

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

***** 324.11512.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2023 *****

324.11512.amended Disposal of solid waste at licensed disposal area; license required to conduct, manage, maintain, or operate disposal area; application; contents; fee; certification; resubmitting application; additional information or corrections; operation of incinerator without operating license; additional fees; operation of coal ash landfill and coal ash impoundment; application; fees; public notice and meeting; hydrogeologic monitoring program; annual report.

Sec. 11512. (1) This section applies to disposal areas as provided in section 11509(1).

(2) A person shall not dispose of solid waste at a disposal area unless the disposal area is licensed under this section. However, a person authorized by state law or rules promulgated by the department to do so may dispose of the solid waste at the site of generation. Waste placement in existing landfill units shall be consistent with past operating practices or modified practices to ensure good management.

(3) Except as otherwise provided in this section, a person shall not conduct, manage, maintain, or operate a disposal area except as authorized by an operating license issued by the department pursuant to part 13. The owner or operator of the disposal area shall submit a license application to the department through a certified health department. Existing coal ash impoundments are exempt from the licensing requirements of this part through December 28, 2020. If the disposal area is located in a county or city that does not have a certified health department, the application shall be made directly to the department. A person authorized by part 115 to operate more than 1 type of disposal area at the same facility may apply for a single license.

(4) An applicant for a license for a type II or type III landfill shall submit evidence of financial assurance that meets the requirements of section 11523a, the maximum waste slope in the active portion, an estimate of remaining permitted capacity, and documentation of the amount of waste received at the disposal area during the previous license period or expected to be received, whichever is greater.

(5) An application for a license for a disposal area other than an existing coal ash impoundment shall include a certification under the seal of a licensed professional engineer verifying that the construction of the disposal area has proceeded according to the approved plans. An applicant for a license for an existing coal ash impoundment shall submit with the application documentation in the applicant's possession or control regarding the construction of the impoundment. If construction of a portion of a landfill is not complete, the owner or operator shall submit additional construction certification of that portion of the landfill under section 11516(3).

(6) An applicant for an operating license, within 6 months after a license denial, may resubmit the application, together with additional information or corrections as are necessary to address the reason for denial, without being required to pay an additional application fee.

(7) To conduct tests and assess operational capabilities, the owner or operator of a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit may operate the incinerator without an operating license, upon notice to the department, for a period not to exceed 60 days.

(8) The application for a type II landfill operating license shall be accompanied by the following fee for the 5-year term of the operating license, subject to subsection (9):

- (a) Landfills receiving less than 100 tons per day, \$500.00.
- (b) Landfills receiving 100 tons per day or more, but less than 250 tons per day, \$1,500.00.
- (c) Landfills receiving 250 tons per day or more, but less than 500 tons per day, \$4,000.00.
- (d) Landfills receiving 500 tons per day or more, but less than 1,000 tons per day, \$6,500.00.
- (e) Landfills receiving 1,000 tons per day or more, but less than 1,500 tons per day, \$12,500.00.
- (f) Landfills receiving 1,500 tons per day or more, but less than 3,000 tons per day, \$22,500.00.
- (g) Landfills receiving more than 3,000 tons per day, \$33,000.00.

(9) Type II landfill application fees shall be based on the average amount of waste in tons projected to be received daily during the license period. Application fees for license renewals shall be based on the average amount of waste received daily in the previous calendar year based on a 365-day calendar year. Application fees shall be adjusted in the following circumstances:

(a) If a landfill accepts more than the amount of waste on which the application fee was based, a supplemental fee equal to the difference shall be submitted with the next license application.

(b) If a landfill accepts less than the amount of waste on which the application fee was based, the department shall credit the applicant an amount equal to the difference with the next license application.

(c) A landfill used exclusively for municipal solid waste incinerator ash that measures waste by volume

rather than weight shall pay a fee based on 1 cubic yard per ton.

(10) The operating license application for a type III landfill shall be accompanied by a fee of \$5,000.00.

(11) An application for an operating license for a coal ash landfill shall be accompanied by a fee of \$13,000.00. By the anniversary of the issuance of the operating license, while the operating license remains in effect, the coal ash landfill owner or operator shall pay the department a fee of \$13,000.00. If the anniversary of the issuance of the operating license falls on a legal holiday, the annual fee shall be paid by the next business day.

