepare an MMP.

(c) During the preparation of an MMP, solicit the advice of and consult with all of the following:

(*i*) Periodically, the municipalities, appropriate organizations, and the private sector, including materials management facility operators, in the planning area.

(*ii*) The appropriate county or regional planning agency.

(*iii*) Counties adjacent to the planning area and municipalities in those counties.

(d) Not less than 10 days before each public meeting at which the DPA will discuss the MMP, give notice of the meeting to the chief elected official of each municipality within the planning area and any other person within the planning area that requests notice. The notice shall indicate as precisely as possible the subject matter being discussed.

(e) Obtain written approval of the MMP from the planning committee.

(f) Submit a copy of the MMP as approved by the planning committee to all of the following with a notice

specifying the end of the public comment period under subdivision (h):

(*i*) The department.

(*ii*) The legislative body of each municipality within the planning area.

(*iii*) The legislative body of each county or municipality adjacent to the planning area that has requested the opportunity to review the MMP.

(*iv*) The regional planning agency for each county included in the planning area.

(g) Publish a notice in a newspaper or by electronic media having major circulation or viewership in the planning area. The notice shall indicate a location where copies of the proposed MMP are available for public inspection or copying at cost, specify the end of the public comment period under subdivision (h), and solicit public comment. Notice posted in electronic media shall remain posted until the end of the public comment period.

(h) Receive public comments on the MMP for not less than 60 days after the publication of the notice under subdivision (g).

(i) During the public comment period under subdivision (h), conduct a public hearing on the MMP. Not less than 30 days before the hearing, the planning committee shall publish a notice of the hearing in a newspaper or by electronic media having major circulation or viewership in the planning area. Notice posted in electronic media shall remain posted until the end of the public hearing. The notice shall indicate a location where copies of the proposed MMP are available for public inspection or copying at cost and shall indicate the time and place of the public hearing. The same notice may be used to satisfy the requirements of this subdivision and subdivision (g). The planning committee shall submit to the department proof of publication of notice under this subdivision and subdivision (g).

(j) Submit to the planning committee a summary of the comments received during the public comment period.

(2) The DPA, or the department if the department prepares an MMP, shall use a standard format in preparing the MMP. The department shall prepare the standard format and provide a copy of the standard format to each DPA that the department knows will prepare an MMP. The department shall provide the standard format to any other person upon request.

(3) The planning committee shall consider the comment summary received from the DPA under subsection (1)(j) and may direct the DPA to revise the MMP. The DPA shall revise the MMP as directed by the planning committee. Not more than 30 days after the end of the public comment period, the DPA shall submit the proposed MMP, as revised, if applicable, to the planning committee.

(4) Not more than 30 days after the MMP is submitted to the planning committee under subsection (3), the planning committee shall take formal action on the MMP and, if the planning committee approves the MMP in compliance with section 11572(3), the DPA shall submit the MMP to the CAA.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11575 Approval or rejection of materials management plan; deadline and extension; implementation of final plan.

Sec. 11575. (1) Not more than 60 days after the MMP is submitted to the CAA under section 11574(4), the CAA shall approve or reject the MMP and notify the planning committee. A notice that the CAA rejects the MMP shall state the specific reasons for the rejection.

(2) Not more than 30 days after notice of the rejection of the MMP is sent under subsection (1), the planning committee may revise the MMP and submit the revised MMP to the CAA. After a revised MMP is timely submitted to the CAA under this subsection or the 30-day period expires and a revised MMP is not submitted, the CAA shall approve or reject the revised MMP or original MMP, respectively, and notify the planning committee.

(3) If the CAA rejects the MMP under subsection (2), the CAA shall prepare and approve an MMP, subject to the continued running of the 3-year period under section 11571(8).

(4) Not more than 10 business days after the CAA approves an MMP under subsection (1), (2), or (3), the DPA shall submit a copy of the MMP to the legislative body of each municipality located within the planning area.

(5) Not more than 120 days after the MMP is submitted to the legislative body of a municipality, the legislative body may approve or reject the MMP. The legislative body shall notify the DPA of an approval or rejection.

(6) Within 30 days after the deadline for municipal notification to the DPA under subsection (5), the DPA shall notify the department which municipalities timely approved the MMP, which timely rejected the MMP, and which did not timely notify the DPA of approval or rejection. The notice shall be accompanied by a copy of the MMP. If the MMP is not approved by at least 2/3 of the municipalities that timely notify the DPA of their approval or rejection under subsection (5), then the department shall proceed under subsection (7) or (9). If the MMP is approved by at least 2/3 of the municipalities that timely notify the DPA of their approval or rejection under subsection (5), then subsection (9) applies.

(7) The department may approve an extension of a deadline under subsections (2) to (6) if the extension is requested by the entity subject to the deadline within a reasonable time after the issues giving rise to the need for an extension arise.

(8) If the MMP is neither approved nor rejected by a deadline established in this subpart, subject to any extension under subsection (7), the MMP is considered automatically approved at that step in the approval process, and the approval process shall continue at the next step. This subsection does not apply to failure of an individual municipality to approve or disapprove the MMP under subsection (5).

(9) Within 180 days after the MMP is submitted to the department under subsection (6), the department shall approve or reject the MMP. The department shall approve the MMP if the MMP complies with part 115. If the department approves the MMP, the MMP is final. If the department rejects the MMP, subsection (11) applies.

(10) Before approving or rejecting an MMP under subsection (9), the department may return the MMP to the CAA with a written request for modifications necessary for approval under subsection (9) or to clarify the MMP. If the department returns the MMP for modifications, the running of the 180-day period under subsection (9) is tolled for 90 days or until the CAA responds to the department's request, whichever occurs first. If the CAA does not approve the modifications requested by the department, subsection (11) applies.

(11) Subject to subsection (9), if a CAA does not prepare an MMP or the MMP does not timely obtain an approval required by part 115, the department may prepare and approve an MMP for the county. An MMP prepared and approved by the department is final. Once the MMP is final, the county shall implement the MMP.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11576 Amending a materials management plan; procedures; permissible changes without amendment.

Sec. 11576. (1) Amendments to an MMP shall be made only as provided in subsection (2), (3), or (4).

(2) The department shall initiate the adoption of 1 or more amendments to MMPs if the department determines that the guidance provided by legislation, by this state's solid waste policy, or by reports and initiatives of the department has significantly changed the required contents of MMPs. The procedure for adopting an amendment to the MMP under this subsection is the same as the procedure for adoption of an initial MMP.

(3) The CAA may initiate 1 or more amendments to an MMP by filing a notice of intent with the department. Except as provided in subsection (4), the procedure for adopting an amendment to the MMP under this subsection is the same as the procedure for adoption of an initial MMP except as follows:

(a) The county submits a notice of intent on its own initiative rather than in response to a request from the department under section 11571.

(b) If the CAA rejects a revised amendment under section 11575(2), the amendment process terminates.

(c) Section 11575(11) does not apply. Instead, if any required approval is not timely granted, the amendment process terminates and the amendments are not adopted.

(4) If, after a notice of intent is filed under subsection (3), the department determines that the amendment will increase materials utilization or the recovery of managed material and complies with part 115, the department may authorize the CAA to amend the MMP. To amend the MMP, the CAA shall do all of the following:

(a) Submit a copy of the amendment to all of the following with a notice specifying the end of the public comment period under subdivision (c):

(*i*) The department.

(*ii*) The legislative body of each municipality within the planning area.

(*iii*) The legislative body of each county or municipality adjacent to the planning area that requested the

opportunity to review the MMP under section 11574(1)(f).

(*iv*) The regional planning agency for each county included in the planning area.

(b) Publish a notice in a newspaper or by electronic media having major circulation or viewership in the planning area. The notice shall indicate a location where copies of the amendment are available for public inspection or copying at cost, specify the end of the public comment period under subdivision (c), and solicit public comment. Notice posted in electronic media shall remain posted until the end of the public comment period.

(c) Receive public comments on the amendment for not less than 30 days after the publication of the notice under subdivision (b).

(d) If timely requested, conduct a public meeting on the amendment during the public comment period under subdivision (c). Not less than 15 days before the public meeting, the planning committee shall publish a notice of the meeting in a newspaper or by electronic media having major circulation or viewership in the planning area. Notice posted in electronic media shall remain posted until the end of the public meeting. The notice shall indicate a location where copies of the proposed amendment are available for public inspection or copying at cost and shall indicate the time and place of the public meeting. The same notice may be used to satisfy the requirements of this subdivision and subdivision (b). The planning committee shall submit to the department proof of notice publication under this subdivision and subdivision (b).

(e) Prepare and consider a summary of the comments received during the public comment period. The CAA may revise the amendment in response to the public comments.

(f) Submit the amendment to the department in writing. The department shall provide the CAA with written approval of the submitted amendment.

(5) A county shall keep its MMP current. The following changes do not require an amendment if made in a supplement to the MMP provided for by the department under section 11574(2) for the purpose of changes not requiring an amendment:

(a) Transportation infrastructure.

(b) Population density.

(c) Materials management facility inventory.

(d) Local ordinances, to the extent that the ordinances regulate noise, litter, odor, dust, and other site nuisances at a materials management facility, in addition to landscaping, screening, other ancillary construction details, and hours of operation at a materials utilization facility; do not regulate the development or other operational aspects of a materials management facility or the location of a disposal area; and are not more stringent than the requirements of part 115.

(6) Changes made without amendment under subsection (5) shall be incorporated in the next amendment made under subsection (2) or (3).

(7) By every fifth anniversary date of the approval of the initial MMP, the CAA shall do both of the following:

(a) Obtain from the planning committee an MMP review. The CAA shall timely direct the planning committee to prepare and submit the review. The purpose of the review is to ensure that the MMP complies with part 115 and to evaluate the progress that has been made in meeting the MMP's materials management goals, including the benchmark recycling standards.

(b) After considering the MMP review under subdivision (a), submit to the department 1 of the following, as appropriate:

(*i*) A notice of intent to prepare an MMP amendment.

(*ii*) A statement indicating that an amendment is not needed to advance the materials management goals.

(8) The department may review an MMP periodically and determine if any amendments are necessary to comply with part 115. If the department determines that an amendment to a specific MMP is necessary, all of the following apply:

(a) The department, after notice and opportunity for a public hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, may withdraw approval of the MMP or the noncompliant portion of the MMP.

(b) The department shall establish a schedule for compliance with part 115.

(c) If the planning area does not amend its MMP within the schedule established under subdivision (b), the department shall amend the MMP to address the deficiencies.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11577 Materials management plan goals.

Sec. 11577. The goals of an MMP are all of the following:

(a) To prevent adverse effects on the environment, natural resources, or the public health, safety, or welfare resulting from improper collection, processing, recovery, or disposal of managed materials, including protection of surface water and groundwater, air, and land.

(b) To ensure managed materials are sustainably managed to achieve benefits to the economy, communities, and the environment.

(c) To ensure that all managed material generated in the planning area is collected and recovered, processed, or disposed at materials management facilities that comply with state statutes and rules or managed appropriately at out-of-state facilities.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11578 Materials management plan requirements.

Sec. 11578. (1) An MMP shall meet all of the following requirements:

(a) Include measurable, objective, and specific goals for the planning area for solid waste diversion from disposal areas, including, but not limited to, the municipal solid waste recycling rate goal under section 11507, the benchmark recycling standards, and the material utilization and reduction activities identified by the MMP.

(b) Include an implementation strategy for the county to demonstrate progress toward or meet the materials management goals by the time of the 5-year MMP review under section 11576(7). The implementation strategy shall include, but is not limited to, all of the following:

(*i*) How progress will be made to reduce the amount of organic material being disposed of, through food waste reduction, composting, and anaerobic digestion.

(*ii*) How progress will be made to reduce the amount of recyclable materials being disposed of, through increased recycling, including expanding convenient access and recycling at single and multifamily dwellings, businesses, and institutions.

(*iii*) A process whereby each of a planning area's materials utilization facilities are evaluated based on information contained in reports submitted to the department on an annual basis.

(*iv*) A description of the resources needed for meeting the materials management goals and how the development of necessary materials utilization facilities and activities will be promoted.

(*v*) A description of how the benchmark recycling standards will be met.

