

**SUBSTITUTE FOR
SENATE BILL NO. 246**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11102, 11103, 11104, 11108, 11109, 11110,
11125, 11132, 11512, 11514b, 11525a, 62501, and 62509 (MCL
324.11102, 324.11103, 324.11104, 324.11108, 324.11109, 324.11110,
324.11125, 324.11132, 324.11512, 324.11514b, 324.11525a, 324.62501,
and 324.62509), sections 11102 and 11125 as amended by 2010 PA 357,
section 11104 as amended and section 11132 as added by 2018 PA 688,
section 11108 as amended by 2013 PA 73, section 11109 as added by
2018 PA 689, section 11110 as amended by 1995 PA 61, sections 11512
and 11514b as amended by 2022 PA 245, section 11525a as amended by
2023 PA 140, section 62501 as amended by 1998 PA 467, and section
62509 as amended by 2004 PA 325, and by adding sections 11122,

62508b, and 62509d; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11102. (1) "Captive hazardous waste disposal well" means
2 a class I well that is used by the owner or operator to inject
3 hazardous waste generated exclusively by the owner or operator or
4 its subsidiaries.

5 (2) "Captive hazardous waste treatment, storage, or disposal
6 facility" means a facility that is used by the owner or operator to
7 treat, store, or dispose of hazardous waste generated exclusively
8 by the owner or operator or its subsidiaries.

9 (3) "Captive nonhazardous waste disposal well" means a class I
10 well that is used by the owner or operator to inject only
11 nonhazardous waste generated exclusively by the owner or operator
12 or its subsidiaries.

13 (4) "Class I well" means that term as defined in section
14 62501.

15 (5) "Class IV well" means that term as defined in section
16 62501.

17 (6) ~~(1)~~—"Contaminant" means any of the following:

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

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

22 (7) ~~(2)~~—"Corrective action" means an action determined by the
23 department to be necessary to protect the public health, safety, or
24 welfare, or the environment, and includes, but is not limited to,
25 investigation, evaluation, cleanup, removal, remediation,
26 monitoring, containment, isolation, treatment, storage, management,
27 temporary relocation of people, and provision of alternative water

1 supplies, or any corrective action allowed under the solid waste
2 disposal act or regulations promulgated pursuant to that act.

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

11 (9) ~~(4)~~—"Disposal" means the discharge, deposit, injection,
12 dumping, spilling, leaking, or placing of a hazardous waste into or
13 on land or water in a manner that the hazardous waste or a
14 constituent of the hazardous waste may enter the environment, be
15 emitted into the air, or be discharged into water, including
16 groundwater.

17 (10) ~~(5)~~—"Disposal facility" means a facility or a part of a
18 facility where managed hazardous waste, as defined by rule, is
19 intentionally placed into or on any land or water and at which
20 hazardous waste will remain after closure.

21 (11) ~~(6)~~—"Failure mode assessment" means an analysis of the
22 potential major methods by which safe handling of hazardous wastes
23 may fail at a treatment, storage, or disposal facility.

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

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

1 (3) "Hazardous waste" means waste or a combination of waste
2 and other discarded material including solid, liquid, semisolid, or
3 contained gaseous material that because of its quantity, quality,
4 concentration, or physical, chemical, or infectious characteristics
5 may cause or significantly contribute to an increase in mortality
6 or an increase in serious irreversible illness or serious
7 incapacitating but reversible illness, or may pose a substantial
8 present or potential hazard to human health or the environment if
9 improperly treated, stored, transported, disposed of, or otherwise
10 managed. Hazardous waste does not include material that is solid or
11 dissolved material in domestic sewage discharge, solid or dissolved
12 material in an irrigation return flow discharge, industrial
13 discharge that is a point source subject to permits under section
14 402 of title IV of the federal water pollution control act, chapter
15 758, 86 Stat. —880, 33 U.S.C.—USC 1342, or is a source **material**,
16 special nuclear **material**, or ~~by-product~~ **byproduct** material as
17 defined by the atomic energy act of 1954, ~~chapter 1073, 68 Stat.~~
18 ~~919-42~~ **USC 2011 to 2297h-13.**

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

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

28 (6) "Land treatment facility" means a treatment facility or
29 part of a treatment facility at which hazardous waste is applied

1 onto or incorporated into the soil surface. If waste will remain
2 after closure, a facility described in this subsection is a
3 disposal facility.

4 (7) "Limited-activity radioactive material" or "LARM" means
5 material that contains radionuclides at concentrations that exceed
6 natural background levels but that does not meet the definition of
7 radioactive material under section 13501 of the public health code,
8 1978 PA 368, MCL 333.13501. LARM includes technologically enhanced
9 naturally occurring radioactive material and other materials with
10 similar radiological characteristics, but does not include the
11 following:

12 (a) Source material, special nuclear material, or byproduct
13 material as defined in the atomic energy act of 1954, 42 USC 2011
14 to 2297h-13.

15 (b) Low-level radioactive waste as defined in section 2 of the
16 low-level radioactive waste authority act, 1987 PA 204, MCL
17 333.26202.

18 (c) Any other material regulated as radioactive waste under
19 state or federal law.

20 (8) ~~(7)~~—"Limited storage facility" means a storage facility
21 that meets all of the following conditions:

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

24 (b) Storage occurs only in tanks or containers.

25 (c) Has **on site** not more than 200 containers ~~on-site that have~~
26 **with** a capacity of 55 gallons or less.

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

29 (e) Does not receive hazardous waste from a treatment,

1 storage, or disposal facility.

2 (9) ~~(8)~~—"Manifest" means a form approved by the department
3 used for identifying the quantity, composition, origin, routing,
4 and destination of hazardous waste during its transportation from
5 the point of generation to the point of disposal, treatment, or
6 storage.

7 (10) ~~(9)~~—"Manifest system" means the system used for
8 identifying the quantity, composition, origin, routing, and
9 destination of hazardous waste during its transportation from the
10 point of generation to the point of disposal, treatment, or
11 storage.

12 (11) ~~(10)~~—"Mechanism" means a letter of credit, a financial
13 test that demonstrates the financial strength of the company owning
14 a treatment, storage, or disposal facility or a parent company
15 guaranteeing financial assurance for a subsidiary, or an insurance
16 policy that will provide funds for closure or postclosure care of a
17 treatment, storage, or disposal facility.

18 (12) **"Multisource commercial hazardous waste disposal well"**
19 **means a class I well that receives hazardous waste generated by**
20 **more than 1 person. However, multisource commercial hazardous waste**
21 **disposal well does not include a disposal well that receives**
22 **hazardous waste generated exclusively by the owner, its**
23 **subsidiaries, the operator, its subsidiaries, or any combination**
24 **thereof.**

25 (13) **"Multisource commercial hazardous waste treatment,**
26 **storage, or disposal facility"** means a facility that receives
27 hazardous waste generated by more than 1 person. However,
28 multisource commercial hazardous waste treatment, storage, or
29 disposal facility does not include a facility that receives

1 hazardous waste generated exclusively by the owner, its
2 subsidiaries, the operator, or its subsidiaries.

3 (14) "Multisource commercial nonhazardous waste disposal well"
4 means a class I well that receives nonhazardous waste that is
5 generated by more than 1 person. Multisource commercial
6 nonhazardous waste disposal well does not include a disposal well
7 that receives only nonhazardous waste generated exclusively by the
8 owner, its subsidiaries, the operator, its subsidiaries, or any
9 combination thereof.

10 (15) ~~(11)~~ "Municipal solid waste incinerator" means an
11 incinerator that is owned or operated by any person, and that meets
12 all of the following requirements:

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

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

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

26 (d) The incinerator is not an industrial furnace as defined in
27 40 C.F.R. ~~CFR~~ 260.10.

28 (16) ~~(12)~~ "Municipal solid waste incinerator ash" means the
29 substances remaining after combustion in a municipal solid waste

1 incinerator.

2 (17) ~~(13)~~ "Municipality" means a city, village, township, or
3 Indian tribe.

4 (18) "Newly regulated waste" means hazardous waste identified,
5 listed, or characterized after the effective date of the amendatory
6 act that added this subsection, including, but not limited to, the
7 following:

8 (a) Waste that becomes regulated as hazardous due to changes
9 in state or federal law or regulations.

10 (b) Emerging contaminants that are classified as hazardous
11 waste.

12 (c) New categories of pharmaceutical or other wastes that
13 become subject to hazardous waste regulations.

14 (19) ~~(14)~~ "On site" means on the same or geographically
15 contiguous property that may be divided by a public or private
16 right-of-way if the entrance and exit between the pieces of
17 property are at a crossroads intersection and access is by crossing
18 rather than going along the right-of-way. On site property includes
19 noncontiguous pieces of property owned by the same person but
20 connected by a right-of-way that the owner controls and to which
21 the public does not have access.

