

# SENATE BILL No. 400

June 16, 2015, Introduced by Senator SCHMIDT and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending the heading of part 121 and sections 12101, 12102, 12102a, 12103, 12105, 12107, 12109, 12111, 12112, 12113, 12114, 12115, 12116, and 12117 (MCL 324.12101, 324.12102, 324.12102a, 324.12103, 324.12105, 324.12107, 324.12109, 324.12111, 324.12112, 324.12113, 324.12114, 324.12115, 324.12116, and 324.12117), sections 12101, 12102, 12105, 12107, 12111, and 12113 as amended by 2008 PA 8, section 12102a as amended by 2008 PA 153, sections 12103, 12109, and 12112 as amended by 2014 PA 286, sections 12114 and 12116 as amended by 1998 PA 140, and section 12115 as amended by 2004 PA 587.

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

## PART 121

LIQUID INDUSTRIAL ~~WASTES~~**BY-PRODUCTS**

Sec. 12101. As used in this part:

(a) "Biofuel" means any renewable liquid or gas fuel offered for sale as a fuel that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol, ethanol-blended fuel, biodiesel, and biodiesel blends.

(b) "Biogas" means a biofuel that is a gas.

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

(d) "Container" means any portable device in which a liquid industrial ~~waste~~**BY-PRODUCT** is stored, transported, treated, or otherwise handled.

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

(f) "Designated facility" means a treatment facility, storage facility, disposal facility, or reclamation facility that receives liquid industrial ~~waste~~**BY-PRODUCT** from off-site.

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

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

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

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

(A) By being used or reused in a manner constituting disposal

1 by being applied to or placed on land or by being used to produce  
2 products that are applied to or placed on land.

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

5 (C) By reclamation.

6 (i) "Discharge" means the accidental or intentional spilling,  
7 leaking, pumping, releasing, pouring, emitting, emptying, or  
8 dumping of liquid industrial ~~waste~~-**BY-PRODUCT** into the land, air,  
9 or water.

10 (j) "Disposal" means the abandonment, discharge, deposit,  
11 injection, dumping, spilling, leaking, or placing of a liquid  
12 industrial ~~waste~~-**BY-PRODUCT** into or on land or water in such a  
13 manner that the liquid industrial ~~waste~~-**BY-PRODUCT** may enter the  
14 environment, or be emitted into the air, or discharged into surface  
15 water or groundwater.

16 (k) "Disposal facility" means a facility or a part of a  
17 facility at which liquid industrial ~~waste~~-**BY-PRODUCT** is disposed.

18 (l) "Facility" means all contiguous land and structures, other  
19 appurtenances, and improvements on land for treating, storing,  
20 disposing of, or reclamation of liquid industrial ~~waste~~- **BY-**  
21 **PRODUCT**.

22 (m) "Generator" means a person whose act or process produces  
23 liquid industrial ~~waste~~-**BY-PRODUCT**.

24 (n) "Liquid industrial ~~waste~~-**BY-PRODUCT**" OR "**BY-PRODUCT**"  
25 means any ~~brine, by product, industrial wastewater, leachate, off-~~  
26 ~~specification commercial chemical product, sludge, sanitary sewer~~  
27 ~~clean-out residue, storm sewer clean-out residue, grease trap~~

1 ~~clean out residue, spill residue, used oil, or other liquid waste~~  
 2 **MATERIAL** that is produced by, is incident to, or results from  
 3 industrial, commercial, or governmental activity or any other  
 4 activity or enterprise, **THAT IS** determined to be liquid by method  
 5 9095 (paint filter liquids test) as described in "Test methods for  
 6 evaluating solid wastes, physical/chemical methods," United States  
 7 ~~environmental protection agency~~ **ENVIRONMENTAL PROTECTION AGENCY**  
 8 publication no. SW-846, and ~~which~~ **THAT** is discarded. Liquid  
 9 industrial waste **BY-PRODUCT** does not include any of the following:

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

12 (ii) Septage waste regulated under part 117.

13 (iii) Medical waste regulated under part 138 of the public  
 14 health code, 1978 PA 368, MCL 333.13801 to ~~333.13831~~ **333.13832**.

15 (iv) A discharge to the waters of the state in accordance with  
 16 a permit, order, or rule under part 31.

17 (v) A liquid generated by a household.

18 (vi) A liquid regulated under 1982 PA 239, MCL 287.651 to  
 19 287.683.

20 (vii) Material managed in accordance with section 12102a.

21 Sec. 12102. As used in this part:

22 ~~— (a) "Manifest" means either of the following:~~

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

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

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

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

17 (C) ~~(d)~~-"Publicly owned treatment works" means any entity that  
 18 treats municipal sewage or industrial waste ~~of a liquid nature~~ **OR**  
 19 **LIQUID INDUSTRIAL BY-PRODUCT** that is owned by the state or a  
 20 municipality, as that term is defined in 33 USC 1362. Publicly  
 21 owned treatment works include sewers, pipes, or other conveyances  
 22 only if they convey wastewater to a publicly owned treatment works  
 23 providing treatment.

24 (D) ~~(e)~~-"Reclamation" means either processing to recover a  
 25 usable product or regeneration.

26 (E) ~~(f)~~-"Reclamation facility" means a facility or part of a  
 27 facility where liquid industrial waste **BY-PRODUCT** reclamation is

1 conducted.