(*vi*) A timetable for implementation.

(c) Identify by type and tonnage all managed material generated in the planning area, to determine the planning area's managed material capacity need and all managed material that is included in the planning area's materials management goals. Amounts of material may be estimated using a formula provided by the department.

(d) Require that a proposed materials management facility meet the requirements of part 115 and be consistent with the materials management goals.

(e) To the extent practicable, identify and evaluate current and planned materials management infrastructure and systems that contribute or will contribute to meeting the goal under section 11577(c) and other options to meet that goal.

(f) Include an inventory of the names and addresses of all of the following, subject to subdivision (g):

(*i*) Existing disposal areas.

(*ii*) Materials utilization facilities that meet both of the following requirements:

(A) Are in operation on the effective date of the amendatory act that added this section.

(B) On the effective date of the amendatory act that added this section, comply with part 115 or, within 1 year after that date, are in the process of becoming compliant.

(*iii*) Waste diversion centers for which notification has been given to the department under section 11521b.

(g) Include a materials management facility in the inventory under subdivision (f) only if the owner or operator of the facility has submitted to the county a written acknowledgment indicating that the owner or operator is aware of the proposed inclusion of the facility in the MMP relative to the materials capacity needs identified in subdivision (c) and that the facility has the indicated capacity to manage the materials identified under subdivision (h). The MMP shall include a statement that the owner or operator of each facility listed in the MMP has submitted such an acknowledgment to the county. If the submitted acknowledgments do not

document sufficient capacity for disposal or utilization of the identified managed materials to reach the MMP's materials management capacity requirements, including the materials management goals, the MMP shall identify specific strategies, including a schedule and approach to develop and fund capacity.

(h) Describe the facilities inventoried pursuant to subdivision (f), including a summary of the deficiencies, if any, of the facilities in meeting current materials management needs. The description shall, at a minimum, include all of the following information:

(*i*) The facility latitude and longitude.

(*ii*) The estimated facility acreage.

(*iii*) A description of the materials managed.

(*iv*) The processes for handling materials at the facility.

(*v*) The total authorized capacity of the facility.

(i) Ensure that the materials management facilities that are identified as necessary to be sited can be developed in compliance with state law pertaining to protection of the public health and the environment, considering the available land in the planning area and the technical feasibility of, and economic costs associated with, the facilities.

(j) Include an enforceable mechanism to meet the goal of section 11577(c) and otherwise implement the MMP, and identify the party responsible to ensure compliance with part 115. The MMP may contain a mechanism for the county and municipalities in the planning area to assist the department and the department of state police in conducting the inspection program established in section 11526(2) and (3). This subdivision does not preclude the private sector's participation in providing materials management services consistent with the MMP for the planning area.

(k) Calculate the municipal solid waste recycling rate for the planning area.

(*l*) Describe the materials management transportation infrastructure.

(m) Include current and projected population densities and identify population centers and centers of managed material generation in the planning area, using a formula provided by the department, to demonstrate that the capacity required for managed material is met.

(n) Describe the mechanisms by which municipalities in the planning area will ensure convenient recycling access, such as 1 or more of the following:

(*i*) Assignment of the responsibility to the county or an authority.

(*ii*) A franchise agreement.

(*iii*) An intergovernmental agreement.

(*iv*) Municipal service.

(*v*) Licensing under an ordinance.

(*vi*) A public-private partnership.

(o) Specify a recommended minimum level of recycling service that incorporates the access requirements of the benchmark recycling standards. The county or a municipality within the planning area may, through an appropriate enforceable mechanism, require haulers operating in its jurisdiction to provide the recommended level or a different minimum level of recycling service.

(p) Identify the DPA and the entity or entities responsible for each of the following and document the appropriateness of the DPA and other identified entities to carry out their respective responsibilities:

(*i*) Implementing the access requirements of the benchmark recycling standards.

(*ii*) Identifying the materials utilization framework and the achievement of the materials management goals.

(*iii*) Otherwise monitoring, implementing, and enforcing the MMP and providing any required reports to the department.

(*iv*) Administering the funding mechanisms identified in section 11581 that will be used to implement the MMP.

(*v*) Ensuring compliance with part 115.

This state may serve as a responsible party under this subdivision on behalf of a municipality if the municipality is under a financial consent order or in receivership.

(q) With respect to education and outreach for residents and businesses in the planning area, do both of the following:

(*i*) Provide a strategic plan that identifies roles, responsibilities, funding sources, and methods for persons providing the education and outreach services.

(*ii*) Describe the county or regional role in providing continuing recycling education. The recycling education shall include, but is not limited to, providing a recycling guide, in hard copy at select public locations and electronically on a cell phone-friendly website. The recycling guide shall do all of the following:

(A) Identify recycling locations.

(B) Identify recyclable materials.

(C) Explain how to prepare recyclable materials for collection.

(D) Describe other best practices.

(E) Include a listed telephone number for additional information.

(r) Include a siting process under section 11579 and a copy of any ordinance, law, rule, or regulation of a municipality, county, or governmental authority within the planning area that applies to the siting process.

(s) Take into consideration the MMPs of counties adjacent to the planning area as they relate to the planning area's needs.

(t) Document all opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector in the preparation of the MMP.

(2) An MMP may include management plans for debris from environmental damage, for debris from disasters, or for other materials, such as construction or demolition waste, not otherwise required to be covered by an MMP. A management plan for debris from disasters in an MMP may include recommendations for incorporation of disaster debris management plans into municipal, county, or regional emergency management plans.

(3) If a solid waste landfill is proposed to be developed in the planning area within 2 miles of a municipality that is located adjacent to the planning area, or if a solid waste processing and transfer facility or materials utilization facility is proposed to be developed in the planning area within 1 mile of such a municipality, both of the following apply:

(a) The CAA shall notify the legislative body of the adjacent municipality of the proposed development in writing. The notice shall include a copy of this subsection.

(b) The planning committee shall provide the adjacent municipality an opportunity to comment on the proposed development.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11579 Materials management plan; siting process; exception.

Sec. 11579. (1) An MMP shall include a siting process with a set of minimum criteria for the purposes of section 11585(3).

(2) A materials utilization facility need not be sited if the CAA or DPA demonstrates to the department that the planning area has available capacity sufficient to address the managed materials identified by the MMP as being generated in the planning area.

(3) The siting process shall not include siting criteria that are more restrictive than state law if a materials utilization facility could not be developed anywhere in the planning area under those criteria.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11580 Preparation of materials management plan by the department; requirements.

Sec. 11580. (1) In addition to the other requirements of part 115, if the county board of commissioners, municipalities, and regional planning agency do not timely submit a notice of intent to prepare an MMP and the department prepares an MMP as authorized under section 11571, the MMP prepared by the department shall comply with all of the following:

(a) Automatically find all materials utilization facilities or solid waste processing and transfer facilities that are exempt from permit and license requirements, that comply with local zoning requirements, and that are identified in the MMP to be consistent with the MMP.

(b) Not allow approval of additional solid waste landfill disposal capacity unless the county board of commissioners has made the demonstration required under section 11509(9).

(c) Require all haulers serving the planning area to provide recycling access consistent with the access requirements of the benchmark recycling standards.

(2) If the department prepares an MMP, the MMP need not contain a requirement for a proposed materials management facility to meet additional siting criteria or obtain host community approval under section 11585(3)(c).

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11581 Implementation of materials management plan; funding mechanisms.

Sec. 11581. (1) In addition to the materials management planning grants under section 11587, a municipality or county may fund the implementation of an MMP through any of the following methods, if applicable and to the extent authorized by the mechanism:

(a) A millage under 1917 PA 298, MCL 123.261.

(b) A municipal utility service fee.

(c) Special assessments under 1957 PA 185, MCL 123.731 to 123.786; 1954 PA 188, MCL 41.721 to 41.738; or the township and village public improvement and public service act, 1923 PA 116, MCL 41.411 to 41.419.

(d) A service provider franchise agreement.

(e) Hauler licensing fees.

(f) A voter-approved millage.

(g) A general fund appropriation.

(h) Supplemental fees for service.

(i) A surcharge under section 8a of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.508a.

(j) A landfill surcharge.

(k) A flow control fee structure.

(*l*) Any other lawful mechanism.

(2) Appropriate uses for funding described in subsection (1) may include, but are not limited to, the following:

(a) Recycling programs.

(b) Organic materials management.

(c) Education and outreach regarding recycling and materials utilization.

(d) Relevant market development.

(e) Materials reduction and reuse initiatives.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11582 County approval agency; certification of materials management goals; eligibility for assistance.

Sec. 11582. (1) The CAA shall certify to the department the CAA's progress toward meeting all components of its materials management goals. The first certification shall be submitted by the first June 30 that is more than 2 years after the department's approval of the initial MMP or MMP amendment. Subsequent certifications shall be submitted by June 30 every 2 years after the first certification.

(2) If a county does not make progress toward meeting its benchmark recycling standards and ultimately the municipal solid waste recycling rate goal under section 11507, the county is ineligible for assistance from the recycling access and voluntary participation program under section 11550(9) until both of the following requirements are met:

(a) The county adopts an ordinance or other enforceable mechanism to ensure that any solid waste hauler providing curbside solid waste hauling service also offers curbside recycling service to dwellings of 4 or fewer units in the planning area.

(b) Any remaining deficiencies in a county's progress toward meeting its materials management goals are addressed.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11583 Enforceability of certain local and state laws.

Sec. 11583. An ordinance, law, rule, regulation, policy, or practice of a municipality, county, or

governmental authority created by statute is not enforceable if any of the following apply:

(a) It conflicts with part 115.

(b) It prohibits or regulates the location or development of a materials management facility and is not part of or not consistent with the materials management plan for the county.

(c) It violates section 207 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3207, with respect to a materials management facility.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11584 Flow of solid waste or managed material; control requirements; departmental duties; database.

Sec. 11584. (1) A county, municipality, authority, or regional planning agency that owns or operates a materials management facility may adopt requirements controlling the flow of solid waste or managed material to the materials management facility, to the extent allowed by the interstate commerce clause, clause 3 of section 8 of article I of the Constitution of the United States.

(2) The county board of commissioners may ensure that the necessary materials management authorizations or fees or any other regulatory ordinances or agreements needed to achieve the materials management goals are in effect.

(3) The department shall do all of the following:

(a) Maintain a database for materials management facilities to report to the department information, as determined by the department, required under part 115.

(b) Provide materials management facilities with instructions necessary to add information to the database.

(c) Provide CAAs access to information in the database.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11585 Disposal area or materials utilization facility; consistency with materials management plan; captive type III landfill; independent evaluation; coal ash.

Sec. 11585. (1) If a disposal area that does not require a license or permit under part 115 or a materials utilization facility is proposed to be located in a local unit of government that has a zoning ordinance, the disposal area or materials utilization facility is consistent with the MMP if it complies with the zoning ordinance and the owner or operator of the proposed disposal area or materials utilization facility presents documentation to the department and the CAA from the local unit of government exercising zoning authority demonstrating that the disposal area complies with local zoning.

(2) A disposal area or materials utilization facility is automatically consistent with the MMP if the specific facility or type of facility is identified in the MMP as being automatically consistent.

(3) A materials management facility that is not automatically consistent with the MMP is considered consistent if, as determined by the CAA or other entity specified by the MMP and by the department, all of the following requirements are met:

(a) The MMP authorizes that type of materials management facility to be sited by following the siting procedure and meeting the minimum siting criteria included in the MMP under section 11579, or the facility is a captive type III landfill and both of the following apply:

(*i*) The landfill accepts only waste generated by the owner or operator of the landfill.

(*ii*) The landfill met local land use requirements when initially sited.

(b) The materials management facility follows the siting procedure and meets minimum siting criteria in the MMP.

(c) The materials management facility meets either of the following requirements:

(*i*) Has host community approval.

(*ii*) Meets any supplemental siting criteria in the MMP for materials management facilities that do not have host community approval.

(4) The CAA or other entity specified by the MMP shall promptly notify the owner or operator of the materials management facility in writing of its determination under subsection (3) whether the materials management facility is consistent with the MMP.

