

Act No. 165
Public Acts of 2001
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Reps. DeVuyst, Patterson, Howell, Richner, Raczkowski, Lipsey, Richardville, Koetje and Kowall

ENROLLED HOUSE BILL No. 4626

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 11104, 11108, 11130, 11135, 12101, 12102, 12103, 12109, and 12112 (MCL 324.11104, 324.11108, 324.11130, 324.11135, 324.12101, 324.12102, 324.12103, 324.12109, and 324.12112), sections 11104 and 11130 as amended by 1998 PA 139 and sections 12101, 12102, 12103, and 12109 as amended by 1998 PA 140, and by adding sections 5419 and 11153; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 5419. (1) Beginning on the effective date of the regulation that provides a new federal drinking water standard for arsenic, the department shall implement an arsenic testing program. The arsenic testing program shall provide free testing of private drinking water wells for the presence of arsenic in geographic areas of the state where the department knows or suspects that there are high levels of arsenic.

(2) In promoting free drinking water tests under the arsenic testing program, the department shall encourage households containing senior citizens, children, and individuals with medical illnesses to have their drinking water tested.

(3) After the department conducts a test on the level of arsenic in water from a drinking water well, the department shall notify the resident or residents of the household of the level of arsenic in the drinking water sample and whether that level exceeds the federal drinking water standard for arsenic. In addition to the results of the arsenic test, the department shall provide the resident or residents with educational materials about groundwater contamination and shall identify other substances that the resident or residents may want to consider having the drinking water tested for.

(4) Beginning on the effective date of the regulation that provides a new federal drinking water standard for arsenic, the department shall establish an arsenic education program that will produce educational materials to be made available to local health departments in geographic areas of the state that the department knows to contain levels of arsenic above the new federal drinking water standard. In addition, the department shall make this information available on the department website.

(5) By October 1, 2002, the department shall, based upon data available to the department and in conjunction with local health departments, produce maps on a county by county basis to denote geographic areas that the department

knows to contain arsenic, nitrates, or volatile organic compounds. The maps shall be available to local health departments and local public libraries and shall be posted on the department's website.

(6) By March 15, 2002 and September 30, 2002, the department shall submit a report to the legislature on the status of the implementation of this section.

(7) The department may promulgate rules to implement this section.

(8) As used in this section:

(a) "Local health department" means that term as it is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(b) "Federal drinking water standard for arsenic" means the standard promulgated under section 1412 of part B of title XIV of the public health service act, chapter 373, 88 Stat. 1660, 42 U.S.C. 300g-1, popularly known as the safe drinking water act.

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

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

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

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

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

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

(7) "The solid waste disposal act" means title II of Public Law 89-272, 42 U.S.C. 6901, 6902 to 6907, 6911, 6912 to 6914a, 6915 to 6916, 6921 to 6939e, 6941, 6942 to 6949a, 6951 to 6956, 6961 to 6964, 6971 to 6979b, 6981 to 6987, 6991 to 6991i, and 6992 to 6992k.

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

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

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

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

(12) "Vehicle" means a transport vehicle as defined in 49 C.F.R. 171.8.

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

(2) Except as otherwise provided in this section, each owner or operator of a solidification facility licensed pursuant to section 11123 shall pay to the department a fee assessed on hazardous waste received at the solidification facility. The fee shall be based on the quantity of hazardous waste specified on the manifest or monthly operating report and shall be \$10.00 per ton, \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound depending on the unit of measure used by the owner or operator to calculate the fee. The fee for fractional quantities of hazardous waste shall be proportional. If the hazardous waste is required to be listed on a manifest and the owner or operator of the solidification facility determines that the hazardous waste quantity figure on the manifest is not accurate, the owner or operator shall correct the hazardous waste quantity figure on all manifest copies accompanying the shipment, note the reason for the change in the discrepancy indication space on the manifest, and assess the fee in accordance with the corrected hazardous waste quantity figure. Payment shall be made within 30 days after the close of each quarter. The solidification facility owner or operator shall assess off-site generators the fee. The fee for hazardous waste that is generated and solidified on the site of a solidification owner or operator shall be paid by that owner or operator.