22 Sec. 11104. (1) "Operator" means the person responsible for
23 the overall operation of a disposal, treatment, or storage facility
24 with approval of the department either by contract or license.

25 (2) "Site identification number" means a number that is
26 assigned by the United States Environmental Protection Agency or
27 the United States Environmental Protection Agency's designee to
28 each generator, each transporter, and each treatment, storage, or
29 disposal facility. If the generator or transporter or the

1 treatment, storage, or disposal facility manages wastes that are
2 hazardous under this part and the rules promulgated under this part
3 but are not hazardous under the solid waste disposal act, site
4 identification number means an equivalent number that is assigned
5 by the department.

6 (3) "Solid waste" means that term as it is defined in part
7 115.

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

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

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

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

1 ~~following:~~

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

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

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

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

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

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

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

25 (13) "Vehicle" means a transport vehicle as defined in 49 CFR
26 171.8.

27 Sec. 11108. (1) Except as otherwise provided in this section,
28 ~~each~~ **the** owner or operator of a landfill shall pay to the
29 department a fee assessed on hazardous waste disposed of in the

1 landfill. The fee shall be based on the quantity of hazardous waste
2 specified on the manifest or monthly operating report and, **through**
3 **December 31, 2025**, shall be \$10.00 per ton, \$10.00 per cubic yard,
4 or 1/2 cent per pound, depending on the unit of measure used by the
5 owner or operator to calculate the fee. **Subject to subsection (7),**
6 **beginning January 1, 2026, the fee shall be \$25.00 per ton, \$25.00**
7 **per cubic yard, or 1.25 cents per pound, depending on the unit of**
8 **measure used by the owner or operator to calculate the fee.** The fee
9 for fractional quantities of hazardous waste shall be proportional.
10 If the hazardous waste is required to be listed on a manifest and
11 the owner or operator of the landfill determines that the hazardous
12 waste quantity on the manifest is not accurate, the owner or
13 operator shall correct the hazardous waste quantity on all manifest
14 copies accompanying the shipment, note the reason for the change in
15 the discrepancy indication space on the manifest, and assess the
16 fee in accordance with the corrected hazardous waste quantity.
17 Payment shall be made within 30 days after the close of each
18 quarter. The landfill owner or operator shall assess off-site
19 generators the fee. The fee for hazardous waste that is generated
20 and disposed of on the site of a landfill owner or operator shall
21 be paid by that owner or operator.

22 (2) Except as otherwise provided in this section, each owner
23 or operator of a solidification facility licensed pursuant to
24 section 11123 shall pay to the department a fee assessed on
25 hazardous waste received at the solidification facility. The fee
26 shall be based on the quantity of hazardous waste specified on the
27 manifest or monthly operating report and, **through December 31,**
28 **2025**, shall be \$10.00 per ton, \$10.00 per cubic yard, 4 cents per
29 gallon, or 1/2 cent per pound, depending on the unit of measure

1 used by the owner or operator to calculate the fee. **Subject to**
2 **subsection (7), beginning January 1, 2026, the fee shall be \$25.00**
3 **per ton, \$25.00 per cubic yard, 10 cents per gallon, or 1.25 cents**
4 **per pound, depending on the unit of measure used by the owner or**
5 **operator to calculate the fee.** The fee for fractional quantities of
6 hazardous waste shall be proportional. If the hazardous waste is
7 required to be listed on a manifest and the owner or operator of
8 the solidification facility determines that the hazardous waste
9 quantity on the manifest is not accurate, the owner or operator
10 shall correct the hazardous waste quantity on all manifest copies
11 accompanying the shipment, note the reason for the change in the
12 discrepancy indication space on the manifest, and assess the fee in
13 accordance with the corrected hazardous waste quantity. Payment
14 shall be made within 30 days after the close of each quarter. The
15 solidification facility owner or operator shall assess off-site
16 generators the fee. The fee for hazardous waste that is generated
17 and solidified on the site of a solidification owner or operator
18 shall be paid by that owner or operator.

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

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

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

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

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

1 (e) Hazardous waste generated pursuant to a 1-time closure or
2 site cleanup activity in this state if the closure or cleanup
3 activity has been authorized in writing by the department.

4 Hazardous waste resulting from the cleanup of inadvertent releases
5 ~~which~~**that** occur after March 30, 1988 is not exempt from the fees.

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

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

11 (4) An owner or operator of a landfill or solidification
12 facility shall assess or pay the fee described in this section
13 unless the generator provides a signed written certification
14 indicating that the hazardous waste is exempt from the fee. If the
15 hazardous waste that is exempt from the fee is required to be
16 listed on a manifest, the certification shall contain the manifest
17 number of the shipment and the specific fee exemption for which the
18 hazardous waste qualifies. If the hazardous waste that is exempt
19 from the fee is not required to be listed on a manifest, the
20 certification shall provide the ~~volume~~**quantity** of exempt hazardous
21 waste, the waste code or waste codes of the exempt waste, the date
22 of disposal or solidification, and the specific fee exemption for
23 which the hazardous waste qualifies. The owner or operator of the
24 landfill or solidification facility shall retain this certification
25 for 4 years from the date of receipt.

26 (5) The department or a health department certified pursuant
27 to section 11145 shall evaluate the accuracy of generator fee
28 exemption certifications and shall take enforcement action against
29 a generator who files a false certification. In addition, the

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

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

9 (a) The ~~volume~~ **quantity** of hazardous waste subject to a fee.

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

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

1 ~~of the hazardous waste.~~

2 ~~(8) A generator seeking a refund under subsection (7) shall~~
3 ~~calculate the refund due by comparing hazardous waste generation,~~
4 ~~treatment, and disposal activity in the calendar year immediately~~
5 ~~preceding the date of filing with hazardous waste generation,~~
6 ~~treatment, and disposal activity in the calendar year 2 years prior~~
7 ~~to the date of filing. To be eligible for a refund, a generator~~
8 ~~shall file a request with the department by June 30 of the year~~
9 ~~following the year for which the refund is being claimed. A refund~~
10 ~~shall not exceed the total fees paid by the generator to the~~
11 ~~landfill operator or owner and the solidification facility operator~~
12 ~~or owner. A form submitted by the generator as provided for in~~
13 ~~subsection (7) shall be certified by the generator or the~~
14 ~~generator's authorized agent.~~

15 **(7) Beginning January 1, 2031, and every fifth year**
16 **thereafter, the state treasurer shall adjust each of the current**
17 **fees under this section by an amount determined by the state**
18 **treasurer to reflect the cumulative percentage change in the**
19 **Consumer Price Index during the most recent 5-year period for which**
20 **Consumer Price Index statistics are available. As used in this**
21 **subsection, "Consumer Price Index" means the most comprehensive**
22 **index of consumer prices available for this state from the Bureau**
23 **of Labor Statistics of the United States Department of Labor, or a**
24 **successor agency.**

25 ~~(8) (9) The department shall maintain information regarding~~
26 ~~the landfill disposal fees received and refunds provided under this~~
27 ~~section.~~

28 ~~(9) (10) The fees collected under this section shall be~~
29 ~~forwarded to the state treasurer and deposited in the environmental~~

~~pollution prevention fund created in section 11130. Any balance in the waste reduction fund on October 1, 2013 shall not lapse to the general fund but shall be transferred to the environmental pollution prevention fund and the waste reduction fund shall be closed. Money from the environmental pollution prevention fund shall be expended, upon appropriation, only for 1 or more of the following purposes:~~**as follows:**

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

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

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

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

(a) 45% in the cleanup and redevelopment fund created in section 20108.

(b) 40% in the municipal grant fund created in section 11525a(6) .

(c) 15% in the host communities grant fund created in section 11525a(7) .

Sec. 11109. (1) The owner or operator of a landfill shall pay to the department a fee assessed on TENORM disposed of in the landfill. The fee, through December 31, 2025, is \$5.00 per ton. Beginning January 1, 2026, the fee is \$12.50 per ton. Beginning January 1, 2031, and every fifth year thereafter, the state treasurer shall adjust the current fee under this subsection by an amount determined by the state treasurer to reflect the cumulative percentage change in the Consumer Price Index during the most recent 5-year period for which Consumer Price Index statistics are

1 **available. As used in this subsection, "Consumer Price Index" means**
2 **the most comprehensive index of consumer prices available for this**
3 **state from the Bureau of Labor Statistics of the United States**
4 **Department of Labor, or a successor agency. The fee shall be** based
5 on the quantity of TENORM specified on the monthly operating
6 report. The fee for fractional tons of TENORM shall be
7 proportional. The fee shall be paid within 30 days after the end of
8 each calendar year quarter.