(5) The department shall determine whether a materials management facility is consistent with the MMP through an independent evaluation as part of the review process for an application for a registration, for approval under a general permit, or for a construction permit or operating license. The applicant for a permit for a materials management facility shall include in the application documentation of the facility's consistency with the MMP.

(6) A landfill, other than a captive type III landfill, or a municipal solid waste incinerator need not be sited if the CAA demonstrates to the department through its materials management plan that the planning area has at least 66 months of available solid waste disposal capacity.

(7) A captive facility that is an existing coal ash landfill or existing coal ash impoundment is considered consistent with and included in the MMP if the disposal area continues to accept waste generated only by the owner of the disposal area and meets either or both of the following requirements:

(a) Was issued a construction permit and licensed for operation under this part.

(b) Met local land use law requirements when initially sited or constructed.

(8) A coal ash impoundment permitted, licensed, or otherwise in existence on the date of approval of the solid waste management plan for the planning area where the coal ash impoundment is located shall be considered to be consistent with the plan and included in the plan.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11586 State solid waste management plan.

Sec. 11586. (1) The state solid waste management plan consists of the state solid waste plan and all MMPs approved by the department.

(2) The department shall consult and assist in the preparation and implementation of MMPs.

(3) The department may undertake or contract for studies or reports necessary or useful in the preparation of the state solid waste management plan.

(4) The department shall promote policies that encourage resource recovery and establishment of materials utilization facilities.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11587 Materials management planning grant program.

Sec. 11587. (1) Subject to appropriations, a materials management planning grant program is established to provide grants, to be known as materials management planning grants, to county boards of commissioners for the use of CAAs. If a county board of commissioners is not the CAA, the county board of commissioners shall make awarded grant money available to the CAA within 60 days after receipt. The department may promulgate rules for the implementation of the grant program. Grant funds shall be awarded pursuant to a grant agreement. If the department prepares the MMP, grant funds appropriated for local planning may be used by the department for MMP preparation.

(2) Grants shall be used for administrative costs for preparing, implementing, and maintaining an MMP, including, but not limited to, the following:

(a) Development of a work program as described in subsection (4)(b) and R 299.4704 and R 299.4705 of the MAC, including a prior work program.

(b) Developing an initial MMP and amending the MMP.

(c) Ensuring public participation.

(d) Determining whether new materials management facilities are consistent with the MMP.

(e) Collecting and submitting data for the database utilized by the department for materials management facility reporting purposes, and evaluating data in the database for the planning area.

(f) Recycling education and outreach.

(g) Recycling and materials utilization programs.

(h) Preparation of required reports to the department.

(i) MMP implementation.

(j) Efforts to obtain support for the MMP and planning process from local units of government.

(3) Materials management planning grants shall cover 100% of eligible costs up to the authorized

maximum amount as specified by rule.

(4) Materials management planning grants shall be awarded annually. To be eligible for grants in the first 3 years of the grant program, the CAA must do both of the following:

(a) Submit a notice of intent to prepare an MMP under section 11571.

(b) Within 180 days after submitting the notice of intent to prepare an MMP, submit to and obtain department approval of a work program for preparing the MMP. The work program shall be prepared by the DPA and reviewed and approved by the planning committee. The work program shall describe the activities for developing and implementing the MMP and associated costs to be covered by the county and the grant.

(5) In each of the first 3 years of the grant program, the amount of a grant shall equal the sum of the following:

(a) $60,000.00 for each county in the planning area.

(b) An additional $10,000.00 for each county in the planning area if the planning area includes more than 1 county.

(c) Fifty cents for each resident of the planning area, up to 600,000 residents.

(6) To be eligible for grants in the fourth and subsequent years of the grant program, the county must have an approved work program under subsection (4) or an approved MMP. In the fourth and subsequent years of the grant program, the amount of a grant to the CAA shall equal the sum of the following, as applicable:

(a) $60,000.00 for each county in the planning area.

(b) An additional $10,000.00 for each county in the planning area if the planning area includes more than 1 county and the CAAs were responsible for preparing the MMP.

(7) A grantee under this section shall keep records, subject to audit, documenting use of the grant for MMP development and implementation.

(8) For the purpose of determining the number of counties in a planning area under this section, the inclusion or exclusion of a municipality under section 11571(4) shall not be considered.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

PART 117
SEPTAGE WASTE SERVICERS

324.11701 Definitions.

Sec. 11701. As used in this part:

(a) "Agricultural land" means land on which a food crop, a feed crop, or a fiber crop is grown, including land used or suitable for use as a range or pasture; a sod farm; or a Christmas tree farm.

(b) "Certified health department" means a city, county, or district department of health certified under section 11716.

(c) "Cesspool" means a cavity in the ground that receives waste to be partially absorbed directly or indirectly by the surrounding soil.

(d) "Department" means the department of environmental quality or its authorized agent.

(e) "Director" means the director of the department of environmental quality or his or her designee.

(f) "Domestic septage" means liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar storage or treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar facility that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant waste.

(g) "Domestic sewage" means waste and wastewater from humans or household operations.

(h) "Domestic treatment plant septage" means biosolids generated during the treatment of domestic sewage in a treatment works and transported to a receiving facility or managed in accordance with a residuals management program approved by the department.

(i) "Farm operation" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(j) "Food establishment septage" means material pumped from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant wastes and that is blended into a uniform mixture, consisting of not more than 1 part of that restaurant-derived material per 3 parts of domestic septage prior to land application or is disposed of at a receiving facility.

(k) "Fund" means the septage waste program fund created in section 11717.

(*l*) "Governmental unit" means a county, township, municipality, or regional authority.

(m) "Incorporation" means the mechanical mixing of surface-applied septage waste with the soil.

(n) "Injection" means the pressurized placement of septage waste below the surface of soil.

(o) "Operating plan" means a plan developed by a receiving facility for receiving septage waste that specifies at least all of the following:

(*i*) Categories of septage waste that the receiving facility will receive.

(*ii*) The receiving facility's service area.

(*iii*) The hours of operation for receiving septage waste.

(*iv*) Any other conditions for receiving septage waste established by the receiving facility.

(p) "Pathogen" means a disease-causing agent. Pathogen includes, but is not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

(q) "Peace officer" means a sheriff or sheriff's deputy, a village or township marshal, an officer of the police department of any city, village, or township, any officer of the Michigan state police, any peace officer who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, or any conservation officer appointed by the department or the department of natural resources under section 1606.

(r) "Portable toilet" means a receptacle for human waste temporarily in a location for human use.

(s) "Receiving facility" means a structure that is designed to receive septage waste for treatment at a wastewater treatment plant or at a research, development, and demonstration project authorized under section 11511b to which the structure is directly connected, and that is available for that purpose as provided for in an ordinance of the local unit of government where the structure is located or in an operating plan. Receiving facility does not include either of the following:

(*i*) A septic tank.

(*ii*) A structure or a wastewater treatment plant where the disposal of septage waste is prohibited by order of the department under section 11708 or 11715b.

(t) "Receiving facility service area" or "service area" means the territory for which a receiving facility has the capacity and is available to receive and treat septage waste, except that the geographic service area of a receiving facility shall not extend more than 25 radial miles from the receiving facility.

(u) "Sanitary sewer cleanout septage" means sanitary sewage or cleanout residue removed from a separate sanitary sewer collection system that is not land applied and that is transported by a vehicle licensed under this part elsewhere within the same system or to a receiving facility that is approved by the department.

(v) "Septage waste" means the fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these.

(w) "Septage waste servicing license" means a septage waste servicing license as provided for under sections 11703 and 11706.

(x) "Septage waste vehicle" means a vehicle that is self-propelled or towed and that includes a tank used to transport septage waste. Septage waste vehicle does not include an implement of husbandry as defined in section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

(y) "Septage waste vehicle license" means a septage waste vehicle license as provided for under sections 11704 and 11706.

(z) "Septic tank" means a septic toilet, chemical closet, or other enclosure used for the decomposition of domestic sewage.

(aa) "Service" or "servicing" means cleaning, removing, transporting, or disposing, by application to land or otherwise, of septage waste.

(bb) "Site" means a location or locations on a parcel or tract, as those terms are defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, proposed or used for the disposal of septage waste on land.

(cc) "Site permit" means a permit issued under section 11709 authorizing the application of septage waste to a site.

(dd) "Storage facility" means a structure that receives septage waste for storage but not for treatment.

(ee) "Tank" means an enclosed container placed on a septage waste vehicle to carry or transport septage waste.

(ff) "Type I public water supply", "type IIa public water supply", "type IIb public water supply", and "type III public water supply" mean those terms, respectively, as described in R 325.10502 of the Michigan Administrative Code.

(gg) "Type III marine sanitation device" means that term as defined in 33 CFR 159.3.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2005, Act 199, Eff. Nov. 22, 2005;—Am. 2016, Act 294, Eff. Jan. 2, 2017;—Am. 2018, Act 271, Eff. Sept. 27, 2018.

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: NREPA

324.11702 Septage waste licensing; requirement.

Sec. 11702. (1) A person shall not engage in servicing or contract to engage in servicing except as authorized by a septage waste servicing license and a septage waste vehicle license issued by the department pursuant to part 13. A person shall not contract for another person to engage in servicing unless the person who is to perform the servicing has a septage waste servicing license and a septage waste vehicle license.

(2) The septage waste servicing license and septage waste vehicle license requirements provided in this part are not applicable to a publicly owned receiving facility subject to a permit issued under part 31 or section 11511b.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2005, Act 199, Eff. Nov. 22, 2005.

Popular name: Act 451

Popular name: NREPA

324.11703 Septage waste servicing license; application; eligibility; records.

Sec. 11703. (1) An application for a septage waste servicing license shall include all of the following:

(a) The applicant's name and mailing address.

(b) The location or locations where the business is operated, if the applicant is engaged in the business of servicing.

(c) Written approval from all receiving facilities where the applicant plans to dispose of septage waste.

(d) The locations of the sites where the applicant plans to apply septage waste to land and, for each proposed site, either proof that the applicant owns the proposed site or written approval from the site owner.

(e) A written plan for disposal of septage waste obtained in the winter, if the disposal will be by a method other than delivery to a receiving facility or, subject to section 11711, application to land.

(f) Written proof of satisfaction of the continuing education requirements of subsection (2), if applicable.

(g) Any additional information pertinent to this part required by the department.

(h) Payment of the septage waste servicing license fee as provided in section 11717b.

(2) Beginning January 1, 2007, a person is not eligible for an initial servicing license unless the person has successfully completed not less than 10 hours of continuing education during the 2-year period before applying for the license. Beginning January 1, 2007 and until December 31, 2009, a person is not eligible to renew a servicing license unless the person has successfully completed not less than 10 hours of continuing education during the 2-year period preceding the issuance of the license. Beginning January 1, 2010, a person is not eligible to renew a servicing license unless the person has successfully completed not less than 30 hours of continuing education during the 5-year period preceding the issuance of the license.

(3) Before offering or conducting a course of study represented to meet the educational requirements of subsection (2), a person shall obtain approval from the department. The department may suspend or revoke the approval of a person to offer or conduct a course of study to meet the requirements of subsection (2) for a violation of this part or of the rules promulgated under this part.

(4) If an applicant or licensee is a corporation, partnership, or other legal entity, the applicant or licensee shall designate a responsible agent to fulfill the requirements of subsections (2) and (3). The responsible agent's name shall appear on any license or permit required under this part.

(5) A person engaged in servicing shall maintain at all times at his or her place of business a complete record of the amount of septage waste that the person has transported or disposed of, the location at which septage waste was disposed of, and any complaints received concerning disposal of the septage waste. The person shall also report this information to the department on an annual basis in a manner required by the department.

(6) A person engaged in servicing shall maintain records required under subsection (5) or 40 CFR part 503 for at least 5 years. A person engaged in servicing or an individual who actually applies septage waste to land, as applicable, shall display these records upon the request of the director, a peace officer, or an official of a certified health department.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11704 Septage waste vehicle license; application; display; transportation of hazardous waste or liquid industrial by-product.

Sec. 11704. (1) An application for a septage waste vehicle license shall include all of the following:

(a) The model and year of the septage waste vehicle.

(b) The capacity of any tank used to remove or transport septage waste.

(c) The name of the insurance carrier for the septage waste vehicle.

