

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 6269**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 11502, 11503, 11504, 11505, 11509, 11510,  
11512, 11513, 11515, 11516, 11518, 11523, 11523a, 11523b, 11525,  
11525a, 11525b, 11528, 11538, 11539, 11542, and 11550 (MCL  
324.11502, 324.11503, 324.11504, 324.11505, 324.11509, 324.11510,  
324.11512, 324.11513, 324.11515, 324.11516, 324.11518, 324.11523,  
324.11523a, 324.11523b, 324.11525, 324.11525a, 324.11525b,  
324.11528, 324.11538, 324.11539, 324.11542, and 324.11550),  
sections 11502, 11503, 11504, 11505, and 11542 as amended by 2014  
PA 178, sections 11509, 11512, and 11516 as amended by 2004 PA 325,  
section 11510 as amended by 1998 PA 397, sections 11523, 11523a,  
11525, and 11525b as amended by 2013 PA 250, section 11523b as  
added by 1996 PA 359, section 11525a as amended by 2015 PA 82,

section 11538 as amended by 2004 PA 44, and section 11550 as amended by 2003 PA 153, and by adding sections 11511a, 11512a, 11519a, 11519b, and 11519c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11502. (1) "Agronomic rate" means a rate that meets both  
2 of the following requirements:

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

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

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

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

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

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

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

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

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

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

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

14           (c) Road shoulder material that does not exceed 4 feet in  
15 thickness except for areas where exceedances are incidental to  
16 variations in existing topography, is placed at least 4 feet above  
17 the seasonal groundwater table, does not come into contact with a  
18 surface water body, is sloped, and is covered by asphalt pavement,  
19 concrete, 6 inches of gravel, or other material approved by the  
20 department.

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

25           (a) The material is applied at an agronomic rate consistent  
26 with generally accepted agricultural and management practices.

27           (b) The use, placement, or storage at the location of use does

1 not do any of the following:

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

3 (ii) Cause groundwater to no longer be fit for 1 or more  
4 protected uses as defined in R 323.2202 of the Michigan  
5 administrative code.

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

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

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

12 (b) To treat wastewater, wastewater treatment sludge, or  
13 wastewater sludge in compliance with part 31 or the federal water  
14 pollution control act, 33 USC 1251 to ~~1387~~**1388**, at a private or  
15 publicly owned wastewater treatment plant.

16 (c) To stabilize, neutralize, solidify, cap, or otherwise  
17 remediate hazardous substances or contaminants as part of a  
18 response activity in compliance with part 201, part 213, or the  
19 comprehensive environmental response, compensation and liability  
20 act of 1980, 42 USC 9601 to 9657, or a corrective action in  
21 compliance with part 111 or the solid waste disposal act, 42 USC  
22 6901 to 6992k.

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

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

27 (8) "Beneficial use by-product" means the following materials

1 if the materials are stored for beneficial use or are used  
2 beneficially as specified and the requirements of section 11551(1)  
3 are met:

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

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

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

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

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

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

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

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

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

21 (ii) Scrap paper.

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

24 (j) Dewatered concrete grinding slurry from public  
25 transportation agency road projects used for beneficial use 1, 2,  
26 3, or 4.

27 (k) Lime softening residuals from the treatment and

1 conditioning of water for domestic use or from a community water  
2 supply used for beneficial use 3 or 4.

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

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

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

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

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

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

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

20 (10) "Bond" means a financial instrument executed on a form  
21 approved by the department, including a surety bond from a surety  
22 company authorized to transact business in this state, a  
23 certificate of deposit, a cash bond, an irrevocable letter of  
24 credit, insurance, a trust fund, an escrow account, or a  
25 combination of any of these instruments in favor of the department.  
26 The owner or operator of a disposal area who is required to  
27 establish a bond under another state statute or a federal statute

1 may petition the department to allow such a bond to meet the  
2 requirements of this part. The department shall approve a bond  
3 established under another state statute or a federal statute if the  
4 bond provides equivalent funds and access by the department as  
5 other financial instruments allowed by this subsection.

6 **(11) "CAPTIVE FACILITY" MEANS A LANDFILL OR COAL ASH**  
7 **IMPOUNDMENT THAT ACCEPTS FOR DISPOSAL, AND ACCEPTED FOR DISPOSAL**  
8 **DURING THE PREVIOUS CALENDAR YEAR, ONLY NONHAZARDOUS INDUSTRIAL**  
9 **WASTE GENERATED ONLY BY THE OWNER OF THE LANDFILL OR COAL ASH**  
10 **IMPOUNDMENT.**

11 **(12)** ~~(11)~~—"Cement kiln dust" means particulate matter  
12 collected in air emission control devices serving Portland cement  
13 kilns.

14 **(13)** ~~(12)~~—"Certificate of deposit" means a negotiable  
15 certificate of deposit held by a bank or other financial  
16 institution regulated and examined by a state or federal agency,  
17 the value of which is fully insured by an agency of the United  
18 States government. A certificate of deposit used to fulfill the  
19 requirements of this part shall be in the sole name of the  
20 department with a maturity date of not less than 1 year and shall  
21 be renewed not less than 60 days before the maturity date. An  
22 applicant who uses a certificate of deposit as a bond shall receive  
23 any accrued interest on that certificate of deposit upon release of  
24 the bond by the department.

25 **(14)** ~~(13)~~—"Certified health department" means a city, county,  
26 or district department of health that is specifically delegated  
27 authority by the department to perform designated activities as

1 prescribed by this part.

2       **(15) ~~(14)~~ "Coal ash", SUBJECT TO SUBSECTION (16), means ANY OF**  
3 **the material ~~FOLLOWING~~:**

4       **(A) MATERIAL** recovered from systems for the control of air  
5 pollution from, or the noncombusted residue remaining after, the  
6 combustion of coal **OR COAL COKE**, including, but not limited to,  
7 **COAL** bottom ash, fly ash, boiler slag, **FLUE GAS DESULFURIZATION**  
8 **MATERIALS**, or fluidized-bed combustion ash.

9       **(B) RESIDUALS REMOVED FROM COAL ASH IMPOUNDMENTS.**

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

12       (a) Class C fly ash under ASTM standard C618-12A.

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

16       (c) A combination of class C fly ash and class F fly ash under  
17 ASTM standard C618-12A if that combination forms a pozzolanic-  
18 stabilized mixture by being blended with lime, Portland cement, or  
19 cement kiln dust and is used as a road base, soil stabilizer, or  
20 road shoulder material under subsection (4)(b) or (c).

21       **(17) "COAL ASH IMPOUNDMENT" MEANS A NATURAL TOPOGRAPHIC**  
22 **DEPRESSION, MAN-MADE EXCAVATION, OR DIKED AREA THAT IS NOT A**  
23 **LANDFILL AND THAT IS DESIGNED TO HOLD AND, AFTER OCTOBER 14, 2015,**  
24 **ACCEPTED AN ACCUMULATION OF COAL ASH AND LIQUIDS OR OTHER MATERIALS**  
25 **APPROVED BY THE DEPARTMENT FOR TREATMENT, STORAGE, OR DISPOSAL AND**  
26 **DID NOT RECEIVE DEPARTMENT APPROVAL OF ITS CLOSURE. A COAL ASH**  
27 **IMPOUNDMENT IN EXISTENCE BEFORE OCTOBER 14, 2015 THAT RECEIVES**



1 WASTE AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
2 THIS SUBSECTION, AND THAT DOES NOT HAVE A PERMIT PURSUANT TO PART  
3 31, IS CONSIDERED AN OPEN DUMP BEGINNING 2 YEARS AFTER THE  
4 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
5 UNLESS THE OWNER OR OPERATOR HAS COMPLETED CLOSURE OF THE COAL ASH  
6 IMPOUNDMENT UNDER SECTION 11519B OR OBTAINED AN OPERATING LICENSE  
7 FOR THE COAL ASH IMPOUNDMENT.

8 (18) "COAL ASH LANDFILL" MEANS A LANDFILL THAT IS USED FOR THE  
9 DISPOSAL OF COAL ASH AND MAY ALSO BE USED FOR THE DISPOSAL OF INERT  
10 MATERIALS AND CONSTRUCTION MATERIAL USED FOR PURPOSES OF MEETING  
11 THE DEFINITION OF BENEFICIAL USE 4, OR OTHER MATERIALS APPROVED BY  
12 THE DEPARTMENT.

13 (19) ~~(15)~~—"Coal bottom ash" means ash particles from the  
14 combustion of coal that are too large to be carried in flue gases  
15 and that collect on furnace walls or at the bottom of the furnace.

16 (20) ~~(16)~~—"Collection center" means a tract of land, building,  
17 unit, or appurtenance or combination thereof that is used to  
18 collect junk motor vehicles and farm implements under section  
19 11530.

20 (21) ~~(17)~~—"Composting facility" means a facility where  
21 composting of yard clippings or other organic materials occurs  
22 using mechanical handling techniques such as physical turning,  
23 windrowing, or aeration or using other management techniques  
24 approved by the director.

25 (22) ~~(18)~~—"Consistency review" means evaluation of the  
26 administrative and technical components of an application for a  
27 permit or license or evaluation of operating conditions in the

1 course of inspection, for the purpose of determining consistency  
2 with the requirements of this part, rules promulgated under this  
3 part, and approved plans and specifications.

4 (23) ~~(19)~~—"Corrective action" means the investigation,  
5 assessment, cleanup, removal, containment, isolation, treatment, or  
6 monitoring of constituents, as defined in a facility's approved  
7 hydrogeological monitoring plan, released into the environment from  
8 a disposal area, or the taking of other actions related to the  
9 release as may be necessary to prevent, minimize, or mitigate  
10 injury to the public health, safety, or welfare, the environment,  
11 or natural resources that is consistent with 42 USC 6941 to 6949a  
12 and regulations promulgated thereunder.

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

17 (2) "Department", subject to section 11554, means the  
18 department of environmental quality.

19 (3) "Director" means the director of the department.

20 (4) "Discharge" includes, but is not limited to, any spilling,  
21 leaking, pumping, pouring, emitting, emptying, discharging,  
22 injecting, escaping, leaching, dumping, or disposing of a substance  
23 into the environment that is or may become injurious to the public  
24 health, safety, or welfare, or to the environment.

25 (5) "Disposal area" means 1 or more of the following at a  
26 location as defined by the boundary identified in its construction  
27 permit or engineering plans approved by the department:

1 (a) A solid waste transfer facility.

2 (b) An incinerator.

3 (c) A sanitary landfill.

4 (d) A processing plant.

5 **(E) A COAL ASH IMPOUNDMENT.**

6 **(F)** ~~(e)~~—Any other solid waste handling or disposal facility  
7 utilized in the disposal of solid waste. However, a waste diversion  
8 center is not a disposal area.

9 (6) "Diverted waste" means waste that meets all of the  
10 following requirements:

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

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

15 (c) Is separated from other waste.

16 (d) Is 1 or more of the following:

17 (i) Hazardous material.

18 (ii) Liquid waste.

19 (iii) Pharmaceuticals.

20 (iv) Electronics.

21 (v) Batteries.

22 (vi) Light bulbs.

23 (vii) Pesticides.

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

26 (ix) Sharps.

27 (x) Other wastes approved by the department that can be

1 readily separated from solid waste for diversion to preferred  
2 methods of management and disposal.

3 (7) "Enforceable mechanism" means a legal method whereby this  
4 state, a county, a municipality, or another person is authorized to  
5 take action to guarantee compliance with an approved county solid  
6 waste management plan. Enforceable mechanisms include contracts,  
7 intergovernmental agreements, laws, ordinances, rules, and  
8 regulations.

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

13 (9) **"EXISTING COAL ASH IMPOUNDMENT" MEANS A COAL ASH**  
14 **IMPOUNDMENT THAT RECEIVED COAL ASH BEFORE THE EFFECTIVE DATE OF THE**  
15 **AMENDATORY ACT THAT ADDED THIS SUBSECTION, AND THAT, AS OF THAT**  
16 **DATE, HAS NOT INITIATED ELEMENTS OF CLOSURE THAT INCLUDE**  
17 **DEWATERING, STABILIZING RESIDUALS, OR PLACEMENT OF AN ENGINEERED**  
18 **COVER OR OTHERWISE CLOSED PURSUANT TO ITS PART 31 PERMIT OR**  
19 **PURSUANT TO R 299.4309 OF THE PART 115 RULES AND, THEREFORE, IS**  
20 **CAPABLE OF RECEIVING COAL ASH IN THE FUTURE. A COAL ASH IMPOUNDMENT**  
21 **THAT HAS INITIATED CLOSURE IS CONSIDERED AN OPEN DUMP UNLESS THE**  
22 **OWNER OR OPERATOR HAS COMPLETED CLOSURE OF THE COAL ASH IMPOUNDMENT**  
23 **UNDER SECTION 11519B OR OBTAINED AN OPERATING LICENSE FOR THE COAL**  
24 **ASH IMPOUNDMENT WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE**  
25 **AMENDATORY ACT THAT ADDED THIS SUBSECTION.**

26 (10) "EXISTING DISPOSAL AREA" MEANS ANY OF THE FOLLOWING:

27 (A) A DISPOSAL AREA THAT HAS IN EFFECT A CONSTRUCTION PERMIT

1 UNDER THIS PART.

2 (B) A DISPOSAL AREA THAT HAD ENGINEERING PLANS APPROVED BY THE  
3 DIRECTOR BEFORE JANUARY 11, 1979.

4 (C) AN INDUSTRIAL WASTE LANDFILL THAT WAS AUTHORIZED TO  
5 OPERATE BY THE DIRECTOR OR BY COURT ORDER BEFORE OCTOBER 9, 1993.

6 (D) AN INDUSTRIAL WASTE PILE THAT WAS LOCATED AT THE SITE OF  
7 GENERATION ON OCTOBER 9, 1993.

8 (E) AN EXISTING COAL ASH IMPOUNDMENT.

9 (11) "EXISTING LANDFILL UNIT" OR "EXISTING UNIT" MEANS ANY  
10 LANDFILL UNIT THAT RECEIVED SOLID WASTE ON OR BEFORE OCTOBER 9,  
11 1993.

12 (12) ~~(9)~~—"Farm" means that term as defined in section 2 of the  
13 Michigan right to farm act, 1981 PA 93, MCL 286.472.

14 (13) ~~(10)~~—"Farm operation" means that term as defined in  
15 section 2 of the Michigan right to farm act, 1981 PA 93, MCL  
16 286.472.

17 (14) ~~(11)~~—"Financial assurance" means the mechanisms used to  
18 demonstrate that the funds necessary to meet the cost of closure,  
19 postclosure maintenance and monitoring, and corrective action will  
20 be available whenever they are needed.

21 (15) ~~(12)~~—"Financial test" means a corporate or local  
22 government financial test or guarantee approved for type II  
23 landfills under 42 USC 6941 to 6949a and regulations promulgated  
24 thereunder. An owner or operator may use a single financial test  
25 for more than 1 facility. Information submitted to the department  
26 to document compliance with the test shall include a list showing  
27 the name and address of each facility and the amount of funds

1 assured by the test for each facility. For purposes of the  
2 financial test, the owner or operator shall aggregate the sum of  
3 the closure, postclosure, and corrective action costs it seeks to  
4 assure with any other environmental obligations assured by a  
5 financial test under state or federal law.

6 **(16)** ~~(13)~~—"Flue gas desulfurization material" means the  
7 material recovered from air pollution control systems that capture  
8 sulfur dioxide from the combustion of wood, coal, or fossil fuels,  
9 or other combustible materials, if the other combustible materials  
10 constitute less than 50% by weight of the total material combusted  
11 and the department determines in writing that the other combustible  
12 materials do not materially affect the character of the residue.  
13 Flue gas desulfurization material includes synthetic gypsum.

14 **(17)** ~~(14)~~—"Food processing residuals" means any of the  
15 following:

16 (a) Residuals of fruits, vegetables, aquatic plants, or field  
17 crops.

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

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

23 **(18)** ~~(15)~~—"Foundry sand" means silica sand used in the metal  
24 casting process, including binding material or carbonaceous  
25 additives, from ferrous or nonferrous foundries.

26 **(19)** ~~(16)~~—"GAAMPS" means the generally accepted agricultural  
27 and management practices under the Michigan right to farm act, 1981

1 PA 93, MCL 286.471 to 286.474.

2 (20) ~~(17)~~—"Garbage" means rejected food wastes including waste  
3 accumulation of animal, fruit, or vegetable matter used or intended  
4 for food or that results from the preparation, use, cooking,  
5 dealing in, or storing of meat, fish, fowl, fruit, or vegetable  
6 matter.

7 Sec. 11504. (1) "Health officer" means a full-time  
8 administrative officer of a certified health department.

9 (2) "INDUSTRIAL WASTE" MEANS SOLID WASTE THAT IS GENERATED BY  
10 MANUFACTURING OR INDUSTRIAL PROCESSES AND THAT IS NOT A HAZARDOUS  
11 WASTE REGULATED UNDER PART 111.

12 (3) "INDUSTRIAL WASTE LANDFILL" MEANS A LANDFILL THAT IS USED  
13 FOR THE DISPOSAL OF ANY OF THE FOLLOWING, AS APPLICABLE:

14 (A) INDUSTRIAL WASTE THAT HAS BEEN CHARACTERIZED FOR HAZARD  
15 AND THAT HAS BEEN DETERMINED TO BE NONHAZARDOUS UNDER PART 111.

16 (B) IF THE LANDFILL IS AN EXISTING DISPOSAL AREA, NONHAZARDOUS  
17 SOLID WASTE THAT ORIGINATES FROM AN INDUSTRIAL SITE.

