VIA E-MAIL

TO: Governor Rick Snyder  
Members of the Michigan Legislature

FROM: Dan Wyant, Director

DATE: March 4, 2015

SUBJECT: Report on Activities Funded by the Staff Account of the Solid Waste Management Fund

In accordance with Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, attached is the Department of Environmental Quality’s (DEQ) Report on Activities Funded by the Staff Account of the Solid Waste Management Fund for fiscal year 2014.

If you need further information, please contact Bryce Feighner, Chief, Office of Waste Management and Radiological Protection, at 517-284-6551; or you may contact me at 517-284-6700.

Attachment

cc/att: Ellen Jeffries, Director, Senate Fiscal Agency  
Mary Ann Cleary, Director, House Fiscal Agency  
John Roberts, Director, State Budget Office  
Dennis Muchmore, Governor’s Office  
Dick Posthumus, Governor’s Office  
Valerie Brader, Governor’s Office  
Josh Sefton, Senate Fiscal Agency  
Viola Wild, House Fiscal Agency  
Jacques McNeely, State Budget Office  
Jennifer Harrison, State Budget Office  
Jim Sygo, Deputy Director, DEQ  
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Lonnie Lee, DEQ  
Kathy Tetzlaff, DEQ  
John Craig, DEQ  
Steve Silver, DEQ  
Becky Kocsis, DEQ  
Christina Miller, DEQ
REPORT ON ACTIVITIES FUNDED BY THE STAFF ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND

OCTOBER 1, 2013 – SEPTEMBER 30, 2014

Rick Snyder, Governor
Dan Wyant, Director

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March 2, 2015
Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), states in part:

By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities of the previous fiscal year funded by the staff account of the solid waste management fund....

Following is the information as outlined in Subsections 11550(6)(a) through (i):

(a) **Full-Time Equivalent (FTE) Positions**

Solid waste activities carried out by the Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), in fiscal year (FY) 2014, were conducted by 33 FTEs. These positions included permitting, licensing, compliance, and enforcement staff, such as geologists, engineers, and environmental quality analysts; district supervisors; and OWMRP management and administrative support staff.

(b) **Construction Permit Application Decisions**

Six construction permit applications were pending at the beginning of FY 2014.

(1) During FY 2014, 4 applications for permits to establish or expand solid waste disposal facilities were received.

(2) A total of three applications were determined to be administratively complete. There was one application determined to be administratively incomplete, however, it was resubmitted as complete during FY 2014. Seven applications were approved, and two applicants withdrew an application. There were zero applications denied. At the end of FY 2014, there was one application pending a decision.

(3) Of the applications that were determined to be administratively complete, 100 percent were decided upon within 120 days of being determined to be administratively complete, as required by Section 11511 of Part 115.¹

¹ The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that the DEQ approve or deny an application for a construction permit under Section 11509 by the 120-day processing deadline, unless a deadline extension is requested by the applicant.
CONSTRUCTION PERMIT APPLICATIONS

| Pending Applications as of October 1, 2013 | 6  |
| Number of New Applications Received | 4  |
| Number of Applications Administratively Incomplete | 1  |
| Number of Applications Withdrawn | 2  |
| Number of Permits Issued | 7  |
| Number of Applications Denied | 0  |
| Number of Pending Applications as of September 30, 2014 | 1  |
| Percent of Decisions Made on Time | 100% |

(c) Operating License Applications Received Under Section 11512 of Part 115

At the beginning of FY 2014, two operating license applications were pending a decision.

1. During FY 2014, 60 applications for new or renewal licenses to operate solid waste disposal facilities were received.

2. A total of 56 applications were determined to be administratively complete. There were four applications determined to be administratively incomplete, however, all four were resubmitted as complete during FY 2014. A total of 46 applications were approved, zero applicants withdrew their application, and zero license applications were denied. At the end of FY 2014, there were 16 applications pending a decision.

3. Of the license applications that were determined to be administratively complete in FY 2014, 100 percent were decided upon within 90 days of being determined to be administratively complete, as required by Section 11516 of Part 115.²

OPERATING LICENSE APPLICATIONS

| Pending Applications as of October 1, 2013 | 2  |
| Number of New Applications Received | 60 |
| Number of Applications Administratively Incomplete | 4  |
| Number of Applications Withdrawn | 0  |
| Number of Licenses Issued | 46 |
| Number of Applications Denied | 0  |
| Number of Pending Applications as of September 30, 2014 | 16 |
| Percent of Decisions Made on Time | 100% |

² The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that the DEQ approve or deny an application for an operating license under Section 11512 by the 90-day processing deadline, unless a deadline extension is requested by the applicant.
(d) **Number of Inspections of Licensed Disposal Areas as Required by Section 11519 of Part 115**