2 (F) "SHIPPING DOCUMENT" MEANS A LOG, AN INVOICE, A BILL OF  
3 LADING, OR OTHER RECORD, IN EITHER WRITTEN OR ELECTRONIC FORM, THAT  
4 INCLUDES ALL OF THE FOLLOWING INFORMATION:

5 (i) THE NAME AND ADDRESS OF THE GENERATOR.

6 (ii) THE NAME OF THE TRANSPORTER.

7 (iii) THE TYPE AND VOLUME OF LIQUID INDUSTRIAL BY-PRODUCT IN  
8 THE SHIPMENT.

9 (iv) THE DATE THE BY-PRODUCT WAS SHIPPED OFF-SITE FROM THE  
10 GENERATOR.

11 (v) THE NAME, ADDRESS, AND SITE IDENTIFICATION NUMBER OF THE  
12 DESIGNATED FACILITY.

13 (g) "Site identification number" means a number that is  
14 assigned by the United States ~~environmental protection agency~~  
15 **ENVIRONMENTAL PROTECTION AGENCY** or the department to a generator,  
16 transporter, or facility. ~~The department may assign a number to a~~  
17 ~~person or a facility to cover multiple unstaffed sites that~~  
18 ~~generate uniform types of liquid industrial waste.~~

19 (h) "Storage" means the containment of liquid industrial  
20 ~~waste, BY-PRODUCT,~~ on a temporary basis, in a manner that does not  
21 constitute disposal of ~~liquid industrial waste.~~ **THE BY-PRODUCT.**

22 (i) "Storage facility" means a facility or part of a facility  
23 where liquid industrial ~~waste~~ **BY-PRODUCT** is stored.

24 (j) "Surface impoundment" means a treatment facility, storage  
25 facility, or disposal facility or part of a treatment, storage, or  
26 disposal facility that is either a natural topographic depression,  
27 a human-made excavation, or a diked area formed primarily of

1 earthen materials. A surface impoundment may be lined with human-  
2 made materials designed to hold an accumulation of liquid ~~waste or~~  
3 ~~waste containing free liquids.~~ **INDUSTRIAL BY-PRODUCT.** Surface  
4 impoundments include, but are not limited to, holding, storage,  
5 settling, **AND** aeration pits, ponds, and lagoons. Surface  
6 impoundment does not include an injection well.

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

11 (l) "Transportation" means the movement of liquid industrial  
12 ~~waste~~ **BY-PRODUCT** by air, rail, public or private roadway, or water.

13 (m) "Transporter" means a person engaged in the off-site  
14 transportation of liquid industrial ~~waste~~ **BY-PRODUCT** by air, rail,  
15 public roadway, or water.

16 (n) "Treatment" means any method, technique, or process,  
17 including neutralization, designed to change the physical,  
18 chemical, or biological character or composition of any liquid  
19 industrial ~~waste~~ **BY-PRODUCT**, to neutralize the ~~waste~~ **BY-PRODUCT**,  
20 or to render the ~~waste~~ **BY-PRODUCT** safer to transport, store, or  
21 dispose of, amenable to recovery, amenable to storage, or reduced  
22 in volume.

23 (o) "Treatment facility" means a facility or part of a  
24 facility at which liquid industrial ~~waste~~ **BY-PRODUCT** undergoes  
25 treatment.

26 (p) "Used oil" means any oil that has been refined from crude  
27 oil, or any synthetic oil, that has been used and that, as a result

1 of the use, is contaminated by physical or chemical impurities.

2 (q) "Vehicle" means a transport vehicle as defined by 49 CFR  
3 171.8.

4 Sec. 12102a. The following materials are not liquid industrial  
5 ~~wastes~~ **BY-PRODUCTS** when managed as specified:

6 (a) A material that is used or reused as an effective  
7 substitute for commercial products, **USED OR REUSED AS AN INGREDIENT**  
8 **TO MAKE A PRODUCT**, or returned to the original process, if the  
9 material does not require reclamation prior to use or reuse, is not  
10 directly burned to recover energy or used to produce a fuel, and is  
11 not applied to the land or used in products applied to the land.

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

15 (i) The material meets the used oil specifications of R  
16 299.9809(1)(f) of the Michigan administrative code.

17 (ii) The material contains no greater than 2 ppm  
18 polychlorinated biphenyls.

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

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

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

27 (d) A liquid ~~waste~~ **BY-PRODUCT** sample transported for testing

1 to determine its characteristics or composition. The sample becomes  
2 subject to this part when discarded.

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

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

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

13 (A) The disposal complies with applicable provisions of part  
14 31 or 115.

15 (B) The disposal is not to a surface water.

16 (C) The landowner of the disposal site has authorized the  
17 disposal.

18 (f) A liquid vegetable or animal fat oil that is transported  
19 directly to a producer of biofuels for the purpose of converting  
20 the oil to biofuel.

21 (g) An off-specification fuel, including a gasoline  
22 blendstock, that was generated in a pipeline as the interface  
23 material from the mixture of 2 adjacent fuel products and that will  
24 be processed, by blending or by distillation or other refining, to  
25 produce a fuel product or fuel products.

