



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY  
LANSING



LIESL EICHLER CLARK  
DIRECTOR

VIA E-MAIL

TO: Governor Gretchen Whitmer  
Members of the Michigan Legislature

FROM: Liesl Eichler Clark, Director 

DATE: April 3, 2020

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 Environment, Great Lakes, and Energy's (EGLE) Report on Activities Funded by the Staff Account of the Solid Waste Management Fund for fiscal year 2019.

If you need further information, please contact Jack Schinderle, Director, Materials Management Division, at 517-284-6551; or you may contact me at 517-284-6708.

Attachment

cc/att: Chris Harkins, Director, Senate Fiscal Agency  
Mary Ann Cleary, Director, House Fiscal Agency  
Chris Kolb, Director, State Budget Office  
JoAnne Huls, Chief of Staff, Governor's Office  
Jennifer Flood, Legislative and Public Affairs Director, Governor's Office  
Emily Laidlaw, Policy Director, Governor's Office  
Abbey Frazier, Senate Fiscal Agency  
Austin Scott, House Fiscal Agency  
Jacques McNeely, State Budget Office  
Carly Kirk, State Budget Office  
Aaron B. Keatley, Chief Deputy Director, EGLE  
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MICHIGAN DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY

# REPORT ON ACTIVITIES FUNDED BY THE STAFF ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND

**Report Period:**

October 1, 2018 – September 30, 2019

**Authority:**

Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended

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 Environment, Great Lakes, and Energy (EGLE), Materials Management Division (MMD), in fiscal year (FY) 2019, were conducted by 32 FTEs (25.5 of the 32 FTEs were supported through the Solid Waste Management Fund). These positions included permitting, licensing, compliance, and enforcement staff, such as geologists, engineers, and environmental quality analysts; district supervisors; and MMD management and administrative support staff.

**(b) Construction Permit Application Decisions:**

Two construction permit applications were pending at the beginning of FY 2019.

- (1) During FY 2019, three 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 were no applications determined to be administratively incomplete. Also, three applications were approved, and one applicant voluntarily withdrew their application. There were zero applications denied. At the end of FY 2019, 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.<sup>1</sup>

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<sup>1</sup> The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that EGLE 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, 2018	2
Number of New Applications Received	3
Number of Applications Administratively Incomplete	0
Number of Applications Withdrawn	1
Number of Permits Issued	3
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2019	1
Percent of Decisions Made on Time	100%

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

At the beginning of FY 2019, seven operating license applications were pending a decision.

- (1) During FY 2019, 49 applications for new or renewal licenses to operate solid waste disposal facilities were received.
- (2) A total of 49 applications were determined to be administratively complete. There were two applications determined to be administratively incomplete; however, they were resubmitted as complete during FY 2019. A total of 39 applications were approved, zero applicants withdrew their applications, and zero license applications were denied. At the end of FY 2019, there were 15 applications pending a decision.
- (3) Of the license applications that were determined to be administratively complete in FY 2019, 100 percent were decided upon within 90 days of being determined to be administratively complete, as required by Section 11516 of Part 115.<sup>2</sup>

OPERATING LICENSE APPLICATIONS	
Pending Applications as of October 1, 2018	7
Number of New Applications Received	49
Number of Applications Administratively Incomplete	0
Number of Applications Withdrawn	0
Number of Licenses Issued	39
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2019	15
Percent of Decisions Made on Time	100%

<sup>2</sup> The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that EGLE 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 2019, 593 inspections of licensed disposal areas were conducted.<sup>3</sup>

**(e) Number of Letters of Warning (LOWs)<sup>4</sup> Sent to Licensed Disposal Areas:**

During FY 2019, 34 LOWs were sent to licensed disposal areas.<sup>5</sup>

**(f) Number of Contested Case Hearings Initiated in FY 2019: Zero.**

**Number of Contested Case Hearings Completed in FY 2019: Zero.**

**Number of Civil Actions Initiated in FY 2019: Zero.**

**Number of Civil Actions Completed in FY 2019: One.**

**Number of Voluntary Consent Orders and Administrative Orders Entered or Issued in FY 2019: Five.**

**Amount of Fines and Penalties Collected in FY 2019 Through Such Actions or Orders: \$38,174.25.**

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

- (1) Consumers Energy Company – D.E. Karn Plant (Plant); 2742 North Weadock, Essexville, Bay County, Michigan:

On December 17, 2018, the MMD entered into a Fast Track Consent Order (FTCO) (FTO-115-01-2018) with Consumers Energy Company for the Plant disposal area. The enforcement action resulted from a deficient Closure Certification for final cover at the Plant solid waste disposal area. Consumers Energy Company provided additional information to EGLE to

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<sup>3</sup> A total of 724 compliance inspections were conducted in FY 2019. However, 593 are reported here because Subsection 11550(6)(e) only requires the number of inspections at licensed disposal areas. The remaining 131 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.

