

**SUBSTITUTE FOR  
HOUSE BILL NO. 4540**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 3110, 4104, 11135, 11153, 12109, and 12112  
(MCL 324.3110, 324.4104, 324.11135, 324.11153, 324.12109, and  
324.12112), sections 3110 and 4104 as amended by 2011 PA 148,  
sections 11135 and 11153 as amended by 2014 PA 287, and sections  
12109 and 12112 as amended by 2015 PA 224.

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

1       Sec. 3110. (1) Each industrial or commercial entity, other  
2 than a concentrated animal feed operation, that discharges liquid  
3 wastes into any surface water or groundwater or underground or on  
4 the ground other than through a public sanitary sewer shall have  
5 waste treatment or control facilities under the specific  
6 supervision and control of persons who have been certified by the

1 department as properly qualified to operate the facilities. The  
2 department shall examine all supervisory personnel having  
3 supervision and control of the facilities, other than a  
4 concentrated animal feed operation, and certify that the persons  
5 are properly qualified to operate or supervise the facilities.

6 (2) The department may conduct a program for training persons  
7 seeking to be certified as operators or supervisors under  
8 subsection (1), section 4104, or section 9 of the safe drinking  
9 water act, 1976 PA 399, MCL 325.1009. Until October 1, ~~2017,~~**2021**,  
10 the department may charge a fee based on the costs to the  
11 department of operating this training program. The fees shall be  
12 deposited into the operator training and certification fund created  
13 in section 3134.

14 (3) The department shall administer certification operator  
15 programs for persons seeking to be certified as operators or  
16 supervisors under subsection (1), section 4104, or section 9 of the  
17 safe drinking water act, 1976 PA 399, MCL 325.1009. A person  
18 wishing to become certified as an operator or a supervisor shall  
19 submit an application to the department containing information  
20 required by the department. Information submitted as part of the  
21 application shall be considered part of the examination for  
22 certification. Until October 1, ~~2017,~~**2021**, the department may  
23 charge a certification examination fee and a certification renewal  
24 fee in accordance with the following fee schedule:

25 (a) For certification examinations under subsection (1), the  
26 following fees apply:

27 (i) Industrial wastewater certification level 1 or 2

1 examination as described under subrule (2) of R 323.1253 of the  
2 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$35.00.

3 (ii) Industrial wastewater certification level 3 examination  
4 as described under subrule (2) of R 323.1253 of the Michigan  
5 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$40.00.

6 (iii) Industrial wastewater special classification A-1a  
7 examination or noncontact cooling water A-1h examination as  
8 described under subrule (2) of R 323.1253 of the Michigan  
9 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$30.00.

10 (iv) Storm water industrial certification A-1i examination as  
11 described under subrule (2) of R 323.1253 of the Michigan  
12 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$30.00.

13 (b) For certification examinations under section 4104, the  
14 following fees apply:

15 (i) Municipal wastewater certification level A, B, C, or D  
16 examination as described under subrule (1) of R 299.2911 of the  
17 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$70.00.

18 (ii) Municipal wastewater certification level L2 examination  
19 as described under subrule ~~(3a)~~ **(3) (A)** of R 299.2911 of the  
20 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

21 (iii) Municipal wastewater certification level L1 examination  
22 as described under subrule ~~(3b)~~ **(3) (B)** of R 299.2911 of the  
23 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

24 (iv) Municipal wastewater certification level SC examination  
25 as described under subrule (4) of R 299.2911 of the Michigan  
26 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

27 (c) For certification examinations under section 9 of the safe

1 drinking water act, 1976 PA 399, MCL 325.1009, **FOR OPERATORS OF THE**  
2 **FOLLOWING SYSTEMS**, the following fees apply:

3 (i) Drinking water complete treatment ~~certification level 1,~~  
4 ~~2, 3, or 4 examination~~ **SYSTEM CLASSES F-1, F-2, F-3, OR F-4** as  
5 described under subrule (1) of R 325.11901 of the Michigan  
6 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$70.00.

7 (ii) Drinking water limited treatment ~~certification level 1,~~  
8 ~~2, 3, or 4 examination~~ **SYSTEM CLASSES D-1, D-2, D-3, OR D-4** as  
9 described under subrule (2) of R 325.11901 of the Michigan  
10 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$70.00.