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

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

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

(c) Hazardous waste that is removed from a site of environmental contamination that is included in a list submitted to the legislature pursuant to section 20105, or hazardous waste that is removed as part of a site cleanup activity at the expense of the state or federal government.

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

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

(f) Primary and secondary wastewater treatment solids from a wastewater treatment plant that includes an aggressive biological treatment facility as defined in section 3005(j)(12)(B) of subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6925.

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

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

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

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

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

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

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

(8) A generator seeking a refund shall calculate the refund due by comparing hazardous waste generation, treatment, and disposal activity in the calendar year immediately preceding the date of filing with hazardous waste generation, treatment, and disposal activity in the calendar year 2 years prior to the date of filing.

(9) To be eligible for a refund, a generator shall file a request with the department by June 30 of the year following the year for which the refund is being claimed.

(10) A refund shall not exceed the total fees paid by the generator to the landfill operator or owner and the solidification facility operator or owner.

(11) A form submitted by the generator as provided for in subsection (7) shall be certified by the generator or the generator's authorized agent.

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

(13) The fees collected under this section shall be forwarded to the state treasurer and deposited in the waste reduction fund created in subsection (14).

(14) The waste reduction fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the waste reduction fund. The state treasurer shall direct the investment of the waste reduction fund. The state treasurer shall credit to the waste reduction fund interest and earnings from waste reduction fund investments. Money in the waste reduction fund at the close of the fiscal year shall remain in the waste reduction fund and shall not lapse to the general fund. Money from the waste reduction fund shall be expended, upon appropriation, only for 1 or more of the following purposes:

- (a) To pay refunds to generators under this section.
- (b) To fund programs created under part 143 and part 145.
- (c) Not more than \$500,000.00 to implement section 3103a.
- (d) For state fiscal years 2002 and 2003, to fund programs created under part 111.
- (e) Not more than \$500,000.00 to implement section 5419.

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

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

(3) Money remaining in the environmental pollution prevention fund and in any account within the environmental pollution prevention fund at the close of the fiscal year shall not lapse to the general fund.

(4) The hazardous waste transporter account is created within the environmental pollution prevention fund. The department shall expend money from the hazardous waste transporter account, upon appropriation, for the implementation of this part. In addition, funds not expended for the implementation of this part may be utilized for emergency response and cleanup activities related to hazardous waste that are initiated by the department.

(5) The hazardous waste and liquid industrial waste users account is created within the environmental pollution prevention fund. The department shall expend money from the hazardous waste and liquid industrial waste users account, upon appropriation, to implement the state's hazardous waste management program in accordance with this part and the rules promulgated under this part. The target revenue projection for the hazardous waste and liquid industrial waste users account is \$1,600,000.00.

Sec. 11135. (1) A hazardous waste generator shall provide a separate manifest to the transporter for each load of hazardous waste transported to property that is not on the site where it was generated. Beginning on October 1, 2002 and until March 31, 2008, a person required to prepare a manifest shall submit to the department a manifest processing user charge of \$6.00 per manifest and his or her tax identification number. Each calendar year, the department may adjust the manifest processing user charge as necessary to ensure that the total cumulative amount of the user charges assessed pursuant to this section and sections 11153, 12103, 12109, and 12112 are consistent with the target revenue projection for the hazardous waste and liquid industrial waste users account as provided for in section 11130(5). However, the manifest processing user charge shall not exceed \$8.00 per manifest. Money collected under this subsection shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(2) Payment of the manifest processing user charges under subsection (1) shall be made using a form provided by the department. Beginning in 2004, the department shall send a form to each person subject to the manifest processing user charge by February 28 of each year. The form shall specify the number of manifests prepared by that person and processed by the department during the previous fiscal year. Beginning in 2004, a person subject to the manifest processing user charge shall return the completed form and the appropriate payment to the department by April 30 of each year.