<sup>4</sup> LOWs include written communications from EGLE that give notice of noncompliance with Part 115, such as Compliance Communications and Violation Notices.

<sup>5</sup> A total of 68 LOWs were issued in FY 2019. However, 34 are reported here because Subsection 11550(6)(e) only requires the number of LOWs sent to licensed disposal areas. The remaining 34 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 2019 may encompass some inspections made in the last quarter of FY 2018.

demonstrate satisfactory physical integrity of the final cover system to meet the intended design specifications. Consumers Energy Company paid a penalty of \$14,070.

- (2) Consumers Energy Company – J.H. Campbell Generating Complex (Complex); 17000 Crosswell Street, Port Sheldon Township, Ottawa County, Michigan:

On December 21, 2018, the MMD entered into a Consent Agreement (WMPD Agreement No. 115-01-2018) with Consumers Energy Company to memorialize the requirements for closure of Pond A at the Complex into a legally enforceable agreement. The Consent Agreement sets forth the requirements for development and implementation of a Closure Plan, a Hydrogeological Monitoring Plan, a Post-Closure Plan, and an updated Remedial Action Plan. The purpose of the Consent Agreement was to memorialize closure requirements, rather than resolve violations; therefore, penalties were not assessed. However, EGLE may apply stipulated penalties in the event Consumers Energy Company fails to comply with the requirements of the Consent Agreement.

- (3) Southeast Berrien County Landfill Authority (SEBCLA); 3200 Chamberlain Road, Buchanan, Berrien County, Michigan:

On May 23, 2019, the MMD entered into an FTCD (WMPD Order No. FTO-115-02-2019) with the SEBCLA. The enforcement action resulted from excess leachate accumulation inside the landfill, and subsequent release of leachate outside of the disposal area footprint. During the enforcement process, the SEBCLA completed upgrades to the landfill leachate collection system and increased the leachate treatment capacity to prevent further leachate releases. The SEBCLA paid a penalty of \$10,244.25.

- (4) Detroit Wixom, LLC; 28801/29311 South Wixom Road, Wixom, Oakland County, Michigan:

On January 22, 2019, the MMD entered into a Consent Agreement (WMPD Agreement No. 115-01-2019) with Detroit Wixom, LLC, to memorialize into a legally enforceable agreement the requirements for the cleanup of illegally disposed solid waste (construction and demolition waste) and liquid industrial byproducts (leachate) at the site. The Consent Agreement sets forth the requirements for proper removal, transport, and disposal of previously disposed solid waste that also resulted in the generation of leachate at the site. The solid waste was illegally disposed of by the previous property owner, Trident Barrow Management 22, LLC (Trident Barrow). EGLE's case against Trident Barrow was resolved through entry of a Consent Decree in Ingham County Circuit Court in

July 2018. Detroit Wixom, LLC, agreed to conduct the cleanup as a condition of property purchase agreement. The Consent Agreement provides Detroit Wixom, LLC, with a covenant not to sue upon successful completion of the solid waste and liquid industrial byproducts cleanup. The purpose of the Consent Agreement was to memorialize solid waste cleanup requirements, rather than resolve violations; therefore, penalties were not assessed. However, EGLE may apply stipulated penalties in the event Detroit Wixom, LLC, fails to comply with the requirements of the Consent Agreement.

- (5) Generate Fremont Digester, LLC (Generate); Fremont and Holton Township, Newaygo and Muskegon Counties, Michigan:

On June 10, 2019, the MMD entered an Administrative Consent Order (ACO) (MMD Order No. 115-02-2019) with Generate to resolve violations of Agricultural Use Approval 17-AUA-001 (AUA) that was issued under Part 115. The objective of the ACO was to create a compliance program and schedule to achieve and maintain compliance with the AUA including, but not limited to, the requirements for land application of digestate and odor control at the digester in Fremont and the digestate storage lagoons in Holton Township. Generate paid a penalty of \$13,860.

- (h) Number of Solid Waste Complaints Received, Investigated, Resolved, and Not Resolved by EGLE:**

During FY 2019, EGLE received 167 solid waste complaints, 92 of which were investigated via inspections. The remaining 75 complaints were resolved by contacting the parties involved; were referred to other EGLE divisions, offices, or other agencies; or are still under investigation.

- (i) Amount of Revenue Remaining in the Staff Account at the End of FY 2019:**

The amount of revenue in the Solid Waste Management Fund Staff Account at the end of FY 2019 was \$7,069,330.