(d) Whether the septage waste vehicle or any other vehicle owned by the person applying for the septage waste vehicle license will be used at any time during the license period for land application of septage waste.

(e) Any additional information pertinent to this part required by the department.

(f) A septage waste vehicle license fee as provided by section 11717b for each septage waste vehicle.

(2) A person who is issued a septage waste vehicle license shall carry a copy of that license at all times in each vehicle that is described in the license and display the license upon the request of the department, a peace officer, or an official of a certified health department.

(3) A septage waste vehicle shall not be used to transport hazardous waste regulated under part 111 or liquid industrial by-product regulated under part 121, without the express written permission of the department.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.11705 Septage waste vehicle, tank, and accessory equipment; requirements.

Sec. 11705. A tank upon a septage waste vehicle shall be closed in transit to prevent the release of septage waste and odor. The septage waste vehicle and accessory equipment shall be kept clean and maintained in a manner that prevents environmental damage or harm to the public health.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11706 Review of applications; providing health department with copies of application materials; investigations; issuance of license; license nontransferable; duration of license.

Sec. 11706. (1) Upon receipt of an application for a septage waste servicing license or a septage waste vehicle license, the department shall review the application to ensure that it is complete. If the department determines that the application is incomplete, the department shall promptly notify the applicant of the deficiencies. If the department determines that the application is complete, the department shall promptly provide the appropriate certified health department with a copy of all application materials. Upon receipt of the application materials, a certified health department shall conduct investigations necessary to verify that the sites, the servicing methods, and the septage waste vehicles are in compliance with this part. If so, the department shall approve the application and issue the license applied for in that application. If a certified health department does not exist, the department may perform the functions of a certified health department as necessary.

(2) A septage waste servicing license is not transferable and is valid, unless suspended or revoked, for 5 years. A septage waste vehicle license is not transferable and is valid, unless suspended or revoked, for the same 5-year period as the licensee's septage waste servicing license.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11707 Display on both sides of septage waste vehicle.

Sec. 11707. Each septage waste vehicle for which a septage waste vehicle license has been issued shall display on both sides of the septage waste vehicle in letters not less than 2 inches high the words "licensed septage hauler", the vehicle license number issued by the department, and a seal furnished by the department that designates the year the septage waste vehicle license was issued.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11708 Disposal of septage waste at receiving facility; fee; order prohibiting operation of wastewater treatment plant.

Sec. 11708. (1) Subject to subsection (2), if a person is engaged in servicing in a receiving facility service area, that person shall dispose of the septage waste at that receiving facility or any other receiving facility within whose service area the person is engaged in servicing.

(2) Subsection (1) does not apply to a person engaged in servicing who owns a storage facility with a capacity of 50,000 gallons or more if the storage facility was constructed, or authorized by the department to be constructed, before the location where the person is engaged in servicing was included in a receiving facility service area under an operating plan approved under section 11715b.

(3) A receiving facility may charge a fee for receiving septage waste. The fee shall not exceed the actual costs of operating the receiving facility including the reasonable cost of doing business as defined by common accounting practices.

(4) The department may issue an order prohibiting the operation of a wastewater treatment plant or structure as a receiving facility because of excessive hydraulic or organic loading, odor problems, or other environmental or public health concerns.

(5) A person shall not dispose of septage waste at a wastewater treatment plant or structure if the operation of that wastewater treatment plant or structure as a receiving facility is prohibited by an order issued under subsection (4) or section 11715b.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2014, Act 546, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: NREPA

324.11709 Disposal of septage waste on land; permit required; additional information; notice; renewal; revocation of permit.

Sec. 11709.

(1) A person shall not dispose of septage waste on land except as authorized by a site permit for that site issued by the department pursuant to part 13. A person shall apply for a site permit using an application form provided by the department. The application shall include all of the following for each site:

(a) A map identifying the site from a county land atlas and plat book.

(b) The site location by latitude and longitude.

(c) The name and address of the land owner.

(d) The name and address of the manager of the land, if different than the owner.

(e) Results of a soil fertility test performed within 1 year before the date of the application for a site permit including analysis of a representative soil sample of each location constituting the site as determined by the bray P1 (bray and kurtz P1), or Mehlich 3 test, for which procedures are described in the publication entitled "Recommended chemical soil test procedures for the north central region". The department shall provide a copy of this publication to any person upon request at no cost. The applicant shall also provide test results from any additional test procedures that were performed on the soil.

(f) Other site specific information necessary to determine whether the septage waste disposal will comply with state and federal law.

(g) Payment of the site permit fee as provided under section 11717b.

(2) Upon receipt of an application under subsection (1), the department shall review the application to ensure that it is complete. If the department determines that the application is incomplete, it shall promptly notify the applicant of the deficiencies.

(3) An applicant for a site permit shall simultaneously send a notice of the application, including all the information required by subsection (1)(a) to (d), to all of the following:

(a) The certified health department having jurisdiction.

(b) The clerk of the city, village, or township where the site is located.

(c) Each person who owns a lot or parcel that is contiguous to the lot, parcel, or tract on which the proposed site is located or that would be contiguous except for the presence of a highway, road, or street.

(d) Each person who owns a lot or parcel that is within 150 feet of a location where septage waste is to be disposed of by injection or 800 feet of a location where septage waste is to be disposed of by surface application.

(4) If the department finds that the applicant is unable to provide notice as required in subsection (3), the department may waive the notice requirement or allow the applicant to use a substitute means of providing

notice.

(5) The department shall issue a site permit if all the requirements of this part and federal law are met. Otherwise, the department shall deny the site permit.

(6) A site permit is not transferable and is valid, unless suspended or revoked, until the expiration of the permittee's septage waste servicing license. A site permit may be revoked by the department if the septage waste land application or site management is in violation of this part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11710 Requirements to which permit subject.

Sec. 11710. A site permit is subject to all of the following requirements:

(a) The septage waste disposed of shall be applied uniformly at agronomic rates.

(b) Not more than 1 person licensed under this part may use a site for the disposal of septage waste during any year.

(c) Septage waste may be disposed of by land application only if the horizontal distance from the applied septage waste and the features listed in subparagraphs (*i*) to (*ix*) equals or exceeds the following isolation distances:

		TYPE OF APPLICATION	
		SURFACE	INJECTION
(*i*)	Type I public water supply wells	2,000 feet	2,000 feet
(*ii*)	Type IIa public water supply wells	2,000 feet	2,000 feet
(*iii*)	Type IIb public water supply wells	800 feet	800 feet
(*iv*)	Type III public water supply wells	800 feet	150 feet
(*v*)	Private drinking water wells	800 feet	150 feet
(*vi*)	Other water wells	800 feet	150 feet
(*vii*)	Homes or commercial buildings	800 feet	150 feet
(*viii*)	Surface water	500 feet	150 feet
(*ix*)	Roads or property lines	200 feet	150 feet

(d) Septage waste disposed of by land application shall be disposed of either by surface application, subject to subdivision (g), or injection.

(e) If septage waste is applied to the surface of land, the slope of that land shall not exceed 6%. If septage waste is injected into land, the slope of that land shall not exceed 12%.

(f) Septage waste shall not be applied to land unless the water table is at least 30 inches below any applied septage waste.

(g) If septage waste is applied to the surface of the land, 1 of the following requirements is met:

(*i*) The septage waste shall be mechanically incorporated within 6 hours after application.

(*ii*) The septage waste shall have been treated to reduce pathogens prior to land disposal by aerobic or anaerobic digestion, lime stabilization, composting, air drying, or other process or method approved by the department and, if applied to fallow land, is mechanically incorporated within 48 hours after application, unless public access to the site is restricted for 12 months and no animals whose products are consumed by humans are allowed to graze on the site for at least 1 month following disposal.

(h) Septage waste shall be treated to reduce pathogens by composting, heat drying or treatment, thermophilic aerobic digestion, or other process or method approved by the department prior to disposal on lands where crops for direct human consumption are grown, if contact between the septage waste and the edible portion of the crop is possible.

(i) Vegetation shall be grown on a septage waste disposal site within 1 year after septage waste is disposed of on that site.

(j) Food establishment septage shall not be applied to land unless it has been combined with other septage waste in no greater than a 1 to 3 ratio and blended into a uniform mixture.

(k) The permittee shall not apply septage waste to a location on the site unless the permittee has conducted a soil fertility test of that location as described in section 11709 within 1 year before the date of the land application. The permittee shall not apply food establishment septage to a location on the site unless the permittee has conducted testing of soil in that location within 1 year before the date of application in accordance with requirements in 40 CFR 257.3 to 257.5 or a single test of mixed septage waste contained in a storage facility.

(*l*) Beginning 2 years after the effective date of the 2004 amendatory act that amended this section, before land application, domestic septage shall be screened through a screen of not greater than 1/2-inch mesh or through slats separated by a gap of not greater than 3/8 inch. Screenings shall be handled as solid waste under part 115. Instead of screening, the domestic septage may be processed through a sewage grinder designed to not pass solids larger than 1/2 inch in diameter.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11711 Surface application of septage waste to frozen ground; requirements.

Sec. 11711. Beginning 2 years after the effective date of the 2004 amendatory act that amended this section, a person shall not surface apply septage waste to frozen ground. Before that time, a person shall not surface apply septage waste to frozen ground unless all of the following requirements are met:

(a) Melting snow or precipitation does not result in the runoff of septage waste from the site.

(b) The slope of the land is less than 2%.

(c) The pH of septage waste is raised to 12.0 (at 25 degrees Celsius) or higher by alkali addition and, without the addition of more alkali, remains at 12.0 or higher for 30 minutes. Other combinations of pH and temperature may be approved by the department.

(d) The septage waste is mechanically incorporated within 20 days following the end of the frozen ground conditions.

(e) The department approves the surface application and subsequent mechanical incorporation.

(f) Less than 10,000 gallons per acre are applied to the surface during the period that the septage waste cannot be mechanically incorporated due to frozen ground.

(g) The septage waste is applied in a manner that prevents the accumulation and ponding of the septage waste.

(h) Any other applicable requirement under this part or federal law is met.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11712 Applicability of federal regulations.

Sec. 11712. Persons subject to this part shall comply with applicable provisions of subparts A, B, and D of part 503 of title 40 of the code of federal regulations.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11713 Inspection of disposal site.

Sec. 11713. (1) At any reasonable time, a representative of the department may enter in or upon any private or public property for the purpose of inspecting and investigating conditions relating to compliance with this part. However, an investigation or inspection under this subsection shall comply with the United States constitution, the state constitution of 1963, and this section.

(2) The department shall inspect septage waste vehicles at least annually.

(3) The department shall inspect a site at least annually.

(4) The department shall inspect a receiving facility within 1 year after that receiving facility begins operation and at least annually thereafter.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11714 Prohibited disposition of septage waste into certain bodies of water.

Sec. 11714. A person shall not dispose of septage waste directly or indirectly in a lake, pond, stream, river, or other body of water.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11715 Preemption; duty of governmental unit to make available public septage waste receiving facility; posting of surety.

Sec. 11715. (1) This part does not preempt an ordinance of a governmental unit that does any of the following:

(a) Prohibits the application of septage waste to land within that governmental unit.

(b) Otherwise imposes stricter requirements than this part. This subdivision applies only if all of the following requirements are met:

(*i*) The receiving facility was operating before the date 2 years after the effective date of the amendatory act that added this subdivision.

(*ii*) The receiving facility's effluent is discharged, either directly or through a sewer system, to a wastewater treatment plant that was operating before the effective date of the amendatory act that added this subdivision.

(*iii*) The receiving facility was constructed, or the receiving facility and a wastewater treatment plant of which the receiving facility is part were improved, at a cost of $6,000,000.00 or more.

(*iv*) There is outstanding indebtedness for the construction or improvement described in subparagraph (*iii*) consisting only of bonds that were also outstanding before the date 2 years after the effective date of the amendatory act that added this subdivision or of loans or bonds that were used to redeem or refund those bonds and that have a maturity or due date not later than 9 years after the maturity date of those bonds.

(2) If a governmental unit requires that all septage waste collected in that governmental unit be disposed of in a receiving facility or prohibits, or effectively prohibits, the application of septage waste to land within that governmental unit, the governmental unit shall make available a receiving facility that meets all of the following requirements:

(a) The receiving facility service area includes the entire governmental unit.