(3) A person who fails to provide timely and accurate information, a complete form, or the appropriate manifest processing user charge as provided for in this section is in violation of this part and is subject to both of the following:

(a) Payment of the manifest processing user charge and an administrative fine of 5% per month of the amount owed for each month that the payment is delinquent. Any payments received after the 15th of the month after the due date shall be considered delinquent. However, the administrative fine shall not exceed 25% of the total amount owed.

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

(4) Any amounts collected under subsection (3) for a violation of this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(5) The department shall maintain information regarding the manifest processing user charges received under this section as necessary to satisfy the reporting requirements of subsection (6).

(6) Beginning in 2005, the department shall evaluate the effectiveness and adequacy of the manifest processing user charges collected under this section relative to the overall revenue needs of the state's hazardous waste management program administered under this part. Beginning in 2006, not later than April 1 of each even-numbered year, the department shall summarize its findings under this subsection in a report and shall provide that report to the legislature.

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

(8) The generator shall certify that the information contained on the manifest is factual.

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

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

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

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery.

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

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

Sec. 11153. (1) A generator, transporter, or treatment, storage, or disposal facility shall obtain and utilize a site identification number assigned by the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subsection unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received by the department.

(2) Beginning on October 1, 2002 and until March 31, 2008, except as provided in subsection (9), the department shall annually assess handler user charges as follows:

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

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

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

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

(b) An owner or operator of a treatment, storage, or disposal facility for which an operating license is required under section 11123 or for which an operating license has been issued under section 11122 or 11125 shall pay to the department an annual handler user charge of \$2,000.00.

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

(3) The handler user charges shall be based on each of the activities engaged in by the handler during the previous calendar year. A handler shall pay the handler user charge specified in subsection (2)(a) to (c) for each of the activities conducted during the previous calendar year.

(4) Payment of the handler user charges shall be made using a form provided by the department. The handler shall certify that the information on the form is accurate. Beginning in 2003, the department shall send forms to the handlers by February 28 of each year unless the handler user charges have been suspended as provided for in subsection (9). Beginning in 2003, a handler shall return the completed forms and the appropriate payment to the department by April 30 of each year unless the handler user charges have been suspended as provided for in subsection (9).

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

(a) Payment of the handler user charge and an administrative fine of 5% per month of the amount owed for each month that the payment is delinquent. Any payments received after the 15th of the month after the due date shall be considered delinquent. However, the administrative fine shall not exceed 25% of the total amount owed.

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

(6) The department shall maintain information regarding the site identification number user charges under subsection (1) and the handler user charges received under this section as necessary to satisfy the reporting requirements of subsection (8).

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

(8) Beginning in 2005, the department shall evaluate the effectiveness and adequacy of the site identification number user charges and the handler user charges collected under this section relative to the overall revenue needs of the state's hazardous waste management program administered under this part. Beginning in 2006, not later than April 1 of each even-numbered year, the department shall summarize its findings under this subsection in a report and shall provide that report to the state legislature.

(9) Notwithstanding any other provision in this section, if the balance of the hazardous waste and liquid industrial waste users account created in section 11130(5), as of December 31 of any year, exceeds \$3,200,000.00, the department shall suspend the handler user charges until October of the following year.

(10) As used in this section:

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

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

Sec. 12101. As used in this part:

(a) "Brine" means a liquid produced as a by-product of oil or natural gas production or exploration.

(b) "Container" means any portable device in which a liquid industrial waste is stored, transported, treated, or otherwise handled.

(c) "Department" means the department of environmental quality.

(d) "Designated facility" means a treatment, storage, disposal, or reclamation facility that receives liquid industrial waste from off-site.

(e) "Discarded" means any of the following:

(i) Abandoned by being disposed of, burned, or incinerated; or accumulated, stored, or treated before, or instead of, being abandoned.

