

**SUBSTITUTE FOR
SENATE BILL NO. 1052**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11102, 11110, 11125, 11132, 11514b, and 62501
(MCL 324.11102, 324.11110, 324.11125, 324.11132, 324.11514b, and
324.62501), sections 11102 and 11125 as amended by 2010 PA 357,
section 11110 as amended by 1995 PA 61, section 11132 as added by
2018 PA 688, section 11514b as amended by 2022 PA 245, and section
62501 as amended by 1998 PA 467, and by adding sections 11122,
62508b, and 62509d; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11102. (1) "Class I well" means that term as defined in
2 section 62501.

3 (2) "Class IV well" means that term as defined in section



1 **62501.**

2 (3) ~~(1)~~—"Contaminant" means any of the following:

3 (a) Hazardous waste as defined in R 299.9203 of the Michigan
4 administrative code.

5 (b) Any hazardous waste or hazardous constituent listed in 40
6 CFR part 261, appendix VIII or 40 CFR part 264, appendix IX.

7 (4) ~~(2)~~—"Corrective action" means an action determined by the
8 department to be necessary to protect the public health, safety, or
9 welfare, or the environment, and includes, but is not limited to,
10 investigation, evaluation, cleanup, removal, remediation,
11 monitoring, containment, isolation, treatment, storage, management,
12 temporary relocation of people, and provision of alternative water
13 supplies, or any corrective action allowed under the solid waste
14 disposal act or regulations promulgated pursuant to that act.

15 (5) ~~(3)~~—"Designated facility" means a hazardous waste
16 treatment, storage, or disposal facility that has received a permit
17 or has interim status under the solid waste disposal act or has a
18 permit from a state authorized under section 3006 of subtitle C of
19 the solid waste disposal act, 42 USC 6926, and which, if located in
20 this state, has an operating license issued under this part, has a
21 legally binding agreement with the department that authorizes
22 operation, or is subject to the requirements of section 11123(8).

23 (6) ~~(4)~~—"Disposal" means the discharge, deposit, injection,
24 dumping, spilling, leaking, or placing of a hazardous waste into or
25 on land or water in a manner that the hazardous waste or a
26 constituent of the hazardous waste may enter the environment, be
27 emitted into the air, or be discharged into water, including
28 groundwater.

29 (7) ~~(5)~~—"Disposal facility" means a facility or a part of a



1 facility where managed hazardous waste, as defined by rule, is
 2 intentionally placed into or on any land or water and at which
 3 hazardous waste will remain after closure.

4 (8) ~~(6)~~—"Failure mode assessment" means an analysis of the
 5 potential major methods by which safe handling of hazardous wastes
 6 may fail at a treatment, storage, or disposal facility.

7 Sec. 11110. (1) ~~Not later than January 1, 1990,~~ **By 5 years**
 8 **after the effective date of the amendatory act that added section**
 9 **11122 and every 5 years thereafter,** the department shall prepare ~~an~~
 10 ~~updated and adopt a comprehensive, updated~~ state hazardous ~~and~~
 11 **radioactive** waste management plan.

12 (2) The updated plan shall **meet all of the following**
 13 **requirements:**

14 ~~(a) Update the state hazardous waste management plan adopted~~
 15 ~~by the commission on January 15, 1982.~~

16 (a) ~~(b)~~ **Be based upon on the** location of generators, health
 17 and safety, **transportation** economics, ~~of transporting, type types~~
 18 of waste, and existing treatment, storage, or disposal facilities.

19 ~~(c) Include information generated by the department of~~
 20 ~~commerce and the department on hazardous waste capacity needs in~~
 21 ~~the state.~~

22 ~~(d) Include information provided by the office of waste~~
 23 ~~reduction created in part 143.~~

24 (b) ~~(e) Plan for the availability of hazardous waste treatment~~
 25 ~~or disposal facilities that have adequate capacity for the~~
 26 ~~destruction, treatment, or secure disposition of all hazardous~~
 27 ~~wastes that are reasonably expected to~~ **Based on information**
 28 **included in the plan under subdivision (e), specify a maximum**
 29 **licensed capacity for radioactive and other hazardous waste**



1 treatment, storage, or disposal facilities. The maximum capacity
 2 shall equal the amount of radioactive and other hazardous waste
 3 that the department determines will be generated ~~within the in this~~
 4 state during the ~~20-year-succeeding~~ 5-year period. ~~after October 1,~~
 5 ~~1988, as is described in section 104(c)(9)(A) of title I of the~~
 6 ~~comprehensive environmental response, compensation, and liability~~
 7 ~~act of 1980, Public Law 96-510, 42 U.S.C. 9604.~~ **The maximum capacity**
 8 **shall not be changed until the next 5-year update of the plan is**
 9 **adopted.**

10 (c) ~~(f) Plan~~ **Provide** for a reasonable geographic distribution
 11 of **and propose siting criteria for** treatment, storage, and disposal
 12 facilities to meet existing and future needs, ~~including proposing~~
 13 ~~criteria for determining acceptable locations for these facilities.~~
 14 **comply with section 11125(9), and prevent the concentration of**
 15 **facilities in communities overburdened by pollution.** The siting
 16 criteria shall include a consideration of a location's geology,
 17 geography, demography, **and** waste generation patterns, along with
 18 environmental factors, public health factors, and other relevant
 19 characteristics as determined by the department.