11 (iii) Drinking water distribution ~~certification level 1, 2, 3,~~  
12 ~~or 4 examination~~ **SYSTEM CLASSES S-1, S-2, S-3, OR S-4** as described  
13 under R 325.11902 of the Michigan ~~administrative code,~~  
14 **ADMINISTRATIVE CODE**, \$70.00.

15 (iv) Drinking water complete treatment ~~certification level 5~~  
16 ~~examination~~ **SYSTEM CLASS F-5** as described under subrule (1) of R  
17 325.11901 of the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**,  
18 \$45.00.

19 (v) Drinking water limited treatment ~~certification level 5~~  
20 ~~examination~~ **SYSTEM CLASS D-5** as described under subrule (2) of R  
21 325.11901 of the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**,  
22 \$45.00.

23 (vi) Drinking water distribution ~~certification level 5~~  
24 ~~examination~~ **SYSTEM CLASS S-5** as described under R 325.11902 of the  
25 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

26 (d) For certification renewals under subsection (1), the  
27 following fees apply:

1 (i) Storm water industrial certification A-1i as described  
2 under subrule (2) of R 323.1253 of the Michigan ~~administrative~~  
3 ~~code~~, **ADMINISTRATIVE CODE**, \$95.00.

4 (ii) Storm water construction certification A-1j as described  
5 under subrule (2) of R 323.1253 of the Michigan ~~administrative~~  
6 ~~code~~, **ADMINISTRATIVE CODE**, \$95.00.

7 (iii) All other industrial wastewater certification levels 1,  
8 2, or 3 as described under subrule (2) of R 323.1253 of the  
9 Michigan ~~administrative code~~ **ADMINISTRATIVE CODE** and issued on a  
10 single certificate, \$95.00.

11 (e) For certification renewals under section 4104 for all  
12 municipal wastewater certification levels as described under R  
13 299.2911 of the Michigan ~~administrative code~~ **ADMINISTRATIVE CODE**  
14 and issued on a single certificate, \$95.00.

15 (f) For certification renewals under section 9 of the safe  
16 drinking water act, 1976 PA 399, MCL 325.1009, for all drinking  
17 water certification levels as described under R 325.11901 or R  
18 325.11902 **OF THE MICHIGAN ADMINISTRATIVE CODE** and issued on a  
19 single certificate, \$95.00.

20 (4) The failure to pay a required certification examination  
21 fee within 90 days after taking an examination ~~shall constitute~~ **IS**  
22 **CONSIDERED** failure of the examination. The department shall not  
23 allow an individual to take a future examination within the failed  
24 examination program unless he or she pays the prior fee in full.

25 (5) The department shall conduct a program for persons or  
26 organizations seeking to offer approved continuing education  
27 courses to be used by certified operators and supervisors when

1 renewing their certifications under subsection (1), section 4104,  
2 and section 9 of the safe drinking water act, 1976 PA 399, MCL  
3 325.1009. The department may charge continuing education providers  
4 a course application fee and course renewal fee ~~in accordance with~~  
5 **AS PROVIDED IN** the following fee schedule:

6 (a) An application for approval of a training course, \$75.00  
7 for each course.

8 (b) An application for renewal of an approved training course,  
9 \$50.00 for each course.

10 (6) All fees collected under this section shall be deposited  
11 in the operator training and certification fund established in  
12 section 3134.

13 (7) A person certified as required by subsection (1) shall  
14 file monthly, or at such longer intervals as the department may  
15 designate, on forms provided by the department, reports showing the  
16 effectiveness of the treatment or control facility operation and  
17 the quantity and quality of discharged liquid wastes. ~~A-IF A~~ person  
18 ~~who~~ knowingly makes a false statement in a report, ~~may have~~ **THE**  
19 **DEPARTMENT MAY REVOKE** his or her certificate as an approved  
20 treatment facility operator. ~~revoked.~~

21 (8) This section does not apply to water, gas, or other  
22 material that is injected into a well to facilitate production of  
23 oil or gas or to water derived in association with oil or gas  
24 production and disposed of in a well, if the well is used either to  
25 facilitate production or for disposal purposes and is under permit  
26 by the state supervisor of wells.