18 (4) ~~(2)~~—"Inert material" means any of the following:

19 (a) Rock.

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

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

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

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

27 (iv) The placement of the debris does not violate federal,

1 state, or local law or create a nuisance.

2 (c) Uncontaminated excavated soil or dredged sediment.

3 Excavated soil or dredged sediment is considered uncontaminated if  
4 it does not contain more than de minimis amounts of solid waste and  
5 1 of the following applies:

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

14 (ii) For any hazardous substance that could reasonably be  
15 expected to be present as a result of past land use and human  
16 activity, the soil or sediment does not exceed the background  
17 concentration, as that term is defined in part 201.

18 (iii) For any hazardous substance that could reasonably be  
19 expected to be present as a result of past land use and human  
20 activity, the soil or sediment falls below part 201 generic  
21 residential soil direct contact cleanup criteria and hazardous  
22 substances in leachate from the soil or sediment, using, at the  
23 option of the generator, EPA method 1311, 1312, or any other  
24 leaching protocol approved by the department, fall below part 201  
25 generic residential health based groundwater drinking water values  
26 or criteria, and the soil or sediment would not cause a violation  
27 of any surface water quality standard established under part 31 at



1 the area of placement, disposal, or use.

2 (d) Excavated soil from a site of environmental contamination,  
3 corrective action, or response activity if the soil is not a listed  
4 hazardous waste under part 111 and if hazardous substances in the  
5 soil do not exceed generic soil cleanup criteria for unrestricted  
6 residential use as defined in part 201 or background concentration  
7 as defined in part 201, as applicable.

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

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

13 (ii) The material is not materially contaminated. Typical  
14 surface oil staining on pavement and concrete from driveways,  
15 roadways, and parking lots is not material contamination. Material  
16 covered in whole or in part with lead-based paint is materially  
17 contaminated.

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

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

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

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

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

27 (iii) Does not include exposed reinforcement bars.

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

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

8 (5) ~~(3)~~—"Insurance" means insurance that conforms to the  
9 requirements of 40 CFR 258.74(d) provided by an insurer who has a  
10 certificate of authority from the director of insurance and  
11 financial services to sell this line of coverage. An applicant for  
12 an operating license shall submit evidence of the required coverage  
13 by submitting both of the following to the department:

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

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

18 (6) ~~(4)~~—"Landfill" means a disposal area that is a sanitary  
19 landfill.

20 (7) **"LATERAL EXPANSION" MEANS A HORIZONTAL EXPANSION OF THE**  
21 **SOLID WASTE BOUNDARY OF ANY OF THE FOLLOWING:**

22 **(A) A LANDFILL, OTHER THAN A COAL ASH LANDFILL, IF THE**  
23 **EXPANSION IS BEYOND THE LIMIT ESTABLISHED IN A CONSTRUCTION PERMIT**  
24 **OR ENGINEERING PLANS APPROVED BY THE SOLID WASTE CONTROL AGENCY**  
25 **BEFORE JANUARY 11, 1979.**

26 **(B) A COAL ASH LANDFILL, IF THE EXPANSION IS BEYOND THE LIMIT**  
27 **ESTABLISHED IN A CONSTRUCTION PERMIT ISSUED AFTER THE EFFECTIVE**

1 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION OR THE  
2 HORIZONTAL LIMITS OF COAL ASH IN PLACE ON OR BEFORE OCTOBER 14,  
3 2015.

4 (C) A COAL ASH IMPOUNDMENT, IF THE EXPANSION IS BEYOND THE  
5 LIMIT ESTABLISHED IN A CONSTRUCTION PERMIT OR THE HORIZONTAL LIMITS  
6 OF COAL ASH IN PLACE ON OR BEFORE OCTOBER 14, 2015.

7 (8) ~~(5)~~—"Letter of credit" means an irrevocable letter of  
8 credit that complies with 40 CFR 258.74(c).

9 (9) ~~(6)~~—"Lime kiln dust" means particulate matter collected in  
10 air emission control devices serving lime kilns.

11 (10) ~~(7)~~—"Low-hazard industrial waste" means industrial  
12 material that has a low potential for groundwater contamination  
13 when managed in accordance with this part. The following materials  
14 are low-hazard industrial wastes:

15 (a) Coal ash or wood ash.

16 (b) Cement kiln dust.

17 (c) Pulp and paper mill material.

18 (d) Scrap wood.

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

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

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

25 (h) Foundry sand.

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

27 (j) Street cleanings.

- 1 (k) Asphalt shingles.  
2 (l) New construction or production scrap drywall.  
3 (m) Chipped or shredded tires.  
4 (n) Copper slag.  
5 (o) Copper stamp sands.  
6 (p) Dredge material from nonremedial activities.  
7 (q) Flue gas desulfurization material.  
8 (r) Dewatered grinding slurry generated from public  
9 transportation agency road projects.  
10 (s) Any material determined by the department under section  
11 11553(7) to be a low-hazard industrial waste.

12 **(11) "LOW-HAZARD-POTENTIAL COAL ASH IMPOUNDMENT" MEANS A COAL**  
13 **ASH IMPOUNDMENT THAT IS A DIKED SURFACE IMPOUNDMENT, THE FAILURE OR**  
14 **MISOPERATION OF WHICH IS EXPECTED TO RESULT IN NO LOSS OF HUMAN**  
15 **LIFE AND LOW ECONOMIC OR ENVIRONMENTAL LOSSES PRINCIPALLY LIMITED**  
16 **TO THE IMPOUNDMENT OWNER'S PROPERTY.**

17 **(12)** ~~(8)~~—"Medical waste" means that term as it is defined in  
18 section 13805 of the public health code, 1978 PA 368, MCL  
19 333.13805.

20 **(13)** ~~(9)~~—"Mixed wood ash" means the material recovered from  
21 air pollution control systems for, or the noncombusted residue  
22 remaining after, the combustion of any combination of wood, scrap  
23 wood, railroad ties, or tires, if railroad ties composed less than  
24 35% by weight of the total combusted material and tires composed  
25 less than 10% by weight of the total combusted material.

26 **(14)** ~~(10)~~—"Municipal solid waste incinerator" means an  
27 incinerator that is owned or operated by any person, and meets all

1 of the following requirements:

2 (a) The incinerator receives solid waste from off site and  
3 burns only household waste from single and multiple dwellings,  
4 hotels, motels, and other residential sources, or this household  
5 waste together with solid waste from commercial, institutional,  
6 municipal, county, or industrial sources that, if disposed of,  
7 would not be required to be placed in a disposal facility licensed  
8 under part 111.

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

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

15 (d) The incinerator is not an industrial furnace as defined in  
16 40 CFR 260.10.

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

20 (15) ~~(11)~~—"Municipal solid waste incinerator ash" means the  
21 substances remaining after combustion in a municipal solid waste  
22 incinerator.

23 (16) "NEW COAL ASH IMPOUNDMENT" MEANS A COAL ASH IMPOUNDMENT  
24 THAT FIRST RECEIVES COAL ASH AFTER THE EFFECTIVE DATE OF THE  
25 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

26 (17) "NEW DISPOSAL AREA" MEANS A DISPOSAL AREA THAT REQUIRES A  
27 CONSTRUCTION PERMIT UNDER THIS PART AND INCLUDES ALL OF THE

1 FOLLOWING:

2 (A) A DISPOSAL AREA, OTHER THAN AN EXISTING DISPOSAL AREA,  
3 THAT IS PROPOSED FOR CONSTRUCTION.

4 (B) FOR A LANDFILL, A LATERAL EXPANSION, VERTICAL EXPANSION,  
5 OR OTHER EXPANSION THAT RESULTS IN AN INCREASE IN THE LANDFILL'S  
6 DESIGN CAPACITY.

7 (C) A NEW COAL ASH IMPOUNDMENT, OR A LATERAL EXPANSION OF A  
8 COAL ASH IMPOUNDMENT BEYOND THE PLACEMENT OF WASTE AS OF OCTOBER  
9 14, 2015.

10 (D) FOR A DISPOSAL AREA OTHER THAN LANDFILLS OR COAL ASH  
11 IMPOUNDMENTS, AN ENLARGEMENT IN CAPACITY BEYOND THAT INDICATED IN  
12 THE CONSTRUCTION PERMIT OR IN ENGINEERING PLANS APPROVED BEFORE  
13 JANUARY 11, 1979.

14 (E) FOR ANY EXISTING DISPOSAL AREA, AN ALTERATION OF THE  
15 DISPOSAL AREA TO A DIFFERENT DISPOSAL AREA TYPE THAN HAD BEEN  
16 SPECIFIED IN THE PREVIOUS CONSTRUCTION PERMIT APPLICATION OR IN  
17 ENGINEERING PLANS THAT WERE APPROVED BY THE DIRECTOR OR HIS OR HER  
18 DESIGNEE BEFORE JANUARY 11, 1979.

19 (18) ~~(12)~~—"Nonresidential property" means property not used or  
20 intended to be used for any of the following:

21 (a) A child day care center.

22 (b) An elementary school.

23 (c) An elder care and assisted living center.

24 (d) A nursing home.

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

1 ground floor.

2           **(19) "PART 115 RULES" MEANS R 299.4101 TO R 299.4922 OF THE**  
3 **MICHIGAN ADMINISTRATIVE CODE INCLUDING ANY AMENDMENTS TO OR**  
4 **REPLACEMENTS OF THOSE RULES.**

5           **(20)** ~~(13)~~—"Perpetual care fund" means a trust or escrow  
6 account or perpetual care fund bond provided for in section 11525.

7           **(21)** ~~(14)~~—"Perpetual care fund bond" means a surety bond, an  
8 irrevocable letter of credit, or a combination of these instruments  
9 in favor of and on a form approved by the department by which a  
10 perpetual care fund is established.

11           **(22)** ~~(15)~~—"Pulp and paper mill ash" means the material  
12 recovered from air pollution control systems for, or the  
13 noncombusted residue remaining after, the combustion of any  
14 combination of coal, wood, pulp and paper mill material, wood or  
15 biomass fuel pellets, scrap wood, railroad ties, or tires, from a  
16 boiler, power plant, or furnace at a pulp and paper mill, if  
17 railroad ties composed less than 35% by weight of the total  
18 combusted material and tires composed less than 10% by weight of  
19 the total combusted material.

20           **(23)** ~~(16)~~—"Pulp and paper mill material" means all of the  
21 following materials if generated at a facility that produces pulp  
22 or paper:

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

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

26           (c) Bark, wood fiber, and chips.

27           (d) Scrap paper.

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

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

6 Sec. 11505. (1) "Recyclable materials" means source separated  
7 materials, site separated materials, high grade paper, glass,  
8 metal, plastic, aluminum, newspaper, corrugated paper, yard  
9 clippings, and other materials that may be recycled or composted.

10 (2) "Regional solid waste management planning agency" means  
11 the regional solid waste planning agency designated by the governor  
12 pursuant to 42 USC 6946.

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

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

22 (5) "Rubbish" means nonputrescible solid waste, excluding  
23 ashes, consisting of both combustible and noncombustible waste,  
24 including paper, cardboard, metal containers, yard clippings, wood,  
25 glass, bedding, crockery, demolished building materials, or litter  
26 of any kind that may be a detriment to the public health and  
27 safety.



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

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

5 (7) "SANITARY LANDFILL" MEANS A TYPE OF DISPOSAL AREA  
6 CONSISTING OF 1 OR MORE LANDFILL UNITS AND THE ACTIVE WORK AREAS  
7 ASSOCIATED WITH THOSE UNITS. SANITARY LANDFILLS ARE CLASSIFIED AS 1  
8 OF THE FOLLOWING TYPES OF LANDFILLS:

9 (A) A TYPE II LANDFILL, WHICH IS A MUNICIPAL SOLID WASTE  
10 LANDFILL AND INCLUDES A MUNICIPAL SOLID WASTE INCINERATOR ASH  
11 LANDFILL.

12 (B) A TYPE III LANDFILL, WHICH IS ANY LANDFILL THAT IS NOT A  
13 MUNICIPAL SOLID WASTE LANDFILL OR HAZARDOUS WASTE LANDFILL AND  
14 INCLUDES ALL OF THE FOLLOWING:

15 (i) A CONSTRUCTION AND DEMOLITION WASTE LANDFILL.

16 (ii) AN INDUSTRIAL WASTE LANDFILL.

17 (iii) A LANDFILL THAT ACCEPTS WASTE OTHER THAN HOUSEHOLD  
18 WASTE, MUNICIPAL SOLID WASTE INCINERATOR ASH, OR HAZARDOUS WASTE  
19 FROM CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS.

20 (iv) A COAL ASH LANDFILL.

21 (v) AN EXISTING COAL ASH IMPOUNDMENT THAT IS CLOSED OR IS  
22 ACTIVELY BEING CLOSED AS A LANDFILL PURSUANT TO R 299.4309 OF THE  
23 PART 115 RULES.

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

26 (a) Plywood, particle board, pressed board, oriented strand  
27 board, fiberboard, resonated wood, or any other wood or wood

1 product mixed with glue, resins, or filler.

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

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

6 **(9) "SHARPS" MEANS THAT TERM AS DEFINED IN SECTION 13807 OF**  
7 **THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.13807.**

8 **(10)** ~~(9)~~ "Site separated material" means glass, metal, wood,  
9 paper products, plastics, rubber, textiles, garbage, or any other  
10 material approved by the department that is separated from solid  
11 waste for the purpose of recycling or conversion into raw materials  
12 or new products.

13 **(11)** ~~(10)~~ "Slag" means the nonmetallic product resulting from  
14 melting or smelting operations for iron or steel.

15 Sec. 11509. (1) Except as otherwise provided in section 11529,  
16 a person shall not establish a disposal area except as authorized  
17 by a construction permit issued by the department pursuant to part  
18 13. In addition, a person shall not establish a disposal area  
19 contrary to an approved solid waste management plan, or contrary to  
20 a permit, license, or final order issued pursuant to this part. A  
21 person proposing the establishment of a disposal area shall apply  
22 for a construction permit to the department through the health  
23 officer. If the disposal area is located in a county or city that  
24 does not have a certified health department, the application shall  
25 be made directly to the department.

26 (2) The application for a construction permit shall contain  
27 the name and residence of the applicant, the location of the

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

9 (a) For a new sanitary landfill, a fee equal to the following  
10 amount:

11 (i) For a municipal solid waste landfill, \$1,500.00.

12 (ii) For an industrial waste landfill, \$1,000.00.

13 (iii) For a type III landfill limited to low hazard industrial  
14 waste, \$750.00.

15 (b) For a lateral expansion of a sanitary landfill, a fee  
16 equal to the following amount:

17 (i) For a municipal solid waste landfill, \$1,000.00.

18 (ii) For an industrial waste landfill, \$750.00.

19 (iii) For a type III landfill limited to low hazard industrial  
20 waste, construction and demolition waste, or other nonindustrial  
21 waste, \$500.00.

22 (c) For a vertical expansion of an existing sanitary landfill,  
23 a fee equal to the following amount:

24 (i) For a municipal solid waste landfill, \$750.00.

25 (ii) For an industrial waste landfill, \$500.00.

26 (iii) For an industrial waste landfill limited to low hazard  
27 industrial waste, construction and demolition waste, or other

1 nonindustrial waste, \$250.00.

2 **(D) FOR A NEW COAL ASH IMPOUNDMENT, A FEE OF \$1,000.00.**

3 **(E) FOR A LATERAL OR VERTICAL EXPANSION OF A COAL ASH**  
4 **IMPOUNDMENT, A FEE OF \$750.00.**

5 (3) The application for a construction permit for a solid  
6 waste transfer facility, a solid waste processing plant, other  
7 disposal area, or a combination of these, shall be accompanied by a  
8 fee in the following amount:

9 (a) For a new facility for municipal solid waste, or a  
10 combination of municipal solid waste and waste listed in  
11 subdivision (b), \$1,000.00.

12 (b) For a new facility for industrial waste, or construction  
13 and demolition waste, \$500.00.

14 (c) For the expansion of an existing facility for any type of  
15 waste, \$250.00.

16 (4) If an application is returned to the applicant as  
17 administratively incomplete, the department shall refund the entire  
18 fee. If a permit is denied or an application is withdrawn, the  
19 department shall refund 1/2 the amount specified in subsection (3)  
20 to the applicant. An applicant for a construction permit, within 12  
21 months after a permit denial or withdrawal, may resubmit the  
22 application and the refunded portion of the fee, together with the  
23 additional information as needed to address the reasons for denial,  
24 without being required to pay an additional application fee.

25 (5) An application for a modification to a construction permit  
26 or for renewal of a construction permit which has expired shall be  
27 accompanied by a fee of \$250.00. Increases in final elevations that

1 do not result in an increase in design capacity or a change in the  
2 solid waste boundary shall be considered a modification and not a  
3 vertical expansion.

4 (6) A person who applies to permit more than 1 type of  
5 disposal area at the same facility shall pay a fee equal to the sum  
6 of the applicable fees listed in this section.

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

10 Sec. 11510. (1) Before the submission of a construction permit  
11 application for a new disposal area, the applicant shall request a  
12 health officer or the department to provide an advisory analysis of  
13 the proposed disposal area. However, the applicant, not less than  
14 15 days after the request, and notwithstanding an analysis result,  
15 may file an application for a construction permit.

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

18 (a) Immediately notify the clerk of the municipality in which  
19 the disposal area is located or proposed to be located, the local  
20 soil erosion and sedimentation control agency, each division within  
21 the department and the department of natural resources that has  
22 responsibilities in land, air, or water management, and the  
23 designated regional solid waste management planning agency.