20 (d) ~~(g) Emphasize~~ **Provide for** a shift away from the practice
 21 ~~of~~ landfilling hazardous waste ~~and toward~~ **to** the in-plant reduction
 22 of hazardous waste and the recycling and treatment of hazardous
 23 waste.

24 (e) ~~(h) Include necessary~~ **all of the following:**

25 (i) **An analysis of all radioactive and other hazardous waste**
 26 **streams generated within this state, including waste volumes,**
 27 **classifications, and locations of origin.**

28 (ii) **An inventory and assessment of current in-state**
 29 **radioactive and other hazardous waste management capacity using**



1 information generated by the department of environment, Great
2 Lakes, and energy and the department of labor and economic growth.

3 (iii) Projections of future in-state radioactive and other
4 hazardous waste generation.

5 (iv) Recommendations for state policies and programs to
6 minimize radioactive and other hazardous waste generation.

7 (v) An evaluation of radioactive and other hazardous waste
8 reduction, recycling, and treatment technologies and best
9 practices.

10 (vi) A study and recommendation on whether Michigan should seek
11 membership of an Interstate Low-Level Radioactive Waste Compact.

12 (vii) Necessary legislative, administrative, and economic
13 mechanisms, and a timetable to carry out the **updated** plan.

14 (3) The department shall ~~instruct the office of waste~~
15 ~~reduction created in part 143 to complete~~ **conduct** studies as
16 considered necessary ~~for the completion of~~ **to complete** the updated
17 plan. The studies may include **any of the following**:

18 (a) An inventory and evaluation of the sources of **radioactive**
19 **and other** hazardous waste generation within this state or from
20 other states, including the types, quantities, and chemical and
21 physical characteristics of the ~~hazardous~~ waste.

22 (b) An inventory and evaluation of current **radioactive and**
23 **other** hazardous waste management, minimization, or reduction
24 practices and costs, including treatment, disposal, on-site
25 recycling, reclamation, and other forms of source reduction within
26 this state.

27 (c) A projection or determination of future **radioactive and**
28 **other** hazardous waste management needs based on **section 11125(8)**
29 **and** an evaluation of existing capacities; ~~—~~ treatment or disposal



1 capabilities; ~~7~~ manufacturing activity, limitations, and
 2 constraints; ~~. Projection of needs shall consider the types, and~~
 3 sizes, **and general locations** of treatment, storage, or disposal
 4 facilities ~~, general locations within the~~ **this** state; ~~, and~~
 5 management control systems. ~~, and an identified need for a state~~
 6 ~~owned treatment, storage, or disposal facility.~~

7 (d) An investigation and analysis of methods, incentives, or
 8 technologies for source reduction, reuse, recycling, or recovery of
 9 potentially **radioactive and otherwise** hazardous waste and a
 10 strategy for encouraging the utilization or reduction of
 11 **radioactive and other** hazardous waste.

12 (e) An investigation and analysis of methods and incentives to
 13 encourage interstate and international cooperation in the
 14 management of **radioactive and other** hazardous waste.

15 (f) An estimate of the public and private cost of treating,
 16 storing, or disposing of **radioactive and other** hazardous waste.

17 (g) An investigation and analysis of alternate methods for
 18 treatment and disposal of **radioactive and other** hazardous waste.

19 ~~(4) If the department finds in preparing the updated plan that~~
 20 ~~there is a need for additional treatment or disposal facilities in~~
 21 ~~the state, then the department shall identify incentives the state~~
 22 ~~could offer that would encourage the construction and operation of~~
 23 ~~additional treatment or disposal facilities in the state that are~~
 24 ~~consistent with the updated plan. The department shall propose~~
 25 ~~criteria which could be used in evaluating applicants for the~~
 26 ~~incentives.~~

27 **(4)** ~~(5)~~ Upon completion of the **proposed** updated plan, the
 28 department shall **post the updated plan on its publicly accessible**
 29 **website and** publish a notice in ~~a number of~~ **2 or more** newspapers



1 having major circulation within ~~the~~**this** state as determined by the
 2 department, and ~~shall~~ issue a statewide news release announcing the
 3 availability of the updated plan for inspection or purchase at cost
 4 by interested persons. The announcement shall indicate where and
 5 how the updated plan may be obtained or reviewed and shall indicate
 6 that not less than 6 public hearings shall be conducted at varying
 7 locations in ~~the~~**this** state before ~~formal adoption.~~**the plan is**
 8 **adopted.** The first public hearing shall ~~not~~ be held ~~until~~**not less**
 9 **than** 60 days ~~have elapsed from~~**after** the date of the notice
 10 announcing the availability of the updated plan. The remaining
 11 public hearings shall be held within 120 days after the first
 12 public hearing at approximately equal time intervals.