27 Sec. 4104. (1) The department may promulgate and enforce rules

1 as the department considers necessary governing and providing a  
2 method of conducting and operating all or a part of sewerage  
3 systems including sewage treatment works. The department shall  
4 classify sewage treatment works with regard to size, type,  
5 location, and other physical conditions affecting those works and  
6 according to the skill, knowledge, experience, and character that  
7 the person who is in charge of the active operation of the sewage  
8 treatment works ~~has to~~ **MUST** ~~in order to~~ successfully  
9 operate the works, **AND** to prevent the discharge of deleterious  
10 matter capable of being injurious to ~~the~~ **PUBLIC** ~~health of the~~  
11 ~~people, or to~~ **OR** other public interests. The department shall  
12 examine or provide for the examination of persons as to their  
13 qualifications to operate sewage treatment works. The department  
14 shall promulgate rules regarding the classification of sewage  
15 treatment works, the examinations for certification of operators  
16 for those works, and the issuance and revocation of certificates,  
17 and shall issue and revoke certificates ~~in accordance with~~ **AS**  
18 **PROVIDED IN** those rules. Every sewage treatment works subject to  
19 this part shall be under the supervision of a properly certified  
20 operator, except that this section does not require the employment  
21 of a certified operator in a waste treatment works that receives  
22 only wastes that are not potentially prejudicial to the public  
23 health.

24 (2) ~~In accordance with~~ **AS PROVIDED IN** section 3110, the  
25 department may conduct a program for training persons seeking to be  
26 certified as operators under subsection (1) and shall administer  
27 operator certification programs for persons seeking to be certified

1 as operators under subsection (1). Until October 1, ~~2017,~~**2021**, the  
2 department may charge fees for these programs ~~in accordance with~~**AS**  
3 **PROVIDED IN** section 3110. The department shall transmit fees  
4 collected under this section to the state treasurer for deposit  
5 into the operator training and certification fund created in  
6 section 3134.

7       Sec. 11135. (1) A hazardous waste generator shall provide a  
8 separate manifest to the transporter for each load of hazardous  
9 waste transported to property that is not on the site where it was  
10 generated. Until October 1, ~~2017,~~**2021**, a person required to  
11 prepare a manifest shall submit to the department a manifest  
12 processing user charge of \$8.00 per manifest and his or her tax  
13 identification number. Money collected under this subsection shall  
14 be forwarded to the state treasurer for deposit into the  
15 environmental pollution prevention fund created in section 11130.

16       (2) Manifest processing user charges under subsection (1)  
17 shall be paid using a form provided by the department. The  
18 department shall send a form to each person subject to the manifest  
19 processing user charge by March 30 of each year. The form shall  
20 specify the number of manifests prepared by that person and  
21 processed by the department during the previous calendar year. A  
22 person subject to the manifest processing user charge shall return  
23 the completed form and the appropriate payment to the department by  
24 April 30 of each year.

25       (3) A person who fails to provide timely and accurate  
26 information, a complete form, or the appropriate manifest  
27 processing user charge as provided for in this section is in



1 violation of this part and is subject to both of the following:

2 (a) Payment of the manifest processing user charge and an  
3 administrative fine of 5% of the amount owed for each month that  
4 the payment is delinquent. Any payments received after the  
5 fifteenth day of the month after the due date ~~shall be considered~~  
6 **ARE** delinquent for that month. However, the administrative fine  
7 shall not exceed 25% of the total amount owed.

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

13 (4) Any amounts collected under subsection (3) for a violation  
14 of this section shall be forwarded to the state treasurer and  
15 deposited in the environmental pollution prevention fund created in  
16 section 11130.

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

20 (6) The department shall evaluate the effectiveness and  
21 adequacy of the manifest processing user charges collected under  
22 this section relative to the overall revenue needs of the state's  
23 hazardous waste management program administered under this part.  
24 Not later than April 1 of each even-numbered year, the department  
25 shall submit to the legislature a report summarizing its findings  
26 under this subsection.

27 (7) A generator shall include on the manifest details as

1 specified by the department and shall at least include a sufficient  
2 qualitative and quantitative analysis and a physical description of  
3 the hazardous waste to evaluate toxicity and methods of  
4 transportation, storage, and disposal. The manifest also shall  
5 include safety precautions as necessary for each load of hazardous  
6 waste. The generator shall submit to the department a copy of the  
7 manifest within 10 days after the end of the month for each load of  
8 hazardous waste transported within that month.

9 (8) A generator shall certify that the information contained  
10 on a manifest prepared by the generator is accurate.