24 (b) Publish a notice in a newspaper having major circulation  
25 in the vicinity of the proposed disposal area. The required  
26 published notice shall contain a map indicating the location of the  
27 proposed disposal area and shall contain a description of the

1 proposed disposal area and the location where the complete  
2 application package may be reviewed and where copies may be  
3 obtained.

4 (c) Indicate in the public, departmental, and municipality  
5 notice that the department shall hold a public hearing in the area  
6 of the proposed disposal area if a written request is submitted by  
7 the applicant or a municipality within 30 days after the date of  
8 publication of the notice, or by a petition submitted to the  
9 department containing a number of signatures equal to not less than  
10 10% of the number of registered voters of the municipality where  
11 the proposed disposal area is to be located who voted in the last  
12 gubernatorial election. The petition shall be validated by the  
13 clerk of the municipality. The public hearing shall be held after  
14 the department makes a preliminary review of the application and  
15 all pertinent data and before a construction permit is issued or  
16 denied.

17 (d) Conduct a consistency review of the plans of the proposed  
18 disposal area to determine if it complies with this part and the  
19 rules promulgated under this part. The review shall be made by  
20 persons qualified in hydrogeology and sanitary landfill  
21 engineering. A written acknowledgment that the application package  
22 is in compliance with the requirements of this part and rules  
23 promulgated under this part by the persons qualified in  
24 hydrogeology and sanitary landfill engineering shall be received  
25 before a construction permit is issued. If the consistency review  
26 of the site and the plans and the application meet the requirements  
27 of this part and the rules promulgated under this part, the

1 department shall issue a construction permit that may contain a  
2 stipulation specifically applicable to the site and operation.  
3 Except as otherwise provided in section 11542, an expansion of the  
4 area of a disposal area, an enlargement in capacity of a disposal  
5 area, or an alteration of a disposal area to a different type of  
6 disposal area than had been specified in the previous construction  
7 permit application constitutes a new proposal for which a new  
8 construction permit is required. The upgrading of a disposal area  
9 type required by the department to comply with this part or the  
10 rules promulgated under this part or to comply with a consent order  
11 does not require a new construction permit.

12 (e) Notify the Michigan aeronautics commission if the disposal  
13 area is a sanitary landfill that is a new site or a lateral  
14 ~~extension~~**EXPANSION** or vertical expansion of an existing unit  
15 proposed to be located within 5 miles of a runway or a proposed  
16 runway extension contained in a plan approved by the Michigan  
17 aeronautics commission of an airport licensed and regulated by the  
18 Michigan aeronautics commission. The department shall make a copy  
19 of the application available to the Michigan aeronautics  
20 commission. If, after a period of time for review and comment not  
21 to exceed 60 days, the Michigan aeronautics commission informs the  
22 department that it finds that operation of the proposed disposal  
23 area would present a potential hazard to air navigation and  
24 presents the basis for its findings, the department may either  
25 recommend appropriate changes in the location, construction, or  
26 operation of the proposed disposal area or deny the application for  
27 a construction permit. The department shall give an applicant an

1 opportunity to rebut a finding of the Michigan aeronautics  
2 commission that the operation of a proposed disposal area would  
3 present a potential hazard to air navigation. The Michigan  
4 aeronautics commission shall notify the department and the owner or  
5 operator of a landfill if the Michigan aeronautics commission is  
6 considering approving a plan that would provide for a runway or the  
7 extension of a runway within 5 miles of a landfill.

8           **SEC. 11511A. (1) A NEW COAL ASH LANDFILL, A NEW COAL ASH**  
9 **IMPOUNDMENT, OR A NEW LATERAL EXPANSION OF A COAL ASH LANDFILL OR**  
10 **IMPOUNDMENT SHALL COMPLY WITH THE REQUIREMENTS OF R 299.4304, R**  
11 **299.4305, AND R 299.4307 TO R 299.4317 OF THE PART 115 RULES,**  
12 **EXCEPT THAT THE MINIMUM DESIGN STANDARD FOR A NEW COAL ASH**  
13 **LANDFILL, A NEW COAL ASH IMPOUNDMENT, OR A NEW LATERAL EXPANSION OF**  
14 **A COAL ASH LANDFILL OR IMPOUNDMENT PURSUANT TO R 299.4307(4) OF THE**  
15 **PART 115 RULES SHALL BE SOLELY R 299.4307(4) (B) OF THE PART 115**  
16 **RULES AND NOT R 299.4307(4) (A), (C), OR (D) OF THE PART 115 RULES.**

17           **(2) A NEW COAL ASH LANDFILL OR COAL ASH IMPOUNDMENT OR A NEW**  
18 **LATERAL EXPANSION OF A COAL ASH LANDFILL OR COAL ASH IMPOUNDMENT**  
19 **SHALL COMPLY WITH THE LOCATION REQUIREMENTS OF R 299.4411 TO R**  
20 **299.4413 AND R 299.4415 TO 299.4418 OF THE PART 115 RULES, EXCEPT**  
21 **THAT A NEW COAL ASH LANDFILL OR COAL ASH IMPOUNDMENT OR A NEW**  
22 **LATERAL EXPANSION OF A COAL ASH LANDFILL OR COAL ASH IMPOUNDMENT**  
23 **SHALL MAINTAIN A PERMANENT MINIMUM CLEARANCE FROM THE BOTTOM OF THE**  
24 **PRIMARY LINER OF NOT LESS THAN 5 FEET TO THE NATURAL GROUNDWATER**  
25 **LEVEL.**

26           **(3) THE DEPARTMENT SHALL NOT ISSUE A CONSTRUCTION PERMIT FOR A**  
27 **NEW COAL ASH LANDFILL OR NEW COAL ASH IMPOUNDMENT OR A NEW LATERAL**



1 EXPANSION OF A COAL ASH LANDFILL OR COAL ASH IMPOUNDMENT UNLESS ALL  
2 OF THE FOLLOWING APPLY:

3 (A) THE LANDFILL, IMPOUNDMENT, OR EXPANSION, RESPECTIVELY,  
4 COMPLIES WITH SUBSECTIONS (1) AND (2), AS APPLICABLE.

5 (B) THE LANDFILL, IMPOUNDMENT, OR EXPANSION, RESPECTIVELY,  
6 COMPLIES WITH R 299.4306 OF THE PART 115 RULES.

7 (C) THE OWNER OR OPERATOR HAS PROVIDED TO THE DEPARTMENT A  
8 DETECTION MONITORING PROGRAM IN A HYDROGEOLOGICAL MONITORING PLAN  
9 THAT COMPLIES WITH R 299.4440 TO R 299.4445 AND R 299.4905 TO R  
10 299.4908 OF THE PART 115 RULES, AS APPLICABLE. THE WAIVER DESCRIBED  
11 IN R 299.4440(2) OF THE PART 115 RULES IS NOT AVAILABLE TO COAL ASH  
12 IMPOUNDMENTS OR COAL ASH LANDFILLS. THE CONSTITUENTS MONITORED IN  
13 THE DETECTION MONITORING PROGRAM SHALL INCLUDE ALL OF THE  
14 FOLLOWING:

15 (i) BORON.

16 (ii) CALCIUM.

17 (iii) CHLORIDE.

18 (iv) FLUORIDE.

19 (v) IRON.

20 (vi) PH.

21 (vii) SULFATE.

22 (viii) TOTAL DISSOLVED SOLIDS.

23 (D) R 299.4440(3) AND 299.4440(6) OF THE PART 115 RULES DO NOT  
24 APPLY TO COAL ASH IMPOUNDMENTS OR COAL ASH LANDFILLS.

25 (E) GROUNDWATER SAMPLING RELATED TO COAL ASH IMPOUNDMENTS OR  
26 COAL ASH LANDFILLS SHALL NOT BE FIELD FILTERED.

27 (F) THE LANDFILL, IMPOUNDMENT, OR EXPANSION, RESPECTIVELY,

1 COMPLIES WITH 1 OF THE FOLLOWING:

2 (i) SECTION 11519B(2) AND (4), IF APPLICABLE.

3 (ii) A SCHEDULE, APPROVED BY THE DEPARTMENT, OF REMEDIAL  
4 MEASURES, INCLUDING A SEQUENCE OF ACTIONS OR OPERATIONS, THAT LEADS  
5 TO COMPLIANCE WITH THIS PART WITHIN A REASONABLE TIME PERIOD BUT  
6 NOT MORE THAN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
7 ACT THAT ADDED THIS SECTION.

8 (4) THE CONSTITUENTS LISTED IN THIS SECTION SHALL BE ANALYZED  
9 BY METHODS SPECIFIED IN "STANDARD METHODS FOR THE EXAMINATION OF  
10 WATER AND WASTEWATER, 19TH EDITION," PUBLISHED BY THE UNITED STATES  
11 ENVIRONMENTAL PROTECTION AGENCY, OR BY OTHER METHODS APPROVED BY  
12 THE DIRECTOR OR HIS OR HER DESIGNEE.

13 Sec. 11512. (1) A person shall dispose of solid waste at a  
14 disposal area licensed under this part unless a person is permitted  
15 by state law or rules promulgated by the department to dispose of  
16 the solid waste at the site of generation. **WASTE PLACEMENT IN  
17 EXISTING LANDFILL UNITS SHALL BE CONSISTENT WITH PAST OPERATING  
18 PRACTICES OR MODIFIED PRACTICES TO ENSURE GOOD MANAGEMENT.**

19 (2) Except as otherwise provided in this section or in section  
20 11529, a person shall not conduct, manage, maintain, or operate a  
21 disposal area within this state except as authorized by an  
22 operating license issued by the department pursuant to part 13. In  
23 addition, a person shall not conduct, manage, maintain, or operate  
24 a disposal area contrary to an approved solid waste management  
25 plan, or contrary to a permit, license, or final order issued under  
26 this part. A person who intends to conduct, manage, maintain, or  
27 operate a disposal area shall submit a license application to the

1 department through a certified health department. **EXISTING COAL ASH**  
2 **IMPOUNDMENTS ARE EXEMPT FROM THE LICENSING REQUIREMENTS OF THIS**  
3 **PART THROUGH THE DATE THAT IS 2 YEARS AFTER THE EFFECTIVE DATE OF**  
4 **THE AMENDATORY ACT THAT ADDED SECTION 11511A.** If the disposal area  
5 is located in a county or city that does not have a certified  
6 health department, the application shall be made directly to the  
7 department. A person authorized by this part to operate more than 1  
8 type of disposal area at the same facility may apply for a single  
9 license.

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

22 (4) At the time of application for a license for a disposal  
23 area, the applicant shall submit to a health officer or the  
24 department a certification under the seal of a licensed  
25 professional engineer verifying that the construction of the  
26 disposal area has proceeded according to the approved plans. **ANY**  
27 **APPLICANT FOR A LICENSE FOR AN EXISTING COAL ASH IMPOUNDMENT IS**

1 **EXEMPT FROM THE PRECEDING REQUIREMENT OF THIS SUBSECTION BUT, WHEN**  
2 **APPLYING FOR A LICENSE, SHALL SUBMIT DOCUMENTATION IN THE**  
3 **APPLICANT'S POSSESSION OR CONTROL REGARDING THE CONSTRUCTION OF THE**  
4 **IMPOUNDMENT.** If construction of the disposal area or a portion of  
5 the disposal area is not complete, the department shall require  
6 additional construction certification of that portion of the  
7 disposal area during intermediate progression of the operation, as  
8 specified in section 11516(5).

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

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

20 (7) The application for a type II landfill operating license  
21 shall be accompanied by the following fee for the 5-year term of  
22 the operating license, calculated in accordance with subsection

23 (8):

24 (a) Landfills receiving less than 100 tons per day, \$250.00.

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

27 (c) Landfills receiving 250 tons per day or more, but less

1 than 500 tons per day, \$2,500.00.

2 (d) Landfills receiving 500 tons per day or more, but less  
3 than 1,000 tons per day, \$5,000.00.

4 (e) Landfills receiving 1,000 tons per day or more, but less  
5 than 1,500 tons per day, \$10,000.00.

6 (f) Landfills receiving 1,500 tons per day or more, but less  
7 than 3,000 tons per day, \$20,000.00.

8 (g) Landfills receiving greater than 3,000 tons per day,  
9 \$30,000.00.

10 (8) Type II landfill application fees shall be based on the  
11 average amount of waste projected to be received daily during the  
12 license period. Application fees for license renewals shall be  
13 based on the average amount of waste received in the previous  
14 calendar year. Application fees shall be adjusted in the following  
15 circumstances:

16 (a) If a landfill accepts more waste than projected, a  
17 supplemental fee equal to the difference shall be submitted with  
18 the next license application.

19 (b) If a landfill accepts less waste than projected, the  
20 department shall credit the applicant an amount equal to the  
21 difference with the next license application.

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

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

27 (e) If an application is submitted to renew a license more

1 than 1 year prior to license expiration, the department shall  
2 credit the applicant an amount equal to 1/2 the application fee.

3 (f) If an application is submitted to renew a license more  
4 than 6 months but less than 1 year prior to license expiration, the  
5 department shall credit the applicant an amount equal to 1/4 the  
6 application fee.

7 (9) The operating license application for a type III landfill  
8 shall be accompanied by a fee ~~equal to~~ **OF** \$2,500.00.

9 **(10) AN APPLICATION FOR AN OPERATING LICENSE BY A COAL ASH**  
10 **LANDFILL SHALL BE ACCOMPANIED BY A FEE OF \$13,000.00. ON THE**  
11 **ANNIVERSARY OF THE ISSUANCE OF THE OPERATING LICENSE, WHILE THE**  
12 **OPERATING LICENSE REMAINS IN EFFECT, THE COAL ASH LANDFILL OWNER OR**  
13 **OPERATOR SHALL PAY THE DEPARTMENT A FEE OF \$13,000.00. IF THE**  
14 **ANNIVERSARY OF THE ISSUANCE OF THE OPERATING LICENSE FALLS ON A**  
15 **LEGAL HOLIDAY, THE ANNUAL FEE SHALL BE PAID ON THE NEXT BUSINESS**  
16 **DAY.**

17 **(11) AN APPLICATION FOR AN OPERATING LICENSE BY A COAL ASH**  
18 **IMPOUNDMENT SHALL BE ACCOMPANIED BY A FEE OF \$13,000.00. ON THE**  
19 **ANNIVERSARY OF THE ISSUANCE OF THE OPERATING LICENSE, WHILE THE**  
20 **OPERATING LICENSE REMAINS IN EFFECT, THE COAL ASH IMPOUNDMENT OWNER**  
21 **OR OPERATOR SHALL PAY THE DEPARTMENT A FEE OF \$13,000.00. IF THE**  
22 **ANNIVERSARY OF THE ISSUANCE OF THE OPERATING LICENSE FALLS ON A**  
23 **LEGAL HOLIDAY, THE ANNUAL FEE SHALL BE PAID ON THE NEXT BUSINESS**  
24 **DAY.**

25 **(12) THE DEPARTMENT SHALL DEPOSIT THE FEES COLLECTED UNDER**  
26 **SUBSECTIONS (10) AND (11) IN THE COAL ASH CARE FUND ESTABLISHED IN**  
27 **SECTION 11550.**

1           (13) UPON RECEIPT OF A LICENSE APPLICATION FOR EITHER A COAL  
2 ASH IMPOUNDMENT OR A COAL ASH LANDFILL, THE DEPARTMENT SHALL DO ALL  
3 OF THE FOLLOWING:

4           (A) IMMEDIATELY SEND NOTICE TO THE CLERK OF THE MUNICIPALITY  
5 WHERE THE DISPOSAL AREA IS LOCATED AND THE DESIGNATED REGIONAL  
6 SOLID WASTE MANAGEMENT PLANNING AGENCY.

7           (B) PUBLISH A NOTICE IN A NEWSPAPER HAVING MAJOR CIRCULATION  
8 IN THE VICINITY OF THE DISPOSAL AREA.

9           (14) THE NOTICES UNDER SUBSECTION (13) SHALL MEET ALL OF THE  
10 FOLLOWING REQUIREMENTS:

11           (A) INCLUDE A MAP INDICATING THE LOCATION OF THE DISPOSAL AREA  
12 AND A DESCRIPTION OF THE DISPOSAL AREA.

13           (B) SPECIFY THE LOCATION WHERE THE COMPLETE APPLICATION  
14 PACKAGE MAY BE REVIEWED AND WHERE COPIES MAY BE OBTAINED.

15           (C) INDICATE THAT THE DEPARTMENT WILL ACCEPT COMMENTS FOR 45  
16 DAYS AFTER THE DATE OF PUBLICATION OF THE NOTICE.

17           (D) INDICATE THAT THE DEPARTMENT SHALL HOLD A PUBLIC MEETING  
18 IN THE AREA OF THE DISPOSAL AREA IF, WITHIN 15 DAYS AFTER THE DATE  
19 OF PUBLICATION OF THE NOTICE, ANY OF THE FOLLOWING OCCUR:

20           (i) A WRITTEN REQUEST FOR A PUBLIC MEETING IS SUBMITTED TO THE  
21 DEPARTMENT BY THE APPLICANT OR A MUNICIPALITY.

22           (ii) THE DEPARTMENT DETERMINES THAT THERE IS A SIGNIFICANT  
23 PUBLIC INTEREST IN OR KNOWN PUBLIC CONTROVERSY OVER THE APPLICATION  
24 OR THAT FOR ANY OTHER REASON A PUBLIC MEETING IS APPROPRIATE.