13 (5) ~~(6)~~ After the public hearings, the department shall
 14 prepare a written summary of the comments received, provide
 15 ~~comments on~~**responses to** the major concerns raised, make amendments
 16 to the **proposed** updated plan **that the department considers**
 17 **advisable**, and ~~determine whether the updated plan should be~~
 18 ~~adopted.~~**adopt the proposed updated plan.**

19 **Sec. 11122. Until 5 years after the effective date of the**
 20 **amendatory act that added this section, or until the first updated**
 21 **state hazardous and radioactive waste management plan required**
 22 **under section 11110 after the effective date of the amendatory act**
 23 **that added this section is adopted and implemented, whichever is**
 24 **later, the department shall not do any of the following:**

25 (a) Issue an operating license for a new hazardous waste
 26 treatment, storage, or disposal facility under section 11125.

27 (b) Amend an operating license for an existing hazardous waste
 28 treatment, storage, or disposal facility to authorize the expansion
 29 of operations, overall capacity, or the facility.



1 Sec. 11125. (1) Upon receipt of an operating license
2 application that complies with the requirements of section
3 11123(2), the department shall do all of the following:

4 (a) Notify the municipality and county in which the treatment,
5 storage, or disposal facility is located or proposed to be located;
6 ~~a-the~~ local soil erosion and sedimentation control agency appointed
7 pursuant to part 91; each division within the department that has
8 responsibility in land, air, or water management; ~~a-the~~ regional
9 planning agency established by executive directive of the governor;
10 and other appropriate agencies. The notice shall describe the
11 procedure by which the license may be approved or denied.

12 (b) Review the plans of the proposed treatment, storage, or
13 disposal facility to determine if the proposed operation complies
14 with this part and the rules promulgated under this part. The
15 review shall be made within the department. The review shall
16 include, but need not be limited to, a review of air quality, water
17 quality, waste management, hydrogeology, and the applicant's
18 disclosure statement. A written and signed review by each person
19 within the department reviewing the application and plans ~~shall~~
20 **must** be received and filed in the department's license application
21 records before an operating license is issued or denied by the
22 department.

23 (c) Integrate the relevant provisions of all permits that the
24 applicant is required to obtain from the department to construct
25 the proposed treatment, storage, or disposal facility into the
26 operating license required by this part.

27 (d) Consider the mitigation measures proposed to be
28 implemented as identified in section 11123(2)(m).

29 (e) Hold a public hearing ~~not more than~~ **within** 60 days. ~~after~~



1 ~~receipt of the application.~~

2 (2) The department may establish operating license conditions
3 specifically applicable to the treatment, storage, or disposal
4 facility and operation at that site to mitigate adverse impacts.

5 (3) The department shall provide notice and an opportunity for
6 a public hearing before making a final decision on an operating
7 license application.

8 (4) The department shall make a final decision on an operating
9 license application within 140 days after the department receives a
10 complete application. However, if ~~the~~**this** state's hazardous waste
11 management program is authorized by the United States environmental
12 protection agency under section 3006 of subtitle C of the solid
13 waste disposal act, 42 USC 6926, the department may extend the
14 deadline beyond the limitation provided in this section in order to
15 fulfill the public participation requirements of the solid waste
16 disposal act, **42 USC 6901 to 6922k**. The operating license may
17 contain stipulations specifically applicable to **the** site and
18 operation.

19 (5) A local ordinance, permit, or other requirement shall not
20 prohibit the operation of a licensed treatment, storage, or
21 disposal facility.

22 (6) If any information required to be included in the
23 disclosure statement required under section 11123 changes or is
24 supplemented after the filing of the statement, the applicant or
25 licensee shall provide that information to the department in
26 writing within 30 days after the change or addition.

27 (7) The department may deny an operating license application
28 submitted pursuant to section 11123 if any information described in
29 section 11123(2)(k)(ii) to (iv) was not disclosed as required in



1 section 11123(2) or this section.

2 (8) After the moratorium under section 11122 ends, the
3 department shall not issue an operating license for a new hazardous
4 waste treatment, storage, or disposal facility or the expansion of
5 an existing facility if doing so would cause the total licensed
6 capacity to exceed 1/5 of the limit established in the current
7 state hazardous and radioactive waste management plan under section
8 11110(2)(b). For the purposes of this subsection, "total licensed
9 capacity" means the maximum amount of waste that all treatment,
10 storage, or disposal facilities in this state are authorized to
11 manage annually under their current operating licenses.