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

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

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

20 (5) The TENORM account is created within the environmental
21 pollution prevention fund created in section 11130. The department
22 shall forward fees collected under this section to the state
23 treasurer for deposit ~~in the TENORM account. The state treasurer~~
24 ~~may receive money or other assets from any other source for deposit~~
25 ~~into the account. The state treasurer shall direct the investment~~
26 ~~of the account. The state treasurer shall credit to the account~~
27 ~~interest and earnings from account investments. Money remaining in~~
28 ~~the account at the close of the fiscal year shall not lapse to the~~
29 ~~general fund.~~ **as follows:**

1 (a) 45% in the cleanup and redevelopment fund created in
2 section 20108.

3 (b) 40% in the municipal grant fund created in section
4 11525a(6) .

5 (c) 15% in the host communities grant fund created in section
6 11525a(7) .

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

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

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

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

14 Sec. 11110. (1) ~~Not later than January 1, 1990, By 5 years~~
15 **after the effective date of the amendatory act that added section**
16 **11122 and every 5 years thereafter,** the department shall prepare an
17 ~~updated~~ **and adopt a comprehensive, updated** state hazardous **and LARM**
18 waste management plan.

19 (2) The updated plan shall **meet all of the following**
20 **requirements:**

21 ~~(a) Update the state hazardous waste management plan adopted~~
22 ~~by the commission on January 15, 1982.~~

23 **(a)** ~~(b)~~ Be based ~~upon~~ **on the** location of generators, health
24 and safety, **transportation** economics, ~~of transporting, type types~~
25 of waste, and existing treatment, storage, or disposal facilities.

26 ~~(c) Include information generated by the department of~~
27 ~~commerce and the department on hazardous waste capacity needs in~~
28 ~~the state.~~

29 ~~(d) Include information provided by the office of waste~~

1 ~~reduction created in part 143.~~

2 **(b)** ~~(e) Plan for the availability of hazardous waste treatment~~
 3 ~~or disposal facilities that have adequate capacity for the~~
 4 ~~destruction, treatment, or secure disposition of all hazardous~~
 5 ~~wastes that are reasonably expected to~~ **Based on information**
 6 **included in the plan under subdivision (f), specify a maximum**
 7 **licensed capacity for hazardous and LARM waste treatment, storage,**
 8 **or disposal facilities. The maximum capacity shall equal the amount**
 9 **of hazardous and LARM waste that the department determines will be**
 10 ~~generated within the~~ **in this** state during the ~~20-year~~ **succeeding 5-**
 11 **year** period. ~~after October 1, 1988, as is described in section~~
 12 ~~104(c) (9) (A) of title I of the comprehensive environmental~~
 13 ~~response, compensation, and liability act of 1980, Public Law 96-~~
 14 ~~510, 42 U.S.C. 9604.~~ **The maximum capacity shall not be changed until**
 15 **the next 5-year update of the plan is adopted.**

16 **(c)** Do all of the following:

17 **(i)** Identify areas of this state that would be eligible for
 18 siting hazardous waste treatment, storage, or disposal facilities
 19 in compliance with section 11125(9) .

20 **(ii)** Map the eligible areas in relation to all of the
 21 following:

22 **(A)** Current and projected locations of hazardous waste
 23 generation.

24 **(B)** Existing transportation infrastructure.

25 **(C)** Emergency response capabilities.

26 **(D)** Relevant environmental and geological conditions.

27 **(iii)** Propose specific siting criteria that establish minimum
 28 separation distances between treatment, storage, and disposal
 29 facilities and the following:

1 (A) Schools, child care centers, and other educational
2 institutions.

3 (B) Hospitals, nursing homes, and other medical facilities.

4 (C) Residential areas and places of public assembly.

5 (D) Surface water bodies, wetlands, and groundwater recharge
6 areas.

7 (E) Parks, recreation areas, and protected natural areas.

8 (F) Agricultural lands and food processing facilities.

9 (G) Critical infrastructure, including public water supplies.

10 (d) ~~(f) Plan~~ **Provide** for a reasonable geographic distribution
11 of **and propose siting criteria for** treatment, storage, and disposal
12 facilities to meet existing and future needs, ~~including proposing~~
13 ~~criteria for determining acceptable locations for these facilities.~~
14 **comply with section 11125(9), and prevent the concentration of**
15 **facilities in communities overburdened by pollution.** The siting
16 criteria shall include a consideration of a location's geology,
17 geography, demography, **and** waste generation patterns, along with
18 environmental factors, public health factors, and other relevant
19 characteristics as determined by the department.

20 (e) ~~(g) Emphasize~~ **Provide for** a shift away from the practice
21 ~~of~~ landfilling hazardous waste ~~and toward~~ **to** the in-plant reduction
22 of hazardous waste and the recycling and treatment of hazardous
23 waste.

24 (f) ~~(h) Include necessary~~ **all of the following:**

25 (i) **An analysis of all hazardous and LARM waste streams**
26 **generated in this state, including waste volumes, classifications,**
27 **and locations of origin.**

28 (ii) **An inventory and assessment of current in-state hazardous**
29 **and LARM waste management capacity using information generated by**

1 the department of environment, Great Lakes, and energy and the
2 department of labor and economic growth.

3 (iii) Projections of future in-state hazardous and radioactive
4 waste generation.

5 (iv) Recommendations for state policies and programs to
6 minimize hazardous and LARM waste generation.

7 (v) An evaluation of hazardous and LARM waste reduction,
8 recycling, and treatment technologies and best practices.

9 (vi) A study and recommendation on whether this state should
10 seek membership in an interstate low-level radioactive waste
11 compact.

12 (vii) **Necessary** legislative, administrative, and economic
13 ~~mechanisms,~~ **provisions**, and a timetable to carry out the **updated**
14 plan.

15 (3) The department shall ~~instruct the office of waste~~
16 ~~reduction created in part 143 to complete~~ **conduct** studies as
17 considered necessary ~~for the completion of~~ **to complete** the updated
18 plan. The studies may include **any of the following**:

19 (a) An inventory and evaluation of the sources of hazardous
20 **and LARM** waste generation within this state or from other states,
21 including the types, quantities, and chemical and physical
22 characteristics of the ~~hazardous~~ waste.

23 (b) An inventory and evaluation of current hazardous **and LARM**
24 waste management, minimization, or reduction practices and costs,
25 including treatment, disposal, on-site recycling, reclamation, and
26 other forms of source reduction within this state.

27 (c) A projection or determination of future hazardous **and LARM**
28 waste management needs based on **section 11125(8) and** an evaluation
29 of existing capacities; ~~7~~ treatment or disposal capabilities; ~~7~~

1 manufacturing activity, limitations, and constraints; ~~Projection~~
 2 ~~of needs shall consider the types, and sizes, and general locations~~
 3 of treatment, storage, or disposal facilities ~~, general locations~~
 4 ~~within the~~ **in this** state; ~~, and~~ management control systems. ~~, and~~
 5 ~~an identified need for a state owned treatment, storage, or~~
 6 ~~disposal facility.~~

7 (d) An investigation and analysis of methods, incentives, or
 8 technologies for source reduction, reuse, recycling, or recovery of
 9 potentially hazardous **and LARM** waste and a strategy for encouraging
 10 the utilization or reduction of hazardous **and LARM** waste.

11 (e) An investigation and analysis of methods and incentives to
 12 encourage interstate and international cooperation in the
 13 management of hazardous **and LARM** waste.

14 (f) An estimate of the public and private cost of treating,
 15 storing, or disposing of hazardous **and LARM** waste.

16 (g) An investigation and analysis of alternate methods for
 17 treatment and disposal of hazardous **and LARM** waste.

18 ~~(4) If the department finds in preparing the updated plan that~~
 19 ~~there is a need for additional treatment or disposal facilities in~~
 20 ~~the state, then the department shall identify incentives the state~~
 21 ~~could offer that would encourage the construction and operation of~~
 22 ~~additional treatment or disposal facilities in the state that are~~
 23 ~~consistent with the updated plan. The department shall propose~~
 24 ~~criteria which could be used in evaluating applicants for the~~
 25 ~~incentives.~~

26 ~~(4)~~ ~~(5)~~ Upon completion of the **proposed** updated plan, the
 27 department shall **post the updated plan on its publicly accessible**
 28 **website**, publish a notice in ~~a number of~~ **2 or more** newspapers
 29 having major circulation within ~~the~~ **this** state as determined by the

department, and ~~shall~~ issue a statewide news release announcing the availability of the updated plan for inspection or purchase at cost by interested persons. The ~~announcement~~ **notice and news release** shall indicate where and how the updated plan may be obtained or reviewed and shall indicate that not less than 6 public hearings shall be conducted at varying locations in ~~the~~ **this** state before ~~formal adoption.~~ **the plan is adopted.** The first public hearing shall ~~not be held until~~ **not less than** 60 days ~~have elapsed from~~ **after** the date of the notice **and news release** announcing the availability of the updated plan. The remaining public hearings shall be held within 120 days after the first public hearing at approximately equal time intervals.