25           (15) A PUBLIC MEETING REFERRED TO IN SUBSECTION (14) (D) SHALL  
26 BE HELD AFTER THE DEPARTMENT MAKES A PRELIMINARY REVIEW OF THE  
27 APPLICATION AND ALL PERTINENT DATA AND BEFORE AN OPERATING LICENSE

1 IS ISSUED OR DENIED. DURING ITS REVIEW, THE DEPARTMENT SHALL  
2 CONSIDER INPUT PROVIDED AT THE PUBLIC MEETING.

3 (16) IF AN APPLICATION IS RETURNED TO THE APPLICANT AS  
4 ADMINISTRATIVELY INCOMPLETE, THE DEPARTMENT SHALL REFUND THE ENTIRE  
5 FEE. AN APPLICANT FOR A LICENSE, WITHIN 12 MONTHS AFTER A LICENSE  
6 DENIAL OR WITHDRAWAL OF A LICENSE APPLICATION, MAY RESUBMIT THE  
7 APPLICATION WITH THE ADDITIONAL INFORMATION AS NEEDED TO ADDRESS  
8 THE REASONS FOR DENIAL, WITHOUT BEING REQUIRED TO PAY AN ADDITIONAL  
9 APPLICATION FEE.

10 (17) ~~(10)~~The operating license application for a solid waste  
11 processing plant, solid waste transfer facility, other disposal  
12 area, or combination of these entities shall be accompanied by a  
13 fee equal to \$500.00.

14 (18) ~~(11)~~The **EXCEPT AS PROVIDED IN SUBSECTION (12)**, THE  
15 department shall deposit operating license application fees  
16 collected under this section in the perpetual care account of the  
17 solid waste management fund established in section 11550.

18 (19) ~~(12)~~A person who applies for an operating license for  
19 more than 1 type of disposal area at the same facility shall pay a  
20 fee equal to the sum of the applicable application fees listed in  
21 this section.

22 **SEC. 11512A. (1) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO A**  
23 **COAL ASH LANDFILL OR A COAL ASH IMPOUNDMENT UNLESS THE APPLICANT**  
24 **HAS PROVIDED TO THE DEPARTMENT BOTH OF THE FOLLOWING:**

25 **(A) AN APPROVED HYDROGEOLOGICAL MONITORING PROGRAM THAT DOES**  
26 **BOTH OF THE FOLLOWING:**

27 **(i) COMPLIES WITH R 299.4440 TO R 299.4445, IF APPLICABLE, AND**



1 R 299.4905 TO R 299.4908 OF THE PART 115 RULES.

2 (ii) INCLUDES A DETECTION MONITORING PROGRAM THAT MEETS THE  
3 REQUIREMENTS OF SECTION 11511A(3).

4 (B) ALL REPORTS AND OTHER INFORMATION REQUIRED UNDER 40 CFR  
5 257.90 FOR THE PRECEDING 5 YEARS, AS APPLICABLE. BASED ON THIS  
6 INFORMATION, THE DEPARTMENT SHALL DETERMINE WHETHER ANY ADDITIONAL  
7 LICENSING REQUIREMENTS ARE NECESSARY FOR THE COAL ASH LANDFILL OR  
8 COAL ASH IMPOUNDMENT. ANY REPORT OR OTHER INFORMATION AVAILABLE ON  
9 THE APPLICANT'S WEBSITE OR ALREADY SUBMITTED TO THE DEPARTMENT IS  
10 NOT REQUIRED TO BE PROVIDED WITH THE APPLICATION.

11 (2) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO A COAL ASH  
12 LANDFILL UNLESS THE APPLICANT HAS PROVIDED TO THE DEPARTMENT A RUN-  
13 ON AND RUN-OFF CONTROL SYSTEM PLAN THAT COMPLIES WITH 40 CFR  
14 257.81(C) (1) AND WAS PREPARED AND CERTIFIED BY A PROFESSIONAL  
15 ENGINEER PURSUANT TO R 299.4910(9) OF THE PART 115 RULES. THIS PLAN  
16 SHALL BE REVISED EVERY 5 YEARS IN COMPLIANCE WITH 40 CFR  
17 257.81(C) (4).

18 (3) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO A COAL ASH  
19 IMPOUNDMENT UNLESS THE APPLICANT HAS PROVIDED TO THE DEPARTMENT AN  
20 INFLOW DESIGN FLOOD CONTROL SYSTEM PLAN THAT COMPLIES WITH 40 CFR  
21 257.82(C) (1) AND WAS PREPARED AND CERTIFIED BY A PROFESSIONAL  
22 ENGINEER PURSUANT TO R 299.4910(9) OF THE PART 115 RULES. THIS PLAN  
23 SHALL BE REVISED EVERY 5 YEARS IN COMPLIANCE WITH 40 CFR  
24 257.82(C) (4).

25 (4) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO A COAL ASH  
26 LANDFILL OR A COAL ASH IMPOUNDMENT UNLESS THAT LANDFILL OR  
27 IMPOUNDMENT COMPLIES WITH SECTION 11511A(3) AND, IF APPLICABLE,

1 SECTION 11519B(4) OR A SCHEDULE, APPROVED BY THE DEPARTMENT, OF  
2 REMEDIAL MEASURES, INCLUDING A SEQUENCE OF ACTIONS OR OPERATIONS,  
3 THAT LEADS TO COMPLIANCE WITH THIS PART WITHIN A REASONABLE TIME  
4 PERIOD BUT NOT MORE THAN 2 YEARS AFTER THE EFFECTIVE DATE OF THE  
5 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

6 (5) THE DEPARTMENT SHALL NOT ISSUE A LICENSE FOR A COAL ASH  
7 IMPOUNDMENT THAT IS NOT A LOW-HAZARD-POTENTIAL COAL ASH IMPOUNDMENT  
8 UNLESS THE APPLICANT HAS PROVIDED TO THE DEPARTMENT AN EMERGENCY  
9 ACTION PLAN THAT COMPLIES WITH 40 CFR 257.74(A)(3) AND WAS PREPARED  
10 AND CERTIFIED BY A PROFESSIONAL ENGINEER PURSUANT TO R 299.4910(9)  
11 OF THE PART 115 RULES.

12 Sec. 11513. (1) A person shall not accept for disposal solid  
13 waste or municipal solid waste incinerator ash that is not  
14 generated in the county in which the disposal area is located  
15 unless the acceptance of solid waste or municipal solid waste  
16 incinerator ash that is not generated in the county is explicitly  
17 authorized in the approved county solid waste management plan.

18 (2) SUBSECTION (1) DOES NOT APPLY TO COAL ASH THAT IS ACCEPTED  
19 FOR DISPOSAL AT A CAPTIVE FACILITY THAT, AFTER THE EFFECTIVE DATE  
20 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, ACCEPTS ONLY  
21 NONHAZARDOUS INDUSTRIAL WASTE GENERATED ONLY BY THE OWNER OF THE  
22 LANDFILL OR COAL ASH IMPOUNDMENT OR ITS CORPORATE AFFILIATES.

23 (3) The department shall take action to enforce this section  
24 within 30 days of obtaining knowledge of a violation of this  
25 section.

26 Sec. 11515. (1) Upon receipt of a license application, the  
27 department or a health officer or an authorized representative of a

1 health officer shall inspect the site and determine if the proposed  
 2 operation complies with this part and the rules promulgated under  
 3 this part.

4 (2) The department shall not license a landfill facility **OR**  
 5 **COAL ASH IMPOUNDMENT** operating without an approved hydrogeologic  
 6 monitoring program until the department receives a hydrogeologic  
 7 monitoring program and the results of the program. The department  
 8 shall use this information in conjunction with other information  
 9 required by this part or the rules promulgated under this part to  
 10 determine a course of action regarding licensing of the facility  
 11 consistent with section 4005 of subtitle D of the solid waste  
 12 disposal act, title II of Public Law 89-272, 42 U.S.C.—**USC** 6945,  
 13 and with this part and the rules promulgated pursuant to this part.  
 14 In deciding a course of action, the department shall consider, at a  
 15 minimum, the health hazards, environmental degradation, and other  
 16 public or private alternatives. The department may ~~revoke~~ **DO ANY OF**  
 17 **THE FOLLOWING:**

18 (A) **REVOKE** a license. ~~or issue~~

19 (B) **DENY A LICENSE TO A COAL ASH IMPOUNDMENT THAT HAS NOT BEEN**  
 20 **PREVIOUSLY LICENSED UNDER THIS PART.**

21 (C) **ISSUE** a timetable or schedule to provide for compliance  
 22 for the ~~facility or operation,~~ **LANDFILL OR COAL ASH IMPOUNDMENT,**  
 23 specifying a schedule of remedial measures, including a sequence of  
 24 actions or operations, which leads to compliance with this part  
 25 within a reasonable time period but not ~~later~~ **MORE** than ~~December 2,~~  
 26 ~~1987.~~ **1 YEAR.**

27 Sec. 11516. (1) The department shall conduct a consistency

1 review before making a final decision on a license application. The  
2 department shall notify the clerk of the municipality in which the  
3 disposal area is located and the applicant of its approval or  
4 denial of a license application within 10 days after the final  
5 decision is made.

6 (2) An operating license shall expire 5 years after the date  
7 of issuance. An operating license may be renewed before expiration  
8 upon payment of a renewal application fee specified in section  
9 11512(8) if the licensee is in compliance with this part and the  
10 rules promulgated under this part.

11 (3) The issuance of the operating license under this part  
12 empowers the department or a health officer or an authorized  
13 representative of a health officer to enter at any reasonable time,  
14 pursuant to law, in or upon private or public property licensed  
15 under this part for the purpose of inspecting or investigating  
16 conditions relating to the storage, processing, or disposal of any  
17 material.

18 (4) Except as otherwise provided in this subsection, the  
19 department shall not issue an operating license for a new disposal  
20 area within a planning area unless a solid waste management plan  
21 for that planning area has been approved pursuant to sections 11536  
22 and 11537 and unless the disposal area complies with and is  
23 consistent with the approved solid waste management plan. ~~The~~  
24 ~~department may issue an operating license for a disposal area~~  
25 ~~designed to receive ashes produced in connection with the~~  
26 ~~combustion of fossil fuels for electrical power generation~~ **THIS**  
27 **SUBSECTION DOES NOT PROHIBIT THE ISSUANCE OF A LICENSE FOR A**

1 **CAPTIVE FACILITY THAT IS A COAL ASH IMPOUNDMENT OR A COAL ASH**

2 **LANDFILL** in the absence of an approved county solid waste  
3 management plan, upon receipt of a letter of approval from  
4 whichever county or counties, group of municipalities, or regional  
5 planning agency has prepared or is preparing the county solid waste  
6 management plan for that planning area under section 11533 and from  
7 the municipality in which the disposal area is to be located.

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

26 Sec. 11518. (1) At the time a disposal area that is a sanitary  
27 landfill is licensed, an instrument that imposes a restrictive

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

21 (2) This part does not prohibit the department from conveying,  
22 leasing, or permitting the use of state land for a solid waste  
23 disposal area or a resource recovery facility as provided by  
24 applicable state law.

25 **(3) WHEN A DISPOSAL AREA THAT IS A COAL ASH IMPOUNDMENT IS**  
26 **LICENSED UNDER THIS PART, AN INSTRUMENT THAT IMPOSES A RESTRICTIVE**  
27 **COVENANT UPON THE LAND INVOLVED SHALL BE EXECUTED BY ALL OF THE**

1 OWNERS OF THE TRACT OF LAND UPON WHICH THE IMPOUNDMENT IS LOCATED  
2 OR IS TO BE LOCATED AND THE DEPARTMENT. IF THE LAND INVOLVED IS  
3 OWNED BY THIS STATE, THE STATE ADMINISTRATIVE BOARD SHALL EXECUTE  
4 THE COVENANT ON BEHALF OF THIS STATE. THE INSTRUMENT IMPOSING THE  
5 RESTRICTIVE COVENANT SHALL BE FILED FOR RECORD BY THE DEPARTMENT OR  
6 A HEALTH OFFICER IN THE OFFICE OF THE REGISTER OF DEEDS OF THE  
7 COUNTY, OR COUNTIES, IN WHICH THE DISPOSAL AREA IS LOCATED. THE  
8 COVENANT SHALL STATE THAT THE LAND DESCRIBED IN THE COVENANT HAS  
9 BEEN OR WILL BE USED AS A COAL ASH IMPOUNDMENT AND THAT NEITHER THE  
10 PROPERTY OWNERS, THEIR SERVANTS, AGENTS, OR EMPLOYEES, NOR ANY OF  
11 THEIR HEIRS, SUCCESSORS, LESSEES, OR ASSIGNS SHALL ENGAGE IN  
12 FILLING, GRADING, EXCAVATING, DRILLING, OR MINING ON THE PROPERTY  
13 DURING THE FIRST 50 YEARS FOLLOWING COMPLETION OF THE IMPOUNDMENT  
14 WITHOUT AUTHORIZATION OF THE DEPARTMENT. IN GIVING AUTHORIZATION,  
15 THE DEPARTMENT SHALL CONSIDER THE ORIGINAL DESIGN, TYPE OF  
16 OPERATION, MATERIAL DEPOSITED, AND ANY REMOVAL OF THE MATERIALS AS  
17 PART OF THE CLOSURE OF THE IMPOUNDMENT.

18 (4) AN INDUSTRIAL WASTE LANDFILL MAY ACCEPT INDUSTRIAL WASTE  
19 OF DIFFERENT TYPES AND FROM DIFFERENT GENERATORS, BUT SHALL NOT  
20 ACCEPT HAZARDOUS WASTE GENERATED BY CONDITIONALLY EXEMPT SMALL  
21 QUANTITY GENERATORS.

22 SEC. 11519A. (1) THE OWNER OR OPERATOR OF AN EXISTING COAL ASH  
23 IMPOUNDMENT OR A COAL ASH IMPOUNDMENT LICENSED UNDER THIS PART  
24 SHALL DO ALL OF THE FOLLOWING:

25 (A) COMPLY WITH R 299.4311 OF THE PART 115 RULES.

26 (B) ENSURE THAT THE IMPOUNDMENT IS NOT IN VIOLATION OF PART 31  
27 OR PART 55 AND DOES NOT CREATE A NUISANCE.

1 (C) COMPLY WITH THE REQUIREMENTS OF 40 CFR 257.83, AS  
2 APPLICABLE. THE INSPECTION REPORT REQUIRED BY 40 CFR 257.83(B) (2)  
3 SHALL BE CERTIFIED BY A PROFESSIONAL ENGINEER PURSUANT TO R  
4 299.4910(9) OF THE PART 115 RULES.

5 (D) COMPLY WITH THE REQUIREMENTS OF 40 CFR 257.74(A) (2). THE  
6 HAZARD POTENTIAL CLASSIFICATION ASSESSMENT REPORTS SHALL BE  
7 CERTIFIED BY A PROFESSIONAL ENGINEER PURSUANT TO R 299.4910(9) OF  
8 THE PART 115 RULES. THIS ASSESSMENT SHALL BE REVISED EVERY 5 YEARS  
9 PURSUANT TO 40 CFR 257.74(F) (2).

10 (E) MAINTAIN IN THE OPERATING RECORD A HISTORY OF CONSTRUCTION  
11 THAT COMPLIES WITH 40 CFR 257.74(C) (1) (i) TO (xi).

12 (F) COMPLY WITH 40 CFR 257.74(D). THE PERIODIC STRUCTURAL  
13 STABILITY ASSESSMENT REPORTS SHALL BE CERTIFIED BY A PROFESSIONAL  
14 ENGINEER PURSUANT TO R 299.4910(9) OF THE PART 115 RULES. THIS  
15 ASSESSMENT SHALL BE REVISED EVERY 5 YEARS PURSUANT TO 40 CFR  
16 257.74(F) (2).

17 (G) COMPLY WITH 40 CFR 257.74(E). THE PERIODIC SAFETY FACTOR  
18 ASSESSMENT REPORTS SHALL BE CERTIFIED BY A PROFESSIONAL ENGINEER  
19 PURSUANT TO R 299.4910(9) OF THE PART 115 RULES. THIS ASSESSMENT  
20 SHALL BE REVISED EVERY 5 YEARS PURSUANT TO 40 CFR 257.74(F) (2).

21 (H) IMPLEMENT THE DETECTION MONITORING PROGRAM REQUIRED IN  
22 SECTIONS 11511A(3) AND 11512A(1) (A).

23 (I) COMPLY WITH REQUIREMENTS OF 40 CFR 257.82, AS APPLICABLE.  
24 THE INFLOW DESIGN FLOOD CONTROL PLAN SHALL BE CERTIFIED BY A  
25 PROFESSIONAL ENGINEER PURSUANT TO R 299.4910(9) OF THE PART 115  
26 RULES. THIS PLAN SHALL BE REVISED AT LEAST EVERY 5 YEARS PURSUANT  
27 TO 40 CFR 257.82(C) (4).



1           (2) THE OWNER OR OPERATOR OF AN EXISTING COAL ASH LANDFILL OR  
2 COAL ASH IMPOUNDMENT OR A COAL ASH LANDFILL OR IMPOUNDMENT LICENSED  
3 UNDER THIS PART SHALL DO ALL OF THE FOLLOWING:

4           (A) MAINTAIN A FUGITIVE DUST CONTROL PLAN THAT COMPLIES WITH  
5 40 CFR 257.80(B) AND IS CERTIFIED BY A REGISTERED PROFESSIONAL  
6 ENGINEER PURSUANT TO R 299.4910(9) OF THE PART 115 RULES. AN ANNUAL  
7 FUGITIVE DUST CONTROL REPORT SHALL BE PREPARED AND COMPLETED IN  
8 COMPLIANCE WITH 40 CFR 257.80(C) .