12 (9) The department shall not issue a license or approval to
13 establish or expand a hazardous waste treatment, storage, or
14 disposal facility if any of the following apply:

15 (a) The facility is proposed to be located in any city,
16 village, township, or county where a hazardous waste treatment,
17 storage, or disposal facility, class I well, or class IV well is
18 currently operating or has operated within the past 50 years.

19 (b) The facility is proposed to be located within 100 miles of
20 a currently operating hazardous waste treatment, storage, or
21 disposal facility, class I well, or class IV well.

22 (c) Any of the following apply to a census tract within a 3-
23 mile radius of the facility's proposed location:

24 (i) The population density exceeds the state average population
25 density by 50% or more, based on the most recent census data.

26 (ii) The percentage of population in households where the
27 household income is less than or equal to twice the federal poverty
28 level equals or exceeds the eightieth percentile for census tracts
29 in this state.



1 (iii) The overall score, as measured by MiEJScreen or its
2 equivalent, for any census tract within a 3-mile radius meets or
3 exceeds the eightieth percentile of census tracts in this state.

4 (10) ~~(8)~~—The department shall provide notice of the final
5 decision on an operating license application to persons on the
6 organized mailing list for the facility.

7 (11) ~~(9)~~—Following the construction of a new, expanded,
8 enlarged, or altered treatment, storage, or disposal facility, the
9 department shall review all information required ~~to be submitted by~~
10 the operating license **to be submitted to the department**. If the
11 department finds that the owner or operator has deviated from the
12 specific conditions established in the operating license, the
13 department shall determine if cause exists for modification or
14 revocation of the operating license, in accordance with provisions
15 established by rule. At a minimum, the ~~postconstruction~~
16 ~~documentation~~ **information** shall include all of the following:

17 (a) Updated disclosure information or a certification as
18 described in section 11123(2) (n) (i).

19 (b) A certification of construction as described in section
20 11123(2) (n) (ii). The department shall require additional
21 certification periodically during the operation or in order to
22 verify proper closure of the site.

23 (c) A certification of capability signed and sealed by a
24 licensed professional engineer as described in section
25 11123(2) (n) (iii).

26 (d) Information regarding any deviations from the specific
27 conditions in the operating license.

28 (e) Proof of financial responsibility.

29 Sec. 11132. (1) ~~Except as otherwise provided in this section,~~



1 ~~a~~A person shall not deliver to a landfill in this state for
 2 disposal and the owner or operator of a landfill shall not permit
 3 disposal in the landfill of TENORM with any of the following:

4 (a) A concentration of radium-226 more than 50 picocuries per
 5 gram.

6 (b) A concentration of radium-228 more than 50 picocuries per
 7 gram.

8 (c) A concentration of lead-210 more than 260 picocuries per
 9 gram.

10 (2) Except as otherwise specified in the landfill operating
 11 license, the owner or operator of a landfill shall not permit a
 12 delivery of TENORM for disposal at the landfill unless the
 13 generator has provided the following information in writing to the
 14 owner or operator of the landfill:

15 (a) The concentrations of radium-226, radium-228, lead-210,
 16 and any other radionuclide identified using gamma spectroscopy, or
 17 an equivalent analytical method, in the TENORM based on techniques
 18 for representative sampling and waste characterization approved by
 19 the department.

20 (b) An estimate of the total mass of the TENORM.

21 (c) An estimate of the total radium-226 activity, the total
 22 radium-228 activity, and the total lead-210 activity of the TENORM.

23 (d) The proposed date of delivery.

24 (3) The department may test TENORM proposed to be delivered to
 25 a landfill.

26 ~~(4) If requested by the owner or operator of a landfill in an~~
 27 ~~application for the renewal of or a major modification to an~~
 28 ~~operating license, **If, before the effective date of the amendatory**~~
 29 ~~act that added section 11122, the department may authorize with~~



1 ~~conditions and limits authorized~~ in the ~~an~~ operating license the
 2 disposal of TENORM with concentrations of radium-226 more than 50
 3 picocuries per gram, radium-228 more than 50 picocuries per gram,
 4 or lead-210 more than 260 picocuries per gram, or any combination
 5 thereof, but not more than 500 picocuries per gram for each
 6 radionuclide, ~~. An the~~ operating license ~~under this part with such~~
 7 ~~an authorization~~ constitutes a license from ~~the this~~ state's
 8 radiation control authority under part 135 of the public health
 9 code, 1978 PA 368, MCL 333.13501 to 333.13537, **to possess the**
 10 **TENORM** if the conditions and procedures for issuance of the
 11 operating license under this part ~~are were~~ sufficient to satisfy
 12 the licensing requirements of part 135 of the public health code,
 13 1978 PA 368, MCL 333.13501 to 333.13537. **The disposal of TENORM**
 14 **described in this subsection after the effective date of the**
 15 **amendatory act that added section 11122 is prohibited.**

