

HOUSE BILL No. 5242

September 17, 2007, Introduced by Rep. Bennett and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3122, 5522, 11135, 11153, 11525a, 12103, 12109, and 12112 (MCL 324.3122, 324.5522, 324.11135, 324.11153, 324.11525a, 324.12103, 324.12109, and 324.12112), section 3122 as added by 2004 PA 90, section 5522 as amended by 2005 PA 169, sections 11135, 12103, 12109, and 12112 as amended and section 11153 as added by 2001 PA 165, and section 11525a as amended by 2003 PA 153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3122. (1) Until October 1, ~~2007~~—2011, the department may
2 levy and collect an annual groundwater discharge permit fee from
3 facilities that discharge wastewater to the ground or groundwater

1 of this state pursuant to section 3112. The fee shall be as
2 follows:

3 (a) For a group 1 facility, \$3,650.00.

4 (b) For a group 2 facility or a municipality of 1,000 or fewer
5 residents, \$1,500.00.

6 (c) For a group 3 facility, \$200.00.

7 (2) Within 180 days after receipt of a complete application,
8 the department shall either grant or deny a permit, unless the
9 applicant and the department agree to extend this time period. If
10 the department fails to make a decision on an application within
11 the time period specified or agreed to under this subsection, the
12 applicant shall receive a 15% annual discount on an annual
13 groundwater discharge permit fee for a permit issued based upon
14 that application. This subsection applies to permit applications
15 received beginning October 1, 2005.

16 (3) If the person required to pay the annual groundwater
17 discharge permit fee under subsection (1) is a municipality, the
18 municipality may pass on the annual groundwater discharge permit
19 fee to each user of the municipal facility.

20 (4) As used in this section, "group 1 facility", "group 2
21 facility", and "group 3 facility" do not include a municipality
22 with a population of 1,000 or fewer residents.

23 Sec. 5522. (1) ~~For the state fiscal year beginning October 1,~~
24 ~~2001, and continuing until September 30, 2007~~ **UNTIL OCTOBER 1,**
25 **2011**, the owner or operator of each fee-subject facility shall pay
26 air quality fees as required and calculated under this section. The
27 department may levy and collect an annual air quality fee from the

1 owner or operator of each fee-subject facility in this state. The
2 legislature intends that the fees required under this section meet
3 the minimum requirements of the clean air act and that this
4 expressly stated fee system serve as a limitation on the amount of
5 fees imposed under this part on the owners or operators of fee-
6 subject facilities in this state.

7 (2) The annual air quality fee shall be calculated for each
8 fee-subject facility, according to the following procedure:

9 (a) ~~For~~ **EXCEPT AS PROVIDED IN SUBDIVISION (D), FOR** category I
10 facilities, the annual air quality fee shall be the sum of a
11 facility charge and an emissions charge as specified in subdivision
12 (e). The facility charge shall be \$4,485.00.

13 (b) For category II facilities, the annual air quality fee
14 shall be the sum of a facility charge and an emissions charge as
15 specified in subdivision (e). The facility charge shall be
16 \$1,795.00.

17 (c) For category III facilities, the annual air quality fee
18 shall be \$250.00.

19 (d) For municipal electric generating facilities that are
20 category I facilities and that emit more than 450 tons but less
21 than 18,000 tons of fee-subject air pollutants, the annual air
22 quality fee shall be the following amount, based on the number of
23 tons of fee-subject air pollutants emitted:

24 (i) More than 450 tons but less than 4,000 tons, \$24,816.00.

25 (ii) At least 4,000 tons but not more than 5,300 tons,
26 \$24,816.00 plus \$45.25 per ton of fee-subject air pollutant in
27 excess of 4,000 tons.

1 (iii) More than 5,300 tons but not more than 12,000 tons,
2 \$85,045.00.

3 (iv) More than 12,000 tons but less than 18,000 tons,
4 \$159,459.00.

5 (e) The emissions charge for category I and category II
6 facilities shall equal the emission charge rate of \$45.25,
7 multiplied by the actual tons of fee-subject air pollutants
8 emitted. A pollutant that qualifies as a fee-subject air pollutant
9 under more than 1 class shall be charged only once. The actual tons
10 of fee-subject air pollutants emitted is considered to be the sum
11 of all fee-subject air pollutants emitted at the fee-subject
12 facility for the calendar year 2 years preceding the year of
13 billing, but not more than the lesser of the following:

14 (i) 4,000 tons.