26 (h) An off-specification fuel, including a gasoline  
27 blendstock, that resulted from the commingling of off-specification

1 fuel products or from phase separation in a gasoline and alcohol  
2 blend and that will be processed, by distillation or other  
3 refining, to produce fuel products.

4 (i) An off-specification fuel product transported directly to  
5 a distillation or refining facility to produce a fuel product or  
6 fuel products regulated pursuant to 40 CFR part 80.

7 (j) A liquid or a sludge and associated liquid authorized to  
8 be applied to land under part 31 or 115.

9 (k) A liquid residue remaining in a container after pouring,  
10 pumping, aspirating, or another practice commonly employed to  
11 remove liquids has been utilized, if not more than 1 inch of  
12 residue remains on the bottom, or, for containers less than or  
13 equal to 110 gallons in size, not more than 3% by weight of residue  
14 remains in the container, or, for containers greater than 110  
15 gallons in size, not more than 0.3% by weight of residue remains in  
16 the container. The liquid residue becomes subject to this part when  
17 discarded.

18 (l) A residual amount of liquid remaining in a container and  
19 generated as a result of transportation of a solid waste in that  
20 container.

21 (m) A liquid brine authorized for use as dust and ice control  
22 regulated under parts 31 and 615.

23 (n) Food processing residuals as defined in section 11503, or  
24 site-separated material or source-separated material approved by  
25 the department under part 115, that, to produce biogas, will be  
26 decomposed in a controlled manner under anaerobic conditions using  
27 a closed system that complies with part 55.

1 (o) A liquid approved by the director for use as a biofuel in  
2 energy production in compliance with part 55 that is not  
3 speculatively accumulated and that is transported directly to the  
4 burner of the biofuel.

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

6 (a) Characterize the ~~waste~~ **LIQUID INDUSTRIAL BY-PRODUCT** in  
7 accordance with ~~section 12101(n) and the requirements of part 111~~  
8 ~~and rules promulgated under that part,~~ **THIS ACT** and maintain  
9 records of the characterization.

10 (b) ~~Obtain and utilize, when needed for transportation, a site~~  
11 ~~identification number. Until October 1, 2017, the department shall~~  
12 ~~assess a site identification number user charge of \$50.00 for each~~  
13 ~~site identification number it issues. The department shall not~~  
14 ~~issue a site identification number under this subdivision unless~~  
15 ~~the site identification number user charge and the tax~~  
16 ~~identification number for the person applying for the site~~  
17 ~~identification number have been received. Money collected under~~  
18 ~~this subdivision shall be forwarded to the state treasurer for~~  
19 ~~deposit into the environmental pollution prevention fund created in~~  
20 ~~section 11130.~~ **MAINTAIN LABELING OR MARKING ON CONTAINERS AND TANKS**  
21 **OF LIQUID INDUSTRIAL BY-PRODUCT TO IDENTIFY THEIR CONTENTS.**

22 (c) If transporting liquid industrial ~~waste,~~ **BY-PRODUCT**, other  
23 than the generator's own ~~waste,~~ **BY-PRODUCT**, by public roadway,  
24 engage, employ, or contract for the transportation only with a  
25 transporter registered and permitted under the hazardous materials  
26 transportation act, 1998 PA 138, MCL 29.471 to 29.480.

27 (d) Except as otherwise provided in this part, utilize and

1 retain a separate ~~manifest~~ **SHIPPING DOCUMENT** for each shipment of  
2 liquid industrial ~~waste~~ **BY-PRODUCT** transported to a designated  
3 facility. The department may authorize the use of a consolidated  
4 ~~manifest~~ **SHIPPING DOCUMENT** for a single shipment of uniform types  
5 of ~~waste~~ **BY-PRODUCT** collected from multiple ~~waste~~ **BY-PRODUCT**  
6 pickups. If a consolidated ~~manifest~~ **SHIPPING DOCUMENT** is authorized  
7 by the department and utilized by a generator, a receipt shall be  
8 obtained from the transporter documenting the transporter's company  
9 name, the driver's signature, the date of pickup, the type and  
10 quantity of ~~waste~~ **BY-PRODUCT** accepted from the generator, the  
11 consolidated ~~manifest~~ **SHIPPING DOCUMENT** number, and the designated  
12 facility. A generator of brine may complete a single ~~manifest~~  
13 **SHIPPING DOCUMENT** per transporter of brine, per disposal well, each  
14 month.

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

18 (E) ~~(f) When~~ **CERTIFY THAT, WHEN** the transporter picks up  
19 liquid industrial ~~waste, certify~~ **BY-PRODUCT, THE LIQUID INDUSTRIAL**  
20 **BY-PRODUCT IS FULLY AND ACCURATELY DESCRIBED ON THE SHIPPING PAPER**  
21 **AND IN PROPER CONDITION FOR TRANSPORT AND** that the information  
22 contained on the ~~manifest~~ **SHIPPING DOCUMENT** is factual. ~~by signing~~  
23 ~~the manifest.~~ This certification shall be by the generator or his  
24 or her authorized representative.

25 (F) ~~(g) Provide to the transporter the signed copies~~ **A COPY** of  
26 the ~~manifest~~ **SHIPPING DOCUMENT** to accompany the liquid industrial  
27 ~~waste~~ **BY-PRODUCT** to the designated facility.

