

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

\*\*\*\*\* 324.11509.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2023 \*\*\*\*\*

**324.11509.amended Construction permit for establishment of disposal area; application; engineering plan; construction permit application fees; resubmission of application with additional information and fee; modification or renewal of permit; single permit multiple types of disposal areas; disposition of fees; approval of new type II landfill; restrictions; "contiguous" defined.**

Sec. 11509. (1) This section and sections 11510 to 11512 apply to disposal areas other than the following:

(a) A solid waste processing and transfer facility described in section 11513(1) or (2).

(b) An incinerator that does not comply with the construction permit and operating license requirements of this subpart, as allowed under section 11540.

(2) A person shall not establish a disposal area except as authorized by a construction permit issued by the department pursuant to part 13. A person proposing the establishment of a disposal area shall submit the application for a construction permit to the appropriate local health officer. However, if the disposal area is located in a county or city that does not have a certified health department, the application shall be submitted directly to the department. An application for a construction permit shall be accompanied by engineering plans.

(3) An application for a construction permit for a landfill shall be accompanied by an application fee in the following amount:

(a) For a new landfill, the following:

(i) For a type II landfill, \$3,000.00.

(ii) Except as provided in subparagraph (iii), for an industrial waste landfill, \$2,000.00.

(iii) For a type III landfill limited to low hazard industrial waste, \$1,500.00.

(b) For a lateral expansion of a landfill, the following:

(i) For a type II landfill, \$2,000.00.

(ii) Except as provided in subparagraph (iii), for an industrial waste landfill, \$1,500.00.

(iii) For a type III landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, \$1,000.00.

(c) For a vertical expansion of an existing landfill, the following:

(i) For a type II landfill, \$1,500.00.

(ii) Except as provided in subparagraph (iii), for an industrial waste landfill, \$1,000.00.

(iii) For an industrial waste landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, \$500.00.

(d) For a new coal ash impoundment, \$1,000.00.

(e) For a lateral or vertical expansion of a coal ash impoundment, \$750.00.

(4) An application for a construction permit for a disposal area that is not a landfill shall be accompanied by an application fee in the following amount:

(a) For a new disposal area for municipal solid waste, or a combination of municipal solid waste and waste listed in subdivision (b), \$2,000.00.

(b) For a new disposal area for industrial waste, or construction and demolition waste, \$1,000.00.

(c) For the expansion of an existing disposal area for any type of waste, \$500.00.

(5) If an application is returned to the applicant as administratively incomplete, the applicant may, within 1 year after the application is returned, resubmit the application, together with the additional information as needed to address the reasons for being incomplete, without paying an additional application fee. If a permit is denied or an application is withdrawn, an applicant for a construction permit, within 1 year after the permit denial or application withdrawal, may resubmit the application, together with the additional information as needed to address the reasons for denial or withdrawal, without paying an additional application fee.

(6) Subject to section 11510(2)(d), an application for a modification to a construction permit or for renewal of a construction permit that has expired shall be accompanied by a fee of \$500.00.

(7) A person may apply for a single permit to construct more than 1 type of disposal area at the same facility. A person who applies to permit more than 1 type of disposal area at the same facility shall pay a fee equal to the sum of the applicable fees listed in this section for each type of disposal area.

(8) The department shall deposit permit application fees collected under this section in the solid waste staff account of the solid waste management fund.

(9) The department shall not approve an application for a construction permit for a new type II landfill that

is not contiguous to an already permitted type II landfill or for a new municipal solid waste incinerator unless the approval is requested by the county board of commissioners and the department determines that the landfill or incinerator is needed for the planning area. The county board of commissioners' request shall include a demonstration that materials utilization options have been exhausted. The department's determination of need shall be based on public health, solid waste disposal capacity, and economic issues that would arise without the new site.

(10) As used in this section, "contiguous" means either of the following:

(a) On the same property. The property may be divided by either of the following:

(i) The boundary of a local unit of government.

(ii) A public or private right-of-way if access to and from the right-of-way for each piece of the property is opposite the access for the other piece of the property so that movement between the 2 pieces of the property is by crossing the right-of-way.

(b) On 2 or more properties owned by the same person if the properties are connected by a right-of-way that the owner controls and to which the public does not have access.

**History:** 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

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