15 (ii) 1,000 tons per pollutant, if the sum of all fee-subject
16 air pollutants except carbon monoxide emitted at the fee-subject
17 facility is less than 4,000 tons.

18 (3) The auditor general shall conduct a biennial audit of the
19 federally mandated operating permit program required in title V.
20 The audit shall include the auditor general's recommendation
21 regarding the sufficiency of the fees required under subsection (2)
22 to meet the minimum requirements of the clean air act.

23 (4) After January 1, but before January 15 of each year,
24 ~~beginning in 1995,~~ the department shall notify the owner or
25 operator of each fee-subject facility of its assessed annual air
26 quality fee. Payment is due within 90 calendar days of the mailing
27 date of the air quality fee notification. If an assessed fee is

1 challenged under subsection (6), payment is due within 90 calendar
2 days of the mailing date of the air quality fee notification or
3 within 30 days of receipt of a revised fee or statement supporting
4 the original fee, whichever is later. The department shall deposit
5 all fees collected under this section to the credit of the fund.

6 (5) If the owner or operator of a fee-subject facility fails
7 to submit the amount due within the time period specified in
8 subsection (4), the department shall assess the owner or operator a
9 penalty of 5% of the amount of the unpaid fee for each month that
10 the payment is overdue up to a maximum penalty of 25% of the total
11 fee owed.

12 (6) If the owner or operator of a fee-subject facility desires
13 to challenge its assessed fee, the owner or operator shall submit
14 the challenge in writing to the department. The department shall
15 not process the challenge unless it is received by the department
16 within 45 calendar days of the mailing date of the air quality fee
17 notification described in subsection (4). A challenge shall
18 identify the facility and state the grounds upon which the
19 challenge is based. Within 30 calendar days of receipt of the
20 challenge, the department shall determine the validity of the
21 challenge and provide the owner with notification of a revised fee
22 or a statement setting forth the reason or reasons why the fee was
23 not revised. Payment of the challenged or revised fee is due within
24 the time frame described in subsection (4). If the owner or
25 operator of a facility desires to further challenge its assessed
26 fee, the owner or operator of the facility has an opportunity for a
27 contested case hearing as provided for under the administrative

1 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

2 (7) If requested by the department, by March 15 of each year,
3 or within 45 days of a request by the department, whichever is
4 later, the owner or operator of each fee-subject facility shall
5 submit information regarding the facility's previous year's
6 emissions to the department. The information shall be sufficient
7 for the department to calculate the facility's emissions for that
8 year and meet the requirements of 40 CFR 51.320 to 51.327.

9 (8) By July 1 of each year, the department shall provide the
10 owner or operator of each fee-subject facility required to pay an
11 emission charge pursuant to this section with a copy of the
12 department's calculation of the facility emissions for the previous
13 year. Within 60 days of this notification, the owner or operator of
14 the facility may provide corrections to the department. The
15 department shall make a final determination of the emissions by
16 December 15 of that year. If the owner or operator disagrees with
17 the determination of the department, the owner or operator may
18 request a contested case hearing as provided for under the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328.

21 (9) By March 1 annually, the department shall prepare and
22 submit to the governor, the legislature, the chairpersons of the
23 standing committees of the senate and house of representatives with
24 primary responsibility for environmental protection issues related
25 to air quality, and the chairpersons of the subcommittees of the
26 senate and house appropriations committees with primary
27 responsibility for appropriations to the department a report that

1 details the **DEPARTMENT'S** activities of the previous fiscal year
2 funded by the fund. ~~for the department.~~ This report shall include,
3 at a minimum, all of the following as it relates to the department:

4 (a) The number of full-time equated positions performing title
5 V and non-title V air quality enforcement, compliance, or
6 permitting activities.

7 (b) All of the following information related to the permit to
8 install program authorized under section 5505:

9 (i) The number of permit to install applications received by
10 the department.

11 (ii) The number of permit to install applications for which a
12 final action was taken by the department. The number of final
13 actions should be reported as the number of applications approved,
14 the number of applications denied, and the number of applications
15 withdrawn by the applicant.

16 (iii) The number of permits to install approved that were
17 required to complete public participation under section 5511(3)
18 before final action and the number of permits to install approved
19 that were not required to complete public participation under
20 section 5511(3) prior to final action.