(5) ~~(6)~~ After the public hearings, the department shall prepare a written summary of the comments received, provide ~~comments on~~ **responses to** the major concerns raised, make amendments to the **proposed** updated plan **that the department considers advisable**, and ~~determine whether the updated plan should be adopted.~~ **adopt the proposed updated plan.**

Sec. 11122. (1) Until 5 years after the effective date of the amendatory act that added this section, or until the first updated state hazardous and LARM waste management plan required under section 11110 after the effective date of the amendatory act that added this section is adopted and implemented, whichever is later, the department shall not do any of the following, except as provided in subsection (2) or (3):

(a) Issue an operating license for a new multisource commercial hazardous waste treatment, storage, or disposal facility under section 11125.

(b) Amend an operating license for an existing multisource

1 commercial hazardous waste treatment, storage, or disposal facility
2 in a manner that authorizes the expansion of operations, overall
3 capacity, or the facility.

4 (2) Subsection (1)(b) does not prohibit any of the following
5 amendments to existing operating licenses:

6 (a) Amendments necessary to maintain compliance with this act
7 or rules promulgated under this act.

8 (b) Amendments made to incorporate new requirements imposed by
9 this act or rules promulgated under this act.

10 (c) Amendments limited to the capacity needed to manage the
11 amount of newly regulated wastes to be generated in this state
12 during the succeeding 5-year period, as determined by the
13 department based on waste generation data and projections.

14 (3) Any capacity authorized by an amendment described in
15 subsection (2) shall be included in calculating the total licensed
16 capacity under section 11125(8).

17 Sec. 11125. (1) Upon receipt of an operating license
18 application that complies with the requirements of section
19 11123(2), the department shall do all of the following:

20 (a) Notify the municipality and county in which the treatment,
21 storage, or disposal facility is located or proposed to be located;
22 ~~a-the~~ local soil erosion and sedimentation control agency appointed
23 pursuant to part 91; each division within the department that has
24 responsibility in land, air, or water management; ~~a-the~~ regional
25 planning agency established by executive directive of the governor;
26 and other appropriate agencies. The notice shall describe the
27 procedure by which the license may be approved or denied.

28 (b) Review the plans of the proposed treatment, storage, or
29 disposal facility to determine if the proposed operation complies

1 with this part and the rules promulgated under this part. The
2 review shall be made within the department. The review shall
3 include, but need not be limited to, a review of air quality, water
4 quality, waste management, hydrogeology, and the applicant's
5 disclosure statement. A written and signed review by each person
6 within the department reviewing the application and plans ~~shall~~
7 **must** be ~~received and~~ filed in the department's license application
8 records before an operating license is issued or denied by the
9 department.

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

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

16 (e) Hold a public hearing ~~not more than~~ **within** 60 days. ~~after~~
17 ~~receipt of the application.~~

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

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

24 (4) The department shall make a final decision on an operating
25 license application within 140 days after the department receives a
26 complete application. However, if ~~the~~ **this** state's hazardous waste
27 management program is authorized by the United States environmental
28 protection agency under section 3006 of subtitle C of the solid
29 waste disposal act, 42 USC 6926, the department may extend the

1 deadline beyond the limitation provided in this section in order to
2 fulfill the public participation requirements of the solid waste
3 disposal act. The operating license may contain stipulations
4 specifically applicable to **the** site and operation.

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

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

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

17 **(8) After the moratorium under section 11122 ends, the**
18 **department shall not issue an operating license for a new**
19 **multisource commercial hazardous waste treatment, storage, or**
20 **disposal facility or the expansion of an existing facility if doing**
21 **so would cause the total licensed capacity to exceed 1/5 of the**
22 **limit established in the current state hazardous and LARM waste**
23 **management plan under section 11110(2)(b). For the purposes of this**
24 **subsection, "total licensed capacity" means the maximum amount of**
25 **waste that all treatment, storage, or disposal facilities in this**
26 **state are authorized to manage annually under their current**
27 **operating licenses.**

28 (9) Subject to subsection (10), the department shall not issue
29 a license or approval to establish or expand a multisource

1 commercial hazardous waste treatment, storage, or disposal
2 facility, including, but not limited to, a class I well, if any of
3 the following apply:

4 (a) The new facility or expansion is proposed to be located in
5 a city, village, township, or county where any of the following
6 apply:

7 (i) Another multisource hazardous waste treatment, storage, or
8 disposal facility, class I well, or class IV well is currently
9 operating.

10 (ii) Another multisource hazardous waste treatment, storage, or
11 disposal facility, class I well, or class IV well has operated
12 within the past 25 years, unless all of the following requirements
13 are met:

14 (A) The owner or operator of the facility or well described in
15 this subparagraph completes closure and postclosure care in
16 accordance with all applicable state and federal requirements.

17 (B) The department certifies completion of all corrective
18 action requirements.

19 (C) The department determines, after conducting a cumulative
20 impact analysis, that siting a new facility or expanding an
21 existing facility in the area would not disproportionately affect
22 overburdened communities or populations.

23 (b) The new facility or expansion is proposed to be located
24 within 50 miles of a currently operating treatment, storage, or
25 disposal facility, class I well, or class IV well that manages
26 hazardous waste generated by a person other than the owner or
27 operator or its subsidiaries.

28 (c) Any of the following apply to a census tract within a 3-
29 mile radius of the facility's proposed location:

1 (i) The population density exceeds the state average population
2 density by 50% or more, based on the most recent census data.

3 (ii) The percentage of population in households where the
4 household income is less than or equal to twice the federal poverty
5 level equals or exceeds the eightieth percentile for census tracts
6 in this state.

7 (iii) The overall score, as measured by MiEJScreen or its
8 equivalent, for any census tract within a 3-mile radius meets or
9 exceeds the eightieth percentile of census tracts in this state.

10 (10) Subsection (9) does not apply to the establishment or
11 expansion of a captive nonhazardous waste disposal well.

12 (11) ~~(8)~~The department shall provide notice of the final
13 decision **on an operating license application** to persons on the
14 organized mailing list for the facility.

15 (12) ~~(9)~~Following the construction of a new, expanded,
16 ~~enlarged,~~or altered treatment, storage, or disposal facility, the
17 department shall review all information required ~~to be submitted by~~
18 the operating license **to be submitted to the department**. If the
19 department finds that the owner or operator has deviated from the
20 specific conditions established in the operating license, the
21 department shall determine if cause exists for modification or
22 revocation of the operating license, in accordance with provisions
23 established by rule. At a minimum, the ~~postconstruction~~
24 ~~documentation~~**information** shall include all of the following:

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

27 (b) A certification of construction as described in section
28 11123(2) (n) (ii) . The department shall require additional
29 certification periodically during the operation or in order to

1 verify proper closure of the site.

2 (c) A certification of capability signed and sealed by a
3 licensed professional engineer as described in section
4 11123(2)(n)(iii).

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

7 (e) Proof of financial responsibility **for which this state is**
8 **the sole beneficiary and that is any of the following:**

9 (i) **A surety bond issued by an authorized insurer whose**
10 **certificate of authority is in good standing.**

11 (ii) **A cash account.**

12 (iii) **An automatically annually renewing certificate of deposit.**

13 Sec. 11132. (1) ~~Except as otherwise provided in this section,~~
14 ~~a~~**A** person shall not deliver to a landfill in this state for
15 disposal and the owner or operator of a landfill shall not permit
16 disposal in the landfill of **any of the following:**

17 (a) TENORM with any of the following:

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

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

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

24 (b) **Waste with concentrations greater than 260 picocuries per**
25 **gram for potassium-40 or greater than 25 picocuries per gram for**
26 **any other single radionuclide.**

27 (2) Except as otherwise specified in the landfill operating
28 license, the owner or operator of a landfill shall not permit a
29 delivery of TENORM for disposal at the landfill unless the

generator has provided the following information in writing to the owner or operator of the landfill:

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

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

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

(d) The proposed date of delivery.