(12) An application for an operating license by a coal ash impoundment shall be accompanied by a fee of \$13,000.00. On the anniversary of the issuance of the operating license, while the operating license remains in effect, the coal ash impoundment owner or operator shall pay the department a fee of \$13,000.00. If the anniversary of the issuance of the operating license falls on a legal holiday, the annual fee shall be paid on the next business day.

(13) The department shall deposit the fees collected under subsections (11) and (12) in the coal ash care fund created in section 11550.

(14) Upon receipt of a license application for either a coal ash impoundment or a coal ash landfill, the department shall do all of the following:

(a) Immediately send notice to the clerk of the municipality where the disposal area is located and the designated regional solid waste management planning agency.

(b) Publish a notice in a newspaper having major circulation in the vicinity of the disposal area.

(15) The notices under subsection (14) shall meet all of the following requirements:

(a) Include a map indicating the location of the disposal area and a description of the disposal area.

(b) Specify the location where the complete application package may be reviewed and where copies may be obtained.

(c) Indicate that the department will accept comments for 45 days after the date of publication of the notice.

(d) Indicate that the department shall hold a public meeting in the area of the disposal area if, within 15 days after the date of publication of the notice, any of the following occur:

(i) A written request for a public meeting is submitted to the department by the applicant or a municipality.

(ii) The department determines that there is a significant public interest in or known public controversy over the application or that for any other reason a public meeting is appropriate.

(16) A public meeting referred to in subsection (15)(d) shall be held after the department makes a preliminary review of the application and all pertinent data and before an operating license is issued or denied. During its review, the department shall consider input provided at the public meeting.

(17) If an application is returned to the applicant as administratively incomplete, the department shall refund the entire fee. An applicant for a license, within 12 months after a license denial or withdrawal of a license application, may resubmit the application with the additional information as needed to address the reasons for denial, without being required to pay an additional application fee.

(18) The operating license application for a solid waste processing and transfer facility that manages more than 200 cubic yards at any time, or other disposal area that is not a landfill or surface impoundment shall be accompanied by a fee of \$1,000.00.

(19) Except as provided in subsection (13), the department shall deposit operating license application fees collected under this section in the perpetual care account of the solid waste management fund.

(20) A person who applies for an operating license for more than 1 type of disposal area at the same facility shall pay a fee equal to the sum of the applicable application fees listed in this section.

(21) The department shall not license a landfill or coal ash impoundment unless the landfill or coal ash impoundment has an approved hydrogeologic monitoring program and the owner or operator has provided the department with the monitoring results. The department shall use this information in conjunction with other information required by part 115 to determine a course of action regarding licensing of the facility consistent with section 4005 of subtitle D of the solid waste disposal act, 42 USC 6945, and with part 115. In deciding a course of action, the department shall consider, at a minimum, the environment, natural resources, the public health, safety, and welfare, and other public or private alternatives. If a landfill or coal ash impoundment violates part 115, the department may do any of the following:

(a) Revoke the landfill's or coal ash impoundment's license.

(b) If the disposal area is a coal ash impoundment that has not been previously licensed under this part, deny a license.

(c) Issue a timetable or schedule of corrective action, including a sequence of actions or operations, that leads to compliance with part 115 within a reasonable time period but not more than 1 year.

(22) A type II landfill does not require a separate solid waste processing and transfer facility permit or

license to solidify industrial waste sludges on-site if that activity meets all of the following requirements:

- (a) Occurs in containers or tanks as specified in part 121.
- (b) Complies with part 55.
- (c) Is approved by the department as part of the facility's operations plan.

(23) An existing industrial waste landfill may accept any of the following:

- (a) Industrial waste.

(b) Solid waste that originates from an industrial site and is not a hazardous waste regulated under part 111.

(24) The owner or operator of a landfill shall annually submit a report to the department and the county and municipality in which the landfill is located that specifies the tonnage and type of solid waste received by the landfill during the year itemized, to the extent possible, by county, state, or country of origin and the amount of remaining disposal capacity at the landfill. Remaining disposal capacity shall be calculated as the permitted capacity less waste in place for any area that has been constructed and is not yet closed plus the permitted capacity for each area that has a permit for construction under part 115 but has not yet been constructed. The report shall be submitted within 45 days after the end of each state fiscal year. By January 31 of each year, the department shall submit to the legislature a report summarizing the information obtained under this subsection.

(25) The owner or operator of a licensed processing and transfer facility, within 45 days after the end of each state fiscal year, shall submit to the department on a form and in a medium provided by the department, a report on the amount of materials managed at the facility during that state fiscal year.

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