(ii) Accumulated, stored, or treated before being managed in 1 of the following ways:

(A) By being used or reused in a manner constituting disposal by being applied to or placed on the land or by being used to produce products that are applied to or placed on the land.

(B) By being burned to recover energy or used to produce a fuel.

(C) By reclamation.

(f) "Discharge" means the accidental or intentional spilling, leaking, pumping, releasing, pouring, emitting, emptying, or dumping of liquid industrial waste into the land, air, or water.

(g) "Disposal" means the abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing of a liquid industrial waste into or on land or water in such a manner that the liquid industrial waste may enter the environment, or be emitted into the air, or discharged into surface water or groundwater.

(h) "Disposal facility" means a facility or a part of a facility at which liquid industrial waste is disposed.

(i) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land for treating, storing, disposing of, or reclamation of liquid industrial waste.

(j) "Federal water pollution control act" means chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387.

(k) "Generator" means a person whose act or process produces liquid industrial waste.

(l) "Liquid industrial waste" means any brine, by-product, industrial wastewater, leachate, off-specification commercial chemical product, sludge, sanitary sewer clean-out residue, storm sewer clean-out residue, grease trap clean-out residue, spill residue, used oil, or other liquid waste that is produced by, is incident to, or results from industrial, commercial, or governmental activity or any other activity or enterprise determined to be liquid by method 9095 (paint filter liquids test) as described in "Test methods for evaluating solid wastes, physical/chemical methods," United States environmental protection agency publication no. SW-846, and which is discarded. Liquid industrial waste does not include any of the following:

(i) Hazardous waste regulated and required to be manifested under part 111.

(ii) Septage waste regulated under part 117.

(iii) Medical waste as defined in part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13831.

(iv) A discharge permitted or authorized under part 31.

(v) A material that is used or reused as an effective substitute for commercial products or returned to the original process, if the material does not require reclamation prior to use or reuse, is not directly burned to recover energy or used to produce a fuel, or is not applied to the land and not used in products applied to the land.

(vi) A household generated liquid waste.

(vii) A liquid industrial waste utilized for land application in accordance with a program for effective residuals management, approved by the director or the United States environmental protection agency, or both, pursuant to the federal water pollution control act.

(viii) Oil field brines used for public road dust control and ice removal as authorized under the terms of the rules, standards, and brine management plan approved by the department in existence on June 1, 1993, until rules are promulgated.

(ix) A used oil that is directly burned to recover energy or used to produce a fuel if all of the following are met:

(A) The material meets the used oil specifications of part 111.

(B) The material contains no greater than 2 ppm polychlorinated biphenyls.

(C) The material has a minimum energy content of 17,000 BTU/lb.

(D) The material is expressly authorized as a used oil fuel source, regulated under part 55, or, in another state, regulated under a similar air pollution control authority.

(x) A liquid fully contained inside a manufactured article, until the liquid is removed or the manufactured equipment is discarded at which point it becomes subject to this part.

(xi) A liquid waste sample transported for testing to determine its characteristics or composition. The sample becomes subject to this part when discarded.

(xii) A liquid that is not regulated under part 615 that is generated in the drilling, operation, maintenance, or closure of a well, or other drilling operation, including the installation of cathodic protection or directional drilling, if either of the following applies:

(A) The liquid is left in place at the point of generation in compliance with part 31, 201, or 213.

(B) The liquid is transported off-site from a location that is not a known facility as defined in section 20101, and all of the following occur:

(I) The disposal complies with applicable provisions of part 31 or 115.

(II) The disposal is not to a surface water.

(III) The land owner of the disposal site has authorized the disposal.

Sec. 12102. As used in this part:

(a) "Manifest" means either of the following:

(i) A form and instructions approved by the department used for identifying the quantity, composition, origin, routing, or destination of liquid industrial waste during its transportation from the point of generation to the point of disposal, treatment, storage, or reclamation.