(b) The receiving facility can lawfully accept and has the capacity to accept all septage waste generated within that governmental unit that is not lawfully applied to land.

(c) If the receiving facility is not owned by that governmental unit, the receiving facility is required by contract to accept all septage waste generated within that governmental unit that is not lawfully applied to land.

(3) The owner or operator of a receiving facility may require the posting of a surety, including cash in an escrow account or a performance bond, not exceeding $25,000.00 to dispose of septage waste in the receiving facility.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2012, Act 41, Imd. Eff. Mar. 6, 2012;—Am. 2014, Act 546, Eff. Apr. 16, 2015.

Popular name: Act 451

Popular name: NREPA

324.11715b Rules; requirements for receiving facilities and control of nuisance conditions; notice of operation; penalties for noncompliance.

Sec. 11715b. (1) The department shall promulgate rules establishing design and operating requirements for receiving facilities and the control of nuisance conditions.

(2) A person shall not commence construction of a receiving facility on or after the date on which rules are promulgated under subsection (1) unless the owner has a permit from the department authorizing the construction of the receiving facility. The application for a permit shall include a basis of design for the receiving facility, engineering plans for the receiving facility sealed by an engineer licensed to practice in Michigan, and any other information required by the department. If the proposed receiving facility will be part of a sewerage system whose construction is required to be permitted under part 41 or a research, development, and demonstration project whose construction and operation is required to be permitted under section 11511b, the permit issued under part 41 or part 115, respectively, satisfies the permitting requirement of this subsection.

(3) Subject to subsection (4), a person shall not operate a receiving facility contrary to an operating plan approved by the department.

(4) If the operation of a receiving facility commenced before October 12, 2004, subsection (3) applies to that receiving facility beginning October 12, 2005.

(5) Before submitting a proposed operating plan to the department for approval, a person shall do all of the following:

(a) Publish notice of the proposed operating plan in a newspaper of general circulation in the area where the receiving facility is located.

(b) If the person maintains a website, post notice of the proposed operating plan on its website.

(c) Submit notice of the proposed operating plan by first-class mail to the county health department and the legislative body of each city, village, and township located in whole or in part within the service area of the receiving facility.

(6) Notice of a proposed operating plan under subsection (5) shall contain all of the following:

(a) A statement that the receiving facility proposes to receive or, in the case of a receiving facility described in subsection (4), to continue to receive septage waste for treatment.

(b) A copy of the proposed operating plan or a statement where the operating plan is available for review during normal business hours.

(c) A request for written comments on the proposed operation of the receiving facility and the deadline for receipt of such comments, which shall be not less than 30 days after publication, posting, or mailing of the notice.

(7) After the deadline for receipt of comments under subsection (6), the person proposing to operate a receiving facility may modify the plan in response to any comments received and shall submit a summary of the comments and the current version of the proposed operating plan to the department for approval.

(8) The operator of a receiving facility may modify an approved operating plan if the modifications are approved by the department. Subsections (5) to (7) do not apply to the modification of the operating plan.

(9) If the owner or operator of a receiving facility violates this section or rules promulgated under this section, after providing an opportunity for a hearing, the department may order that a receiving facility cease operation as a receiving facility.

(10) The department shall post on its website both of the following:

(a) Approved operating plans, including any modifications under subsection (8).

(b) Notice of any orders under subsection (9).

(11) If construction of a receiving facility commenced before the date on which rules are promulgated under subsection (1), all of the following apply:

(a) Within 1 year after the date on which rules are promulgated under subsection (1), the owner of the receiving facility shall submit to the department and obtain department approval of a report prepared by a professional engineer licensed to practice in Michigan describing the receiving facility's state of compliance with the rules and proposing any modifications to the receiving facility necessary to comply with the rules.

(b) If, according to the report approved under subdivision (a), modifications to the receiving facility are necessary to comply with the rules promulgated under subsection (1), within 18 months after the report is approved under subdivision (a), the owner of the receiving facility shall submit to the department engineering plans for modifying the receiving facility and shall obtain a construction permit from the department for modifying the receiving facility.

(c) Within 3 years after the report is approved under subdivision (a), the owner of the receiving facility shall complete construction modifying the receiving facility so that it complies with those rules.

(12) After a hearing, the department may order that a receiving facility whose owner fails to comply with this section cease operating as a receiving facility.

History: Add. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2005, Act 199, Eff. Nov. 22, 2005.

Popular name: Act 451

Popular name: NREPA

324.11715d Advisory committee to make recommendations on septage waste storage facility management practices.

Sec. 11715d. (1) Within 60 days after the effective date of the amendatory act that added this section, the department shall convene an advisory committee to make recommendations on septage waste storage facility management practices, including, but not limited to, storage facility inspections. The advisory committee shall include at least all of the following:

(a) A storage facility operator.

(b) A receiving facility operator.

(c) A generator of septage waste.

(d) A representative of township government.

(e) A representative of an environmental protection organization.

(f) A licensed Michigan septage waste hauler.

(2) Within 18 months after the effective date of this section, the department shall establish generally accepted septage storage facility management practices and post the management practices on the department's website.

(3) A person shall not construct a septage waste storage facility without written approval from the department.

History: Add. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Compiler's note: For abolishment of the advisory committee on septage waste storage facility management practices and transfer of its powers and duties to the department of environmental quality, see E.R.O. No. 2007-20, compiled at MCL 324.99912.

Popular name: Act 451

Popular name: NREPA

324.11716 Certification of city, county, and district departments of health to carry out powers and duties.

Sec. 11716. (1) The department may certify a city, county, or district health department to carry out certain powers and duties of the department under this part.

(2) If a certified health department does not exist in a city, county, or district or does not fulfill its responsibilities under this part, the department may contract with qualified third parties to carry out certain responsibilities of the department under this part in that city, county, or district.

(3) The department and each certified health department or third party that will carry out powers or duties of the department under this part shall enter a memorandum of understanding or contract describing those powers and duties and providing for compensation to be paid by the department from the fund to the certified health department or third party.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11717 Septage waste site contingency fund; creation; authorization of expenditures.

Sec. 11717. (1) There is created in the state treasury a septage waste site contingency fund. Interest earned by the septage waste contingency fund shall remain in the septage waste contingency fund unless expended as provided in subsection (2).

(2) The department shall expend money from the septage waste contingency fund, upon appropriation, only to defray costs of the continuing education courses under section 11703 that would otherwise be paid by persons taking the courses.

(3) The septage waste program fund is created within the state treasury.

(4) Fees and interest on fees collected under this part shall be deposited in the fund. In addition, promptly after the effective date of the 2004 amendatory act that amended this section, the state treasurer shall transfer to the septage waste program fund all the money in the septage waste compliance fund. The state treasurer may receive money or other assets from any other source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(5) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(6) The department shall expend money from the fund, upon appropriation, only for the enforcement and administration of this part, including, but not limited to, compensation to certified health departments or third parties carrying out certain powers and duties of the department under section 11716.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11717b Fees for persons engaged in septage waste servicing.

Sec. 11717b. (1) The cost of administering this part shall be recovered by collecting fees from persons engaged in servicing. Fee categories and, subject to subsection (2), rates are as follows:

(a) The fee for a septage waste servicing license is $200.00 per year.

(b) The fee for a septage waste vehicle license is as follows:

(*i*) If none of the vehicles owned by the person applying for the septage waste vehicle license will be used at any time during the license period for disposal of septage waste by land application, $350.00 per year for each septage waste vehicle.

(*ii*) If any of the vehicles owned by the person applying for the septage waste vehicle license will be used at any time during the license period for disposal of septage waste by land application, $480.00 per year for each septage waste vehicle.

(c) The fee to replace an existing septage waste vehicle under a septage waste vehicle license with a different septage waste vehicle under the same ownership, if the annual fee for that year has been paid under subdivision (b), is as follows:

(*i*) $200.00 if the septage waste vehicle being replaced has been inspected for that year under section 11706.

(*ii*) $150.00 if the vehicle being replaced has not been inspected for that year.

(d) The fee for a site permit is $500.00. However, a person shall not be charged a fee to renew a site permit.

(2) If a fee under subsection (1) is paid for a license, permit, or approval but the application for the license or permit or the request for the approval is denied, the department shall promptly refund the fee.

(3) For each state fiscal year, a person possessing a septage waste servicing license and septage waste vehicle license as of January 1 of that fiscal year shall be assessed a septage waste servicing license fee and septage waste vehicle license fee as specified in this section. The department shall notify those persons of their fee assessments by February 1 of that fiscal year. Payment shall be postmarked by March 15 of that fiscal year.

(4) The department shall assess interest on all fee payments received after the due date. The amount of interest shall equal 0.75% of the payment due, for each month or portion of a month the payment remains past due. The failure by a person to timely pay a fee imposed by this section is a violation of this part.

(5) If a person fails to pay a fee required under this section in full, plus any interest accrued, by October 1 of the year following the date of notification of the fee assessment, the department may issue an order that revokes the license or permit held by that person for which the fee was to be paid.

(6) Fees and interest collected under this section shall be deposited in the fund.

History: Add. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2008, Act 492, Imd. Eff. Jan. 13, 2009.

Popular name: Act 451

Popular name: NREPA

324.11718 Rules.

Sec. 11718. (1) The department shall promulgate rules that establish both of the following:

(a) Continuing education requirements under section 11703.

(b) Design and operating requirements for receiving facilities, as provided in section 11715b.

(2) The department may, in addition, promulgate rules that do 1 or more of the following:

(a) Add other materials and substances to the definition of septage waste.

(b) Add enclosures to the list of enclosures in the definition of domestic septage under section 11701 the servicing of which requires a septage waste servicing license under this part.

(c) Specify information required on an application for a septage waste servicing license, septage waste vehicle license, or site permit.

(d) Establish standards or procedures for a department order under section 11708 prohibiting the operation of a wastewater treatment plant or structure as a receiving facility.

(3) The department of environmental quality and the department of agriculture and rural development shall jointly promulgate rules establishing field sanitation and food safety standards for the purposes of section 11721.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2018, Act 271, Eff. Sept. 27, 2018.

Popular name: Act 451

Popular name: NREPA

324.11719 Violation or false statement as misdemeanor; penalties.

Sec. 11719. (1) A person who violates section 11704, 11705, 11708, 11709, 11710, or 11711 is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00, or both. A peace officer may issue an appearance ticket to a person for a violation of any of these sections.

(2) A person who knowingly makes or causes to be made a false statement or entry in a license application or a record required in section 11703 is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not less than $2,500.00 or more than $25,000.00, or both.

(3) A person who violates this part or a license or permit issued under this part, except as provided in subsections (1) and (2), is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not less than $1,000.00 and not more than $2,500.00, or both.

(4) Each day that a violation described in subsection (1), (2), or (3) continues constitutes a separate violation.

(5) Upon receipt of information that the servicing of septage waste regulated by this part presents an imminent or substantial threat to the public health, safety, welfare, or the environment, after consultation with the director or a designated representative of the department of community health, the department, or a peace officer if authorized by law, shall do 1 or more of the following:

(a) Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, summarily suspend a license issued under this part and afford the holder of the license an opportunity for a hearing within 7 days.

(b) Request that the attorney general commence an action to enjoin the act or practice and obtain injunctive relief upon a showing that a person is or has removed, transported, or disposed of septage waste in a manner that is or may become injurious to the public health, safety, welfare, or the environment.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11720 Temporary variance from act.

Sec. 11720. (1) The director may grant a temporary variance from a requirement of this part added by the 2004 amendatory act that amended this part if all of the following requirements are met:

(a) The variance is requested in writing.

(b) The requirements of this part cannot otherwise be met.

(c) The variance will not create or increase the potential for a health hazard, nuisance condition, or pollution of surface water or groundwater.

(d) The activity or condition for which the variance is proposed will not violate any other part of this act.

(2) A variance granted under subsection (1) shall be in writing and shall be posted on the department's website.

History: Add. 2004, Act 381, Imd. Eff. Oct. 12, 2004.