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

(4) ~~If requested by the owner or operator of a landfill in an application for the renewal of or a major modification to an operating license,~~ **If, before the effective date of the amendatory act that added section 11122,** the department ~~may authorize with conditions and limits authorized in the~~ **an** operating license the disposal of TENORM with concentrations of radium-226 more than 50 picocuries per gram, radium-228 more than 50 picocuries per gram, or lead-210 more than 260 picocuries per gram, or any combination thereof, but not more than 500 picocuries per gram for each radionuclide, ~~—An the~~ operating license ~~under this part with such an authorization~~ constitutes a license from ~~the~~ **this** state's radiation control authority under part 135 of the public health code, 1978 PA 368, MCL 333.13501 to 333.13537, **to possess the TENORM** if the conditions and procedures for issuance of the operating license under this part ~~are~~ **were** sufficient to satisfy the licensing requirements of part 135 of the public health code,

1 1978 PA 368, MCL 333.13501 to 333.13537. **The disposal of TENORM**
2 **described in this subsection after the effective date of the**
3 **amendatory act that added section 11122 is prohibited.**

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

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

8 ~~(i) Personnel radiation protection.~~

9 ~~(ii) Worker training.~~

10 ~~(iii) Radiation surveys.~~

11 ~~(iv) Radiation instrument calibration.~~

12 ~~(v) Receipt and disposal of radioactive material.~~

13 ~~(vi) Emergency procedures.~~

14 ~~(vii) Record keeping.~~

15 ~~(b) A report evaluating the risks of exposure to residual~~
16 ~~radioactivity through all relevant pathways using a generally~~
17 ~~accepted industry model such as the Argonne National Laboratory~~
18 ~~RESRAD family of codes or, if approved by the department, another~~
19 ~~model. The report shall evaluate potential radiation doses to site~~
20 ~~workers and members of the public during site operation and after~~
21 ~~site closure. The report shall use reasonable scenarios to evaluate~~
22 ~~the dose to members of the public.~~

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

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

28 **(5) (6)** If TENORM is disposed at a landfill, the operator of
29 the landfill shall conduct a monitoring program that complies with

1 all of the following:

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

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

8 (c) Penetrating radiation, radioactivity in air, and radon in
9 air are measured as specified in the operating license if the
10 landfill ~~is~~ **was** used to dispose of TENORM with a concentration of
11 radium-226 more than 50 picocuries per gram, radium-228 more than
12 50 picocuries per gram, or lead-210 more than 260 picocuries per
13 gram.

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

18 **(6)** ~~(7)~~—The owner or operator of a landfill shall submit to
19 the department by March 15 each year a report that summarizes the
20 information obtained under subsection (2) for all TENORM disposed
21 at the landfill during the previous calendar year.

22 **(7)** ~~(8)~~—The owner or operator of a landfill shall do both of
23 the following:

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

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

28 **(8) A person shall not mix TENORM with any material for the**
29 **purposes of reducing the concentration of radium-226, radium-228,**

1 or lead-210, if the regulation of the resulting material under this
2 part or part 115 is affected. A person shall not store or dispose
3 of the resulting material except in compliance with the provisions
4 of this part or part 115 applicable to the TENORM before the mixing
5 occurred.

6 (9) This part does not apply to materials or activities listed
7 in section 1(2) of 1978 PA 113, MCL 325.491.

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

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

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

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

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

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

24 (7) To conduct tests and assess operational capabilities, the
25 owner or operator of a municipal solid waste incinerator that is
26 designed to burn at a temperature in excess of 2500 degrees
27 Fahrenheit may operate the incinerator without an operating
28 license, upon notice to the department, for a period not to exceed
29 60 days.

1 (8) The application for a type II landfill operating license
2 shall be accompanied by the following fee for the 5-year term of
3 the operating license, subject to subsection (9):

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

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

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

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

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

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

15 (g) Landfills receiving more than 3,000 tons per day,
16 \$33,000.00.

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

22 Application fees shall be adjusted in the following circumstances:

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

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

1 license application.

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

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

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

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

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

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

29 (a) Immediately send notice to the clerk of the municipality

1 where the disposal area is located and the designated regional
2 solid waste management planning agency.

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

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

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

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

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

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

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

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

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

26 (17) If an application is returned to the applicant as
27 administratively incomplete, the department shall refund the entire
28 fee. An applicant for a license, within 12 months after a license
29 denial or withdrawal of a license application, may resubmit the

1 application with the additional information as needed to address
2 the reasons for denial, without being required to pay an additional
3 application fee.

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

8 (19) Except as provided in subsection (13), the department
9 shall deposit operating license application fees collected under
10 this section in the perpetual care account of the solid waste
11 management fund.

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

16 (21) The department shall not license a landfill or coal ash
17 impoundment unless the landfill or coal ash impoundment has an
18 approved hydrogeologic monitoring program and the owner or operator
19 has provided the department with the monitoring results. The
20 department shall use this information in conjunction with other
21 information required by part 115 to determine a course of action
22 regarding licensing of the facility consistent with section 4005 of
23 subtitle D of the solid waste disposal act, 42 USC 6945, and with
24 part 115. In deciding a course of action, the department shall
25 consider, at a minimum, the environment, natural resources, the
26 public health, safety, and welfare, and other public or private
27 alternatives. If a landfill or coal ash impoundment violates part
28 115, the department may do any of the following:

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

1 (b) If the disposal area is a coal ash impoundment that has
2 not been previously licensed under ~~this~~ part **115**, deny a license.

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

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

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

12 (b) Complies with part 55.

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

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

17 (a) Industrial waste.

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

20 (24) The owner or operator of a landfill shall annually submit
21 a report to the department and the county and municipality in which
22 the landfill is located that specifies the tonnage and type of
23 solid waste **and the surcharges under section 11525a** received by the
24 landfill during the year itemized, to the extent possible, by
25 county, state, or country of origin and the amount of remaining
26 disposal capacity at the landfill. Remaining disposal capacity
27 shall be calculated as the permitted capacity less waste in place
28 for any area that has been constructed and is not yet closed plus
29 the permitted capacity for each area that has a permit for

1 construction under part 115 but has not yet been constructed. The
 2 report shall be submitted within 45 days after the end of each
 3 state fiscal year. By January 31 of each year, the department shall
 4 submit to the legislature a report summarizing the information
 5 obtained under this subsection.

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

11 Sec. 11514b. (1) A person shall not deliver to a type II
 12 landfill in this state for disposal and the owner or operator of a
 13 type II landfill shall not permit disposal in the landfill of
 14 ~~technologically~~ **any of the following:**

15 (a) ~~enhanced naturally occurring radioactive material~~ **TENORM**
 16 with any of the following:

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

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

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

23 (b) **Waste with concentrations greater than 260 picocuries per**
 24 **gram for potassium-40 or greater than 50 picocuries per gram for**
 25 **any other single radionuclide.**

26 (2) The owner or operator of a type II landfill shall not
 27 permit a delivery of TENORM for disposal at the landfill unless the
 28 generator has provided the following information in writing to the
 29 owner or operator of the landfill:

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

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

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

9 (d) The proposed date of delivery.

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

12 (4) Within 45 days after the end of each state fiscal year,
13 the owner or operator of a type II landfill shall submit to the
14 department ~~an annual~~ a report that summarizes the information
15 obtained under subsection (2) for all TENORM disposed at the
16 landfill during the previous state fiscal year.

17 (5) The owner or operator of a type II landfill that disposes
18 of TENORM with a concentration of radium-226 more than 25
19 picocuries per gram, a concentration of radium-228 more than 25
20 picocuries per gram, or a concentration of lead-210 more than 25
21 picocuries per gram shall do all of the following:

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

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

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

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

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

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

8 **(6) This part does not apply to materials or activities listed**
 9 **in section 1(2) of 1978 PA 113, MCL 325.491.**

10 (7) ~~(6)~~ As used in this section, "technologically enhanced
 11 naturally occurring radioactive material" or "TENORM" means
 12 naturally occurring radioactive material whose radionuclide
 13 concentrations have been increased as a result of human practices.
 14 TENORM does not include ~~any of the following:~~

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

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

19 Sec. 11525a. (1) ~~The~~ **Subject to subsection (2),** the owner or
 20 operator of a landfill or coal ash impoundment shall pay a
 21 surcharge as follows:

22 (a) Except as provided in subdivision (b), for a landfill or
 23 coal ash impoundment that is not a captive facility, ~~36 cents~~ **\$1.20**
 24 for each ton or portion of a ton of solid waste or municipal solid
 25 waste incinerator ash that is disposed of in the landfill or coal
 26 ash impoundment. ~~before October 1, 2027.~~

27 (b) For a landfill or coal ash impoundment that is not a
 28 captive facility, 12 cents ~~per~~ **for each** ton or portion of a ton of
 29 foundry sand, slag from metal melting, baghouse dust, furnace

1 refractory brick, pulp and paper mill material, paper mill ash,
 2 wood ash, coal bottom ash, mixed wood ash, fly ash, flue gas
 3 desulfurization sludge, contaminated soil, cement kiln dust, lime
 4 kiln dust, and other industrial waste that weighs at least 1 ton
 5 per cubic yard, as determined by the generator.

6 (c) For a type III landfill or coal ash impoundment that is a
 7 captive facility and annually receives the following amount of
 8 waste, the following annual corresponding surcharge for each state
 9 fiscal year, based on the amount of waste received during that
 10 fiscal year:

11 (i) 100,000 or more tons of waste, \$3,000.00.

12 (ii) 75,000 or more but less than 100,000 tons of waste,
 13 \$2,500.00.

14 (iii) 50,000 or more but less than 75,000 tons of waste,
 15 \$2,000.00.

16 (iv) 25,000 or more but less than 50,000 tons of waste,
 17 \$1,000.00.