~~1 (h) If a copy of the manifest, with a handwritten signature of  
2 the owner or operator of the designated facility or his or her  
3 authorized representative, is not received within 35 days after the  
4 date the waste was accepted by the initial transporter, contact the  
5 transporter or owner or operator of the designated facility, or  
6 both, to determine the status of the waste.~~

~~7 (i) Submit an exception report to the department if a copy of  
8 the manifest is not received with the handwritten signature of the  
9 owner or operator of the designated facility or his or her  
10 authorized representative within 45 days after the date the waste  
11 was accepted by the initial transporter. The exception report shall  
12 include both of the following:~~

~~13 (i) A legible copy of the manifest for which the generator  
14 does not have confirmation of delivery.~~

~~15 (ii) A cover letter signed by the generator explaining the  
16 efforts taken to locate the waste and the results of those efforts.~~

**17 (G) IF THE GENERATOR DOES NOT RECEIVE CONFIRMATION OF  
18 ACCEPTANCE OF THE LIQUID INDUSTRIAL BY-PRODUCT BY THE DESIGNATED  
19 FACILITY, ATTEMPT TO OBTAIN CONFIRMATION BY CONTACTING THE  
20 DESIGNATED FACILITY AND THE TRANSPORTER. IF RESOLUTION CANNOT BE  
21 ACHIEVED AFTER CONTACTING THE DESIGNATED FACILITY AND TRANSPORTER,  
22 THE GENERATOR SHALL NOTIFY THE DEPARTMENT.**

**23 (2) A generator ~~who~~ THAT TRANSPORTS ITS OWN LIQUID INDUSTRIAL  
24 BY-PRODUCT OR** operates an on-site reclamation facility, treatment  
25 facility, or disposal facility shall keep records of all liquid  
26 waste **BY-PRODUCT** produced and **TRANSPORTED**, reclaimed, treated, or  
27 disposed of at the facility.

1 (3) A generator shall retain all records required pursuant to  
2 this part for a period of at least 3 years, and shall make those  
3 records readily available for review and inspection by the  
4 department or a peace officer. The retention period required by  
5 this subsection is automatically extended during the course of any  
6 unresolved enforcement action regarding the regulated activity or  
7 as otherwise required by the department. **RECORDS REQUIRED UNDER  
8 THIS PART MAY BE RETAINED IN ELECTRONIC FORMAT.**

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

12 ~~—— (a) The waste is accompanied by a record showing the source  
13 and quantity of the waste and the designated facility to which the  
14 waste is being transported.~~

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

18 ~~—— (c) The generator retains a copy of the record of shipment as  
19 part of the generator records under subsection (3).~~

20 Sec. 12105. ~~(1)~~ A transporter is subject to the registration  
21 and permitting requirements of the hazardous materials  
22 transportation act, 1998 PA 138, MCL 29.471 to 29.480. A  
23 transporter registered and permitted under that act and licensed  
24 under part 117 shall comply with all of the following:

25 (a) All registration and permitting requirements of the  
26 hazardous materials transportation act, 1998 PA 138, MCL 29.471 to  
27 29.480, and licensing requirements of this part and part 117. ~~shall~~

1 ~~be met.~~

2 (b) Septage waste or liquid industrial waste ~~BY-PRODUCT~~  
3 transported in a vehicle managed under part 117 and this part shall  
4 not be disposed of on land, **UNLESS SPECIFICALLY AUTHORIZED BY THE**  
5 **DEPARTMENT.**

6 ~~— (c) All waste, including septage waste, transported in a~~  
7 ~~vehicle managed under part 117 and this part, shall be manifested~~  
8 ~~pursuant to the requirements of sections 12103, 12109, and 12112.~~

9 (C) ~~(d)~~—In addition to the requirements of this part and part  
10 117, the words "Land Application Prohibited", in a minimum of 2-  
11 inch letters, shall be affixed in a conspicuous location and  
12 visible on both sides of the vehicle used to transport **SEPTAGE**  
13 waste **OR LIQUID INDUSTRIAL BY-PRODUCT** under part 117 and this part.

14 ~~— (2) A generator, subject to the reporting requirements under~~  
15 ~~part C of title XIV of the public health service act, 42 USC 300h~~  
16 ~~to 300h 8, and regulations promulgated under that act, who~~  
17 ~~transports brine, generated on property he or she owns or holds an~~  
18 ~~interest in, to the generator's own disposal well is exempt from~~  
19 ~~the provisions of this part regarding manifests.~~

20 Sec. 12107. (1) A vehicle used to transport liquid industrial  
21 waste ~~BY-PRODUCT~~ by public roadway shall carry a copy of the  
22 registration and permit issued in accordance with the hazardous  
23 materials transportation act, 1998 PA 138, MCL 29.471 to 29.480,  
24 and shall produce it upon request of the department or **A** peace  
25 officer. **THE REGISTRATION AND PERMIT MAY BE CARRIED IN ELECTRONIC**  
26 **FORMAT.**

27 (2) All vehicles and containers used to transport liquid

1 industrial ~~waste~~ **BY-PRODUCT** shall be closed or covered to prevent  
2 the escape of ~~liquid industrial waste~~ **BY-PRODUCT**. The outside of  
3 all vehicles, containers, and accessory equipment shall be kept  
4 free of ~~liquid industrial waste~~ **BY-PRODUCT** and its residue.