Popular name: Act 451

Popular name: NREPA

324.11721 Farm operation exemption; requirements.

Sec. 11721. (1) A farm operation is exempt from this part as it applies to servicing portable toilets, to associated domestic septage management equipment such as trailers, pumps, and septage waste vehicles, and to associated storage facilities, if all of the following requirements are met:

(a) The portable toilets are used to comply with requirements listed in the publication under subsection (2).

(b) The management, pumping, and temporary storage of the domestic septage from the portable toilets by the farm operation does not result in a release of domestic septage into the environment.

(c) The portable toilets and associated septage management equipment are securely fastened to a vehicle or trailer in a manner that prevents a release while being moved by the farm operation on or across a public street, road, or highway.

(d) The farm operation does not move portable toilets that contain domestic septage on or across a limited access highway as defined in section 26 of the Michigan vehicle code, 1949 PA 300, MCL 257.26.

(e) The farm operation does not store domestic septage for more than 60 days or in a tank larger than 3,000 gallons.

(f) The farm operation utilizes the services of a person with a septage waste servicing license and septage waste vehicle license to dispose of the domestic septage from the portable toilets in a receiving facility.

(g) The farm operation does not move domestic septage on or across a public street, road, or highway in a tank larger than 450 gallons.

(2) The department of agriculture and rural development shall publish both of the following:

(a) A list of field sanitation, worker protection, and food safety requirements applicable to the exemption provided for in this section.

(b) A guide to recommend spill preparedness, spill mitigation, and spill response programs applicable to the exemption provided for in this section.

History: Add. 2018, Act 271, Eff. Sept. 27, 2018.

Popular name: Act 451

Popular name: NREPA

PART 119
WASTE MANAGEMENT AND RESOURCE RECOVERY FINANCE

324.11901 Definitions.

Sec. 11901. As used in this part:

(a) "Costs" means 1 or more of the following costs that may be chargeable to the waste management project as a capital cost under generally acceptable accounting principles:

(*i*) The cost or fair market value of the acquisition or construction of lands, property rights, utility extensions, disposal facilities, buildings, structures, fixtures, machinery, equipment, access roads, easements, and franchises.

(*ii*) Engineering, architectural, accounting, legal, organizational, marketing, financial, and other services.

(*iii*) Permits and licenses.

(*iv*) Interest on the financing of the waste management project during acquisition and construction and before the date of commencement of commercial operation of the waste management project, but for not more than 1 year after that date.

(*v*) Operating expenses of the waste management project before full earnings are achieved, but for not more than 1 year after that date.

(*vi*) A reasonable reserve for payment of principal and interest on an indebtedness to finance the cost of a waste management project.

(b) "Local authority" means an authority created under Act No. 179 of the Public Acts of 1947, being sections 123.301 to 123.310 of the Michigan Compiled Laws.

(c) "Municipality" means a county, city, township, village, or local authority, or a combination thereof.

(d) "Note" means a note issued by a municipality pursuant to this part.

(e) "Person" means an individual, firm, partnership, association, corporation, unincorporated joint venture, or trust, organized, permitted, or existing under the laws of this state or any other state, including a federal corporation, or a combination thereof, but excluding a municipality, special district having taxing powers, or other political subdivision of this state.

(f) "Revenue" means money or income received by a municipality as a result of activities authorized by this part, including loan repayments and interest on loan repayments; proceeds from the sale of real or personal property; interest payments on investments; rentals and other payments due and owing on account of an instrument, lease, contract, or agreement to which the municipality is a party; and gifts, grants, bestowals, or other moneys or payments to which a municipality is entitled under this part or other law.

(g) "Waste" means a discarded solid or semisolid material, including garbage, refuse, rubbish, ashes, liquid material, and other discarded materials generated by residential, commercial, agricultural, municipal, or industrial activities, including waste from sewage collected and treated in a municipal sewage system.

(h) "Waste management project" means 1 or more parts of a waste collection, transportation, disposal, or resource recovery system, including plants, works, systems, facility or transfer stations planned, designed, or financed under this part. Waste management project includes the extension or provision of utilities, steam generating and conveyance facilities, appurtenant machinery, equipment, and other capital facilities, other than off-site mobile vehicular equipment, if necessary for the operation of a project or portion of a project. Waste management project also includes necessary property rights, easements, interests, permits, and licenses.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11902 Powers of municipality generally.

Sec. 11902. A municipality may do any of the following:

(a) Acquire by gift, purchase, or lease, construct, improve, remodel, repair, maintain, and operate, individually or jointly with a municipality or person, a waste management project; acquire private or public property by purchase, lease, gift, or exchange; and acquire private property when necessary by condemnation for public purposes pursuant to Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.25 of the Michigan Compiled Laws, or other applicable law or charter.

(b) Impose rates, charges, and fees, and enter into contracts relative to the rates, charges, and fees with persons using a waste management project; and assign, convey, encumber, mortgage, pledge, or grant a security interest in the rates, charges, and fees or the right to impose rates, charges, and fees to a person or municipality for the purpose of securing a contract with a person or municipality or for the purpose of providing security or a source of payment for an indebtedness of a person or municipality, including bonds or notes, issued pursuant to the following acts, to finance the cost of a waste management project or in anticipation of revenues from a waste management project:

(*i*) The industrial development revenue bond act of 1963, Act No. 62 of the Public Acts of 1963, being

sections 125.1251 to 125.1267 of the Michigan Compiled Laws.

(*ii*) The economic development corporation act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws.

(*iii*) The Derezinski-Geerlings job development authority act, Act No. 301 of the Public Acts of 1975, being sections 125.1701 to 125.1770 of the Michigan Compiled Laws.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11903 Contracts for acquisition, construction, financing, and operation of waste management project or for use of services of project; bids or proposals; negotiations; validity of contracts; pledge of full faith and credit; methods of paying pledged share of costs.

Sec. 11903. (1) A municipality may enter into a contract with a person or municipality, providing for the acquisition, construction, financing, and operation of a waste management project or for the use of the services of a project. Notwithstanding the requirements of its municipal charter or ordinances, the municipality, following the receipt from persons of bids or proposals for a contract referred to in this section, may negotiate with 1 or more persons who have submitted the bids or proposals, permit those persons to modify their bids or proposals, and enter into a contract with 1 or more of those persons on the basis of a bid or proposal as modified. A contract executed pursuant to this section, regardless of whether the bidding on the contract occurred before July 12, 1978, shall be valid and binding on the parties. The municipality is authorized, but is not required, to pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract.

(2) To pay its pledged share of the costs of a waste management project or to secure its contract for the use of project services, a contracting municipality may use or pledge 1 or more, or a combination, of the following methods of raising necessary funds:

(a) If the full faith and credit of the municipality is pledged, the levy of a tax on taxable property by a municipality having the power to tax, which tax may be imposed without limitation as to rate or amount and may be imposed in addition to other taxes that the municipality is authorized to levy, but for not more than a rate or amount that is sufficient to pay its share or secure its contract.

(b) The levy and collection of rates or charges to users and beneficiaries of the service furnished by the waste management project.

(c) From money received or to be received from the imposition of taxes by the state and returned to the municipality, unless the use of the money for that purpose is expressly prohibited by the state constitution of 1963.

(d) From any other funds which may be validly used for that purpose.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11904 Additional powers of municipality.

Sec. 11904. A municipality may do any of the following:

(a) Include in a contract with a municipality or person provisions to the effect that the municipality will require all residential waste subject to its jurisdiction and police power under applicable law or charter and collected within its limits, whether by a municipality or person operating under contract with the municipality, to be disposed of at the waste management project. If so included, the municipality shall enact legislation with appropriate penalties to make the requirement effective. However, a township, by resolution, may disapprove the collection of waste within the township boundaries by a county.

(b) Provide by contract with a municipality or person for the ownership of a waste management project after all indebtedness with respect to the project has been retired.

(c) Provide that rates or charges to users and beneficiaries of the service furnished by the waste management project shall be a lien on the premises for which the services have been provided, and that amounts delinquent for 3 months or more may be certified annually to the proper tax assessing officer or agency of the municipality, to be entered upon the next tax roll against the premises to which the services have been rendered. The charges shall be collected and the lien enforced in the same manner as provided for the collection of taxes assessed upon the tax roll and the enforcement of a lien for unpaid taxes. The time and manner of certification and other details in respect to the collection of the rates and charges and the

enforcement of the lien shall be prescribed by the governing body of the municipality. The municipality may authorize a person or municipality to impose, levy, and collect rates or charges against users and beneficiaries of the service furnished by the waste management project. The municipality may agree with a municipality or person that the rates and charges shall be a lien on the premises serviced, and may further agree that the collection of the rates and charges imposed may be collected and the lien enforced in the same manner as provided in this subsection for the collection of rates and charges and the enforcement of a lien by the municipality.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11905 Contracts; provisions; remedies in case of default.

Sec. 11905. A contract by a municipality with a person or municipality may provide for any and all matters relating to the acquisition, construction, financing, and operation of the waste management project as are considered necessary. The contract may provide for appropriate remedies in case of default, including the right of the contracting municipality to authorize the state treasurer or other official charged with the disbursement of unrestricted state funds returnable to the municipality under the state constitution of 1963 or other laws of this state to withhold and apply sufficient funds from those disbursements to make up a default or deficiency.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11906 Resolution authorizing execution of contract; publication and contents of notice of adoption; effective date of contract; referendum; special election not included in statutory or charter limitation; verification of signatures on petition; rejection of signatures; determining number of registered electors.

Sec. 11906. (1) A municipality desiring to enter into a contract under section 11902 or 11903 shall authorize, by resolution of its governing body, the execution of the contract. After the adoption of the resolution, if the full faith and credit of the municipality is pledged, a notice of the adoption of the resolution shall be published in a newspaper of general circulation in the municipality. The notice shall state all of the following:

(a) That the governing body has adopted a resolution authorizing execution of the contract.

(b) The purpose and the expected cost of the contract to the municipality.

(c) The source of payment for the municipality's contractual obligation.

(d) The right of referendum on the contract.

(e) Other information the governing body determines to be necessary to adequately inform interested electors of the nature of the obligation.

(2) A contract pledging the full faith and credit may be executed and delivered by the municipality upon approval of its governing body without a vote of the electors on the contract, but the contract shall not become effective until the expiration of 45 days after the date of publication of the notice required by subsection (1). If, within the 45-day period, a petition requesting a referendum upon the contract, signed by not less than 5% or 15,000 of the registered electors residing within the limits of the municipality, whichever is less, is filed with the clerk of the municipality, the contract shall not become effective until approved by the vote of a majority of the electors of the municipality qualified to vote and voting at a general or special election.

(3) A special election called for pursuant to subsection (2) shall not be included in statutory or charter limitation as to the number of special elections to be called within a specified period of time. Signatures on the petition shall be verified by an elector under oath as the actual signatures of the electors whose names appear on the petition, and the clerk of the municipality shall have the same power to reject signatures as city clerks under section 25 of the home rule city act, Act No. 279 of the Public Acts of 1909, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in a municipality shall be determined from the municipality's registration books.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11907 Exercise of powers conferred on municipality.

Sec. 11907. A municipality may exercise the powers conferred by this part regardless of the requirements, including the competitive bidding requirement, of its municipal charter.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.11908 Provisions inapplicable to certain municipalities.

Sec. 11908. This part shall not apply to municipalities having a population of more than 2,000,000.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 121
LIQUID INDUSTRIAL BY-PRODUCTS

324.12101 Definitions; B to L.

Sec. 12101. As used in this part:

(a) "Biofuel" means any renewable liquid or gas fuel offered for sale as a fuel that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol, ethanol-blended fuel, biodiesel, and biodiesel blends.

(b) "Biogas" means a biofuel that is a gas.

(c) "Brine" means a liquid produced as a by-product of oil or natural gas production or exploration.

(d) "Container" means any portable device in which a liquid industrial by-product is stored, transported, treated, or otherwise handled.

(e) "Department" means the department of environmental quality.

(f) "Designated facility" means a treatment facility, storage facility, disposal facility, or reclamation facility that receives liquid industrial by-product from off-site.

(g) "Director" means the director of the department.

(h) "Discarded" means any of the following:

(*i*) Abandoned by being disposed of, burned, or incinerated; or accumulated, stored, or treated before, or instead of, being abandoned.