16 ~~(5) A request under subsection (4) shall include all of the~~
 17 ~~following:~~

18 ~~(a) A radiation safety program that addresses all of the~~
 19 ~~following:~~

20 ~~(i) Personnel radiation protection.~~

21 ~~(ii) Worker training.~~

22 ~~(iii) Radiation surveys.~~

23 ~~(iv) Radiation instrument calibration.~~

24 ~~(v) Receipt and disposal of radioactive material.~~

25 ~~(vi) Emergency procedures.~~

26 ~~(vii) Record keeping.~~

27 ~~(b) A report evaluating the risks of exposure to residual~~
 28 ~~radioactivity through all relevant pathways using a generally~~
 29 ~~accepted industry model such as the Argonne National Laboratory~~



1 ~~RESRAD family of codes or, if approved by the department, another~~
2 ~~model. The report shall evaluate potential radiation doses to site~~
3 ~~workers and members of the public during site operation and after~~
4 ~~site closure. The report shall use reasonable scenarios to evaluate~~
5 ~~the dose to members of the public.~~

6 ~~(c) A description of any steps necessary to ensure the annual~~
7 ~~dose to members of the public during landfill operation and after~~
8 ~~site closure will be less than 25 millirem.~~

9 ~~(d) A description of an environmental monitoring program under~~
10 ~~subsection (6).~~

11 ~~(5) (6)~~ If TENORM is disposed at a landfill, the operator of
12 the landfill shall conduct a monitoring program that complies with
13 all of the following:

14 (a) Radiological monitoring of site workers and at the
15 landfill property boundary are conducted as specified in the
16 license.

17 (b) Radium-226, radium-228, and lead-210 are included among
18 the parameters analyzed in leachate and groundwater at the
19 frequency specified in the license.

20 (c) Penetrating radiation, radioactivity in air, and radon in
21 air are measured as specified in the operating license if the
22 landfill ~~is~~ **was** used to dispose of TENORM with a concentration of
23 radium-226 more than 50 picocuries per gram, radium-228 more than
24 50 picocuries per gram, or lead-210 more than 260 picocuries per
25 gram.

26 (d) Results of all monitoring required under this subsection
27 are included in the environmental monitoring reports required under
28 rules promulgated under this part and the facility operating
29 license.



1 (6) ~~(7)~~—The owner or operator of a landfill shall submit to
2 the department by March 15 each year a report that summarizes the
3 information obtained under subsection (2) for all TENORM disposed
4 at the landfill during the previous calendar year.

5 (7) ~~(8)~~—The owner or operator of a landfill shall do both of
6 the following:

7 (a) Ensure that all TENORM is deposited at least 10 feet below
8 the bottom of the future landfill cap.

9 (b) Maintain records of the location and elevation of TENORM
10 disposed of at the landfill.

11 (8) **A person shall not mix TENORM with any material for the**
12 **purposes of reducing the concentration of radium-226, radium-228,**
13 **or lead-210, if the regulation of the resulting material under this**
14 **part or part 115 is affected. A person shall not store or dispose**
15 **of the resulting material except in compliance with the provisions**
16 **of this part or part 115 applicable to the TENORM before the mixing**
17 **occurred.**

18 (9) **This part does not apply to materials or activities listed**
19 **in section 1(2) of 1978 PA 113, MCL 325.491.**

20 Sec. 11514b. (1) A person shall not deliver to a type II
21 landfill in this state for disposal and the owner or operator of a
22 type II landfill shall not permit disposal in the landfill of
23 technologically enhanced naturally occurring radioactive material.
24 with any of the following:

25 (a) A concentration of radium-226 more than 50 picocuries per
26 gram.

27 (b) A concentration of radium-228 more than 50 picocuries per
28 gram.

29 (c) A concentration of lead-210 more than 260 picocuries per



1 gram.

2 (2) The owner or operator of a type II landfill shall not
3 permit a delivery of TENORM for disposal at the landfill unless the
4 generator has provided the following information in writing to the
5 owner or operator of the landfill:

6 (a) The concentrations of radium-226, radium-228, lead-210,
7 and any other radionuclide identified using gamma spectroscopy, or
8 an equivalent analytical method, in the TENORM based on techniques
9 for representative sampling and waste characterization approved by
10 the department.

11 (b) An estimate of the total mass of the TENORM.

12 (c) An estimate of the total radium-226 activity, the total
13 radium-228 activity, and the total lead-210 activity of the TENORM.