5 (3) To avoid cross-contamination, all portions of a vehicle or  
6 equipment that have been in contact with liquid industrial ~~waste~~  
7 **BY-PRODUCT** shall be cleaned and decontaminated before the transport  
8 of any products, incompatible ~~waste~~ **BY-PRODUCT**, hazardous waste  
9 regulated under part 111, or other material. Before the transport  
10 of ~~liquid industrial waste~~ **BY-PRODUCT**, all portions of a vehicle  
11 or equipment shall be cleaned and decontaminated, as necessary, of  
12 any hazardous waste regulated under part 111. A transporter who  
13 owns or legally controls a vehicle or equipment shall maintain as  
14 part of the transporter's records documentation that before its use  
15 for the transportation of any products, incompatible ~~waste~~ **BY-**  
16 **PRODUCT**, hazardous waste regulated under part 111, or other  
17 material, the vehicle or equipment was decontaminated. This  
18 subsection does not apply to a vehicle if brine was transported in  
19 the vehicle and the next load transported in the vehicle is brine  
20 for disposal or well drilling or production purposes, oil or other  
21 hydrocarbons produced from an oil or gas well, or water or other  
22 fluids to be used in activities regulated under part 615 or the  
23 rules, orders, or instructions under that part.

24 Sec. 12109. (1) A liquid industrial ~~waste~~ **BY-PRODUCT**  
25 transporter shall ~~certify~~ **CONFIRM** acceptance of ~~waste~~ **BY-PRODUCT**  
26 for transportation ~~by completing the transporter section of the~~  
27 ~~manifest~~, and shall deliver the liquid industrial ~~waste~~ and

1 ~~accompanying manifest~~ **BY-PRODUCT** only to the designated facility  
2 specified by the generator. ~~on the manifest.~~

3 (2) The liquid industrial ~~waste~~ **BY-PRODUCT** transporter shall  
4 retain all records required under this part for a period of at  
5 least 3 years, and shall make those records readily available for  
6 review and inspection by the department or a peace officer. The  
7 retention period required in this subsection is automatically  
8 extended during the course of any unresolved enforcement action  
9 regarding an activity regulated under this part or as required by  
10 the department. **RECORDS REQUIRED UNDER THIS PART MAY BE RETAINED IN**  
11 **ELECTRONIC FORMAT.**

12 (3) The department may authorize, for certain ~~waste~~ **LIQUID**  
13 **INDUSTRIAL BY-PRODUCT** streams, the use of a consolidated ~~manifest~~  
14 **SHIPPING DOCUMENT** as authorized under section 12103(1)(d). If a  
15 consolidated ~~manifest~~ **SHIPPING DOCUMENT** is authorized by the  
16 department and utilized by a generator, the transporter shall give  
17 to the generator a receipt documenting the transporter's company  
18 name, the driver's signature, the date of pickup, the type and  
19 quantity of ~~waste~~ **BY-PRODUCT** removed, the consolidated ~~manifest~~  
20 **SHIPPING DOCUMENT** number, and the designated facility.

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

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

27 ~~—— (b) Keep a copy of all trip logs available during~~

1 ~~transportation for the current shipment in transportation and~~  
2 ~~retain these records as specified in subsection (2).~~

3 ~~—— (c) Obtain and utilize~~ **OBTAIN** a site identification number  
4 assigned by the United States ~~environmental protection agency~~  
5 **ENVIRONMENTAL PROTECTION AGENCY** or the department. Until October 1,  
6 2017, the department shall assess a site identification number user  
7 charge of \$50.00 for each site identification number it issues. The  
8 department shall not issue a site identification number under this  
9 ~~subdivision~~ **SUBSECTION** unless the site identification number user  
10 charge and the tax identification number for the person applying  
11 for the site identification number have been received. Money  
12 collected under this ~~subdivision~~ **SUBSECTION** shall be forwarded to  
13 the state treasurer for deposit into the environmental pollution  
14 prevention fund created in section 11130.

15       Sec. 12111. (1) If a fire, explosion, or discharge of liquid  
16 industrial ~~waste~~ **BY-PRODUCT** occurs that could threaten the public  
17 health, safety, and welfare, or the environment, or when a  
18 generator, transporter, or owner or operator of a designated  
19 facility first has knowledge that a spill **OF BY-PRODUCT** has reached  
20 surface water or groundwater, the generator, transporter, or owner  
21 or operator of the designated facility shall take appropriate  
22 immediate action to protect the public health, safety, and welfare,  
23 and the environment, including notification of local authorities  
24 and the pollution emergency alerting system using the telephone  
25 number 800-292-4706, unless the incident is reported **TO THIS STATE**  
26 under another state law.

27       (2) The generator, transporter, or owner or operator of a

1 designated facility shall, within 30 days, prepare and maintain as  
2 part of his or her records a written report documenting the  
3 incident **DESCRIBED IN SUBSECTION (1)** and the response action taken,  
4 including any supporting analytical data and cleanup activities.  
5 The report shall be provided to the department upon request. Both  
6 the initial notification, as appropriate, and the report shall  
7 include all of the following information:

8 (a) The name and telephone number of the person reporting the  
9 incident.

10 (b) The name, address, **AND** telephone number ~~and~~  
11 ~~identification number~~ of the generator, transporter, or designated  
12 facility, **AND THE SITE IDENTIFICATION NUMBER OF THE TRANSPORTER OR**  
13 **DESIGNATED FACILITY.**

14 (c) The date, time, and type of incident.