(*ii*) Accumulated, stored, or treated before being managed in 1 of the following ways:

(A) By being used or reused in a manner constituting disposal by being applied to or placed on land or by being used to produce products that are applied to or placed on land.

(B) By being burned to recover energy or used to produce a fuel.

(C) By reclamation.

(i) "Discharge" means the accidental or intentional spilling, leaking, pumping, releasing, pouring, emitting, emptying, or dumping of liquid industrial by-product into the land, air, or water.

(j) "Disposal" means the abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing of a liquid industrial by-product into or on land or water in such a manner that the liquid industrial by-product may enter the environment, or be emitted into the air, or discharged into surface water or groundwater.

(k) "Disposal facility" means a facility or a part of a facility at which liquid industrial by-product is disposed.

(*l*) "Facility" means all contiguous land and structures, other appurtenances, and improvements on land for treating, storing, disposing of, or reclamation of liquid industrial by-product.

(m) "Generator" means a person whose act or process produces liquid industrial by-product.

(n) "Liquid industrial by-product" or "by-product" means any material that is produced by, is incident to, or results from industrial, commercial, or governmental activity or any other activity or enterprise, that is determined to be liquid by method 9095 (paint filter liquids test) as described in "Test methods for evaluating solid wastes, physical/chemical methods," United States Environmental Protection Agency publication no. SW-846, and that is discarded. Liquid industrial by-product does not include any of the following:

(*i*) Hazardous waste regulated and required to be manifested under part 111.

(*ii*) Septage waste regulated under part 117.

(*iii*) Medical waste regulated under part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13832.

(*iv*) A discharge to the waters of the state in accordance with a permit, order, or rule under part 31.

(*v*) A liquid generated by a household.

(*vi*) A liquid regulated under 1982 PA 239, MCL 287.651 to 287.683.

(*vii*) Material managed in accordance with section 12102a.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

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 324.99903 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

324.12102 Definitions; O to V.

Sec. 12102. As used in this part:

(a) "On-site" means on the same geographically contiguous property, which may be divided by a public or private right-of-way if access is by crossing rather than going along the right-of-way. On-site 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.

(b) "Peace officer" means any law enforcement officer who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, or an officer appointed by the director of the department of state police under section 6d of 1935 PA 59, MCL 28.6d.

(c) "Publicly owned treatment works" means any entity that treats municipal sewage or industrial waste or liquid industrial by-product that is owned by the state or a municipality, as that term is defined in 33 USC 1362. Publicly owned treatment works include sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

(d) "Reclamation" means either processing to recover a usable product or regeneration.

(e) "Reclamation facility" means a facility or part of a facility where liquid industrial by-product reclamation is conducted.

(f) "Shipping document" means a log, an invoice, a bill of lading, or other record, in either written or electronic form, that includes all of the following information:

(*i*) The name and address of the generator.

(*ii*) The name of the transporter.

(*iii*) The type and volume of liquid industrial by-product in the shipment.

(*iv*) The date the by-product was shipped off-site from the generator.

(*v*) The name, address, and site identification number of the designated facility.

(g) "Site identification number" means a number that is assigned by the United States Environmental Protection Agency or the department to a transporter or facility.

(h) "Storage" means the containment of liquid industrial by-product, on a temporary basis, in a manner that does not constitute disposal of the by-product.

(i) "Storage facility" means a facility or part of a facility where liquid industrial by-product is stored.

(j) "Surface impoundment" means a treatment facility, storage facility, or disposal facility or part of a treatment, storage, or disposal facility that is either a natural topographic depression, a human-made excavation, or a diked area formed primarily of earthen materials. A surface impoundment may be lined with human-made materials designed to hold an accumulation of liquid industrial by-product. Surface impoundments include, but are not limited to, holding, storage, settling, and aeration pits, ponds, and lagoons. Surface impoundment does not include an injection well.

(k) "Tank" means a stationary device designed to contain an accumulation of liquid industrial by-product that is constructed primarily of nonearthen materials such as wood, concrete, steel, or plastic to provide structural support.

(*l*) "Transportation" means the movement of liquid industrial by-product by air, rail, public or private roadway, or water.

(m) "Transporter" means a person engaged in the off-site transportation of liquid industrial by-product by air, rail, public roadway, or water.

(n) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any liquid industrial by-product, to neutralize the by-product, or to render the by-product safer to transport, store, or dispose of, amenable to recovery, amenable to storage, or reduced in volume.

(o) "Treatment facility" means a facility or part of a facility at which liquid industrial by-product undergoes treatment.

(p) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and that, as a result of the use, is contaminated by physical or chemical impurities.

(q) "Vehicle" means a transport vehicle as defined by 49 CFR 171.8.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 61, Imd. Eff. May 24, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016;—Am. 2016, Act 294, Eff. Jan. 2, 2017.

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 324.99903 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

324.12102a Materials not specified as liquid industrial by-products.

Sec. 12102a. The following materials are not liquid industrial by-products when managed as specified:

(a) A material that is used or reused as an effective substitute for commercial products, used or reused as an ingredient to make a product, or returned to the original process, if the material does not require reclamation prior to use or reuse, is not directly burned to recover energy or used to produce a fuel, and is not applied to the land or used in products applied to the land.

(b) A used oil that is directly burned to recover energy or used to produce a fuel if all of the following requirements are met:

(*i*) The material meets the used oil specifications of R 299.9809(1)(f) of the Michigan administrative code.

(*ii*) The material contains no greater than 2 ppm polychlorinated biphenyls.

(*iii*) The material has a minimum energy content of 17,000 BTU/lb.

(*iv*) The material is expressly authorized as a used oil fuel source, regulated under part 55, or, in another state, regulated under a similar air pollution control authority.

(c) A liquid fully contained inside a manufactured article, until the liquid is removed or the manufactured equipment is discarded, at which point it becomes subject to this part.

(d) A liquid by-product sample transported for testing to determine its characteristics or composition. The sample becomes subject to this part when discarded.

(e) A liquid that is not regulated under part 615 that is generated in the drilling, operation, maintenance, or closure of a well, or other drilling operation, including the installation of cathodic protection or directional drilling, if either of the following applies:

(*i*) The liquid is left in place at the point of generation in compliance with part 31, 201, or 213.

(*ii*) The liquid is transported off-site from a location that is not a known facility as defined in section 20101, and all of the following occur:

(A) The disposal complies with applicable provisions of part 31 or 115.

(B) The disposal is not to a surface water.

(C) The landowner of the disposal site has authorized the disposal.

(f) A liquid vegetable or animal fat oil that is transported directly to a producer of biofuels for the purpose of converting the oil to biofuel.

(g) An off-specification fuel, including a gasoline blendstock, that was generated in a pipeline as the interface material from the mixture of 2 adjacent fuel products and that will be processed, by blending or by distillation or other refining, to produce a fuel product or fuel products.

(h) An off-specification fuel, including a gasoline blendstock, that resulted from the commingling of off-specification fuel products or from phase separation in a gasoline and alcohol blend and that will be processed, by distillation or other refining, to produce fuel products.

(i) An off-specification fuel product transported directly to a distillation or refining facility to produce a fuel product or fuel products regulated pursuant to 40 CFR part 80.

(j) A liquid or a sludge and associated liquid authorized to be applied to land under part 31 or 115.

(k) A liquid residue remaining in a container after pouring, pumping, aspirating, or another practice commonly employed to remove liquids has been utilized, if not more than 1 inch of residue remains on the bottom, or, for containers less than or equal to 110 gallons in size, not more than 3% by weight of residue remains in the container, or, for containers greater than 110 gallons in size, not more than 0.3% by weight of residue remains in the container. The liquid residue becomes subject to this part when discarded.

(*l*) A residual amount of liquid remaining in a container and generated as a result of transportation of a solid waste in that container.

(m) A liquid brine authorized for use as dust and ice control regulated under parts 31 and 615.

(n) Food processing residuals as defined in section 11503, or site-separated material or source-separated material approved by the department under part 115, that, to produce biogas, will be decomposed in a controlled manner under anaerobic conditions using a closed system that complies with part 55.

(o) A liquid approved by the director for use as a biofuel in energy production in compliance with part 55 that is not speculatively accumulated and that is transported directly to the burner of the biofuel.

History: Add. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2008, Act 153, Imd. Eff. June 5, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12103 Generator; duties.

Sec. 12103. (1) A generator shall do all of the following:

(a) Characterize the liquid industrial by-product in accordance with this act and maintain records of the characterization.

(b) Maintain labeling or marking on containers and tanks of liquid industrial by-product to identify their contents.

(c) If transporting liquid industrial by-product, other than the generator's own by-product, by public roadway, engage, employ, or contract for the transportation only with a transporter registered and permitted under the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480.

(d) Except as otherwise provided in this part, utilize and retain a separate shipping document for each shipment of liquid industrial by-product transported to a designated facility. The department may authorize the use of a consolidated shipping document for a single shipment of uniform types of by-product collected from multiple by-product pickups. If a consolidated shipping document is authorized by the department and utilized by a generator, a receipt shall be obtained from the transporter documenting the transporter's company name, the driver's signature, the date of pickup, the type and quantity of by-product accepted from the generator, the consolidated shipping document number, and the designated facility. A generator of brine may complete a single shipping document per transporter of brine, per disposal well, each month.

(e) Certify that, when the transporter picks up liquid industrial by-product, the liquid industrial by-product is fully and accurately described on the shipping document and in proper condition for transport and that the information contained on the shipping document is factual. This certification shall be by the generator or the generator's authorized representative.

(f) Provide to the transporter a copy of the shipping document to accompany the liquid industrial by-product to the designated facility.

(g) If the generator does not receive confirmation of acceptance of the liquid industrial by-product by the designated facility, attempt to obtain confirmation by contacting the designated facility and the transporter. If resolution cannot be achieved after contacting the designated facility and transporter, the generator shall notify the department.

(2) A generator that transports its own liquid industrial by-product or operates an on-site reclamation facility, treatment facility, or disposal facility shall keep records of all by-product produced and transported, reclaimed, treated, or disposed of at the facility.

(3) A generator shall retain all records required pursuant to this part for a period of at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subsection is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as otherwise required by the department. Records required under this part may be retained in electronic format.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 286, Imd. Eff. Sept. 23, 2014;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

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 324.99903 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

324.12104 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.

Compiler's note: The repealed section pertained to licensing requirements for transportation of liquid industrial wastes.

Popular name: Act 451

Popular name: NREPA

324.12105 Registered and permitted transporter; requirements.

Sec. 12105. A transporter is subject to the registration and permitting requirements of the hazardous

materials transportation act, 1998 PA 138, MCL 29.471 to 29.480. A transporter registered and permitted under that act and licensed under part 117 shall comply with all of the following:

(a) All registration and permitting requirements of the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480, and licensing requirements of this part and part 117.

(b) Septage waste or liquid industrial by-product transported in a vehicle managed under part 117 and this part shall not be disposed of on land, unless specifically authorized by the department.

(c) Unless, under subdivision (b), the department specifically authorizes land application, in addition to the requirements of this part and part 117, the words "Land Application Prohibited", in a minimum of 2-inch letters, shall be affixed in a conspicuous location and visible on both sides of the vehicle if both of the following apply:

(*i*) The vehicle is licensed under part 117 to transport septage waste.

(*ii*) The vehicle is authorized under the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480, to transport liquid industrial by-product.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12106 Equipment, location, and methods of transporter; inspection by department.

Sec. 12106. 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.12107 Vehicles; copy of registration and permit to be carried; closing or covering of vehicles; cleaning and decontamination; applicability of subsection (3) to vehicle transporting brine.

Sec. 12107. (1) A vehicle used to transport liquid industrial by-product by public roadway shall carry a copy of the registration and permit issued in accordance with the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480, and shall produce it upon request of the department or a peace officer. The registration and permit may be carried in electronic format.

(2) All vehicles and containers used to transport liquid industrial by-product shall be closed or covered to prevent the escape of by-product. The outside of all vehicles, containers, and accessory equipment shall be kept free of by-product and its residue.