During FY 2014, 491 inspections of licensed disposal areas were conducted.\(^3\)

(e) **Number of Letters of Warning (LOWs)\(^4\) Sent to Licensed Disposal Areas**

During FY 2014, 16 LOWs were sent to licensed disposal areas.\(^5\)

(f) **Number of Contested Case Hearings Initiated in FY 2014: Zero**

**Number of Contested Case Hearings Completed in FY 2014: Zero**

**Number of Civil Actions Initiated in FY 2014: Zero**

**Number of Civil Actions Completed in FY 2014: Zero**

**Number of Voluntary Consent Orders and Administrative Orders Entered or Issued in FY 2014: Two**

**Amount of Fines and Penalties Collected in FY 2014 Through Such Actions or Orders: $7,500**

(g) **Description of Corrective Actions Required by Enforcement Actions**

1. **City of Flint**

   On March 20, 2014, the city of Flint (City) voluntarily entered an administrative consent order (Consent Order) with the DEQ to resolve an alleged violation of Part 115 at the City’s Bray Road site (Site) where it manages water treatment plant (WTP) residuals. The Consent Order was entered based on a series of LOWs and compliance communications from 2001 through 2011 alleging that the City placed, or allowed the placement of, solid waste on the Site and,

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\(^3\) A total of 573 compliance inspections were conducted in FY 2014. However, 491 are reported here because Subsection 11550(6)(e) only requires the number of inspections at licensed disposal areas. The remaining 82 inspections were conducted either at sites of illegal operations or at Type B solid waste transfer facilities that are authorized to operate by the statute, but are not required to have an operating license.

\(^4\) LOW includes written communications from the DEQ that give notice of noncompliance with Part 115, such as Compliance Communications and Violation Notices.

\(^5\) A total of 33 LOWs were issued in FY 2014. However, 16 are reported here because Subsection 11550(6)(e) only requires the number of LOWs sent to licensed disposal areas. The remaining 17 LOWs were sent either to owners or to operators of disposal areas that are not required to have an operating license or to owners or operators of sites determined to be illegal operations. A Type B solid waste transfer facility is an example of a solid waste disposal area that is not required to have a license to legally operate. Although these disposal areas are not licensed, they are inspected for compliance with the operational requirements of Part 115 and the Part 115 Rules. The number of LOWs sent in FY 2014 may encompass some inspections made in the last quarter of FY 2013.
thereby, created an unlawful open dump. In the Consent Order, the City agreed to determine the horizontal and vertical extent and character of the solid waste historically disposed of at the Site and to secure the Site against future unlawful disposal. Consistent with the waste characterization and other investigation data required by the Consent Order, the City agreed to remove and dispose of the solid waste on the Site at a licensed disposal area and/or, alternatively, place a final cover over the historical solid waste that is left in place. The final cover is required to meet the requirements of Part 115 and the Part 115 Rules. The City agreed to determine, by conducting a remedial investigation, whether response activities to include monitoring, an assessment of corrective measures, and a remedial action plan must be taken to address any contamination caused by the unauthorized disposal of solid waste at the Site. The City also agreed to comprehensively manage the WTP residuals in the future under a public water supply construction permit issued under the Safe Drinking Water Act, 1976 PA 399, as amended. Under the terms of the Consent Order, the City agreed to a $2,500 payment to the State of Michigan in settlement of the DEQ’s claim for a civil fine for the alleged violation.

(2) Waste Management of Michigan, Inc.

On April 4, 2014, Waste Management of Michigan, Inc. (WMMI), voluntarily entered a Consent Order with the DEQ to resolve an alleged violation of Part 115 at the Muskegon County Landfill (Landfill). The Consent Order was based on the Violation Notice issued to WMMI on March 11, 2014. Specifically, the DEQ alleged that the Landfill had been operated by WMMI without a valid operating license after the license expired on February 27, 2014. WMMI submitted an application for an operating license and application fee on March 6, 2014. Under the terms of the Consent Order, WMMI agreed to a $5,000 payment to the State of Michigan in settlement of the DEQ’s claim for a civil fine for the alleged violation. Based on the application made during the proceedings, WMMI was issued an operating license for the Landfill.

(h) Number of Solid Waste Complaints Received, Investigated, Resolved, and Not Resolved by the DEQ

During FY 2014, the DEQ received 139 solid waste complaints, 69 of which were investigated via inspections. The remaining 70 complaints were resolved by contact with the parties involved, were appropriately referred to other DEQ program divisions/offices or other agencies, or are still under investigation.

(i) Amount of Revenue Remaining in the Staff Account at the End of FY 2014

The amount of revenue in the Solid Waste Management Fund Staff Account at the end of FY 2014 was $3,761,002.