21 (iv) The average number of final permit actions per permit to
22 install reviewer full-time equivalent position.

23 (v) The percentage and number of permit to install
24 applications ~~which~~ **THAT** were reviewed for administrative
25 completeness within 10 days of receipt by the department.

26 (vi) The percentage and number of permit to install
27 applications ~~which~~ **THAT** were reviewed for technical completeness

1 within 30 days of receipt of an administratively complete
2 application by the department.

3 (vii) The percentage and number of permit to install
4 applications submitted to the department that were administratively
5 complete as received.

6 (viii) The percentage and number of permit to install
7 applications for which a final action was taken by the department
8 within 60 days of receipt of a technically complete application for
9 those not required to complete public participation under section
10 5511(3) prior to final action, or within 120 days of receipt of a
11 technically complete application for those which are required to
12 complete public participation under section 5511(3) prior to final
13 action.

14 (c) All of the following information for the renewable
15 operating permit program authorized under section 5506:

16 (i) The number of renewable operating permit applications
17 received by the department.

18 (ii) The number of renewable operating permit applications for
19 which a final action was taken by the department. The number of
20 final actions should be reported as the number of applications
21 approved, the number of applications denied, and the number of
22 applications withdrawn by the applicant.

23 (iii) The percentage and number of permit applications initially
24 processed within the required time.

25 (iv) The percentage and number of permit renewals and
26 modifications processed within the required time.

27 (v) The number of permit applications reopened by the

1 department.

2 (vi) The number of general permits issued by the department.

3 (d) The number of letters of violation sent.

4 (e) The amount of penalties collected from all consent orders
5 and judgments.

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

9 (g) The number of inspections done on sources required to
10 obtain a permit under section 5506 and the number of inspections of
11 other sources.

12 (h) The number of air pollution complaints received,
13 investigated, not resolved, and resolved by the department.

14 (i) The number of contested case hearings and civil actions
15 initiated and completed, and the number of voluntary consent
16 orders, administrative penalty orders, and emergency orders entered
17 or issued, for sources required to obtain a permit under section
18 5506.

19 (j) The amount of revenue in the fund at the end of the fiscal
20 year.

21 (10) The report under subsection (9) shall also include the
22 amount of revenue for programs under this part received during the
23 prior fiscal year from fees, from federal funds, and from general
24 fund appropriations. Each of these amounts shall be expressed as a
25 dollar amount and as a percent of the total annual cost of programs
26 under this part.

27 (11) The attorney general may bring an action for the

1 collection of the fees imposed under this section.

2 (12) This section does not apply if the administrator of the
3 United States environmental protection agency determines that the
4 department is not adequately administering or enforcing the
5 renewable operating permit program and the administrator
6 promulgates and administers a renewable operating permit program
7 for this state.

8 Sec. 11135. (1) A hazardous waste generator shall provide a
9 separate manifest to the transporter for each load of hazardous
10 waste transported to property that is not on the site where it was
11 generated. ~~Beginning on October 1, 2002 and until March 31, 2008~~
12 **UNTIL OCTOBER 1, 2011**, a person required to prepare a manifest
13 shall submit to the department a manifest processing user charge of
14 \$6.00 per manifest and his or her tax identification number. Each
15 calendar year, the department may adjust the manifest processing
16 user charge as necessary to ensure that the total cumulative amount
17 of the user charges assessed pursuant to this section and sections
18 11153, 12103, 12109, and 12112 are consistent with the target
19 revenue projection for the hazardous waste and liquid industrial
20 waste users account as provided for in section 11130(5). However,
21 the manifest processing user charge shall not exceed \$8.00 per
22 manifest. Money collected under this subsection shall be forwarded
23 to the state treasurer for deposit into the environmental pollution
24 prevention fund created in section 11130 and credited to the
25 hazardous waste and liquid industrial waste users account created
26 in section 11130(5).

27 (2) Payment of the manifest processing user charges under

1 subsection (1) shall be made using a form provided by the
2 department. ~~Beginning in 2004, the~~ **THE** department shall send a form
3 to each person subject to the manifest processing user charge by
4 February 28 of each year. The form shall specify the number of
5 manifests prepared by that person and processed by the department
6 during the previous fiscal year. ~~Beginning in 2004, a~~ **A** person
7 subject to the manifest processing user charge shall return the
8 completed form and the appropriate payment to the department by
9 April 30 of each year.