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

13 (10) If a generator does not receive a copy of the manifest  
14 with the handwritten signature of the owner or operator of the  
15 designated facility within 35 days after the date on which the  
16 hazardous waste was accepted by the initial transporter, the  
17 generator shall contact the transporter to determine the status of  
18 the hazardous waste. If the generator is unable to determine the  
19 status of the hazardous waste upon contacting the transporter, the  
20 generator shall contact the owner or operator of the designated  
21 facility to which the hazardous waste was to be transported to  
22 determine the status of the hazardous waste.

23 (11) A generator shall submit an exception report to the  
24 department if the generator has not received a copy of the manifest  
25 with the handwritten signature of the owner or operator of the  
26 designated facility within 45 days after the date on which the  
27 hazardous waste was accepted by the initial transporter. The

1 exception report shall include all of the following:

2 (a) A legible copy of the manifest.

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

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

15 Sec. 11153. (1) A generator, transporter, or treatment,  
16 storage, or disposal facility shall obtain and utilize a site  
17 identification number assigned by the United States ~~environmental~~  
18 ~~protection agency~~ **ENVIRONMENTAL PROTECTION AGENCY** or the  
19 department. Until October 1, ~~2017,~~ **2021**, the department shall  
20 assess a site identification number user charge of \$50.00 for each  
21 site identification number it issues. The department shall not  
22 issue a site identification number under this subsection unless the  
23 site identification number user charge and the tax identification  
24 number for the person applying for the site identification number  
25 have been received by the department.

26 (2) Until October 1, ~~2017,~~ **2021**, the department shall annually  
27 assess hazardous waste management program user charges as follows:

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

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

7 (ii) A generator who generates 1,000 kilograms or more of  
8 hazardous waste in any month during the calendar year and who  
9 generates less than 900,000 kilograms during the calendar year  
10 shall pay to the department an annual handler user charge of  
11 \$400.00.

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

17 (b) An owner or operator of a treatment, storage, or disposal  
18 facility for which an operating license is required under section  
19 11123 or for which an operating license has been issued under  
20 section 11125 shall pay to the department an annual handler user  
21 charge of \$2,000.00.

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

26 (3) A handler shall pay the handler user charge specified in  
27 subsection (2) (a) to (c) for each of the activities conducted

1 during the previous calendar year.

2 (4) Handler user charges shall be paid using a form provided  
3 by the department. The handler shall certify that the information  
4 on the form is accurate. The department shall send forms to the  
5 handlers by March 30 of each year. A handler shall return the  
6 completed forms and the appropriate payment to the department by  
7 April 30 of each year.

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

12 (a) Payment of the handler user charge and an administrative  
13 fine of 5% of the amount owed for each month that the payment is  
14 delinquent. Any payments received after the fifteenth of the month  
15 after the due date ~~shall be considered~~ **ARE** delinquent for that  
16 month. However, the administrative fine shall not exceed 25% of the  
17 total amount owed.

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

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

1           (7) The site identification number user charges and the  
2 handler user charges collected under this section and any amounts  
3 collected under subsection (5) for a violation of this section  
4 shall be forwarded to the state treasurer and deposited in the  
5 environmental pollution prevention fund created in section 11130.

6           (8) The department shall evaluate the effectiveness and  
7 adequacy of the site identification number user charges and the  
8 handler user charges collected under this section relative to the  
9 overall revenue needs of the hazardous waste management program  
10 administered under this part. Not later than April 1 of each even-  
11 numbered year, the department shall submit to the legislature a  
12 report summarizing the department's findings under this subsection.

13           (9) As used in this section:

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

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

18           Sec. 12109. (1) A liquid industrial by-product transporter  
19 shall provide the generator confirmation of acceptance of by-  
20 product for transportation and shall deliver the liquid industrial  
21 by-product only to the designated facility specified by the  
22 generator.

23           (2) The liquid industrial by-product transporter shall retain  
24 all records required under this part for ~~a period of~~ at least 3  
25 years, and shall make those records readily available for review  
26 and inspection by the department or a peace officer. The retention  
27 period required in this subsection is automatically extended during

1 the course of any unresolved enforcement action regarding an  
2 activity regulated under this part or as required by the  
3 department. Records required under this part may be retained in  
4 electronic format.

5 (3) The department may authorize, for certain liquid  
6 industrial by-product streams, the use of a consolidated shipping  
7 document as authorized under section 12103(1)(d). If a consolidated  
8 shipping document is authorized by the department and utilized by a  
9 generator, the transporter shall give to the generator a receipt  
10 documenting the transporter's company name, the driver's signature,  
11 the date of pickup, the type and quantity of by-product removed,  
12 the consolidated shipping document number, and the designated  
13 facility.