9           (B) MAINTAIN AN UP-TO-DATE OPERATING RECORD IN COMPLIANCE WITH  
10 40 CFR 257.105.

11           (C) MAINTAIN AN UP-TO-DATE PUBLICLY ACCESSIBLE INTERNET SITE  
12 IN COMPLIANCE WITH 40 CFR 257.107.

13           (3) THE OWNER OR OPERATOR OF AN EXISTING COAL ASH LANDFILL OR  
14 A COAL ASH LANDFILL LICENSED UNDER THIS PART SHALL COMPLY WITH BOTH  
15 OF THE FOLLOWING:

16           (A) THE REQUIREMENTS OF 40 CFR 257.84, AS APPLICABLE. THE  
17 INSPECTION REPORT REQUIRED BY 40 CFR 257.84(B) (2) SHALL BE  
18 CERTIFIED BY A PROFESSIONAL ENGINEER PURSUANT TO R 299.4910(9) OF  
19 THE PART 115 RULES.

20           (B) THE REQUIREMENTS OF 40 CFR 257.81, AS APPLICABLE. THE RUN-  
21 ON AND RUN-OFF CONTROL SYSTEM PLAN SHALL BE CERTIFIED BY A  
22 PROFESSIONAL ENGINEER PURSUANT TO R 299.4910(9) OF THE PART 115  
23 RULES. THIS PLAN SHALL BE REVISED EVERY 5 YEARS PURSUANT TO 40 CFR  
24 257.81(C) (4) .

25           (4) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
26 ACT THAT ADDED THIS SUBSECTION, THE OWNER OR OPERATOR OF AN  
27 EXISTING COAL ASH LANDFILL OR EXISTING COAL ASH IMPOUNDMENT SHALL

1 ASSESS WHETHER THE LANDFILL OR IMPOUNDMENT IS LOCATED IN AN  
2 UNSTABLE AREA AS DEFINED IN R 299.4409 OF THE PART 115 RULES. IF  
3 THE OWNER OR OPERATOR DETERMINES THAT THE LANDFILL, THE  
4 IMPOUNDMENT, OR A UNIT THEREOF IS LOCATED IN AN UNSTABLE AREA, THE  
5 OWNER OR OPERATOR SHALL CEASE PLACING COAL ASH INTO THE LANDFILL,  
6 IMPOUNDMENT, OR UNIT AND PROCEED TO CLOSE THE LANDFILL,  
7 IMPOUNDMENT, OR UNIT IN COMPLIANCE WITH THIS PART AND THE RULES  
8 PROMULGATED UNDER THIS PART.

9 SEC. 11519B. (1) PLACEMENT OF COAL ASH AND ASSOCIATED LIQUIDS  
10 INTO AN EXISTING COAL ASH IMPOUNDMENT OR COAL ASH IMPOUNDMENT  
11 LICENSED UNDER THIS PART IS PERMITTED AND SHALL BE CONDUCTED  
12 CONSISTENT WITH GOOD MANAGEMENT PRACTICES AS DEFINED IN SECTION  
13 11519A AND THIS SECTION.

14 (2) IF THE DETECTION MONITORING REQUIRED IN SECTIONS  
15 11511A(3), 11512A(1), AND 11519A(1)(H) CONFIRMS A STATISTICALLY  
16 SIGNIFICANT INCREASE OVER BACKGROUND FOR 1 OR MORE OF THE  
17 CONSTITUENTS LISTED IN SECTION 11511A(3), THE OWNER AND OPERATOR OF  
18 A COAL ASH LANDFILL OR COAL ASH IMPOUNDMENT SHALL COMPLY WITH R  
19 299.4440 AND 299.4441 OF THE PART 115 RULES, INCLUDING, AS  
20 APPLICABLE, CONDUCTING ASSESSMENT MONITORING AND PREPARATION OF A  
21 RESPONSE ACTION PLAN IN COMPLIANCE WITH R 299.4442 OF THE PART 115  
22 RULES. THE CONSTITUENTS TO BE MONITORED IN THE ASSESSMENT  
23 MONITORING PROGRAM SHALL INCLUDE THOSE LISTED IN SECTION 11511A(3)  
24 AND ALL OF THE FOLLOWING:

25 (A) ANTIMONY.

26 (B) ARSENIC.

27 (C) BARIUM.

1 (D) BERYLLIUM.

2 (E) CADMIUM.

3 (F) CHROMIUM.

4 (G) COBALT.

5 (H) COPPER.

6 (I) LEAD.

7 (J) LITHIUM.

8 (K) NICKEL.

9 (L) MERCURY.

10 (M) MOLYBDENUM.

11 (N) SELENIUM.

12 (O) SILVER.

13 (P) THALLIUM.

14 (Q) VANADIUM.

15 (R) ZINC.

16 (S) RADIUM 226 AND 228 COMBINED.

17 (3) THE CONSTITUENTS LISTED IN THIS SECTION SHALL BE ANALYZED  
18 BY METHODS SPECIFIED IN "STANDARD METHODS FOR THE EXAMINATION OF  
19 WATER AND WASTEWATER, 19TH EDITION", PUBLISHED BY THE UNITED STATES  
20 ENVIRONMENTAL PROTECTION AGENCY, OR BY OTHER METHODS APPROVED BY  
21 THE DIRECTOR OR HIS OR HER DESIGNEE.

22 (4) IF THE OWNER OR OPERATOR OF A COAL ASH LANDFILL OR COAL  
23 ASH IMPOUNDMENT IS OBLIGATED TO PREPARE A RESPONSE ACTION PLAN, THE  
24 OWNER OR OPERATOR SHALL COMPLY WITH R 299.4442 TO R 299.4445 OF THE  
25 PART 115 RULES, AS APPLICABLE.

26 (5) THE OWNER OR OPERATOR OF A COAL ASH LANDFILL SHALL PLACE  
27 LANDFILL COVER MATERIALS THAT ARE DESCRIBED IN R 299.4304 OF THE

1 PART 115 RULES OVER THE ENTIRE SURFACE OF EACH PORTION OF THE FINAL  
2 LIFT NOT MORE THAN 6 MONTHS AFTER THE FINAL PLACEMENT OF COAL ASH  
3 WITHIN THE LANDFILL OR LANDFILL UNIT.

4 (6) THE OWNER OR OPERATOR OF A COAL ASH IMPOUNDMENT SHALL  
5 BEGIN TO IMPLEMENT CLOSURE AS DESCRIBED IN R 299.4309(7) OF THE  
6 PART 115 RULES NOT MORE THAN 6 MONTHS AFTER THE FINAL PLACEMENT OF  
7 COAL ASH WITHIN THE IMPOUNDMENT AND SHALL DILIGENTLY PURSUE THE  
8 CLOSURE. THE CLOSURE SHALL BE COMPLETED IN COMPLIANCE WITH 40 CFR  
9 257.102(F) (1) AND (2).

10 (7) COAL ASH IMPOUNDMENTS OR COAL ASH LANDFILLS MAY BE CLOSED  
11 AS A TYPE III LANDFILL PURSUANT TO THE APPLICABLE RULES OR BY  
12 REMOVAL OF COAL ASH FROM THE IMPOUNDMENT AS DESCRIBED IN THIS PART.

13 (8) IF A COAL ASH IMPOUNDMENT IS CLOSED BY THE DATE THAT IS 2  
14 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
15 THIS SECTION AND THE DEPARTMENT ACCEPTS THE CERTIFICATION OF THE  
16 CLOSURE, THE OWNER IS NOT REQUIRED TO PROVIDE FINANCIAL ASSURANCE  
17 UNDER SECTION 11523 OR PAY INTO A PERPETUAL CARE FUND UNDER SECTION  
18 11525.

19 (9) CLOSURE BY REMOVAL OF COAL ASH UNDER SUBSECTION (7) IS  
20 COMPLETE WHEN EITHER OF THE FOLLOWING REQUIREMENTS ARE MET:

21 (A) THE OWNER OR OPERATOR CERTIFIES COMPLIANCE WITH THE  
22 REQUIREMENTS OF 40 CFR 257.102(C).

23 (B) THE OWNER OR OPERATOR CERTIFIES THAT TESTING CONFIRMS THAT  
24 CONSTITUENT CONCENTRATIONS REMAINING IN THE COAL ASH IMPOUNDMENT OR  
25 LANDFILL UNIT AND ANY CONCENTRATIONS OF SOIL OR GROUNDWATER  
26 AFFECTED BY RELEASES THEREFROM DO NOT EXCEED THE LESSER OF THE  
27 APPLICABLE STANDARDS ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION

1 20120A OR THE GROUNDWATER PROTECTION STANDARDS ESTABLISHED PURSUANT  
2 TO 40 CFR 257.95 (H) AND THE DEPARTMENT ACCEPTS THE CERTIFICATION  
3 OR, IF THE CONSTITUENT CONCENTRATIONS DO EXCEED THOSE STANDARDS,  
4 THE DEPARTMENT HAS APPROVED A REMEDY CONSISTENT WITH R 299.4444 AND  
5 R 299.4445 OF THE PART 115 RULES.

6 (10) UPON COMPLETION OF THE CLOSURE BY REMOVAL UNDER  
7 SUBSECTION (9), THE FINANCIAL ASSURANCE UNDER SECTION 11523 AND  
8 PERPETUAL CARE FUND UNDER SECTION 11525 SHALL BE TERMINATED, THE  
9 OWNER OR OPERATOR IS NOT REQUIRED TO PROVIDE FINANCIAL ASSURANCE OR  
10 CONTRIBUTE TO A PERPETUAL CARE FUND, AND ANY CLAIM TO THE ASSURANCE  
11 OR FUND BY THE DEPARTMENT IS TERMINATED AND RELEASED. THE  
12 TERMINATION AND RELEASE DO NOT IMPAIR THE DEPARTMENT'S AUTHORITY TO  
13 REQUIRE, WHETHER UPON COMPLETION OF CLOSURE UNDER SUBSECTION (9) (B)  
14 OR SUBSEQUENTLY, FINANCIAL ASSURANCE FOR CORRECTIVE ACTION AS  
15 PROVIDED UNDER THIS ACT.

16 SEC. 11519C. (1) IF ASSESSMENT MONITORING OF AN UNLINED COAL  
17 ASH IMPOUNDMENT CONFIRMS THE PRESENCE OF GROUNDWATER CONTAMINATION  
18 IN EXCESS OF MAXIMUM CONTAMINANT LEVELS IN EFFECT AS PROVIDED IN  
19 SECTION 6 OF THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL  
20 325.1006, OR A GROUNDWATER PROTECTION STANDARD ESTABLISHED UNDER 40  
21 CFR 257.95 (H), THE OWNER OR OPERATOR OF THE COAL ASH IMPOUNDMENT  
22 SHALL DO ALL OF THE FOLLOWING:

23 (A) NOTIFY THE DEPARTMENT OF THE CONFIRMATION WITHIN 14 DAYS.

24 (B) CEASE ACCEPTANCE OF COAL ASH AT THE IMPOUNDMENT WITHIN 180  
25 DAYS AFTER THE CONFIRMATION.

26 (C) BEGIN TO IMPLEMENT CLOSURE AS DESCRIBED IN R 299.4309 (7) OF  
27 THE PART 115 RULES NOT MORE THAN 180 DAYS AFTER SUCH CONFIRMATION

1 AND DILIGENTLY PURSUE THE CLOSURE. THE CLOSURE SHALL BE COMPLETED  
2 IN COMPLIANCE WITH 40 CFR 257.102(C), WITH 40 CFR 257.102(F) (1) AND  
3 (2), OR WITH 40 CFR 257.103.

4 (D) PREPARE A RESPONSE ACTION PLAN IN COMPLIANCE WITH R  
5 299.4442 OF THE PART 115 RULES AND SUBMIT THE RESPONSE ACTION PLAN  
6 TO THE DEPARTMENT FOR REVIEW AND APPROVAL. UPON RECEIPT OF  
7 DEPARTMENT APPROVAL, THE OWNER OR OPERATOR SHALL IMPLEMENT AND  
8 DILIGENTLY PURSUE THE RESPONSE ACTION PLAN AND SHALL COMPLY WITH R  
9 299.4443 TO 299.4445 OF THE PART 115 RULES.

10 (2) FOR PURPOSES OF THIS SECTION, "UNLINED COAL ASH  
11 IMPOUNDMENT" MEANS A COAL ASH IMPOUNDMENT WITHOUT A LINER AS  
12 DESCRIBED IN 40 CFR 257.70(B) OR ANOTHER CONSTRUCTION OR SYSTEM IN  
13 PLACE THAT IS DETERMINED BY THE DEPARTMENT TO BE AS PROTECTIVE AS A  
14 LINER AS DESCRIBED IN 40 CFR 257.70(B).

15 Sec. 11523. (1) The department shall not issue a license to  
16 operate a disposal area unless the applicant has filed, as a part  
17 of the application for a license, evidence of the following  
18 financial assurance:

19 (a) Financial assurance established for a type III landfill or  
20 a preexisting unit at a type II landfill and until April 9, 1997,  
21 existing and new type II landfills shall be in the form of a bond  
22 in an amount equal to \$20,000.00 per acre of licensed landfill  
23 within the solid waste boundary. However, the amount of the bond  
24 shall not be less than \$20,000.00 or more than \$1,000,000.00. Each  
25 bond shall provide assurance for the maintenance of the finished  
26 landfill site for a period of 30 years after the landfill or any  
27 approved portion is completed. In addition to this bond, a

1 perpetual care fund shall be maintained under section 11525.

2 (b) Financial assurance for a type II landfill that is an  
3 existing unit or a new unit shall be in an amount equal to the  
4 cost, in current dollars, of hiring a third party, to conduct  
5 closure, postclosure maintenance and monitoring, and if necessary,  
6 corrective action. An application for a type II landfill that is an  
7 existing unit or new unit shall demonstrate financial assurance in  
8 accordance with section 11523a.

9 (C) FINANCIAL ASSURANCE ESTABLISHED FOR AN EXISTING COAL ASH  
10 IMPOUNDMENT SHALL BE IN THE FORM OF A BOND IN AN AMOUNT EQUAL TO  
11 \$20,000.00 PER ACRE WITHIN THE IMPOUNDMENT BOUNDARY. HOWEVER, THE  
12 AMOUNT OF THE BOND SHALL NOT BE LESS THAN \$20,000.00 OR MORE THAN  
13 \$1,000,000.00. THE BOND SHALL PROVIDE ASSURANCE FOR THE MAINTENANCE  
14 OF THE FINISHED COAL ASH IMPOUNDMENT FOR A PERIOD OF 30 YEARS AFTER  
15 THE COAL ASH IMPOUNDMENT OR ANY APPROVED PORTION IS COMPLETED. IN  
16 ADDITION TO THE BOND, A PERPETUAL CARE FUND SHALL BE MAINTAINED  
17 UNDER SECTION 11525. FOR APPLICATIONS FOR A LICENSE TO OPERATE  
18 SUBMITTED TO THE DEPARTMENT AFTER THE DATE THAT IS 2 YEARS AFTER  
19 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 11511A,  
20 AN APPLICANT THAT DEMONSTRATES THAT IT MEETS THE REQUIREMENTS OF R  
21 299.9709 OF THE MICHIGAN ADMINISTRATIVE CODE MAY UTILIZE THE  
22 FINANCIAL TEST UNDER THAT RULE FOR AN AMOUNT NOT EXCEEDING 95% OF  
23 THE CLOSURE, POSTCLOSURE, AND CORRECTIVE ACTION COST ESTIMATE.

24 (D) ~~(e)~~—Financial assurance established for a solid waste  
25 transfer facility, incinerator, processing plant, other solid waste  
26 handling or disposal facility, or a combination of these utilized  
27 in the disposal of solid waste shall be in the form of a bond in an

1 amount equal to 1/4 of 1% of the construction cost of the facility,  
2 but shall not be less than \$4,000.00, and shall be continued in  
3 effect for a period of 2 years after the disposal area is closed.

4 (2) The owner or operator of a landfill may post a cash bond  
5 with the department instead of other bonding mechanisms to fulfill  
6 the remaining financial assurance requirements of this section. An  
7 owner or operator of a disposal area who elects to post cash as a  
8 bond shall accrue interest on that bond at the annual rate of 6%,  
9 to be accrued quarterly, except that the interest rate payable to  
10 an owner or operator shall not exceed the rate of interest accrued  
11 on the state common cash fund for the quarter in which an accrual  
12 is determined. Interest shall be paid to the owner or operator upon  
13 release of the bond by the department. Any interest greater than 6%  
14 shall be deposited in the state treasury to the credit of the  
15 general fund and shall be appropriated to the department to be used  
16 by the department for administration of this part.

17 (3) An owner or operator of a disposal area that is not a  
18 landfill who has accomplished closure in a manner approved by the  
19 department and in accordance with this part and the rules  
20 promulgated under this part, may request a 50% reduction in the  
21 bond during the 2-year period after closure. At the end of the 2-  
22 year period, the owner or operator may request that the department  
23 terminate the bond. The department shall approve termination of the  
24 bond within 60 days after the request is made if all waste and  
25 waste residues have been removed from the disposal area and closure  
26 is certified.

27 (4) The department may utilize a bond required under this



1 section for the closure and postclosure monitoring and maintenance  
2 of a disposal area if the owner or operator fails to comply with  
3 the closure and postclosure monitoring and maintenance requirements  
4 of this part and the rules promulgated under this part to the  
5 extent necessary to correct such violations. At least 7 days before  
6 utilizing the bond, the department shall issue a notice of  
7 violation or other order that alleges violation of this part or  
8 rules promulgated under this part and provide an opportunity for a  
9 hearing. This subsection does not apply to a perpetual care fund  
10 bond.

