

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**  
**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 Notes:** 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  $1.0 \times 10^{-3}$  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 11512, 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 Notes:** In subsection (1), the reference to "section 11512" evidently should be to "section 11512a".

**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 Notes:** The repealed section pertained to the management of yard clippings.

**Popular Name:** Act 451

**Popular Name:** NREPA

**Popular Name:** Solid Waste Act