18 (v) Less than 25,000 tons of waste, \$500.00.

19 **(2) Effective October 1, 2030, and every fifth year**
 20 **thereafter, the department may increase the surcharges specified in**
 21 **subsection (1) and the funding for the solid waste staff account**
 22 **specified in subsection (5) (a) by amounts determined by multiplying**
 23 **those amounts by the inflation adjustment factor. The department**
 24 **shall round the surcharges to the nearest whole cent and the**
 25 **funding to the nearest \$100.00. The inflation adjustment factor**
 26 **equals the 3-year average July-June Consumer Price Index for the**
 27 **period ending during the immediately preceding state fiscal year**
 28 **divided by the 3-year average July-June Consumer Price Index for**
 29 **the period ending on June 30, 2030, as determined by the department**

1 of treasury using the Detroit-Warren-Dearborn Consumer Price Index.
2 However, the inflation adjustment factor must not be less than
3 1.00.

4 (3) ~~(2)~~—Within 30 days after the end of each quarter of a
5 state fiscal year, the owner or operator of a landfill or coal ash
6 impoundment that is not a captive facility shall pay the surcharge
7 under subsection (1)(a) **or (b)** for waste received during that
8 quarter of the state fiscal year. Within 30 days after the end of a
9 state fiscal year, the owner or operator of a type III landfill or
10 coal ash impoundment that is a captive facility shall pay the
11 surcharge under subsection ~~(1)(b)~~ **(1)(c)** for waste received during
12 that state fiscal year.

13 (4) ~~(3)~~—If the owner or operator of a landfill or coal ash
14 impoundment is required to pay the surcharge under subsection (1),
15 the owner or operator shall pass through and collect the surcharge
16 from any person that generated the solid waste or arranged for its
17 delivery to the hauler or solid waste processing and transfer
18 facility, notwithstanding the provisions of any agreement to the
19 contrary or the absence of any agreement. **A hauler that contracts**
20 **with a municipality to haul municipal solid waste shall include as**
21 **a separate item on each invoice to the municipality the amount of**
22 **the surcharges under subsection (1) paid on the solid waste.**

23 (5) ~~(4)~~—Surcharges collected under this section **before the**
24 **effective date of the amendatory act that added subsection (6)** must
25 be forwarded to the state treasurer for deposit in the solid waste
26 staff account of the solid waste management fund. **Surcharges**
27 **collected under this section on or after the effective date of the**
28 **amendatory act that added subsection (6) must be forwarded to the**
29 **state treasurer for deposit as follows:**

1 (a) The first \$9,000,000.00 each state fiscal year and, if
2 total surcharges collected in a state fiscal year exceed
3 \$12,000,000.00, the amount collected in excess of \$12,000,000.00,
4 but not more than an additional \$3,000,000.00, in the solid waste
5 staff account of the solid waste management fund.

6 (b) The balance each state fiscal year as follows:

7 (i) 45% in the cleanup and redevelopment fund created in
8 section 20108.

9 (ii) 40% in the municipal grant fund created in subsection (6).

10 (iii) 15% in the host communities grant fund created in
11 subsection (7).

12 (6) The municipal grant fund is created in the state treasury.
13 The state treasurer shall deposit money and other assets received
14 under subsection (5) (b) (ii), section 11108(9) (b), section
15 11109(5) (b), or from any other lawful source in the fund. The state
16 treasurer shall direct the investment of money in the fund and
17 credit interest and earnings from the investments to the fund. The
18 department is the administrator of the fund for audits of the fund.
19 Money in the fund at the close of the fiscal year shall remain in
20 the fund and not lapse to the general fund. At the end of each
21 state fiscal year, on appropriation, the department shall promptly
22 distribute the balance of the fund as grants to all the
23 municipalities in this state. The amount of each grant shall be
24 proportional to the population of the city, village, or township.
25 For this purpose, the population of a township is the population
26 outside the corporate limits of villages in the township. The
27 purpose of the grants is to reimburse or partially reimburse
28 municipalities for surcharges and fees paid, whether directly or
29 through a contract with a private hauler, under this section and

1 sections 11108 and 11109 and deposited in the municipal grant fund.

2 (7) The host communities grant fund is created in the state
3 treasury. The fund has 2 accounts, designated as the part 111
4 account and the part 115 account. The state treasurer shall deposit
5 money and other assets received under section 11108(9)(c), under
6 section 11109(5)(c), or from any other lawful source in the part
7 111 account. The state treasurer shall deposit money and other
8 assets received under subsection (5)(b)(iii) or from any other lawful
9 source in the part 115 account. The state treasurer shall direct
10 the investment of money in the fund and credit interest and
11 earnings from the investments to each account in proportion to the
12 amount of money invested from that account. The department is the
13 administrator of the fund for audits of the fund. Money in an
14 account at the close of the fiscal year shall remain in that
15 account and not lapse to the general fund. The department shall
16 expend money from the part 111 account, on appropriation, only for
17 annual grants to municipalities that are the sites of landfills and
18 coal ash impoundments that pay fees under section 11108 or 11109.
19 The department shall expend money from the part 115 account, on
20 appropriation, only as follows:

21 (a) 75% for annual grants to municipalities that are the sites
22 of landfills and coal ash impoundments that pay surcharges under
23 this section.

24 (b) 25% for annual grants to all other municipalities any
25 portion of which is located within 2 miles of a landfill or coal
26 ash impoundment that pays surcharges under this section.

27 (8) To obtain a grant from the host communities grant fund, a
28 municipality must file an application with the department during
29 the period of November 1 through December 1. The application shall

1 be filed on a form and in a medium provided or approved by the
 2 department. The department shall award grants by December 31 to
 3 municipalities that timely submitted a complete application. Each
 4 grant shall be proportionate to the amount of surcharges deposited
 5 in the host communities grant fund during the prior state fiscal
 6 year from landfills and coal ash impoundments the location of which
 7 qualifies the grant recipient for the grant and a proportionate
 8 share of money in the fund other than revenue deposited under
 9 subsection (5) (b) (iii), section 11108(9) (c), or section 11109(5) (c).

10 (9) As used in this section, "Consumer Price Index" means the
 11 most comprehensive index of consumer prices available for the
 12 Detroit-Warren-Dearborn area from the Bureau of Labor Statistics of
 13 the United States Department of Labor.

14 Sec. 62501. As used in this part:

15 (a) "Artificial brine" means mineralized water formed by
 16 dissolving rock salt or other readily soluble rocks or minerals.

17 (b) "Brine well" means a well drilled or converted for the
 18 purpose of producing natural or artificial brine.

19 (c) "Class I hazardous waste well" means a class I well
 20 described in subdivision (e) (i).

21 (d) "Class I nonhazardous well" means a class I well described
 22 in subdivision (e) (ii) or (iii).

23 (e) "Class I well" means any of the following:

24 (i) A well that is used by a generator of hazardous waste or
 25 the owner or operator of a hazardous waste management facility to
 26 inject hazardous waste beneath the lowermost formation that
 27 contains all or part of an underground source of drinking water
 28 within 1/4 mile of the well bore.

29 (ii) An industrial and municipal disposal well that injects

1 fluids beneath the lowermost formation that contains all or part of
2 an underground source of drinking water within 1/4 mile of the well
3 bore.

4 (iii) A radioactive waste disposal well that injects fluids
5 below the lowermost formation that contains all or part of an
6 underground source of drinking water within 1/4 mile of the well
7 bore.

8 (f) "Class III well" means a well that is used for the
9 extraction of minerals including, but not limited to, the
10 following:

11 (i) Mining of sulfur by the Frasch process.

12 (ii) In situ production of uranium or other metals, not
13 including solution mining of conventional mines.

14 (iii) Solution mining of salts or potash.

15 (g) "Class IV well" means any of the following:

16 (i) A well that is used by a generator of hazardous waste or
17 radioactive waste, by the owner or operator of a hazardous waste
18 management facility, or by the owner or operator of a radioactive
19 waste disposal site to dispose of hazardous waste or radioactive
20 waste into a formation that contains all or part of an underground
21 source of drinking water within 1/4 mile of the well bore.

22 (ii) A well that is used by a generator of hazardous waste or
23 radioactive waste, by the owner or operator of a hazardous waste
24 management facility, or by the owner or operator of a radioactive
25 waste disposal site to dispose of hazardous waste or radioactive
26 waste above a formation that contains all or part of an underground
27 source of drinking water within 1/4 mile of the well bore.

28 (iii) A well that is used by a generator of hazardous waste or
29 the owner or operators of a hazardous waste management facility to

dispose of hazardous waste and that is not described by 40 CFR 146.5(a)(1) or 146.5(d)(1).

(h) ~~(e)~~—"Department" means the department of ~~environmental quality~~**environment, Great Lakes, and energy.**

(i) ~~(d)~~—"Disposal well" means a well drilled or converted for subsurface disposal of waste products or processed brine and its related surface facilities.