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

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

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

25 (4) Any amounts collected under subsection (3) for a violation
26 of this section shall be forwarded to the state treasurer and
27 deposited in the environmental pollution prevention fund created in

1 section 11130 and credited to the hazardous waste and liquid
2 industrial waste users account created in section 11130(5).

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

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

14 (7) A generator shall include on the manifest details as
15 specified by the department and shall at least include sufficient
16 qualitative and quantitative analysis and physical description to
17 evaluate toxicity and methods of transportation, storage, and
18 disposal. The manifest also shall include safety precautions as
19 necessary for each load of hazardous waste. The generator shall
20 submit to the department a copy of the manifest within a period of
21 10 days after the end of the month for each load of hazardous waste
22 transported within that month.

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

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

27 (10) A generator who does not receive a copy of the manifest

1 with the handwritten signature of the owner or operator of the
2 designated facility within 35 days of the date the hazardous waste
3 was accepted by the initial transporter shall contact the
4 transporter to determine the status of the hazardous waste. If the
5 generator is unable to determine the status of the hazardous waste
6 upon contacting the transporter, the generator shall contact the
7 owner or operator of the designated facility to which the hazardous
8 waste was to be transported to determine the status of the
9 hazardous waste.

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

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

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

21 (12) A generator shall keep a copy of each manifest signed and
22 dated by the initial transporter for 3 years or until the generator
23 receives a signed and dated copy from the owner or operator of the
24 designated facility that received the hazardous waste. The
25 generator shall keep the copy of the manifest signed and dated by
26 the owner or operator of the designated facility for 3 years. The
27 retention periods required by this subsection shall be

1 automatically extended during the course of any unresolved
2 enforcement action regarding the regulated activity or as required
3 by the department.

4 Sec. 11153. (1) A generator, transporter, or treatment,
5 storage, or disposal facility shall obtain and utilize a site
6 identification number assigned by the United States environmental
7 protection agency or the department. ~~Beginning on October 1, 2002~~
8 ~~and until March 31, 2008~~ **UNTIL OCTOBER 1, 2011**, the department
9 shall assess a site identification number user charge of \$50.00 for
10 each site identification number it issues. The department shall not
11 issue a site identification number under this subsection unless the
12 site identification number user charge and the tax identification
13 number for the person applying for the site identification number
14 have been received by the department.

15 (2) ~~Beginning on October 1, 2002 and until March 31, 2008~~
16 **UNTIL OCTOBER 1, 2011**, except as provided in subsection (9), the
17 department shall annually assess ~~handler~~ **HAZARDOUS WASTE MANAGEMENT**
18 **PROGRAM** user charges as follows:

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

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

25 (ii) A generator who generates 1,000 kilograms or more of
26 hazardous waste in any month during the calendar year and who
27 generates less than 900,000 kilograms during the calendar year

1 shall pay to the department an annual handler user charge of
2 \$400.00.

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

8 (b) An owner or operator of a treatment, storage, or disposal
9 facility for which an operating license is required under section
10 11123 or for which an operating license has been issued under
11 section 11122 or 11125 shall pay to the department an annual
12 handler user charge of \$2,000.00.

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

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

22 (4) Payment of the handler user charges shall be made using a
23 form provided by the department. The handler shall certify that the
24 information on the form is accurate. ~~Beginning in 2003, the~~ **THE**
25 department shall send forms to the handlers by February 28 of each
26 year unless the handler user charges have been suspended as
27 provided for in subsection (9). ~~Beginning in 2003, a~~ **A** handler

1 shall return the completed forms and the appropriate payment to the
2 department by April 30 of each year unless the handler user charges
3 have been suspended as provided for in subsection (9).

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

8 (a) Payment of the handler user charge and an administrative
9 fine of 5% ~~per month~~ of the amount owed for each month that the
10 payment is delinquent. Any payments received after the 15th of the
11 month after the due date shall be considered delinquent **FOR THAT**
12 **MONTH**. However, the administrative fine shall not exceed 25% of the
13 total amount owed.

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

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

23 (7) The site identification number user charges and the
24 handler user charges collected under this section and any amounts
25 collected under subsection (5) for a violation of this section
26 shall be forwarded to the state treasurer and deposited in the
27 environmental pollution prevention fund created in section 11130

1 and credited to the hazardous waste and liquid industrial waste
2 users account created in section 11130(5).