14 (d) The proposed date of delivery.

15 (3) The department may test TENORM proposed to be delivered to
16 a landfill.

17 (4) Within 45 days after the end of each state fiscal year,
18 the owner or operator of a type II landfill shall submit to the
19 department ~~an annual~~ a report that summarizes the information
20 obtained under subsection (2) for all TENORM disposed at the
21 landfill during the previous state fiscal year.

22 (5) The owner or operator of a type II landfill that disposes
23 of TENORM with a concentration of radium-226 more than 25
24 picocuries per gram, a concentration of radium-228 more than 25
25 picocuries per gram, or a concentration of lead-210 more than 25
26 picocuries per gram shall do all of the following:

27 (a) Ensure that all TENORM is deposited at least 10 feet below
28 the bottom of the future landfill cap.

29 (b) Maintain records of the location and elevation of TENORM



1 disposed of at the landfill.

2 (c) Conduct a monitoring program that complies with all of the
3 following:

4 (i) Radiological monitoring of site workers and at the landfill
5 property boundary are conducted as specified in the license.

6 (ii) Radium-226, radium-228, and lead-210 are included among
7 the parameters analyzed in leachate and groundwater at the
8 frequency specified in the license.

9 (iii) Results of all monitoring required under this subsection
10 are included in the environmental monitoring reports required under
11 rules promulgated under this part and the facility operating
12 license.

13 (6) A person shall not mix TENORM with any material for the
14 purposes of reducing the concentration of radium-226, radium-228,
15 or lead-210, if the regulation of the resulting material under this
16 part or part 111 is affected. A person shall not store or dispose
17 of the resulting material except in compliance with the provisions
18 of this part or part 111 applicable to the TENORM before the mixing
19 occurred.

20 (7) This part does not apply to materials or activities listed
21 in section 1(2) of 1978 PA 113, MCL 325.491.

22 (8) ~~(6)~~As used in this section, "technologically enhanced
23 naturally occurring radioactive material" or "TENORM" means
24 naturally occurring radioactive material whose radionuclide
25 concentrations have been increased as a result of human practices.
26 TENORM does not include any of the following:

27 (a) Source material, as defined in section 11 of the atomic
28 energy act of 1954, 42 USC 2014, and its progeny in equilibrium.

29 (b) Material with concentrations of radium-226, radium-228,



1 and lead-210 each less than 5 picocuries per gram.

2 Sec. 62501. As used in this part:

3 (a) "Artificial brine" means mineralized water formed by
4 dissolving rock salt or other readily soluble rocks or minerals.

5 (b) "Brine well" means a well drilled or converted for the
6 purpose of producing natural or artificial brine.

7 (c) "Class I well" means any of the following:

8 (i) A well used by a generator of hazardous waste or the owner
9 or operator of a hazardous waste management facility to inject
10 hazardous waste beneath the lowermost formation that contains all
11 or part of an underground source of drinking water within 1/4 mile
12 of the well bore.

13 (ii) An industrial and municipal disposal well that injects
14 fluids beneath the lowermost formation that contains all or part of
15 an underground source of drinking water within 1/4 mile of the well
16 bore.

17 (iii) A radioactive waste disposal well that injects fluids
18 below the lowermost formation that contains all or part of an
19 underground source of drinking water within 1/4 mile of the well
20 bore.

21 (d) "Class III well" means a well used for the extraction of
22 minerals including, but not limited to, the following:

23 (i) Mining of sulfur by the Frasch process.

24 (ii) In situ production of uranium or other metals, not
25 including solution mining of conventional mines.

26 (iii) Solution mining of salts or potash.

27 (e) "Class IV well" means any of the following:

28 (i) A well used by a generator of hazardous waste or
29 radioactive waste, by the owner or operator of a hazardous waste



1 management facility, or by the owner or operator of a radioactive
 2 waste disposal site to dispose of hazardous waste or radioactive
 3 waste into a formation that contains all or part of an underground
 4 source of drinking water within 1/4 mile of the well bore.

5 (ii) A well used by a generator of hazardous waste or
 6 radioactive waste, by the owner or operator of a hazardous waste
 7 management facility, or by the owner or operator of a radioactive
 8 waste disposal site to dispose of hazardous waste or radioactive
 9 waste above a formation that contains all or part of an underground
 10 source of drinking water within 1/4 mile of the well bore.

11 (iii) A well that is used by a generator of hazardous waste or
 12 the owner or operators of a hazardous waste management facility to
 13 dispose of hazardous waste and that is not described by 40 CFR
 14 146.5(a)(1) or 146.5(d)(1).

15 (f) ~~(e)~~—"Department" means the department of ~~environmental~~
 16 ~~quality-environment, Great Lakes, and energy.~~

17 (g) ~~(d)~~—"Disposal well" means a well drilled or converted for
 18 subsurface disposal of waste products or processed brine and its
 19 related surface facilities.