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

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

21 (b) In the case of a perpetual care fund bond, the issuing  
22 institution shall deposit the proceeds into the standby trust or  
23 escrow account unless the department agrees to the expiration or  
24 cancellation of the perpetual care fund bond.

25 (6) The department shall not issue a construction permit or a  
26 new license to operate a disposal area to an applicant that is the  
27 subject of a bankruptcy action commenced under title 11 of the

1 United States Code, 11 USC 101 to 1532, or any other predecessor or  
2 successor statute.

3 (7) A person required under this section to provide financial  
4 assurance in the form of a bond for a landfill may request a  
5 reduction in the bond based upon the amount of the perpetual care  
6 fund established under section 11525. A person requesting a bond  
7 reduction shall do so on a form consistent with this part and  
8 provided by the department. The department shall grant this request  
9 unless there are sufficient grounds for denial and those reasons  
10 are provided in writing. The department shall grant or deny a  
11 request for a reduction of the bond within 60 days after the  
12 request is made. If the department grants a request for a reduced  
13 bond, the department shall require a bond in an amount such that  
14 for type III landfills, and type II landfills that are preexisting  
15 units, the amount of the perpetual care fund plus the amount of the  
16 reduced bond equals the maximum amount required in a perpetual care  
17 fund in section 11525(2).

18 (8) The department shall release the bond required by this  
19 section if the amount of the perpetual care fund exceeds the amount  
20 of the financial assurance required under subsection (1).

21 (9) Prior to closure of a landfill, if money is disbursed from  
22 the perpetual care fund, then the department may require a  
23 corresponding increase in the amount of bonding required to be  
24 provided if necessary to meet the requirements of this section.

25 (10) If an owner or operator of a disposal area fulfills the  
26 financial assurance requirements of this part by obtaining a bond,  
27 including, but not limited to, a perpetual care fund bond, and the

1 surety company, insurer, trustee, bank, or financial or other  
2 institution that issued or holds the bond becomes the subject of a  
3 bankruptcy action or has its authority to issue or hold the bond or  
4 to act as an escrow agent or trustee suspended or revoked, the  
5 owner or operator shall, within 60 days after receiving notice of  
6 that event, establish alternate financial assurance under this  
7 part.

8       Sec. 11523a. (1) Effective April 9, 1997, the department shall  
9 not issue a license to operate a type II landfill unless the  
10 applicant demonstrates that for any new unit or existing unit at  
11 the facility, the combination of the perpetual care fund  
12 established under section 11525, bonds, and the financial  
13 capability of the applicant as evidenced by a financial test,  
14 provides financial assurance in an amount not less than that  
15 required by this section. An applicant may utilize a financial test  
16 for an amount up to, but not exceeding, 70% of the closure,  
17 postclosure, and corrective action cost estimate.

18       (2) An applicant may demonstrate compliance with this section  
19 by submitting evidence, with a form consistent with this part and  
20 provided by the department, that the applicant has financial  
21 assurance for any existing unit or new unit in an amount equal to  
22 or greater than the sum of the following standardized costs:

23       (a) A standard closure cost estimate. The standard closure  
24 cost estimate shall be based upon the sum of the following costs in  
25 1996 dollars, adjusted for inflation and partial closures, if any,  
26 as specified in subsections (4) and (5):

27       (i) A base cost of \$20,000.00 per acre to construct a

1 compacted soil final cover using on-site material.

2 (ii) A supplemental cost of \$20,000.00 per acre, to install a  
3 synthetic cover liner, if required by rules under this part.

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

8 (iv) A supplemental cost of \$5,000.00 per acre, to construct a  
9 passive gas collection system in the final cover, unless an active  
10 gas collection system has been installed at the facility.

11 (b) A standard postclosure cost estimate. The standard  
12 postclosure cost estimate shall be based upon the sum of the  
13 following costs, adjusted for inflation as specified in section  
14 11525(2):

15 (i) A final cover maintenance cost of \$200.00 per acre per  
16 year.

17 (ii) A leachate disposal cost of \$100.00 per acre per year.

18 (iii) A leachate transportation cost of \$1,000.00 per acre per  
19 year, if leachate is required to be transported off-site for  
20 treatment.

21 (iv) A groundwater monitoring cost of \$1,000.00 per monitoring  
22 well per year.

23 (v) A gas monitoring cost of \$100.00 per monitoring point per  
24 year, for monitoring points used to detect landfill gas at or  
25 beyond the facility property boundary.

26 (c) The corrective action cost estimate, if any. The  
27 corrective action cost estimate shall be a detailed written

1 estimate, in current dollars, of the cost of hiring a third party  
2 to perform corrective action in accordance with this part.

3 (3) Instead of using some or all of the standardized costs  
4 specified in subsection (2), an applicant may estimate the site  
5 specific costs of closure or postclosure maintenance and  
6 monitoring. A site specific cost estimate shall be a written  
7 estimate, in current dollars, of the cost of hiring a third party  
8 to perform the activity. For the purposes of this subsection, a  
9 parent corporation or a subsidiary of the owner or operator is not  
10 a third party. Site specific cost estimates shall be based on the  
11 following:

12 (a) For closure, the cost to close the largest area of the  
13 landfill ever requiring a final cover at any time during the active  
14 life, when the extent and manner of its operation would make  
15 closure the most expensive, in accordance with the approved closure  
16 plan. The closure cost estimate may not incorporate any salvage  
17 value that may be realized by the sale of structures, land,  
18 equipment, or other assets associated with the facility at the time  
19 of final closure.

20 (b) For postclosure, the cost to conduct postclosure  
21 maintenance and monitoring in accordance with the approved  
22 postclosure plan for the entire postclosure period.

23 (4) The owner or operator of a landfill subject to this  
24 section shall, during the active life of the landfill and during  
25 the postclosure care period, annually adjust the financial  
26 assurance cost estimates and corresponding amount of financial  
27 assurance for inflation. Cost estimates shall be adjusted for

1 inflation by multiplying the cost estimate by an inflation factor  
2 derived from the most recent United States ~~department~~ **DEPARTMENT** of  
3 the ~~interior, bureau~~ **INTERIOR, BUREAU** of ~~reclamation~~ **RECLAMATION**  
4 composite index published by the United States ~~department~~  
5 **DEPARTMENT** of ~~commerce~~ **COMMERCE** or another index that is more  
6 representative of the costs of closure and postclosure monitoring  
7 and maintenance as determined appropriate by the department. The  
8 owner or operator shall document the adjustment on a form  
9 consistent with this part as prepared by the department and shall  
10 place the documentation in the operating record of the facility.

11 (5) The owner or operator of a landfill subject to this  
12 section may request that the department authorize a reduction in  
13 the approved cost estimates and corresponding financial assurance  
14 for the landfill by submitting a form consistent with this part and  
15 provided by the department certifying completion of any of the  
16 following activities:

17 (a) Partial closure of the landfill. The current closure cost  
18 estimate for partially closed portions of a landfill unit may be  
19 reduced by 80%, if the maximum waste slope on the unclosed portions  
20 of the unit does not exceed 25%. The percentage of the cost  
21 estimate reduction approved by the department for the partially  
22 closed portion shall be reduced 1% for every 1% increase in the  
23 slope of waste over 25% in the active portion. An owner or operator  
24 requesting a reduction in financial assurance for partial closure  
25 shall enclose with the request a certification under the seal of a  
26 licensed professional engineer that certifies both of the  
27 following:

1           (i) That a portion of the licensed landfill unit has reached  
2 final grades and has had a final cover installed in compliance with  
3 the approved closure plan and rules promulgated under this part.

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

6           (b) Final closure of the landfill. An owner or operator  
7 requesting a cost estimate reduction for final closure shall submit  
8 a certification under the seal of a licensed professional engineer  
9 that closure of that landfill unit has been fully completed in  
10 accordance with the approved closure plan for the landfill. Within  
11 60 days of receiving a certification under this subsection, the  
12 department shall perform a consistency review of the submitted  
13 certification and do 1 of the following:

14           (i) Approve the certification and notify the owner or operator  
15 that he or she may reduce the closure cost estimate to zero.

16           (ii) Disapprove the certification and provide the owner or  
17 operator with a detailed written statement of the reasons why the  
18 department has determined that closure certification has not been  
19 conducted in accordance with this part, the rules promulgated under  
20 this part, or an approved closure plan.

21           (c) Postclosure maintenance and monitoring. The owner or  
22 operator of a landfill unit who has completed final closure of the  
23 unit may request a reduction in the postclosure cost estimate and  
24 corresponding financial assurance for 1 year or more of postclosure  
25 maintenance and monitoring if the landfill has been monitored and  
26 maintained in accordance with the approved postclosure plan. The  
27 department shall, within 60 days of receiving a cost estimate

1 reduction request grant written approval or issue a written denial  
2 stating the reason for denial. The department shall grant the  
3 request and the owner or operator may reduce the postclosure cost  
4 estimate to reflect the number of years remaining in the  
5 postclosure period unless the department denies the request and the  
6 written denial states that the owner or operator has not performed  
7 the specific tasks consistent with this part, rules promulgated  
8 under this part, and an approved plan.

9 (6) The owner or operator of a landfill subject to this  
10 section may request a reduction in the amount of one or more of the  
11 financial assurance mechanisms in place. If the combined value of  
12 the remaining financial assurance mechanisms equals the amount  
13 required under this section, the department shall approve the  
14 request.

15 (7) An owner or operator requesting that the department  
16 approve a financial assurance reduction under subsection (5) or (6)  
17 shall do so on a form consistent with this part and provided by the  
18 department. The department shall grant written approval or, within  
19 60 days of receiving a financial assurance reduction request, issue  
20 a written denial stating the reason for the denial.

21 Sec. 11523b. (1) The owner or operator of a landfill **OR COAL**  
22 **ASH IMPOUNDMENT** may establish a trust fund or escrow account to  
23 fulfill the requirements of sections 11523 and 11523a. The trust  
24 fund or escrow account shall be executed on a form provided by the  
25 department.

26 (2) Payments into a trust fund or escrow account shall be made  
27 annually over the term of the first operating license issued after



1 the effective date of this section. The first payment into a trust  
2 fund or escrow account shall be made prior to licensure and shall  
3 be at least equal to the portion of the financial assurance  
4 requirement to be covered by the trust fund or escrow account  
5 divided by the term of the operating license. Subsequent payments  
6 shall be equal to the remaining financial assurance requirement  
7 divided by the number of years remaining until the license expires.

8 (3) If the owner or operator of a landfill **OR COAL ASH**  
9 **IMPOUNDMENT** establishes a trust fund or escrow account after having  
10 used one or more alternate forms of financial assurance, the  
11 initial payment into the trust fund or escrow account shall be at  
12 least the amount the fund would contain if the fund were  
13 established initially and annual payments made according to  
14 subsection (2).

15 (4) All earnings and interest from a trust fund or escrow  
16 account shall be credited to the fund or account. However, the  
17 custodian may be compensated for reasonable fees and costs for his  
18 or her responsibilities as custodian. The custodian shall ensure  
19 the filing of all required tax returns for which the trust fund or  
20 escrow account is liable and shall disburse funds from earnings to  
21 pay lawfully due taxes owed by the trust fund or escrow account,  
22 without permission of the department.

23 (5) The custodian shall annually, 30 days preceding the  
24 anniversary date of establishment of the fund, furnish to the owner  
25 or operator and to the department a statement confirming the value  
26 of the fund or account as of the end of that month.

27 (6) The owner or operator may request that the department

1 authorize the release of funds from a trust fund or escrow account.  
2 The department shall grant the request if the owner or operator  
3 demonstrates that the value of the fund or account exceeds the  
4 owner's or operator's financial assurance obligation. A payment or  
5 disbursement from the fund or account shall not be made without the  
6 prior written approval of the department.

7 (7) The owner or operator shall receive all interest or  
8 earnings from a trust fund or escrow account upon its termination.

9 (8) ~~For purposes of~~ **AS USED IN** this section, ~~the term~~  
10 "custodian" means the trustee of a trust fund or escrow agent of an  
11 escrow account.

12 Sec. 11525. (1) The owner or operator of a landfill **OR COAL**  
13 **ASH IMPOUNDMENT** shall establish and maintain a perpetual care fund  
14 for a period of 30 years after final closure of the landfill **OR**  
15 **COAL ASH IMPOUNDMENT** as specified in this section. A perpetual care  
16 fund may be established as a trust, an escrow account, or a  
17 perpetual care fund bond and may be used to demonstrate financial  
18 assurance for type II **AND TYPE III** landfills **AND COAL ASH**  
19 **IMPOUNDMENTS** under ~~section~~ **SECTIONS** 11523 and ~~section~~ 11523a.

20 (2) Except as otherwise provided in this section, the owner or  
21 operator of a landfill shall increase the amount of his or her  
22 perpetual care fund 75 cents for each ton or portion of a ton or 25  
23 cents for each cubic yard or portion of a cubic yard of solid waste  
24 that is disposed of in the landfill after June 17, 1990 until the  
25 fund reaches the maximum required fund amount. As of July 1, 1996,  
26 the maximum required fund amount **FOR A LANDFILL OR COAL ASH**  
27 **IMPOUNDMENT** is \$1,156,000.00. This amount shall be annually

1 adjusted for inflation and rounded to the nearest thousand. The  
 2 department shall adjust the maximum required fund amount for  
 3 inflation annually by multiplying the amount by an inflation factor  
 4 derived from the most recent ~~bureau~~**UNITED STATES DEPARTMENT OF THE**  
 5 **INTERIOR, BUREAU** of ~~reclamation~~**RECLAMATION** composite index  
 6 published by the United States ~~department~~**DEPARTMENT** of ~~commerce~~  
 7 **COMMERCE** or another index more representative of the costs of  
 8 closure and postclosure monitoring and maintenance as determined  
 9 appropriate by the department. Increases to the amount of a  
 10 perpetual care fund required under this subsection shall be  
 11 calculated based on solid waste disposed of in the landfill as of  
 12 the end of the state fiscal year and shall be made within 30 days  
 13 after the end of each state fiscal year.

14 (3) The owner or operator of a landfill **OR COAL ASH**  
 15 **IMPOUNDMENT** that is used for the disposal of the following  
 16 materials shall increase the amount of the perpetual care fund 7.5  
 17 cents for each ton or cubic yard or portion of a ton or cubic yard  
 18 of the following materials that are disposed of in the landfill  
 19 ~~after June 17, 1990:~~**OR COAL ASH IMPOUNDMENT AFTER THE EFFECTIVE**  
 20 **DATE OF THE AMENDATORY ACT THAT ADDED SECTION 11511A UNTIL THE FUND**  
 21 **REACHES THE MAXIMUM REQUIRED FUND AMOUNT UNDER SUBSECTION (2):**

22 (a) Coal ash, wood ash, or cement kiln dust that is disposed  
 23 of in a landfill that is used only for the disposal of coal ash,  
 24 wood ash, or cement kiln dust, or a combination of these materials,  
 25 or that is permanently segregated in a landfill.

26 (b) Wastewater treatment sludge or sediments from wood pulp or  
 27 paper producing industries that is disposed of in a landfill that

1 is used only for the disposal of wastewater treatment sludge and  
2 sediments from wood pulp or paper producing industries, or that is  
3 permanently segregated in a landfill.

4 (c) Foundry sand or other material that is approved by the  
5 department for use as daily cover at an operating landfill, that is  
6 disposed of in a landfill that is used only for the disposal of  
7 foundry sand, or that is permanently segregated in a landfill.

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

15 (5) The amount of a perpetual care fund is not required to be  
16 increased for materials that are regulated under part 631.

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

20 (7) The custodian of a perpetual care fund trust or escrow  
21 account shall be a bank or other financial institution that has the  
22 authority to act as a custodian and whose account operations are  
23 regulated and examined by a federal or state agency. Until the  
24 perpetual care fund trust or escrow account reaches the maximum  
25 required fund amount, the custodian of a perpetual care fund trust  
26 or escrow account shall credit any interest and earnings of the  
27 perpetual care fund trust or escrow account to the perpetual care

1 fund trust or escrow account. After the perpetual care fund trust  
2 or escrow account reaches the maximum required fund amount, any  
3 interest and earnings shall be distributed as directed by the owner  
4 or operator. The agreement governing the operation of the perpetual  
5 care fund trust or escrow account shall be executed on a form  
6 consistent with this part and provided by the department. The  
7 custodian may be compensated from the fund for reasonable fees and  
8 costs incurred for his or her responsibilities as custodian. The  
9 custodian of a perpetual care fund trust or escrow account shall  
10 make an accounting to the department within 30 days following the  
11 close of each state fiscal year.

12 (8) The custodian of a perpetual care fund shall not disburse  
13 any funds to the owner or operator of a landfill **OR COAL ASH**  
14 **IMPOUNDMENT** for the purposes of the perpetual care fund except upon  
15 the prior written approval of the department. However, the  
16 custodian shall ensure the filing of all required tax returns for  
17 which the perpetual care fund is liable and shall disburse funds to  
18 pay lawfully due taxes owed by the perpetual care fund without  
19 permission of the department. The owner or operator of the landfill  
20 **OR COAL ASH IMPOUNDMENT** shall provide notice of requests for  
21 disbursement and denials and approvals to the custodian of the  
22 perpetual care fund. Requests for disbursement from a perpetual  
23 care fund shall be submitted not more frequently than semiannually.  
24 The owner or operator of a landfill **OR COAL ASH IMPOUNDMENT** may  
25 request disbursement of funds from a perpetual care fund whenever  
26 the amount of money in the fund exceeds the maximum required fund  
27 amount. The department shall approve the disbursement if the total

1 amount of financial assurance maintained meets the requirements of  
2 sections 11523 and 11523a. As used in this subsection, "maximum  
3 required fund amount" means:

4 (a) For those landfills **OR COAL ASH IMPOUNDMENTS** containing  
5 only those materials specified in subsection (3), an amount equal  
6 to 1/2 of the maximum required fund amount specified in subsection  
7 (2).