(3) To avoid cross-contamination, all portions of a vehicle or equipment that have been in contact with liquid industrial by-product shall be cleaned and decontaminated before the transport of any products, incompatible by-product, hazardous waste regulated under part 111, or other material. Before the transport of by-product, all portions of a vehicle or equipment shall be cleaned and decontaminated, as necessary, of any hazardous waste regulated under part 111. A transporter who owns or legally controls a vehicle or equipment shall maintain as part of the transporter's records documentation that before its use for the transportation of any products, incompatible by-product, hazardous waste regulated under part 111, or other material, the vehicle or equipment was decontaminated. This subsection does not apply to a vehicle if brine was transported in the vehicle and the next load transported in the vehicle is brine for disposal or well drilling or production purposes, oil or other hydrocarbons produced from an oil or gas well, or water or other fluids to be used in activities regulated under part 615 or the rules, orders, or instructions under that part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12108 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.

Compiler's note: The repealed section pertained to denial, revocation, or suspension of license.

Popular name: Act 451

Popular name: NREPA

324.12109 Liquid industrial by-product transporter; delivery; retention of records; use of consolidated shipping document; issuance of site identification number.

Sec. 12109. (1) A liquid industrial by-product transporter shall provide the generator confirmation of acceptance of by-product for transportation and shall deliver the liquid industrial by-product only to the designated facility specified by the generator.

(2) The liquid industrial by-product transporter shall retain all records required under this part for at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required in this subsection is automatically extended during the course of any unresolved enforcement action regarding an activity regulated under this part or as required by the department. Records required under this part may be retained in electronic format.

(3) The department may authorize, for certain liquid industrial by-product streams, the use of a consolidated shipping document as authorized under section 12103(1)(d). If a consolidated shipping document is authorized by the department and utilized by a generator, the transporter shall give to the generator a receipt documenting the transporter's company name, the driver's signature, the date of pickup, the type and quantity of by-product removed, the consolidated shipping document number, and the designated facility.

(4) A transporter shall obtain a site identification number assigned by the United States Environmental Protection Agency or the department. Until October 1, 2021, 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. Money collected under this subsection shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2001, Act 165, Imd. Eff. Nov. 7, 2001;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 286, Imd. Eff. Sept. 23, 2014;—Am. 2015, Act 224, Eff. Mar. 16, 2016;—Am. 2017, Act 90, Imd. Eff. July 12, 2017.

Popular name: Act 451

Popular name: NREPA

324.12110 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.

Compiler's note: The repealed section pertained to proof of financial responsibility.

Popular name: Act 451

Popular name: NREPA

324.12111 Incidents threatening public health, safety, and welfare, or environment; duties of generator, transporter, or owner or operator of facility; exemptions.

Sec. 12111. (1) If a fire, explosion, or discharge of liquid industrial by-product occurs that could threaten the public health, safety, and welfare, or the environment, or when a generator, transporter, or owner or operator of a designated facility first has knowledge that a spill of by-product has reached surface water or groundwater, the generator, transporter, or owner or operator of the designated facility shall take appropriate immediate action to protect the public health, safety, and welfare, and the environment, including notification of local authorities and the pollution emergency alerting system using the telephone number 800-292-4706, unless the incident is reported to this state under another state law.

(2) The generator, transporter, or owner or operator of a designated facility shall, within 30 days, prepare and maintain as part of his or her records a written report documenting the incident described in subsection (1) and the response action taken, including any supporting analytical data and cleanup activities. The report shall be provided to the department upon request. Both the initial notification, as appropriate, and the report shall include all of the following information:

(a) The name and telephone number of the person reporting the incident.

(b) The name, address, and telephone number of the generator, transporter, or designated facility, and the site identification number of the transporter or designated facility.

(c) The date, time, and type of incident.

(d) The name and quantity of liquid industrial by-product involved and discharged.

(e) The extent of injuries, if any.

(f) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.

(g) An assessment of actual or potential hazards to human health or the environment.

(h) The response action taken.

(3) Incidents occurring in connection with activities regulated under part 615 or the rules, orders, or instructions under that part or regulated under part C of title XIV of the public health service act, 42 USC 300h to 300h-8, or the regulations promulgated under that act are exempt from the requirements of this

section.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12112 Facility accepting liquid industrial by-product; duties of owner or operator; report.

Sec. 12112. (1) The owner or operator of a facility that accepts liquid industrial by-product shall accept delivery of by-product at the designated facility only if the facility is the destination indicated on the shipping document. The facility owner or operator shall do all of the following:

(a) Obtain a site identification number assigned by the United States Environmental Protection Agency or the department. Until October 1, 2021, 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 subdivision unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130.

(b) Provide the generator or the generator's authorized representative confirmation of the receipt of the liquid industrial by-product.

(c) Maintain records of the characterization of the liquid industrial by-product. Characterization shall be in accordance with the requirements of this act.

(2) All storage, treatment, and reclamation of liquid industrial by-product at the designated facility shall be in either containers or tanks or as otherwise specified in section 12113(5). Storage, treatment, or reclamation regulated under part 615 or the rules, orders, or instructions promulgated under that part, or regulated under part C of title XIV of the public health service act, 42 USC 300h to 300h-8, or the regulations promulgated under that part are exempt from this subsection.

(3) The owner or operator of a designated facility shall not store liquid industrial by-product for longer than 1 year unless the by-product is being stored for purposes of reclamation and not less than 75% of the cumulative amount, by weight or volume, of each type of by-product that is stored on site each calendar year is reclaimed or transferred to a different site for reclamation during that calendar year. The owner or operator of a designated facility shall maintain documentation that demonstrates compliance with this subsection.

(4) The owner or operator of a designated facility shall do all of the following:

(a) Retain all records required pursuant to this part for a period of at least 3 years and shall make those records readily available for review and inspection by the department or a peace officer. 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. Records required under this part may be retained in electronic format.

(b) Maintain a plan designed to respond to and minimize hazards to human health and the environment from unplanned releases of liquid industrial by-product to air, soil, and surface water.

(c) Document that all employees who have a responsibility to manage liquid industrial by-product are trained in the proper handling and emergency procedures appropriate for their job duties.

(5) Except as provided in subsection (6), a designated facility shall submit to the department by April 30 each year a report describing its activities for the previous calendar year. The department shall provide for a method of electronic reporting. The report, at a minimum, shall include the following information:

(a) The name and address of the facility.

(b) The calendar year covered by the report.

(c) The types and quantities of liquid industrial by-product accepted and a description of the manner in which the liquid industrial by-product was processed or managed.

(6) A designated facility is not subject to the reporting requirements of subsection (5) for a calendar year if, during that calendar year, the designated facility received liquid industrial by-products only from 1 generator and was owned, operated, or legally controlled by that generator.

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 8, Imd. Eff. Feb. 20, 2008;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2013, Act 73, Eff. Oct. 1, 2013;—Am. 2014, Act 286, Imd. Eff. Sept. 23, 2014;—Am. 2015, Act 224, Eff. Mar. 16, 2016;—Am. 2017, Act 90, Imd. Eff. July 12, 2017.

Popular name: Act 451

Popular name: NREPA

324.12113 Treatment, storage, or disposal of liquid industrial by-product; requirements.

Sec. 12113. (1) Storage of liquid industrial by-product, whether at the location of generation, under the

control of the transporter, or at the designated facility, shall be protected from weather, fire, physical damage, and vandals. All vehicles, containers, and tanks used to hold by-product shall be closed or covered, except when necessary to add or remove by-product, or otherwise managed in accordance with applicable state laws, to prevent the escape of by-product. The exterior of all vehicles, containers, and tanks used to hold by-product shall be kept free of by-product and its residue.

(2) Except as otherwise authorized pursuant to this section or other applicable statutes or rules or orders of the department, liquid industrial by-product shall be managed to prevent by-product from being discharged into the soil, surface water or groundwater, or a drain or sewer, or discharged in violation of part 55.

(3) A person shall treat, store, and dispose of liquid industrial by-product in accordance with all applicable statutes and rules and orders of the department.

(4) This part does not prohibit a publicly owned treatment works from accepting liquid industrial by-product from the premises of a person, and does not prohibit a person from engaging, employing, or contracting with a publicly owned treatment works. However, a publicly owned treatment works that receives by-product by means of transportation is a designated facility and shall comply with section 12112.

(5) A person shall not treat, store, or dispose of liquid industrial by-product in a surface impoundment, unless the surface impoundment has a discharge or storage permit authorized under part 31 or, in the case of leachate, is authorized in a permit issued under part 115.

(6) Activities regulated under part 615 or the rules, orders, or instructions under that part or regulated under part C of title XIV of the public health service act, 42 USC 300h to 300h-8, or the regulations promulgated under that act, are exempt from the requirements of this section.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2008, Act 8, Imd. Eff. Feb. 20, 2008;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12114 Violations; probable cause; powers of department or peace officer; court costs and other expenses; obtaining samples for purposes of enforcing or administering part.

Sec. 12114. (1) If the department or a peace officer has probable cause to believe that a person is violating this part, the department or a peace officer may search without a warrant a vehicle or equipment that is possessed, used, or operated by that person. The department or a peace officer may seize a vehicle, equipment, or other property used or operated in a manner or for a purpose in violation of this part. A vehicle, equipment, or other property used in violation of 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.

(2) The court may award court costs and other expenses of litigation including attorney fees to a party who successfully brings an action under this section.

(3) The department or a peace officer may enter at reasonable times any generator, transporter, or designated facility or other place where liquid industrial by-products are or have been generated, stored, treated, or disposed of, or transported from and may inspect the facility or other place and obtain samples of the by-products and samples of the containers or labeling of the by-products for the purposes of enforcing or administering this part.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12115 Civil action; damages; court costs and other expenses.

Sec. 12115. (1) The attorney general may commence a civil action against a person in a court of competent jurisdiction for appropriate relief, including injunctive relief for a violation of this part, or a registration or permit issued pursuant to this part. The court has jurisdiction to restrain the violation and to require compliance. In addition to any other relief granted under this section, the court may impose a civil fine of not more than $10,000.00 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.

(2) The attorney general or a person may bring a civil action in a court of competent jurisdiction to recover the full value of the damage done to the natural resources that are damaged or destroyed and the costs of surveillance and enforcement by the state as a result of a violation of this part. The damages and costs collected under this section shall be deposited in the general fund. However, if the damages result from the impairment or destruction of the fish, wildlife, or other natural resources of the state, the damages shall be deposited in the game and fish protection account of the Michigan conservation and recreation legacy fund provided in section 2010. The attorney general may, in addition, recover expenses incurred by the department

to address and remedy a violation of this part that the department reasonably considered an imminent and substantial threat to the public health, safety, or welfare, or to the environment.

(3) The court may award court costs and other expenses of litigation including attorney fees to a party who successfully brings an action pursuant to this section or to a person who successfully defends against an action brought under this section that the court determines is frivolous.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.12116 Violations; penalties.

Sec. 12116. (1) A person that violates section 12105(c), 12107(2) or (3), 12109(4), or 12112(1)(b) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not less than $200.00 and not more than $500.00, or both. A peace officer may issue an appearance ticket to a person who is in violation of section 12105(c), 12107(2) or (3), 12109(4), or 12112(1)(b).

(2) A person that knowingly makes or causes to be made a false statement or entry in a registration or permit application or a shipping document under this part is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(3) A person that violates this part or a registration or permit issued under this part, except as provided in subsections (1) and (2), is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $1,000.00 or more than $2,500.00, or both.

(4) Each day that a violation continues constitutes a separate violation.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1998, Act 140, Eff. Sept. 1, 1998;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12117 Liquid industrial by-product transporter account.

Sec. 12117. (1) The liquid industrial by-product transporter account is created within the environmental pollution prevention fund, which is created in section 11130.

(2) The state treasurer may receive money or other assets from any 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.

(3) Money remaining in the account at the close of the fiscal year shall not lapse to the general fund.

(4) The department shall expend money from the account, upon appropriation, for the implementation of this part. In addition, funds not expended from the account for the implementation of this part may be utilized for emergency response and cleanup activities related to liquid industrial by-product that are initiated by the department.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2015, Act 224, Eff. Mar. 16, 2016.

Popular name: Act 451

Popular name: NREPA

324.12118 Repealed. 1998, Act 140, Eff. Sept. 1, 1998.

Compiler's note: The repealed section pertained to persons holding license on effective date of part.

Popular name: Act 451

Popular name: NREPA