(j) ~~(e)~~—"Exploratory purposes" means ~~test well drilling for~~ the specific purpose of discovering or outlining an orebody or mineable mineral resource.

(k) ~~(f)~~—"Fund" means the mineral well regulatory fund created in section 62509b.

(l) ~~(g)~~—"Mineral well" means any well subject to this part.

(m) ~~(h)~~—"Natural brine" means naturally occurring mineralized water other than potable or fresh water.

(n) ~~(i)~~—"Operator" means the person ~~, whether owner or not,~~ supervising or responsible for the drilling, operating, repairing, abandoning, or plugging of ~~wells~~**a well** subject to this part, **whether or not that person is the owner.**

(o) ~~(j)~~—"Owner" means the person who has the right to drill, convert, or operate any well subject to this part.

(p) ~~(k)~~—"Pollution" means damage or injury from the loss, escape, or unapproved disposal of any substance at any well subject to this part.

(q) ~~(l)~~—"Storage well" means a well drilled into a subsurface formation to develop an underground storage cavity for subsequent use in storage operations. Storage well does not include a storage well drilled pursuant to part 615.

(r) ~~(m)~~—"Supervisor of mineral wells" means the state

1 geologist.

2 **(s)** ~~(n)~~ "Surface waste" means damage to, injury to, or
 3 destruction of surface ~~waters, soils, water, of soil, of~~ animal,
 4 fish, ~~and~~**or** aquatic life, or **of** surface property from unnecessary
 5 seepage or loss incidental to or resulting from drilling,
 6 equipping, or operating a well or wells subject to this part.

7 **(t)** ~~(e)~~ "Test well" means a well, core hole, core test,
 8 observation well, or other well drilled from the surface to
 9 determine the presence of a mineral, mineral resource, ore, or rock
 10 unit, or to obtain geological or geophysical information or other
 11 subsurface data related to mineral exploration and extraction. Test
 12 well does not include holes drilled in the operation of a quarry,
 13 open pit, or underground mine, or any wells not related to mineral
 14 exploration or extraction.

15 **(u)** ~~(p)~~ "Underground storage cavity" means a cavity formed by
 16 dissolving rock salt or other readily soluble rock or mineral, by
 17 nuclear explosion, or by any other method for the purpose of
 18 storage or disposal.

19 **(v)** ~~(q)~~ "Underground waste" means damage or injury to potable
 20 water, mineralized water, or other subsurface resources **incidental**
 21 **to or resulting from drilling, equipping, or operating a well**
 22 **subject to this part.**

23 **(w)** ~~(r)~~ "Waste product" means waste or by-product resulting
 24 from municipal or industrial operations or waste from any trade,
 25 manufacture, business, or private pursuit that could cause
 26 pollution and for which underground disposal may be feasible or
 27 practical.

28 **Sec. 62508b. (1) Subject to subsection (2), the construction,**
 29 **expansion, or installation of either of the following is**

1 prohibited:

2 (a) A new or converted multisource commercial hazardous waste
3 disposal well.

4 (b) A new or converted class IV well.

5 (2) Subsection (1) does not apply to a class IV well that
6 either 40 CFR 144.13(c) provides is not prohibited by 40 CFR 144.13
7 or that 40 CFR 144.23(c) provides is authorized by rule.

8 (3) Subsection (1) does not prohibit any of the following:

9 (a) Maintenance, repair, or like-for-like replacement of
10 equipment necessary for the safe operation of an existing well,
11 including, but not limited to, necessary workover and repairs of
12 the well bore and injection equipment such as pumps, pressure
13 monitoring equipment, and facility piping.

14 (b) Subject to subsections (4) and (5), an equipment change at
15 an existing well that demonstrably reduces the amount of hazardous
16 or radioactive materials stored or emitted due to improved
17 treatment methods or technologies, if the change does not increase
18 the well's overall capacity or extend its operational lifespan.

19 (c) Subject to subsections (4) and (5), an expansion of an
20 existing well site.

21 (4) A proposed change under subsection (3)(b) or (c) must be
22 approved by the department. The well operator shall submit to the
23 department documentation demonstrating how the proposed change will
24 meet the requirements of subsection (3)(b) or (c). The department
25 shall make the documentation publicly available and provide for a
26 public comment period of not less than 60 days before deciding to
27 approve or reject the proposed change.

28 (5) In reviewing proposals under subsection (4), the
29 department shall prioritize changes that provide the greatest

1 **reduction in risk to public health and the environment. The**
 2 **department shall not approve any changes that could result in**
 3 **increased exposure or risk to overburdened communities.**

4 Sec. 62509. (1) A person shall not drill or begin the drilling
 5 of any brine, storage, or waste disposal well, or convert any well
 6 for these uses, and except as authorized by a permit issued by the
 7 supervisor of mineral wells pursuant to part 13 and rules
 8 promulgated by the supervisor of mineral wells, and unless the
 9 person files with the supervisor of mineral wells an approved
 10 surety or security bond. The application shall be accompanied by a
 11 survey of the well site. The department shall conduct an
 12 investigation and inspection before the supervisor of mineral wells
 13 issues a permit. A permit shall not be issued to ~~any~~**an** owner or
 14 ~~his or her~~**the owner's** authorized representative ~~who~~**if either**
 15 **person** does not comply with the rules of the supervisor of mineral
 16 wells or ~~who~~ is in violation of this part or any rule of the
 17 supervisor of mineral wells. Upon **submission to the supervisor of**
 18 **mineral wells of appropriate evidence of the** completion of the
 19 drilling or ~~converting~~**conversion** of a well for storage or waste
 20 disposal and ~~after necessary~~**of** testing by the owner ~~to determine~~
 21 that **indicates** the well can be used for these purposes ~~and~~ in a
 22 manner that will not cause surface or underground waste, the
 23 supervisor of mineral wells ~~, upon receipt of appropriate evidence,~~
 24 shall approve and regulate the use of the well for storage or waste
 25 disposal. These operations shall be **conducted** pursuant to part 31.
 26 The supervisor of mineral wells may schedule a public hearing to
 27 consider the need or advisability of permitting the drilling or
 28 ~~operating~~**operation** of a storage or waste disposal well, or
 29 ~~converting~~**the conversion of** a well for these uses, if the public

1 safety or other interests are involved.

2 (2) A person shall not drill a test well 50 feet or greater in
 3 depth into the bedrock or below the deepest freshwater strata,
 4 except as provided in section 62508(c), ~~except as~~ **unless the**
 5 **drilling is** authorized by a permit issued by the supervisor of
 6 mineral wells pursuant to part 13 and rules promulgated by the
 7 supervisor of mineral wells ~~and unless~~ the person files with the
 8 supervisor of mineral wells an approved surety or security bond.
 9 The application shall be accompanied by the fee provided in
 10 subsection (6). The department shall conduct an investigation and
 11 inspection before the supervisor of mineral wells issues a permit.
 12 A permit shall not be issued to ~~any an~~ owner or ~~his or her~~ **the**
 13 **owner's** authorized representative ~~who if either person~~ does not
 14 comply with the rules of the supervisor of mineral wells or ~~who is~~
 15 in violation of this part or any rule of the supervisor of mineral
 16 wells. A test well that penetrates below the deepest freshwater
 17 stratum or is greater than 250 feet in depth is subject to an
 18 individual test well permit. A test well that does not penetrate
 19 below the deepest freshwater stratum and is 250 feet or less in
 20 depth is subject to a blanket test well permit. **The supervisor of**
 21 **mineral wells may allow a blanket test well permit for wells deeper**
 22 **than 250 feet if the applicant so requests and provides the**
 23 **supervisor of mineral wells with geological data demonstrating that**
 24 **the test well will remain within the freshwater stratum.** This
 25 subsection does not apply to a test well regulated under part 111
 26 or part 115, or a water well regulated under part 127 of the public
 27 health code, 1978 PA 368, MCL 333.12701 to 333.12771.

28 (3) A permit is not required to drill a test well in ~~those~~
 29 areas of ~~the~~ **this** state where rocks of Precambrian age directly

1 underlie unconsolidated surface deposits or in ~~those~~ areas that
2 have been designated pursuant to section 62508(c). However, ~~within~~
3 **at least 30 days before drilling the well, the owner shall provide**
4 **notice to the supervisor of mineral wells on a form provided by the**
5 **supervisor of mineral wells. The form shall be accompanied by a**
6 **\$500.00 fee and an approved surety or security bond. The form shall**
7 **include the location of proposed test wells, including a map,**
8 **measures to be taken to prevent soil erosion, a description of**
9 **casing, and sealing and plugging procedures. Within 2 years after**
10 **completion of the drilling of the well, the owner shall advise the**
11 **supervisor of mineral wells of the location of the well and file**
12 **with the supervisor of mineral wells the log required under section**
13 **62508(d). The provisions of this part pertaining to the prevention**
14 **and correction of surface and underground waste** ~~have the same~~
15 ~~application from other wells regulated under this part apply to~~
16 ~~these test wells as to other wells defined in this part.~~
17 **as**
18 **described in this subsection.**

18 (4) Upon request, the supervisor of mineral wells may issue to
19 **a qualified persons** ~~person~~ a blanket permit to drill within a
20 county test wells ~~which~~ **that** will not penetrate below the deepest
21 freshwater stratum and are 250 feet or less in depth.