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

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

23 (10) Upon approval by the department of a request to terminate  
24 financial assurance for a landfill **OR COAL ASH IMPOUNDMENT** under  
25 section 11525b, any money in the perpetual care fund for that  
26 landfill **OR COAL ASH IMPOUNDMENT** shall be disbursed by the  
27 custodian to the owner of the landfill **OR COAL ASH IMPOUNDMENT**

1 unless a contract between the owner and the operator ~~of the~~  
2 ~~landfill~~ provides otherwise.

3 (11) The owner of a landfill **OR COAL ASH IMPOUNDMENT** shall  
4 provide notice to the custodian of the perpetual care fund for that  
5 landfill **OR COAL ASH IMPOUNDMENT** if there is a change of ownership  
6 of the landfill. The custodian shall maintain records of ownership  
7 of a landfill **OR COAL ASH IMPOUNDMENT** during the period of  
8 existence of the perpetual care fund.

9 (12) This section does not relieve an owner or operator of a  
10 landfill **OR COAL ASH IMPOUNDMENT** of any liability that he or she  
11 may have under this part or as otherwise provided by law.

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

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

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

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

24 (15) A perpetual care fund that is established as a trust or  
25 escrow account may be replaced with a perpetual care fund that is  
26 established as a perpetual care fund bond that complies with this  
27 section. Upon such replacement, the director shall authorize the

1 custodian of the trust or escrow account to disburse the money in  
2 the trust or escrow account to the owner of the landfill **OR COAL**  
3 **ASH IMPOUNDMENT** unless a contract between the owner and operator of  
4 ~~the landfill~~ specifies otherwise.

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

17 (a) Payments into the standby trust or escrow account as  
18 specified in subsection (2).

19 (b) Annual accounting valuations as required in subsection  
20 (7).

21 Sec. 11525a. (1) The owner or operator of a landfill **OR COAL**  
22 **ASH IMPOUNDMENT** shall pay a surcharge as follows:

23 (a) ~~Except as provided in subdivision (b),~~ **FOR A LANDFILL OR**  
24 **COAL ASH IMPOUNDMENT THAT IS NOT A CAPTIVE FACILITY**, 12 cents for  
25 each cubic yard or portion of a cubic yard of solid waste or  
26 municipal solid waste incinerator ash that is disposed of in the  
27 landfill **OR COAL ASH IMPOUNDMENT** before October 1, 2019.



1 (b) For ~~A~~ type III ~~landfills~~ **LANDFILL OR COAL ASH IMPOUNDMENT**  
2 that ~~are~~ **IS A** captive ~~facilities,~~ **FACILITY**, the following annual  
3 amounts:

4 (i) For a captive facility that receives 100,000 or more cubic  
5 yards of waste, \$3,000.00.

6 (ii) For a captive facility that receives 75,000 or more but  
7 less than 100,000 cubic yards of waste, \$2,500.00.

8 (iii) For a captive facility that receives 50,000 or more but  
9 less than 75,000 cubic yards of waste, \$2,000.00.

10 (iv) For a captive facility that receives 25,000 or more but  
11 less than 50,000 cubic yards of waste, \$1,000.00.

12 (v) For a captive facility that receives less than 25,000  
13 cubic yards of waste, \$500.00.

14 (2) The owner or operator of a landfill **OR COAL ASH**  
15 **IMPOUNDMENT THAT IS NOT A CAPTIVE FACILITY** shall pay the surcharge  
16 under subsection (1) (a) within 30 days after the end of each  
17 quarter of the state fiscal year. The owner or operator of a type  
18 III landfill **OR COAL ASH IMPOUNDMENT** that is a captive facility  
19 shall pay the surcharge under subsection (1) (b) by January 31 of  
20 each year.

21 (3) The owner or operator of a landfill **OR COAL ASH**  
22 **IMPOUNDMENT** who is required to pay the surcharge under subsection  
23 (1) shall pass through and collect the surcharge from any person  
24 who generated the solid waste or who arranged for its delivery to  
25 the solid waste hauler or transfer facility notwithstanding the  
26 provisions of any contract or agreement to the contrary or the  
27 absence of any contract or agreement.

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

4 ~~(5) As used in this section, "captive facility" means a~~  
5 ~~landfill that accepts for disposal only nonhazardous industrial~~  
6 ~~waste generated only by the owner of the landfill or a nonhazardous~~  
7 ~~industrial waste landfill that is described in section 11525(3).~~

8 Sec. 11525b. (1) The owner or operator of a disposal area  
9 shall provide continuous financial assurance coverage until  
10 released from these requirements by the department under the  
11 provisions of this part.

12 (2) The owner or operator of a landfill **OR COAL ASH**  
13 **IMPOUNDMENT** who has completed postclosure maintenance and  
14 monitoring ~~of the landfill~~ in accordance with this part, rules  
15 promulgated under this part, and approved postclosure plan may  
16 request that financial assurance required by sections 11523 and  
17 11523a be terminated. A person requesting termination of bonding  
18 and financial assurance shall submit to the department a statement  
19 that the landfill **OR COAL ASH IMPOUNDMENT** has been monitored and  
20 maintained in accordance with this part, rules promulgated under  
21 this part, and the approved postclosure plan for the postclosure  
22 period specified in section 11523 and shall certify that the  
23 landfill **OR COAL ASH IMPOUNDMENT** is not subject to corrective  
24 action under section 11515. Within 60 days of receiving a statement  
25 under this subsection, the department shall perform a consistency  
26 review of the submitted statement and do 1 of the following:

27 (a) Approve the statement, notify the owner or operator that

1 he or she is no longer required to maintain financial assurance,  
2 return or release all financial assurance mechanisms, and, if the  
3 perpetual care fund is established as a trust or escrow account,  
4 notify the custodian of the perpetual care fund that money from the  
5 fund shall be disbursed as provided in section 11525(10).

6 (b) Disapprove the statement and provide the owner or operator  
7 with a detailed written statement of the reasons why the department  
8 has determined that postclosure maintenance and monitoring and  
9 corrective action, if any, have not been conducted in accordance  
10 with this part, the rules promulgated under this part, or an  
11 approved postclosure plan.

12 Sec. 11528. (1) A solid waste transporting unit used for  
13 garbage, industrial or domestic sludges, or other moisture laden  
14 materials not specifically covered by part 121 shall be watertight  
15 and constructed, maintained, and operated to prevent littering.  
16 Solid waste transporting units used for hauling other solid waste  
17 shall be designed and operated to prevent littering or any other  
18 nuisance.

19 (2) A solid waste hauler who violates this part or the rules  
20 promulgated under this part is subject to the penalties provided in  
21 this part.

22 (3) The department, a health officer, or a law enforcement  
23 officer may order a solid waste transporting unit out of service if  
24 the unit does not ~~satisfy~~**COMPLY WITH** the requirements of this part  
25 or the rules promulgated under this part. Continued use of a solid  
26 waste transporting unit ordered out of service is a violation of  
27 this part.

1           Sec. 11538. (1) Not later than September 11, 1979, the  
2 director shall promulgate rules for the development, form, and  
3 submission of initial solid waste management plans. The rules shall  
4 require all of the following:

5           (a) The establishment of goals and objectives for prevention  
6 of adverse effects on the public health and on the environment  
7 resulting from improper solid waste collection, processing, or  
8 disposal including protection of surface and groundwater quality,  
9 air quality, and the land.

10           (b) An evaluation of waste problems by type and volume,  
11 including residential and commercial solid waste, hazardous waste,  
12 industrial sludges, pretreatment residues, municipal sewage sludge,  
13 air pollution control residue, and other wastes from industrial or  
14 municipal sources.

15           (c) An evaluation and selection of technically and  
16 economically feasible solid waste management options, which may  
17 include sanitary landfill, resource recovery systems, resource  
18 conservation, or a combination of options.

19           (d) An inventory and description of all existing facilities  
20 where solid waste is being treated, processed, or disposed of,  
21 including a summary of the deficiencies, if any, of the facilities  
22 in meeting current solid waste management needs.

23           (e) The encouragement and documentation as part of the solid  
24 waste management plan, of all opportunities for participation and  
25 involvement of the public, all affected agencies and parties, and  
26 the private sector.

27           (f) That the solid waste management plan contain enforceable

1 mechanisms for implementing the plan, including identification of  
2 the municipalities within the county responsible for the  
3 enforcement and may contain a mechanism for the county and those  
4 municipalities to assist the department and the state police in  
5 implementing and conducting the inspection program established in  
6 section 11526(2) and (3). This subdivision does not preclude the  
7 private sector's participation in providing solid waste management  
8 services consistent with the solid waste management plan for the  
9 county.

10 (g) Current and projected population densities of each county  
11 and identification of population centers and centers of solid waste  
12 generation, including industrial wastes.

13 (h) That the solid waste management plan area has, and will  
14 have during the plan period, access to a sufficient amount of  
15 available and suitable land, accessible to transportation media, to  
16 accommodate the development and operation of solid waste disposal  
17 areas, or resource recovery facilities provided for in the plan.

18 (i) That the solid waste disposal areas or resource recovery  
19 facilities provided for in the solid waste management plan are  
20 capable of being developed and operated in compliance with state  
21 law and rules of the department pertaining to protection of the  
22 public health and the environment, considering the available land  
23 in the plan area, and the technical feasibility of, and economic  
24 costs associated with, the facilities.

25 (j) A timetable or schedule for implementing the solid waste  
26 management plan.

27 (2) Each solid waste management plan shall identify specific

1 sites for solid waste disposal areas for a 5-year period after  
2 approval of a plan or plan update. In calculating disposal need  
3 requirements to measure compliance with this section, only those  
4 existing waste stream volume reduction levels achieved through  
5 source reduction, reuse, composting, recycling, or incineration, or  
6 any combination of these reduction devices, that can currently be  
7 demonstrated or that can be reasonably expected to be achieved  
8 through currently active implementation efforts for proposed volume  
9 reduction projects, may be assumed by the planning entity. In  
10 addition, if the solid waste management plan does not also identify  
11 specific sites for solid waste disposal areas for the remaining  
12 portion of the entire planning period required by this part after  
13 approval of a plan or plan update, the solid waste management plan  
14 shall include an interim siting mechanism and an annual  
15 certification process as described in subsections ~~(3)~~**(4)** and ~~(4)~~  
16 **(5)**. In calculating the capacity of identified disposal areas to  
17 determine if disposal needs are met for the entire required  
18 planning period, full achievement of the solid waste management  
19 plan's volume reduction goals may be assumed by the planning entity  
20 if the plan identifies a detailed programmatic approach to  
21 achieving these goals. If a siting mechanism is not included, and  
22 disposal capacity falls to less than 5 years of capacity, a county  
23 shall amend the solid waste management plan for that county to  
24 resolve the shortfall.

25 **(3) AN EXISTING CAPTIVE TYPE III COAL ASH LANDFILL OR EXISTING**  
26 **CAPTIVE COAL ASH IMPOUNDMENT, OR BOTH, IS CONSIDERED CONSISTENT**  
27 **WITH AND INCLUDED IN THE SOLID WASTE MANAGEMENT PLAN FOR THE COUNTY**

1 OR REGION IN WHICH THE DISPOSAL AREA IS LOCATED IF THE DISPOSAL  
2 AREA CONTINUES TO ACCEPT WASTE GENERATED ONLY BY THE OWNER OF THE  
3 DISPOSAL AREA AND MEETS ANY OF THE FOLLOWING REQUIREMENTS:

4 (A) WAS ISSUED A CONSTRUCTION PERMIT AND LICENSED FOR  
5 OPERATION UNDER THIS PART.

6 (B) MET LOCAL LAND USE LAW REQUIREMENTS WHEN INITIALLY SITED  
7 OR CONSTRUCTED.

8 (4) ~~(3)~~—An interim siting mechanism shall include both a  
9 process and a set of minimum siting criteria, both of which are not  
10 subject to interpretation or discretionary acts by the planning  
11 entity, and which if met by an applicant submitting a disposal area  
12 proposal, will guarantee a finding of consistency with the plan.  
13 The interim siting mechanism shall be operative upon the call of  
14 the board of commissioners or shall automatically be operative  
15 whenever the annual certification process shows that available  
16 disposal capacity will provide for less than 66 months of disposal  
17 needs. In the latter event, applications for a finding of  
18 consistency from the proposers of disposal area capacity will be  
19 received by the planning agency commencing on January 1 following  
20 completion of the annual certification process. Once operative, an  
21 interim siting mechanism will remain operative for at least 90 days  
22 or until more than 66 months of disposal capacity is once again  
23 available, either by the approval of a request for consistency or  
24 by the adoption of a new annual certification process which  
25 concludes that more than 66 months of disposal capacity is  
26 available.

27 (5) ~~(4)~~—An annual certification process shall be concluded by

1 June 30 of each year, commencing on the first June 30 which is more  
2 than 12 months after the department's approval of the solid waste  
3 management plan or plan update. The certification process will  
4 examine the remaining disposal area capacity available for solid  
5 wastes generated within the planning area. In calculating disposal  
6 need requirements to measure compliance with this section, only  
7 those existing waste stream volume reduction levels achieved  
8 through source reduction, reuse, composting, recycling, or  
9 incineration, or any combination of these reduction devices, that  
10 can currently be demonstrated or that can be reasonably expected to  
11 be achieved through currently active implementation efforts for  
12 proposed volume reduction projects, may be assumed. The annual  
13 certification of disposal capacity shall be approved by the board  
14 of commissioners. Failure to approve an annual certification by  
15 June 30 is equivalent to a finding that less than a sufficient  
16 amount of capacity is available and the interim siting mechanism  
17 will then be operative on the first day of the following January.  
18 As part of the department's responsibility to act on construction  
19 permit applications, the department has final decision authority to  
20 approve or disapprove capacity certifications and to determine  
21 consistency of a proposed disposal area with the solid waste  
22 management plan.

23 (6) ~~(5)~~—A board of commissioners may adopt a new certification  
24 of disposal capacity at any time. A new certification of disposal  
25 capacity shall supersede all previous certifications, and become  
26 effective 30 days after adoption by the board of commissioners and  
27 remain in effect until subsequent certifications are adopted.



1           (7) ~~(6)~~—In order for a disposal area to serve the disposal  
2 needs of another county, state, or country, the service, including  
3 the disposal of municipal solid waste incinerator ash, must be  
4 explicitly authorized in the approved solid waste management plan  
5 of the receiving county. With regard to intercounty service within  
6 Michigan, the service must also be explicitly authorized in the  
7 solid waste management plan of the exporting county.

8           (8) ~~(7)~~—A person shall not dispose of, store, or transport  
9 solid waste in this state unless the person complies with the  
10 requirements of this part.

11           (9) ~~(8)~~—An ordinance, law, rule, regulation, policy, or  
12 practice of a municipality, county, or governmental authority  
13 created by statute, which prohibits or regulates the location or  
14 development of a solid waste disposal area, and which is not part  
15 of or not consistent with the approved solid waste management plan  
16 for the county, shall be considered in conflict with this part and  
17 shall not be enforceable.

18           Sec. 11539. (1) The director shall not approve a plan update  
19 unless:

20           (a) The plan contains an analysis or evaluation of the best  
21 available information applicable to the plan area in regard to  
22 recyclable materials and all of the following:

23           (i) The kind and volume of material in the plan area's waste  
24 stream that may be recycled or composted.

25           (ii) How various factors do or may affect a recycling and  
26 composting program in the plan area. Factors shall include an  
27 evaluation of the existing solid waste collection system; materials

1 market; transportation networks; local composting and recycling  
2 support groups, or both; institutional arrangements; the population  
3 in the plan area; and other pertinent factors.

4 (iii) An identification of impediments to implementing a  
5 recycling and composting program and recommended strategies for  
6 removing or minimizing impediments.

7 (iv) How recycling and composting and other processing or  
8 disposal methods could complement each other and an examination of  
9 the feasibility of excluding site separated material and source  
10 separated material from other processing or disposal methods.

11 (v) Identification and quantification of environmental,  
12 economic, and other benefits that could result from the  
13 implementation of a recycling and composting program.

14 (vi) The feasibility of source separation of materials that  
15 contain potentially hazardous components at disposal areas. This  
16 subparagraph applies only to plan updates that are due after  
17 January 31, 1989.

18 (b) The plan either provides for recycling and composting  
19 recyclable materials from the plan area's waste stream or  
20 establishes that recycling and composting are not necessary or  
21 feasible or is only necessary or feasible to a limited extent.

22 (c) A plan that proposes a recycling or composting program, or  
23 both, details the major features of that program, including all of  
24 the following:

25 (i) The kinds and volumes of recyclable materials that will be  
26 recycled or composted.

27 (ii) Collection methods.

1           (iii) Measures that will ensure collection such as ordinances  
2 or cooperative arrangements, or both.

3           (iv) Ordinances or regulations affecting the program.

4           (v) The role of counties and municipalities in implementing  
5 the plan.

6           (vi) The involvement of existing recycling interests, solid  
7 waste haulers, and the community.

8           (vii) Anticipated costs.

9           (viii) On-going program financing.

10          (ix) Equipment selection.

11          (x) Public and private sector involvement.

12          (xi) Site availability and selection.

13          (xii) Operating parameters such as pH and heat range.