(ii) For shipments of liquid industrial waste that are not generated or transported to a disposal, treatment, storage, or reclamation facility in this state, a United States environmental protection agency form number 8700-22, or its successor.

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

(c) "Peace officer" means any law enforcement officer who is trained and certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, or an officer appointed by the director of the department of state police pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(d) "Publicly owned treatment works" means any entity that treats municipal sewage or industrial waste of a liquid nature that is owned by the state or a municipality, as that term is defined in section 502(4) of title V of the federal water pollution control act, 33 U.S.C. 1362. Publicly owned treatment works include sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.

(e) "Reclamation" means either processing to recover a usable product or regeneration.

(f) "Reclamation facility" means a facility or part of a facility where liquid industrial waste reclamation is conducted.

(g) "Site identification number" means a number that is assigned by the United States environmental protection agency or the department to a generator, transporter, or facility. The department may assign a number to a person or a facility to cover multiple unstaffed sites that generate uniform types of liquid industrial waste.

(h) "Storage" means the containment of liquid industrial waste, on a temporary basis, in a manner that does not constitute disposal of liquid industrial waste.

(i) "Storage facility" means a facility or part of a facility where liquid industrial waste is stored.

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

(k) "Tank" means a stationary device designed to contain an accumulation of liquid industrial waste that is constructed primarily of nonearthen materials such as wood, concrete, steel, or plastic to provide structural support.

(l) "Transportation" means the movement of liquid industrial waste by air, rail, highway, or water.

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

(n) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any liquid industrial waste, to neutralize the waste, or to render the waste safer to transport, store, or dispose of, amenable to recovery, amenable to storage, or reduced in volume.

(o) "Treatment facility" means a facility or part of a facility at which liquid industrial waste is treated.

(p) "Used oil" means any oil which has been refined from crude oil, or any synthetic oil, which has been used and which, as a result of the use, is contaminated by physical or chemical impurities.

(q) "Vehicle" means a transport vehicle as defined by 49 C.F.R. 171.8.

Sec. 12103. (1) A generator shall do all of the following:

(a) Characterize the waste in accordance with the requirements of part 111, and rules promulgated under that part, and maintain records of the characterization.

(b) Obtain and utilize a site identification number assigned by the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(c) If transporting by highway, engage, employ, or contract for the transportation of liquid industrial waste only with a transporter registered and permitted under the hazardous materials transportation act.

(d) Except as otherwise provided in this part, utilize and retain a separate manifest for each shipment of liquid industrial waste transported to a designated facility. The department may authorize the use of a consolidated manifest, for waste loads that are multiple pickups of uniform types of wastes that constitute a single shipment of waste. In this case, a receipt shall be obtained from the transporter documenting the transporter's company name, driver's signature, date of pickup, type and quantity of waste accepted from the generator, the consolidated manifest number, and the

designated facility. A generator of brine may complete a single manifest per transporter of brine, per disposal well, each month.

(e) Submit a copy of the manifest to the department by the tenth day after the end of the month in which a load of waste is transported.

(f) Certify that at the time the transporter picks up liquid industrial waste the information contained on the manifest is factual by signing the manifest. This certification is to be by the generator or his or her authorized representative.

(g) Provide to the transporter the signed copies of the manifest to accompany the liquid industrial waste to the designated facility.

(h) If a copy of the manifest, with a handwritten signature of the owner or operator of the designated facility, is not received within 35 days after the date the waste was accepted by the initial transporter, contact the transporter or owner or operator of the designated facility, or both, to determine the status of the waste.

(i) Submit an exception report to the department if a copy of the manifest is not received with the handwritten signature of the owner or operator or his or her authorized representative of the designated facility within 45 days after the date the waste was accepted by the initial transporter. The exception report shall include both of the following:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery.

(ii) A cover letter signed by the generator explaining the efforts taken to locate the waste and the results of those efforts.