22 (5) All information and records pertaining to the application
23 for and issuance of permits for wells subject to this part shall be
24 held confidential in the same manner as provided for logs and
25 reports on these wells. **However, the supervisor of mineral wells**
26 **may share basic information such as the well type, location, and**
27 **applicant name.**

28 (6) A permit application submitted under this section shall be
29 accompanied by the following permit application fee:

1	(a) Disposal well for disposal of waste	
2	products other than processed brine	\$ 2,500.00.
3	(b) Disposal well for disposal of	
4	processed brine	\$ 500.00.
5	(c) Storage well	\$ 500.00.
6	(d) Natural brine production well	\$ 500.00.
7	(e) Artificial brine production well	\$ 500.00.
8	(f) Individual test well under	
9	subsection (2)	\$ 500.00.
10	(g) Blanket permit for test wells drilled pursuant to	
11	subsection (4):	
12	(i) 1 to 24 wells	\$ 75.00.
13	(ii) 25 to 49 wells	\$ 150.00.
14	(iii) 50 to 75 wells	\$ 300.00.
15	(iv) 75 to 200 wells	\$ 600.00.
16	(7) The supervisor of mineral wells shall deposit all permit	
17	application fees collected under this section into the fund.	

18 **Sec. 62509d. (1) Within 2 years after the effective date of**
19 **the amendatory act that added this section and annually thereafter,**
20 **an operator of a class I well or a class III well shall, for each**
21 **well, file proof of financial responsibility, as described in**
22 **subsections (2) and (4), for which this state is the sole**
23 **beneficiary.**

24 **(2) The financial responsibility under subsection (1) shall be**
25 **a surety bond issued by an authorized insurer whose certificate of**
26 **authority is in good standing, a cash account, or an automatically**
27 **annually renewing certificate of deposit. The surety bond, cash**
28 **account, or certificate of deposit shall comply, and shall be**
29 **interpreted to comply, with all of the following, as applicable:**

1 (a) The amount meets both of the following requirements:

2 (i) Is at least the following:

3 (A) For a class I multisource commercial hazardous waste well,
4 \$500,000.00 or the amount sufficient to cover the costs of well
5 plugging and reclamation based on a third-party engineering
6 estimate, whichever is greater.

7 (B) For a class I multisource commercial nonhazardous well,
8 \$250,000.00 or the amount sufficient to cover the costs of well
9 plugging and reclamation based on a third-party engineering
10 estimate, whichever is greater.

11 (C) For a class I captive hazardous waste well, \$300,000.00 or
12 the amount sufficient to cover the costs of well plugging and
13 reclamation based on a third-party engineering estimate, whichever
14 is greater.

15 (D) For a class I captive nonhazardous waste well, \$150,000.00
16 or the amount sufficient to cover the costs of well plugging and
17 reclamation based on a third-party engineering estimate, whichever
18 is greater.

19 (E) For multiple class I nonhazardous wells, not to exceed 4
20 wells, \$500,000.00 for a blanket bond.

21 (F) For a class III well, \$100,000.00.

22 (G) For multiple class III wells, not to exceed 20 wells,
23 \$1,000,000.00 for a blanket bond.

24 (ii) Is sufficient to cover the costs of well plugging and
25 reclamation, as determined by the department based on engineering,
26 geotechnical, environmental, or location conditions.

27 (b) The terms of the instrument cannot be altered without the
28 approval of the department.

29 (c) A cash account or deposit is held in trust by a federally

1 insured financial institution that meets all of the following
2 requirements:

3 (i) Is regulated by banking authorities of this state or the
4 federal government.

5 (ii) Holds the deposit in a segregated trust account solely for
6 the benefit of this state.

7 (iii) Releases funds only upon written authorization from this
8 state.

9 (iv) The deposit cannot be offset against or encumbered by any
10 other obligation.

11 (d) Cancellation of a bond requires at least 120 days' advance
12 notice.

13 (e) The instrument remains in effect until the department
14 determines that all of the following apply:

15 (i) The class I well or class III well has been permanently
16 plugged and abandoned in compliance with law and in a manner that
17 protects underground sources of drinking water.

18 (ii) All contamination at the site has been remediated.

19 (iii) The soil at the site has been stabilized and the site has
20 been regraded to conditions approved by the department, with
21 vegetation sufficiently established to prevent erosion or offsite
22 runoff.

23 (iv) All required well records and supporting documentation
24 have been submitted to the department, no adverse environmental
25 conditions caused by the drilling of the well remain at the surface
26 or within an underground source of drinking water, and the
27 department considers the site to meet plugging-approved status.

28 (3) Payment under an instrument required by subsection (2)
29 does not relieve the operator from any other legal requirements.

1 Assets under the instrument revert to the operator's control, at
2 the operator's request, only after the operator has adequately
3 plugged the wells, reclaimed the well site, and complied with all
4 orders of the supervisor or department under this act.

5 (4) The financial responsibility under subsection (1) shall
6 also include environmental pollution insurance coverage that
7 complies with all of the following:

8 (a) The amount of coverage meets both of the following
9 requirements:

10 (i) Is at least \$5,000,000.00 per occurrence for a multisource
11 commercial hazardous waste disposal well or \$2,500,000.00 per
12 occurrence for a captive hazardous waste disposal well.

13 (ii) Is considered by the department to be sufficient to cover
14 the remediation of private property that could reasonably be
15 affected by future environmental incidents caused by the drilling
16 of the well and the replacement of drinking water supplies for
17 properties with affected water wells.

18 (b) After the well is plugged, the insurance remains in effect
19 until the department determines the well meets plugging-approved
20 status requirements and extends for an additional 10 years for a
21 class I hazardous waste well or 5 years for a class I nonhazardous
22 well.

23 (c) The insurance is provided by an insurance carrier
24 authorized, licensed, or permitted to conduct such insurance
25 business in this state and that holds at least an A- rating by AM
26 Best or any comparable rating service.

27 (d) The insurance is not issued by a captive insurer, surplus
28 line insurer, or risk retention group.

29 (5) Within 2 years after the effective date of the amendatory

1 act that added this section and annually thereafter, an operator of
2 a test well shall, for each well, file proof of financial
3 responsibility for which this state is the sole beneficiary. The
4 financial responsibility shall be a surety bond issued by an
5 authorized insurer whose certificate of authority is in good
6 standing, a cash account, or an automatically annually renewing
7 certificate of deposit. The financial responsibility shall comply,
8 and shall be interpreted to comply, with the following, as
9 applicable:

10 (a) The amount meets both of the following requirements:

11 (i) Is at least \$10,000.00.

12 (ii) Is sufficient to cover the costs of well plugging and
13 reclamation, as determined by the department based on engineering,
14 geotechnical, environmental, or location conditions.

15 (b) The terms of the instrument shall not be altered without
16 the approval of the department.

17 (c) A cash account or deposit is held in trust by a federally
18 insured financial institution that meets all of the following
19 requirements:

20 (i) Is regulated by banking authorities of this state or the
21 federal government.

22 (ii) Holds the deposit in a segregated trust account solely for
23 the benefit of this state.

24 (iii) Releases funds only upon written authorization from this
25 state.

26 (iv) The deposit cannot be offset against or encumbered by any
27 other obligation.

28 (d) Cancellation of a bond requires at least 120 days' advance
29 notice.

1 (e) The instrument remains in effect until the department
2 determines that all of the following apply:

3 (i) The test well has been permanently plugged and abandoned in
4 compliance with law and in a manner that protects underground
5 sources of drinking water.

6 (ii) All contamination at the site has been remediated.

7 (iii) The soil at the site has been stabilized and
8 rehabilitated.

9 (iv) The ecosystem has been restored.

10 (6) Payment under an instrument required by subsection (5)
11 does not relieve the operator from any other legal requirements.
12 Assets under the instrument revert to the operator's control, at
13 the operators request, only after the operator has adequately
14 plugged the wells, reclaimed the well site, and complied with all
15 orders of the supervisor or department under this act.

16 Enacting section 1. Sections 11111 and 11112 of the natural
17 resources and environmental protection act, 1994 PA 451, MCL
18 324.11111 and 324.11112, are repealed.

19 Enacting section 2. Section 11525a of the natural resources
20 and environmental protection act, 1994 PA 451, MCL 324.11525a, as
21 amended by this amendatory act, takes effect March 1, 2026.