20 (h) ~~(e)~~—"Exploratory purposes" means ~~test well drilling for~~
 21 the specific purpose of discovering or outlining an orebody or
 22 mineable mineral resource.

23 (i) ~~(f)~~—"Fund" means the mineral well regulatory fund created
 24 in section 62509b.

25 (j) ~~(g)~~—"Mineral well" means any well subject to this part.

26 (k) ~~(h)~~—"Natural brine" means naturally occurring mineralized
 27 water other than potable or fresh water.

28 (l) ~~(i)~~—"Operator" means the person ~~, whether owner or not,~~
 29 supervising or responsible for the drilling, operating, repairing,



1 abandoning, or plugging of ~~wells~~**a well** subject to this part,
 2 **whether or not that person is the owner.**

3 (m) ~~(j)~~"Owner" means the person who has the right to drill,
 4 convert, or operate any well subject to this part.

5 (n) ~~(k)~~"Pollution" means damage or injury from the loss,
 6 escape, or unapproved disposal of any substance at any well subject
 7 to this part.

8 (o) ~~(l)~~"Storage well" means a well drilled into a subsurface
 9 formation to develop an underground storage cavity for subsequent
 10 use in storage operations. Storage well does not include a storage
 11 well drilled pursuant to part 615.

12 (p) ~~(m)~~"Supervisor of mineral wells" means the state
 13 geologist.

14 (q) ~~(n)~~"Surface waste" means damage to, injury to, or
 15 destruction of surface ~~waters, soils,~~**water, of soil, of** animal,
 16 fish, ~~and~~**or** aquatic life, or **of** surface property from unnecessary
 17 seepage or loss incidental to or resulting from drilling,
 18 equipping, or operating a well or wells subject to this part.

19 (r) ~~(o)~~"Test well" means a well, core hole, core test,
 20 observation well, or other well drilled from the surface to
 21 determine the presence of a mineral, mineral resource, ore, or rock
 22 unit, or to obtain geological or geophysical information or other
 23 subsurface data related to mineral exploration and extraction. Test
 24 well does not include holes drilled in the operation of a quarry,
 25 open pit, or underground mine, or any wells not related to mineral
 26 exploration or extraction.

27 (s) ~~(p)~~"Underground storage cavity" means a cavity formed by
 28 dissolving rock salt or other readily soluble rock or mineral, by
 29 nuclear explosion, or by any other method for the purpose of



1 storage or disposal.

2 (t) ~~(q)~~ "Underground waste" means damage or injury to potable
3 water, mineralized water, or other subsurface resources **incidental**
4 **to or resulting from drilling, equipping, or operating a well**
5 **subject to this part.**

6 (u) ~~(r)~~ "Waste product" means waste or by-product resulting
7 from municipal or industrial operations or waste from any trade,
8 manufacture, business, or private pursuit that could cause
9 pollution and for which underground disposal may be feasible or
10 practical.

11 **Sec. 62508b. (1) Subject to subsection (2), the construction,**
12 **expansion, or installation of a new or converted class I or class**
13 **IV well is prohibited.**

14 (2) Subsection (1) does not apply to a class IV well that
15 either 40 CFR 144.13(c) provides is not prohibited by 40 CFR 144.13
16 or that 40 CFR 144.23(c) provides is authorized by rule.

17 (3) Subsection (1) does not prohibit any of the following:

18 (a) Maintenance, repair, or like-for-like replacement of
19 equipment necessary for the safe operation of an existing well.

20 (b) Subject to subsections (4) and (5), an equipment change at
21 an existing well that demonstrably reduces the amount of hazardous
22 or radioactive materials stored or emitted due to improved
23 treatment methods or technologies, if the change does not increase
24 the well's overall capacity or extend its operational lifespan.

25 (c) Subject to subsections (4) and (5), an expansion of an
26 existing well's footprint that does not increase its overall
27 capacity but is solely for the purpose of creating or enlarging a
28 buffer zone between well operations and the public or a sensitive
29 environmental area.



1 (4) A proposed change under subsection (3) (b) or (c) must be
2 approved by the department. The well operator shall submit to the
3 department documentation demonstrating how the proposed change will
4 meet the requirements of subsection (3) (b) or (c). The department
5 shall make the documentation publicly available and provide for a
6 public comment period of not less than 60 days before deciding to
7 approve or reject the proposed change.

8 (5) In reviewing proposals under subsection (4), the
9 department shall prioritize changes that provide the greatest
10 reduction in risk to public health and the environment. The
11 department shall not approve any changes that could result in
12 increased exposure or risk to overburdened communities.