(2) A generator who also operates an on-site reclamation, treatment, or disposal facility shall keep records of all liquid waste produced and reclaimed, treated, or disposed of at his or her facility.

(3) A generator shall retain all records required pursuant to this part for a period of at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subsection is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as otherwise required by the department.

(4) A generator transporting its own waste in quantities of 55 gallons or less is not subject to manifest requirements if all of the following conditions are met:

(a) The waste is accompanied by a record showing the source and quantity of the waste and the designated facility where the waste is being transported.

(b) The generator obtains a signature from the designated facility acknowledging receipt of the waste and provides a copy of the record of shipment to the designated facility.

(c) The generator retains a copy of the record of shipment as part of the generator records.

(d) The designated facility is managed in accordance with this part.

Sec. 12109. (1) A liquid industrial waste transporter shall certify acceptance of waste for transportation by completing the transporter section of the manifest, and shall deliver the liquid industrial waste and accompanying manifest only to the designated facility specified by the generator on the manifest.

(2) The liquid industrial waste transporter shall retain all records required pursuant to this part for a period of at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required in this subsection is automatically extended during the course of any unresolved enforcement action regarding an activity regulated under this part or as required by the department.

(3) The department may authorize, for certain waste streams, the use of a consolidated manifest as authorized under section 12103(1)(d). In this case, the transporter shall give to the generator a receipt documenting the transporter's company name, driver's signature, date of pickup, type and quantity of waste removed, the consolidated manifest number, and the designated facility.

(4) A transporter shall maintain a trip log for consolidated manifest shipments and for brine shipments. The transporter shall do all of the following:

(a) Identify on the trip log the consolidated manifest number, the generator, date of pickup, type and quantity of waste, and the designated facility location for each shipment of waste.

(b) Keep a copy of all trip logs available during transportation, at a minimum, for the current shipment in transportation and retain these records as specified in subsection (2).

(c) Obtain and utilize a site identification number assigned by the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

Sec. 12112. (1) The owner or operator of a facility that accepts liquid industrial waste shall accept delivery of waste at the designated facility only if delivery is accompanied by a manifest or consolidated manifest properly certified by the generator and the transporter and the facility is the destination indicated on the manifest. The facility owner or operator shall do all of the following:

(a) Obtain and utilize a site identification number either assigned from the United States environmental protection agency or the department. Beginning on October 1, 2002 and until March 31, 2008, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subdivision unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received. Money collected under this subdivision shall be forwarded to the state treasurer for deposit into the environmental pollution prevention fund created in section 11130 and credited to the hazardous waste and liquid industrial waste users account created in section 11130(5).

(b) Certify on the manifest receipt of the liquid industrial waste by completing the facility section of the manifest and returning a signed copy of the manifest to the department within a period of 10 days after the end of the month for all liquid industrial waste received within the month.

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

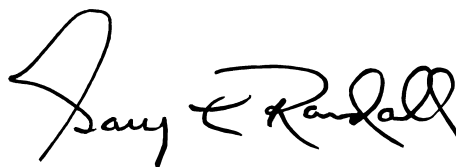
(d) Maintain records of the characterization of the waste. Characterization shall be in accordance with the requirements of part 111.

(2) All storage, treatment, and reclamation of liquid industrial waste at the designated facility shall be in either containers or tanks or as otherwise specified in section 12113(5) or (6). Storage, treatment, or reclamation regulated under part 615 or the rules, orders, or instructions under part 615, or under part C of title XIV of the public health service act, chapter 373, 88 Stat. 1674, 42 U.S.C. 300h to 300h-8, or the regulations promulgated under that act are exempt from this subsection.

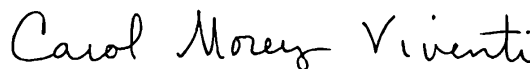
(3) The owner or operator of a designated facility shall retain all records required pursuant to this part for a period of at least 3 years and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required by this subsection is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as required by the department.

Enacting section 1. Section 5419 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5419 is repealed effective December 31, 2002.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.