15 (d) The name and quantity of ~~waste~~ **LIQUID INDUSTRIAL BY-**  
16 **PRODUCT** involved and discharged.

17 (e) The extent of injuries, if any.

18 (f) The estimated quantity and disposition of recovered  
19 materials that resulted from the incident, if any.

20 (g) An assessment of actual or potential hazards to human  
21 health or the environment.

22 (h) The response action taken.

23 (3) Incidents occurring in connection with activities  
24 regulated under part 615 or the rules, orders, or instructions  
25 under that part or regulated under part C of title XIV of the  
26 public health service act, 42 USC 300h to 300h-8, or the  
27 regulations promulgated under that act are exempt from the

1 requirements of this section.

2       Sec. 12112. (1) ~~Except as provided in section 12103(4), the~~  
3 **THE** owner or operator of a facility that accepts liquid industrial  
4 ~~waste~~ **BY-PRODUCT** shall accept delivery of ~~waste~~ **BY-PRODUCT** at the  
5 designated facility only if ~~delivery is accompanied by a manifest~~  
6 ~~or consolidated manifest properly certified by the generator and~~  
7 ~~the transporter and the facility is the destination indicated on~~  
8 ~~the manifest.~~ **SHIPPING DOCUMENT**. The facility owner or operator  
9 shall do all of the following:

10       (a) Obtain ~~and utilize~~ a site identification number assigned  
11 by the United States ~~environmental protection agency~~ **ENVIRONMENTAL**  
12 **PROTECTION AGENCY** or the department. Until October 1, 2017, the  
13 department shall assess a site identification number user charge of  
14 \$50.00 for each site identification number it issues. The  
15 department shall not issue a site identification number under this  
16 subdivision unless the site identification number user charge and  
17 the tax identification number for the person applying for the site  
18 identification number have been received. Money collected under  
19 this subdivision shall be forwarded to the state treasurer for  
20 deposit into the environmental pollution prevention fund created in  
21 section 11130.

22       (b) ~~Certify on the manifest~~ **CONFIRM** receipt of the liquid  
23 industrial ~~waste by completing the facility section of the manifest~~  
24 ~~and returning a signed copy of the manifest to the department~~  
25 ~~within a period of 10 days after the end of the month for all~~  
26 ~~liquid industrial waste received within the month.~~ **BY-PRODUCT AND**  
27 **PROVIDE CONFIRMATION OF RECEIPT TO THE GENERATOR OR GENERATOR'S**

1 **AUTHORIZED REPRESENTATIVE.**

2 ~~Return a signed copy of the manifest to the generator.~~

3 (C) ~~(d)~~ Maintain records of the characterization of the waste.

4 **LIQUID INDUSTRIAL BY-PRODUCT.** Characterization shall be in  
5 accordance with the requirements of ~~part 111.~~ **THIS ACT.**

6 (2) All storage, treatment, and reclamation of liquid  
7 industrial ~~waste~~ **BY-PRODUCT** at the designated facility shall be in  
8 either containers or tanks or as otherwise specified in section  
9 12113(5). Storage, treatment, or reclamation regulated under part  
10 615 or the rules, orders, or instructions promulgated under that  
11 part, or regulated under part C of title XIV of the public health  
12 service act, 42 USC 300h to 300h-8, or the regulations promulgated  
13 under that part are exempt from this subsection.

14 (3) The owner or operator of a designated facility shall not  
15 store liquid industrial ~~waste~~ **BY-PRODUCT** for longer than 1 year  
16 unless the ~~liquid industrial waste~~ **BY-PRODUCT** is being stored for  
17 purposes of reclamation and not less than 75% of the cumulative  
18 amount, by weight or volume, of each type of ~~liquid industrial~~  
19 ~~waste~~ **BY-PRODUCT** that is stored on site each calendar year is  
20 reclaimed or transferred to a different site for reclamation during  
21 that calendar year. The owner or operator of a designated facility  
22 shall maintain documentation that demonstrates compliance with this  
23 subsection.

24 (4) The owner or operator of a designated facility shall  
25 ~~retain~~ **DO ALL OF THE FOLLOWING:**

26 (A) **RETAIN** all records required pursuant to this part for a  
27 period of at least 3 years and shall make those records readily

1 available for review and inspection by the department or a peace  
2 officer. The retention period required by this ~~subsection~~  
3 **SUBDIVISION** is automatically extended during the course of any  
4 unresolved enforcement action regarding the regulated activity or  
5 as required by the department. **RECORDS REQUIRED UNDER THIS PART MAY**  
6 **BE RETAINED IN ELECTRONIC FORMAT.**

7 (B) MAINTAIN A PLAN DESIGNED TO RESPOND TO AND MINIMIZE  
8 HAZARDS TO HUMAN HEALTH AND THE ENVIRONMENT FROM UNPLANNED RELEASES  
9 OF LIQUID INDUSTRIAL BY-PRODUCT TO AIR, SOIL, AND SURFACE WATER.

10 (C) DOCUMENT THAT ALL EMPLOYEES WHO HAVE A RESPONSIBILITY TO  
11 MANAGE LIQUID INDUSTRIAL BY-PRODUCT ARE TRAINED IN THE PROPER  
12 HANDLING AND EMERGENCY PROCEDURES APPROPRIATE FOR THEIR JOB DUTIES.