13 Sec. 62509d. (1) Within 180 days after the effective date of
14 the amendatory act that added this section and annually thereafter,
15 an operator of a class I well or a class III well shall, for each
16 well, file proof of financial responsibility, as described in
17 subsections (2) and (4), for which this state is the sole
18 beneficiary.

19 (2) The financial responsibility under subsection (1) shall
20 include a surety bond issued by an authorized insurer whose
21 certificate of authority is in good standing, a letter of credit, a
22 cash account, or an automatically annually renewing certificate of
23 deposit. The surety bond, letter of credit, cash account, or
24 certificate of deposit shall comply, and shall be interpreted to
25 comply, with all of the following, as applicable:

26 (a) The amount meets both of the following requirements:

27 (i) Is at least \$1,000,000.00 for a class I well or \$250,000.00
28 for a class III well.

29 (ii) Is sufficient to cover the costs of well plugging and



1 reclamation, as determined by the department based on engineering,
2 geotechnical, environmental, or location conditions.

3 (b) The terms of the instrument cannot be altered without the
4 approval of the department.

5 (c) A cash account is managed by an independent financial
6 institution.

7 (d) Cancellation of a bond or letter of credit requires at
8 least 120 days' advance notice.

9 (e) The instrument remains in effect until the department
10 determines that all of the following apply:

11 (i) The class I well or class III well has been permanently
12 plugged and abandoned in compliance with law and in a manner that
13 protects underground sources of drinking water.

14 (ii) All contamination at the site has been remediated.

15 (iii) The soil at the site has been stabilized and
16 rehabilitated.

17 (iv) The ecosystem has been restored.

18 (3) Payment under an instrument required by subsection (2)
19 does not relieve the operator from any other legal requirements.
20 Assets under the instrument revert to the operator's control, at
21 the operator's request, only after the operator has adequately
22 plugged the wells, reclaimed the well site, and complied with all
23 orders of the supervisor or department under this act.

24 (4) The financial responsibility under subsection (1) shall
25 also include environmental pollution insurance coverage that
26 complies with all of the following:

27 (a) The amount of coverage meets both of the following
28 requirements:

29 (i) Is at least \$5,000,000.00 per occurrence for a class I well



1 or \$2,500,000.00 per occurrence for a class III well.

2 (ii) Is sufficient to cover the worst-case costs of damage to
3 private property, health, and natural resources, of replacing
4 drinking water supplies in case of water contamination, and of
5 injuries, damages, or loss related to pollution or diminution of a
6 water supply, as determined by the department based on engineering,
7 geotechnical, environmental, or location conditions.

8 (b) After the well is plugged, the insurance remains in effect
9 for 30 years for a class I well or 5 years for a class III well.

10 (c) The insurance is provided by an insurance carrier
11 authorized, licensed, or permitted to conduct such insurance
12 business in this state and that holds at least an A- rating by AM
13 Best or any comparable rating service.

14 (d) The insurance is not issued by a captive insurer, surplus
15 line insurer, or risk retention group.

16 (5) Within 180 days after the effective date of the amendatory
17 act that added this section and annually thereafter, an operator of
18 a test well shall, for each well, file proof of financial
19 responsibility for which this state is the sole beneficiary. The
20 financial responsibility shall be a surety bond issued by an
21 authorized insurer whose certificate of authority is in good
22 standing, a letter of credit, a cash account, or an automatically
23 annually renewing certificate of deposit. The financial
24 responsibility shall comply, and shall be interpreted to comply,
25 with the following, as applicable:

26 (a) The amount meets both of the following requirements:

27 (i) Is at least \$2,500.00.

28 (ii) Is sufficient to cover the costs of well plugging and
29 reclamation, as determined by the department based on engineering,



1 geotechnical, environmental, or location conditions.

2 (b) The terms of the instrument shall not be altered without
3 the approval of the department.

4 (c) A cash account is managed by an independent financial
5 institution.

6 (d) Cancellation of a bond or letter of credit requires at
7 least 120 days' advance notice.

8 (e) The instrument remains in effect until the department
9 determines that all of the following apply:

10 (i) The test well has been permanently plugged and abandoned in
11 compliance with law and in a manner that protects underground
12 sources of drinking water.

13 (ii) All contamination at the site has been remediated.

14 (iii) The soil at the site has been stabilized and
15 rehabilitated.

16 (iv) The ecosystem has been restored.

17 (6) Payment under an instrument required by subsection (5)
18 does not relieve the operator from any other legal requirements.
19 Assets under the instrument revert to the operator's control, at
20 the operators request, only after the operator has adequately
21 plugged the wells, reclaimed the well site, and complied with all
22 orders of the supervisor or department under this act.

23 Enacting section 1. Sections 11111 and 11112 of the natural
24 resources and environmental protection act, 1994 PA 451, MCL
25 324.11111 and 324.11112, are repealed.