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

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

16 (10) As used in this section:

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

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

21 ~~Sec. 11525a. (1) Until October 1, 2003, a solid waste program~~
22 ~~administration fee is imposed upon the owners or operators of~~
23 ~~landfills in the state. The annual cumulative total amount of this~~
24 ~~fee shall be \$1,040,000.00 as this amount is annually adjusted for~~
25 ~~inflation beginning in 1997 using the Detroit consumer price index.~~
26 ~~As used in this section, "Detroit consumer price index" means the~~
27 ~~most comprehensive index of consumer prices available for the~~

1 ~~Detroit area from the United States department of labor, bureau of~~
2 ~~labor statistics.~~

3 ~~—— (2) The department shall apportion the cumulative solid waste~~
4 ~~program administration fee among the operating landfills in the~~
5 ~~state. The apportionment shall be made on the basis of each~~
6 ~~landfill's pro rata share of the cumulative total of amounts~~
7 ~~maintained in individual perpetual care funds in the state.~~

8 ~~—— (3) By November 1, 2003, the owner or operator of a landfill~~
9 ~~shall report to the department the total amount of assets in its~~
10 ~~perpetual care fund. The department shall determine the cumulative~~
11 ~~total amount of perpetual care funds in the state but shall not~~
12 ~~credit any individual landfill more than the maximum required fund~~
13 ~~amount established in section 11525(2). The department shall~~
14 ~~determine each landfill's pro rata share of perpetual care fund~~
15 ~~contributions using this amount.~~

16 ~~—— (4) By December 1, 2003, the department shall notify the owner~~
17 ~~or operator of each landfill of its assessed share of the solid~~
18 ~~waste program administration fee. By January 1, 2004, the owner or~~
19 ~~operator of a landfill shall pay his or her assessed share of the~~
20 ~~solid waste program administration fee.~~

21 ~~—— (5) Solid waste program administration fees collected under~~
22 ~~this section shall be forwarded to the state treasurer for deposit~~
23 ~~in the solid waste staff account of the solid waste management fund~~
24 ~~established in section 11550.~~

25 (1) ~~(6) Beginning January 1, 2004, and until UNTIL~~ October 1,
26 2007–2011, the owner or operator of a landfill shall pay a
27 surcharge as follows:

1 (a) Except as provided in subdivision (b), 7 cents for each
2 cubic yard or portion of a cubic yard of solid waste or municipal
3 solid waste incinerator ash that is disposed of in the landfill
4 during the previous quarter of the state fiscal year.

5 (b) For type III landfills that are captive facilities, the
6 following annual amounts:

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

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

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

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

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

17 (2) ~~(7)~~—The owner or operator of a landfill or municipal solid
18 waste incinerator shall pay the surcharge under subsection ~~(6)(a)~~
19 (1) (A) within 30 days after the end of each quarter of the state
20 fiscal year. The owner or operator of a type III landfill that is a
21 captive facility shall pay the surcharge under subsection ~~(6)(b)~~
22 (1) (B) by January 31 of each year.

23 (3) ~~(8)~~—The owner or operator of a landfill or municipal solid
24 waste incinerator who is required to pay the surcharge under
25 subsection ~~(6)~~—(1) may pass through and collect the surcharge from
26 any person who generated the solid waste or who arranged for its
27 delivery to the solid waste hauler or transfer facility

1 notwithstanding the provisions of any contract or agreement to the
2 contrary or the absence of any contract or agreement.

3 (4) ~~(9)~~—Surcharges collected under this section shall be
4 forwarded to the state treasurer for deposit in the solid waste
5 staff account of the solid waste management fund established in
6 section 11550.

7 (5) ~~(10)~~—As used in this section, "captive facility" means a
8 landfill that accepts for disposal only nonhazardous industrial
9 waste generated only by the owner of the landfill or a nonhazardous
10 industrial waste landfill that is specified in section 11525(3).

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

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

15 (b) Obtain and utilize a site identification number assigned
16 by the United States environmental protection agency or the
17 department. ~~Beginning on October 1, 2002 and until March 31, 2008~~
18 **UNTIL OCTOBER 1, 2011**, the department shall assess a site
19 identification number user charge of \$50.00 for each site
20 identification number it issues. The department shall not issue a
21 site identification number under this subdivision unless the site
22 identification number user charge and the tax identification number
23 for the person applying for the site identification number have
24 been received. Money collected under this subdivision shall be
25 forwarded to the state treasurer for deposit into the environmental
26 pollution prevention fund created in section 11130 and credited to
27 the hazardous waste and liquid industrial waste users account

1 created in section 11130(5).