13 (5) EXCEPT AS PROVIDED IN SUBSECTION (6), A DESIGNATED  
14 FACILITY SHALL SUBMIT TO THE DEPARTMENT BY APRIL 30 EACH YEAR A  
15 REPORT DESCRIBING ITS ACTIVITIES FOR THE PREVIOUS CALENDAR YEAR.  
16 THE DEPARTMENT SHALL PROVIDE FOR A METHOD OF ELECTRONIC REPORTING.  
17 THE REPORT, AT A MINIMUM, SHALL INCLUDE THE FOLLOWING INFORMATION:

18 (A) THE NAME AND ADDRESS OF THE FACILITY.

19 (B) THE CALENDAR YEAR COVERED BY THE REPORT.

20 (C) THE TYPES AND QUANTITIES OF LIQUID INDUSTRIAL BY-PRODUCT  
21 ACCEPTED AND A DESCRIPTION OF THE MANNER IN WHICH THE LIQUID  
22 INDUSTRIAL BY-PRODUCT WAS PROCESSED OR MANAGED.

23 (6) A DESIGNATED FACILITY IS NOT SUBJECT TO THE REPORTING  
24 REQUIREMENTS OF SUBSECTION (5) FOR A CALENDAR YEAR IF, DURING THAT  
25 CALENDAR YEAR, THE DESIGNATED FACILITY RECEIVED LIQUID INDUSTRIAL  
26 BY-PRODUCTS ONLY FROM 1 GENERATOR AND WAS OWNED, OPERATED, OR  
27 LEGALLY CONTROLLED BY THAT GENERATOR.

1           Sec. 12113. (1) Storage of liquid industrial ~~waste, BY-~~  
2 **PRODUCT**, whether at the location of generation, under the control  
3 of the transporter, or at the designated facility, shall be  
4 protected from weather, fire, physical damage, and vandals. All  
5 vehicles, containers, and tanks used to hold ~~liquid industrial~~  
6 ~~waste BY-PRODUCT~~ shall be closed or covered, except when necessary  
7 to add or remove ~~waste, BY-PRODUCT, OR OTHERWISE MANAGED IN~~  
8 **ACCORDANCE WITH APPLICABLE STATE LAWS**, to prevent the escape of  
9 ~~liquid industrial waste. BY-PRODUCT~~. The exterior of all vehicles,  
10 containers, and tanks used to hold ~~liquid industrial waste BY-~~  
11 **PRODUCT** shall be kept free of ~~liquid industrial waste BY-PRODUCT~~  
12 and its residue.

13           (2) Except as otherwise authorized pursuant to this section or  
14 other applicable statutes or rules or orders of the department,  
15 liquid industrial ~~waste BY-PRODUCT~~ shall be managed to prevent  
16 ~~liquid industrial waste BY-PRODUCT~~ from being discharged into the  
17 soil, surface water or groundwater, or a drain or sewer, or  
18 discharged in violation of part 55.

19           (3) A person shall treat, store, and dispose of liquid  
20 industrial ~~waste BY-PRODUCT~~ in accordance with all applicable  
21 statutes and rules and orders of the department.

22           (4) This part does not ~~prevent PROHIBIT~~ a publicly owned  
23 treatment works from accepting liquid industrial ~~waste BY-PRODUCT~~  
24 from the premises of a person, and does not ~~prevent PROHIBIT~~ a  
25 person from engaging, employing, or contracting with a publicly  
26 owned treatment works. However, a publicly owned treatment works  
27 that receives ~~waste BY-PRODUCT~~ by means of transportation is a

1 designated facility and shall comply with ~~the requirements of~~  
2 section 12112.

3 (5) A person shall not treat, store, or dispose of liquid  
4 industrial ~~waste~~ **BY-PRODUCT** in a surface impoundment, unless the  
5 surface impoundment has a discharge or storage permit authorized  
6 under part 31 ~~or~~, in the case of leachate, is authorized in a  
7 permit issued under part 115.

8 (6) Activities regulated under part 615 or the rules, orders,  
9 or instructions under that part or regulated under part C of title  
10 XIV of the public health service act, 42 USC 300h to 300h-8, or the  
11 regulations promulgated under that act, are exempt from the  
12 requirements of this section.

13 Sec. 12114. (1) If the department or a peace officer has  
14 probable cause to believe that a person is violating this part, the  
15 department or a peace officer may search without a warrant a  
16 vehicle or equipment that is possessed, used, or operated by that  
17 person. The department or a peace officer may seize a vehicle,  
18 equipment, or other property used or operated in a manner or for a  
19 purpose in violation of this part. A vehicle, equipment, or other  
20 property used in violation of this part is subject to seizure and  
21 forfeiture as provided in chapter 47 of the revised judicature act  
22 of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

23 (2) The court may award court costs and other expenses of  
24 litigation including attorney fees to a party who successfully  
25 brings an action under this section.

26 (3) The department or peace officer may enter at reasonable  
27 times any generator, transporter, or designated facility or other

1 place where liquid industrial ~~wastes~~ **BY-PRODUCTS** are or have been  
2 generated, stored, treated, or disposed of, or transported from and  
3 may inspect the facility or other place and obtain samples of the  
4 ~~liquid industrial wastes~~ **BY-PRODUCTS** and samples of the containers  
5 or labeling of the ~~wastes~~ **BY-PRODUCTS** for the purposes of enforcing  
6 or administering this part.