14 (4) A transporter shall obtain a site identification number  
15 assigned by the United States Environmental Protection Agency or  
16 the department. Until October 1, ~~2017~~, **2021**, the department shall  
17 assess a site identification number user charge of \$50.00 for each  
18 site identification number it issues. The department shall not  
19 issue a site identification number under this subsection unless the  
20 site identification number user charge and the tax identification  
21 number for the person applying for the site identification number  
22 have been received. Money collected under this subsection shall be  
23 forwarded to the state treasurer for deposit into the environmental  
24 pollution prevention fund created in section 11130.

25 Sec. 12112. (1) The owner or operator of a facility that  
26 accepts liquid industrial by-product shall accept delivery of by-  
27 product at the designated facility only if the facility is the

1 destination indicated on the shipping document. The facility owner  
2 or operator shall do all of the following:

3 (a) Obtain a site identification number assigned by the United  
4 States Environmental Protection Agency or the department. Until  
5 October 1, ~~2017~~, **2021**, the department shall assess a site  
6 identification number user charge of \$50.00 for each site  
7 identification number it issues. The department shall not issue a  
8 site identification number under this subdivision unless the site  
9 identification number user charge and the tax identification number  
10 for the person applying for the site identification number have  
11 been received. Money collected under this subdivision shall be  
12 forwarded to the state treasurer for deposit into the environmental  
13 pollution prevention fund created in section 11130.

14 (b) Provide the generator or the generator's authorized  
15 representative confirmation of the receipt of the liquid industrial  
16 by-product.

17 (c) Maintain records of the characterization of the liquid  
18 industrial by-product. Characterization shall be in accordance with  
19 the requirements of this act.

20 (2) All storage, treatment, and reclamation of liquid  
21 industrial by-product at the designated facility shall be in either  
22 containers or tanks or as otherwise specified in section 12113(5).  
23 Storage, treatment, or reclamation regulated under part 615 or the  
24 rules, orders, or instructions promulgated under that part, or  
25 regulated under part C of title XIV of the public health service  
26 act, 42 USC 300h to 300h-8, or the regulations promulgated under  
27 that part are exempt from this subsection.



1           (3) The owner or operator of a designated facility shall not  
2 store liquid industrial by-product for longer than 1 year unless  
3 the by-product is being stored for purposes of reclamation and not  
4 less than 75% of the cumulative amount, by weight or volume, of  
5 each type of by-product that is stored on site each calendar year  
6 is reclaimed or transferred to a different site for reclamation  
7 during that calendar year. The owner or operator of a designated  
8 facility shall maintain documentation that demonstrates compliance  
9 with this subsection.

10           (4) The owner or operator of a designated facility shall do  
11 all of the following:

12           (a) Retain all records required pursuant to this part for a  
13 period of at least 3 years and shall make those records readily  
14 available for review and inspection by the department or a peace  
15 officer. The retention period required by this subdivision is  
16 automatically extended during the course of any unresolved  
17 enforcement action regarding the regulated activity or as required  
18 by the department. Records required under this part may be retained  
19 in electronic format.

20           (b) Maintain a plan designed to respond to and minimize  
21 hazards to human health and the environment from unplanned releases  
22 of liquid industrial by-product to air, soil, and surface water.

23           (c) Document that all employees who have a responsibility to  
24 manage liquid industrial by-product are trained in the proper  
25 handling and emergency procedures appropriate for their job duties.

26           (5) Except as provided in subsection (6), a designated  
27 facility shall submit to the department by April 30 each year a

1 report describing its activities for the previous calendar year.  
2 The department shall provide for a method of electronic reporting.  
3 The report, at a minimum, shall include the following information:  
4 (a) The name and address of the facility.  
5 (b) The calendar year covered by the report.  
6 (c) The types and quantities of liquid industrial by-product  
7 accepted and a description of the manner in which the liquid  
8 industrial by-product was processed or managed.  
9 (6) A designated facility is not subject to the reporting  
10 requirements of subsection (5) for a calendar year if, during that  
11 calendar year, the designated facility received liquid industrial  
12 by-products only from 1 generator and was owned, operated, or  
13 legally controlled by that generator.