2 (c) If transporting by highway, engage, employ, or contract
3 for the transportation of liquid industrial waste only with a
4 transporter registered and permitted under the hazardous materials
5 transportation act, **1998 PA 138, MCL 29.471 TO 29.480.**

6 (d) Except as otherwise provided in this part, utilize and
7 retain a separate manifest for each shipment of liquid industrial
8 waste transported to a designated facility. The department may
9 authorize the use of a consolidated manifest ~~—~~for waste loads that
10 are multiple pickups of uniform types of wastes that constitute a
11 single shipment of waste. ~~In this case~~ **IF A CONSOLIDATED MANIFEST**
12 **IS AUTHORIZED BY THE DEPARTMENT AND UTILIZED BY A GENERATOR,** a
13 receipt shall be obtained from the transporter documenting the
14 transporter's company name, driver's signature, date of pickup,
15 type and quantity of waste accepted from the generator, the
16 consolidated manifest number, and the designated facility. A
17 generator of brine may complete a single manifest per transporter
18 of brine, per disposal well, each month.

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

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

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

1 facility.

2 (h) If a copy of the manifest, with a handwritten signature of
3 the owner or operator of the designated facility, is not received
4 within 35 days after the date the waste was accepted by the initial
5 transporter, contact the transporter or owner or operator of the
6 designated facility, or 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 or his or her authorized representative of the
10 designated facility within 45 days after the date the waste was
11 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 does
14 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 (2) A generator who also operates an on-site reclamation,
18 treatment, or disposal facility shall keep records of all liquid
19 waste produced and reclaimed, treated, or disposed of at his or her
20 facility.

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

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

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

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

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

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

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

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

27 (3) The department may authorize, for certain waste streams,

1 the use of a consolidated manifest as authorized under section
2 12103(1)(d). ~~In this case~~ **IF A CONSOLIDATED MANIFEST IS AUTHORIZED**
3 **BY THE DEPARTMENT AND UTILIZED BY A GENERATOR**, the transporter
4 shall give to the generator a receipt documenting the transporter's
5 company name, driver's signature, date of pickup, type and quantity
6 of waste removed, the consolidated manifest number, and the
7 designated facility.

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

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

14 (b) Keep a copy of all trip logs available during
15 transportation, at a minimum, for the current shipment in
16 transportation and retain these records as specified in subsection
17 (2).

18 (c) Obtain and utilize a site identification number assigned
19 by the United States environmental protection agency or the
20 department. ~~Beginning on October 1, 2002 and until March 31, 2008~~
21 **UNTIL OCTOBER 1, 2011**, the department shall assess a site
22 identification number user charge of \$50.00 for each site
23 identification number it issues. The department shall not issue a
24 site identification number under this subdivision unless the site
25 identification number user charge and the tax identification number
26 for the person applying for the site identification number have
27 been received. Money collected under this subdivision shall be

1 forwarded to the state treasurer for deposit into the environmental
2 pollution prevention fund created in section 11130 and credited to
3 the hazardous waste and liquid industrial waste users account
4 created in section 11130(5).

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

12 (a) Obtain and utilize a site identification number either
13 assigned from the United States environmental protection agency or
14 the department. ~~Beginning on October 1, 2002 and until March 31,~~
15 ~~2008~~ **UNTIL OCTOBER 1, 2011**, the department shall assess a site
16 identification number user charge of \$50.00 for each site
17 identification number it issues. The department shall not issue a
18 site identification number under this subdivision unless the site
19 identification number user charge and the tax identification number
20 for the person applying for the site identification number have
21 been received. Money collected under this subdivision shall be
22 forwarded to the state treasurer for deposit into the environmental
23 pollution prevention fund created in section 11130 and credited to
24 the hazardous waste and liquid industrial waste users account
25 created in section 11130(5).

26 (b) Certify on the manifest receipt of the liquid industrial
27 waste by completing the facility section of the manifest and

1 returning a signed copy of the manifest to the department within a
2 period of 10 days after the end of the month for all liquid
3 industrial waste received within the month.

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

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

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

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