7           Sec. 12115. (1) **THE ATTORNEY GENERAL MAY COMMENCE A CIVIL**  
8 **ACTION AGAINST A PERSON IN A COURT OF COMPETENT JURISDICTION FOR**  
9 **APPROPRIATE RELIEF, INCLUDING INJUNCTIVE RELIEF FOR A VIOLATION OF**  
10 **THIS PART, OR A REGISTRATION OR PERMIT ISSUED PURSUANT TO THIS**  
11 **PART. THE COURT HAS JURISDICTION TO RESTRAIN THE VIOLATION AND TO**  
12 **REQUIRE COMPLIANCE. IN ADDITION TO ANY OTHER RELIEF GRANTED UNDER**  
13 **THIS SECTION, THE COURT MAY IMPOSE A CIVIL FINE OF NOT MORE THAN**  
14 **\$10,000.00 FOR EACH INSTANCE OF VIOLATION AND, IF THE VIOLATION IS**  
15 **CONTINUOUS, FOR EACH DAY OF CONTINUED NONCOMPLIANCE. A FINE**  
16 **COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE GENERAL**  
17 **FUND.**

18           (2) ~~(1)~~—The attorney general or a person may bring a civil  
19 action in a court of competent jurisdiction to recover the full  
20 value of the damage done to the natural resources that are damaged  
21 or destroyed **AND THE COSTS OF SURVEILLANCE AND ENFORCEMENT BY THE**  
22 **STATE** as a result of a violation of this part. The damages **AND**  
23 **COSTS** collected under this section shall be deposited in the  
24 general fund. However, if the damages result from the impairment or  
25 destruction of the fish, wildlife, or other natural resources of  
26 the state, the damages shall be deposited in the game and fish  
27 protection account of the Michigan conservation and recreation

1 legacy fund provided in section 2010. The attorney general may, in  
 2 addition, recover expenses incurred by the department to address  
 3 and remedy a violation of this part that the department reasonably  
 4 considered an imminent and substantial threat to the public health,  
 5 safety, or welfare, or to the environment.

6 (3) ~~(2)~~—The court may award court costs and other expenses of  
 7 litigation including attorney fees to a party who successfully  
 8 brings an action pursuant to this section or to a person who  
 9 successfully defends against an action brought under this section  
 10 that the court determines is frivolous.

11 Sec. 12116. (1) A person ~~who~~ **THAT** violates section ~~12103(1)(b)~~  
 12 ~~or (e), 12105(1)(d),~~ **12105(C)**, 12107(2) or (3), 12109(4), or  
 13 12112(1)(b) ~~or (e)~~ is guilty of a misdemeanor ~~—~~ punishable by  
 14 imprisonment for not more than 30 days ~~—~~ or a fine of not less than  
 15 \$200.00 and not more than \$500.00, or both. A peace officer may  
 16 issue an appearance ticket to a person who is in violation of  
 17 section ~~12103(1)(b) or (e), 12105(1)(d),~~ **12105(C)**, 12107(2) or (3),  
 18 12109(4), or 12112(1)(b). ~~or (e)~~.

19 (2) A person ~~who~~ **THAT** knowingly makes or causes to be made a  
 20 false statement or entry in a ~~license~~ **REGISTRATION OR PERMIT**  
 21 application or a ~~manifest~~ **SHIPPING DOCUMENT UNDER THIS PART** is  
 22 guilty of a felony ~~—~~ punishable by imprisonment for not more than 2  
 23 years ~~—~~ or a fine of not less than \$2,500.00 or more than  
 24 \$10,000.00, or both.

25 (3) A person ~~who~~ **THAT** violates this part or a ~~license~~  
 26 **REGISTRATION OR PERMIT** issued under this part, except as provided  
 27 in subsections (1) and (2), is guilty of a misdemeanor ~~—~~ punishable

1 by imprisonment for not more than 6 months or a fine of not less  
2 than \$1,000.00 or more than \$2,500.00, or both.

3 (4) Each day that a violation continues constitutes a separate  
4 violation.

5 Sec. 12117. (1) The liquid industrial **BY-PRODUCT** transporter  
6 ~~waste~~-account is created within the environmental pollution  
7 prevention fund which is created in section 11130.

8 (2) The state treasurer may receive money or other assets from  
9 any source for deposit into the account. The state treasurer shall  
10 direct the investment of the account. The state treasurer shall  
11 credit to the account interest and earnings from account  
12 investments.

13 (3) Money remaining in the account at the close of the fiscal  
14 year shall not lapse to the general fund.

15 (4) The department shall expend money from the account, upon  
16 appropriation, for the implementation of this part. In addition,  
17 funds not expended from the account for the implementation of this  
18 part may be utilized for emergency response and cleanup activities  
19 related to liquid industrial ~~waste~~-**BY-PRODUCT** that are initiated by  
20 the department.

21 Enacting section 1. This amendatory act takes effect 90 days  
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect  
24 unless all of the following bills of the 98th Legislature are  
25 enacted into law:

26 (a) Senate Bill No. 401.

27

1 (b) Senate Bill No. 402.

2