14          (d) The plan includes an evaluation of how the planning entity  
15 is meeting the state's waste reduction and recycling goals as  
16 established pursuant to section 11541(4).

17           **(2) A DISPOSAL AREA PERMITTED, LICENSED, OR OTHERWISE IN**  
18 **EXISTENCE ON THE DATE OF APPROVAL OF THE SOLID WASTE MANAGEMENT**  
19 **PLAN FOR THE PLANNING AREA WHERE THE DISPOSAL AREA IS LOCATED SHALL**  
20 **BE CONSIDERED TO BE CONSISTENT WITH THE PLAN AND INCLUDED IN THE**  
21 **PLAN.**

22           **(3)** ~~(2)~~—The director may promulgate rules as may be necessary  
23 to implement this section.

24           Sec. 11542. (1) Except as provided in subsection (5) and  
25 except for municipal solid waste incinerator ash that is described  
26 and used as provided in section 11506(6)(h), municipal solid waste  
27 incinerator ash shall be disposed of in 1 of the following:

1 (a) A landfill that meets all of the following requirements:

2 (i) The landfill is in compliance with this part and the rules  
3 promulgated under this part.

4 (ii) The landfill is used exclusively for the disposal of  
5 municipal solid waste incinerator ash.

6 (iii) The landfill design includes all of the following in  
7 descending order according to their placement in the landfill:

8 (A) A leachate collection system.

9 (B) A synthetic liner at least 60 mils thick.

10 (C) A compacted clay liner of 5 feet or more with a maximum  
11 hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second.

12 (D) A leak detection and leachate collection system.

13 (E) A compacted clay liner at least 3 feet thick with a  
14 maximum hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per second  
15 or a synthetic liner at least 40 mils thick.

16 (b) A landfill that meets all of the following requirements:

17 (i) The landfill is in compliance with this part and the rules  
18 promulgated under this part.

19 (ii) The landfill is used exclusively for the disposal of  
20 municipal solid waste incinerator ash.

21 (iii) The landfill design includes all of the following in  
22 descending order according to their placement in the landfill:

23 (A) A leachate collection system.

24 (B) A composite liner, as defined in R 299.4102 of the

25 ~~Michigan administrative code.~~ **PART 115 RULES.**

26 (C) A leak detection and leachate collection system.

27 (D) A second composite liner.

1           (iv) If contaminants that may threaten the public health,  
2 safety, or welfare, or the environment are found in the leachate  
3 collection system described in subparagraph (iii) (C), the owner or  
4 operator of the landfill shall determine the source and nature of  
5 the contaminants and make repairs, to the extent practicable, that  
6 will prevent the contaminants from entering the leachate collection  
7 system. If the department determines that the source of the  
8 contaminants is caused by a design failure of the landfill, the  
9 department, notwithstanding an approved construction permit or  
10 operating license, may require landfill cells at that landfill that  
11 will be used for the disposal of municipal solid waste incinerator  
12 ash, which are under construction or will be constructed in the  
13 future at the landfill, to be constructed in conformance with  
14 improved design standards approved by the department. However, this  
15 subparagraph does not require the removal of liners or leak  
16 detection and leachate collection systems that are already in place  
17 in a landfill cell under construction.

18           (c) A landfill that is a monitorable unit, as defined in R  
19 299.4104 of the ~~Michigan administrative code~~, **PART 115 RULES**, and  
20 that meets all of the following requirements:

21           (i) The landfill is in compliance with this part and the rules  
22 promulgated under this part.

23           (ii) The landfill is used exclusively for the disposal of  
24 municipal solid waste incinerator ash.

25           (iii) The landfill design includes all of the following in  
26 descending order according to their placement in the landfill:

27           (A) A leachate collection system.

1 (B) A synthetic liner at least 60 mils thick.

2 (C) Immediately below the synthetic liner, either 2 feet of  
3 compacted clay with a maximum hydraulic conductivity of  $1 \times 10^{-7}$   
4 centimeters per second or a bentonite geocomposite liner, as  
5 specified in R 299.4914 of the ~~Michigan administrative code~~. **PART**  
6 **115 RULES**.

7 (D) At least 10 feet of either natural or compacted clay with  
8 a maximum hydraulic conductivity of  $1 \times 10^{-7}$  centimeters per  
9 second, or equivalent.

10 (d) A landfill with a design approved by the department that  
11 will prevent the migration of any hazardous constituent into the  
12 groundwater or surface water at least as effectively as the design  
13 requirements of subdivisions (a) to (c).

14 (e) A type II landfill, as described in R 299.4105 of the  
15 ~~Michigan administrative code~~, **PART 115 RULES** if both of the  
16 following conditions apply:

17 (i) The ash was generated by a municipal solid waste  
18 incinerator that is designed to burn at a temperature in excess of  
19 2500 degrees Fahrenheit.

20 (ii) The ash from any individual municipal solid waste  
21 incinerator is disposed of pursuant to this subdivision for a  
22 period not to exceed 60 days.

23 (2) Except as provided in subsection (3), a landfill that is  
24 constructed pursuant to the design described in subsection (1)  
25 shall be capped following its closure by all of the following in  
26 descending order:

27 (a) Six inches of top soil with a vegetative cover.

1 (b) Two feet of soil to protect against animal burrowing,  
2 temperature, erosion, and rooted vegetation.

3 (c) An infiltration collection system.

4 (d) A synthetic liner at least 30 mils thick.

5 (e) Two feet of compacted clay with a maximum hydraulic  
6 conductivity of  $1 \times 10^{-7}$  centimeters per second.

7 (3) A landfill that receives municipal solid waste incinerator  
8 ash under this section may be capped with a design approved by the  
9 department that will prevent the migration of any hazardous  
10 constituent into the groundwater or surface water at least as  
11 effectively as the design requirements of subsection (2).

12 (4) If leachate is collected from a landfill under this  
13 section, the leachate shall be monitored and tested in accordance  
14 with this part and the rules promulgated under this part.

15 (5) As an alternative to disposal described in subsection (1),  
16 the owner or operator of a municipal solid waste incinerator may  
17 process municipal solid waste incinerator ash through mechanical or  
18 chemical methods, or both, to substantially diminish the toxicity  
19 of the ash or its constituents or limit the leachability of the ash  
20 or its constituents to minimize threats to human health and the  
21 environment, if processing is performed on the site of the  
22 municipal solid waste incinerator or at the site of a landfill  
23 described in subsection (1), if the process has been approved by  
24 the department as provided by rule, and if the ash is tested after  
25 processing in accordance with a protocol approved by the department  
26 as provided by rule. The department shall approve the process and  
27 testing protocol under this subsection only if the process and

1 testing protocol will protect human health and the environment. In  
2 making this determination, the department shall consider all  
3 potential pathways of human and environmental exposure, including  
4 both short-term and long-term, to constituents of the ash that may  
5 be released during the reuse or recycling of the ash. The  
6 department shall consider requiring methods to determine the  
7 leaching, total chemical analysis, respirability, and toxicity of  
8 reused or recycled ash. A leaching procedure shall include testing  
9 under both acidic and native conditions. If municipal solid waste  
10 incinerator ash is processed in accordance with the requirements of  
11 this subsection and the processed ash satisfies the testing  
12 protocol approved by the department as provided by rule, the ash  
13 may be disposed of in a municipal solid waste landfill, as defined  
14 by R 299.4104 of the ~~Michigan administrative code,~~ **PART 115 RULES,**  
15 licensed under this part or may be used in any manner approved by  
16 the department. If municipal solid waste incinerator ash is  
17 processed as provided in this subsection, but does not ~~satisfy~~  
18 **COMPLY WITH** the testing protocol approved by the department as  
19 provided by rule, the ash shall be disposed of in accordance with  
20 subsection (1).

21 (6) The disposal of municipal solid waste incinerator ash  
22 within a landfill that is in compliance with subsection (1) does  
23 not constitute a new proposal for which a new construction permit  
24 is required under section 11509, if a construction permit has  
25 previously been issued under section 11509 for the landfill and the  
26 owner or operator of the landfill submits 6 copies of an operating  
27 license amendment application to the department for approval



1 pursuant to part 13. The operating license amendment application  
2 shall include revised plans and specifications for all facility  
3 modifications including a leachate disposal plan, an erosion  
4 control plan, and a dust control plan which shall be part of the  
5 operating license amendment. The dust control plan shall contain  
6 sufficient detail to ensure that dust emissions are controlled by  
7 available control technologies that reduce dust emissions by a  
8 reasonably achievable amount to the extent necessary to protect  
9 human health and the environment. The dust control plan shall  
10 provide for the ash to be wet during all times that the ash is  
11 exposed to the atmosphere at the landfill or otherwise to be  
12 covered by daily cover material; for dust emissions to be  
13 controlled during dumping, grading, loading, and bulk transporting  
14 of the ash at the landfill; and for dust emissions from access  
15 roads within the landfill to be controlled. With the exception of a  
16 landfill that is in existence on June 12, 1989 that the department  
17 determines is otherwise in compliance with this section, the owner  
18 or operator of the landfill shall obtain the operating license  
19 amendment prior to initiating construction. Prior to operation, the  
20 owner or operator of a landfill shall submit to the department  
21 certification from a licensed professional engineer that the  
22 landfill has been constructed in accordance with the approved plan  
23 and specifications. When the copies are submitted to the  
24 department, the owner or operator of the landfill shall send a copy  
25 of the operating license amendment application to the municipality  
26 where the landfill is located. At least 30 days prior to making a  
27 final decision on the operating license amendment, the department

1 shall hold at least 1 public meeting in the vicinity of the  
2 landfill to receive public comments. Prior to a public meeting, the  
3 department shall publish notice of the meeting in a newspaper  
4 serving the local area.

5 (7) The owner or operator of a municipal solid waste  
6 incinerator or a disposal area that receives municipal solid waste  
7 incinerator ash shall allow the department access to the facility  
8 for the purpose of supervising the collection of samples or  
9 obtaining samples of ash to test or to monitor air quality at the  
10 facility.

11 (8) As used in subsection (1), "landfill" means a landfill or  
12 a specific portion of a landfill.

13 Sec. 11550. (1) The solid waste management fund is created  
14 within the state treasury. The state treasurer may receive money  
15 from any source for deposit into the fund. The state treasurer  
16 shall direct the investment of the fund. The state treasurer shall  
17 credit to the fund interest and earnings from fund investments.

18 (2) Money in the solid waste management fund at the close of  
19 the fiscal year shall remain in the fund and shall not lapse to the  
20 general fund.

21 (3) The state treasurer shall establish, within the solid  
22 waste management fund, a solid waste staff account and a perpetual  
23 care account.

24 (4) Money shall be expended from the solid waste staff  
25 account, upon appropriation, only for the following purposes:

26 (a) Preparing generally applicable guidance regarding the  
27 solid waste permit and license program or its implementation or

1 enforcement.

2 (b) Reviewing and acting on any application for a permit or  
3 license, permit or license revision, or permit or license renewal,  
4 including the cost of public notice and public hearings.

5 (c) Performing an advisory analysis under section 11510(1).

6 (d) General administrative costs of running the permit and  
7 license program, including permit and license tracking and data  
8 entry.

9 (e) Inspection of licensed disposal areas and open dumps.

10 (f) Implementing and enforcing the conditions of any permit or  
11 license.

12 (g) Groundwater monitoring audits at disposal areas which are  
13 or have been licensed under this part.

14 (h) Reviewing and acting upon corrective action plans for  
15 disposal areas which are or have been licensed under this part.

16 (i) Review of certifications of closure.

17 (j) Postclosure maintenance and monitoring inspections and  
18 review.

19 (k) Review of bonds and financial assurance documentation at  
20 disposal areas which are or have been licensed under this part.

21 (5) Money shall be expended from the perpetual care account,  
22 **UPON APPROPRIATION**, only for the purpose of conducting the  
23 following activities at disposal areas which are or have been  
24 licensed under this part:

25 (a) Postclosure maintenance and monitoring at a disposal area  
26 where the owner or operator is no longer required to do so.

27 (b) To conduct closure, or postclosure maintenance and

1 monitoring and corrective action if necessary, at a disposal area  
2 where the owner or operator has failed to do so. Money shall be  
3 expended from the account only after funds from any perpetual care  
4 fund or other financial assurance mechanisms held by the owner or  
5 operator have been expended and the department has used reasonable  
6 efforts to obtain funding from other sources.

7 (6) By March 1 annually, the department shall prepare and  
8 submit to the governor, the legislature, the chairs of the standing  
9 committees of the senate and house of representatives with primary  
10 responsibility for issues related to natural resources and the  
11 environment, and the chairs of the subcommittees of the senate and  
12 house appropriations committees with primary responsibility for  
13 appropriations to the department a report that details the  
14 activities of the previous fiscal year funded by the staff account  
15 of the solid waste management fund. ~~established in this section.~~  
16 This report shall include, at a minimum, all of the following as it  
17 relates to the department:

18 (a) The number of full-time equated positions performing solid  
19 waste management permitting, compliance, and enforcement  
20 activities.

21 (b) All of the following information related to the  
22 construction permit applications received under section 11509:

23 (i) The number of applications received by the department,  
24 reported as the number of applications determined to be  
25 administratively incomplete and the number determined to be  
26 administratively complete.

27 (ii) The number of applications determined to be

1 administratively complete for which a final action was taken by the  
2 department. The number of final actions shall be reported as the  
3 number of applications approved, the number of applications denied,  
4 and the number of applications withdrawn by the applicant.

5 (iii) The percentage and number of applications determined to  
6 be administratively complete for which a final decision was made  
7 within ~~120 days of receipt as~~ **THE PERIOD** required by ~~section~~  
8 ~~11511.~~ **PART 13.**

9 (c) All of the following information related to the operating  
10 license applications received under section 11512:

11 (i) The number of applications received by the department,  
12 reported as the number of applications determined to be  
13 administratively incomplete and the number determined to be  
14 administratively complete.

15 (ii) The number of applications determined to be  
16 administratively complete for which a final action was taken by the  
17 department. The number of final actions shall be reported as the  
18 number of applications approved, the number of applications denied,  
19 and the number of applications withdrawn by the applicant.

20 (iii) The percentage and number of applications determined to  
21 be administratively complete for which a final decision was made  
22 within ~~90 days of receipt as~~ **THE PERIOD** required by ~~section~~  
23 ~~11516.~~ **PART 13.**

24 (d) The number of inspections conducted at licensed disposal  
25 areas as required by section 11519.

26 (e) The number of letters of warning sent to licensed disposal  
27 areas.

1 (f) The number of contested case hearings and civil actions  
2 initiated and completed, the number of voluntary consent orders and  
3 administrative orders entered or issued, and the amount of fines  
4 and penalties collected through such actions or orders.

5 (g) For each enforcement action that includes a penalty, a  
6 description of what corrective actions were required by the  
7 enforcement action.

8 (h) The number of solid waste complaints received,  
9 investigated, resolved, and not resolved by the department.

10 (i) The amount of revenue in the staff account of the solid  
11 waste management fund **AND THE COAL ASH CARE FUND** at the end of the  
12 fiscal year.

13 **(7) THE COAL ASH CARE FUND IS CREATED WITHIN THE STATE**  
14 **TREASURY. THE STATE TREASURER MAY RECEIVE MONEY FROM ANY SOURCE FOR**  
15 **DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL DIRECT THE**  
16 **INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE**  
17 **FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.**

18 **(8) MONEY SHALL BE EXPENDED FROM THE COAL ASH CARE FUND, UPON**  
19 **APPROPRIATION, ONLY FOR THE FOLLOWING PURPOSES RELATING TO COAL ASH**  
20 **IMPOUNDMENTS AND COAL ASH LANDFILLS:**

21 **(A) PREPARING GENERALLY APPLICABLE GUIDANCE REGARDING THE**  
22 **SOLID WASTE PERMIT AND LICENSE PROGRAM OR ITS IMPLEMENTATION OR**  
23 **ENFORCEMENT.**

24 **(B) REVIEWING AND ACTING ON ANY APPLICATION FOR A PERMIT OR**  
25 **LICENSE, PERMIT OR LICENSE REVISION, OR PERMIT OR LICENSE RENEWAL,**  
26 **INCLUDING THE COST OF PUBLIC NOTICE AND PUBLIC HEARINGS.**

27 **(C) PERFORMING AN ADVISORY ANALYSIS UNDER SECTION 11510(1).**

1           (D) GENERAL ADMINISTRATIVE COSTS OF RUNNING THE PERMIT AND  
2 LICENSE PROGRAM, INCLUDING PERMIT AND LICENSE TRACKING AND DATA  
3 ENTRY.

4           (E) INSPECTION OF LICENSED DISPOSAL AREAS AND OPEN DUMPS.

5           (F) IMPLEMENTING AND ENFORCING THE CONDITIONS OF ANY PERMIT OR  
6 LICENSE.

7           (G) GROUNDWATER MONITORING AUDITS AT DISPOSAL AREAS THAT ARE  
8 OR HAVE BEEN LICENSED UNDER THIS PART.

9           (H) REVIEWING AND ACTING UPON CORRECTIVE ACTION PLANS FOR  
10 DISPOSAL AREAS THAT ARE OR HAVE BEEN LICENSED UNDER THIS PART.

11          (I) REVIEW OF CERTIFICATIONS OF CLOSURE.

12          (J) POSTCLOSURE MAINTENANCE AND MONITORING INSPECTIONS AND  
13 REVIEW.

14          (K) REVIEW OF BONDS AND FINANCIAL ASSURANCE DOCUMENTATION AT  
15 DISPOSAL AREAS THAT ARE OR HAVE BEEN LICENSED UNDER THIS PART.