DRAFT 1

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11502, 11503, 11504, 11505, 11506, 11507, 11507a, 11508, 11509, 11510, 11511, 11511b, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11519, 11521b, 11523, 11523a, 11523b, 11525, 11525a, 11525b, 11526, 11526a, 11527, 11528, 11531, 11532, 11533, 11539, 11540, 11541, 11546, 11549, 11550, and 11553 (MCL 324.11502, 324.11503, 324.11504, 324.11505, 324.11506, 324.11507, 324.11507a, 324.11508, 324.11509, 324.11510, 324.11511, 324.11511b, 324.11512, 324.11513, 324.11514, 324.11515, 324.11516, 324.11517, 324.11518, 324.11519, 324.11521b, 324.11523, 324.11523a, 324.11523b, 324.11525, 324.11525a, 324.11525b, 324.11526, 324.11526a, 324.11527, 324.11528, 324.11531, 324.11532, 324.11533, 324.11539, 324.11540, 324.11541, 324.11546, 324.11549, 324.11550, and 324.11553), sections 11502, 11503, 11504, 11505, 11509, 11510,

11512, 11513, 11515, 11516, 11518, 11523, 11523a, 11523b, 11525, 11525a, 11525b, 11528, 11539, and 11550 as amended by 2018 PA 640, section 11506 as amended by 2018 PA 615, section 11507a as amended by 2004 PA 39, section 11511 as amended by 2011 PA 215, section 11511b as amended by 2016 PA 437, section 11514 as amended by 2008 PA 394, sections 11517, 11519, and 11541 as amended by 1996 PA 358, section 11521b as added by 2014 PA 24, section 11526 as amended by 2004 PA 43, section 11526a as added by 2004 PA 40, section 11533 as amended by 2004 PA 44, section 11546 as amended by 2006 PA 56, section 11549 as amended by 2006 PA 58, and section 11553 as added by 2014 PA 178, by designating sections 11502 to 11508 as subpart 1, sections 11509 to 11519 as subpart 2, section 11521b as subpart 3, sections 11523 to 11525c as subpart 4, sections 11526 to 11533 as subpart 5, sections 11539 to 11541 as subpart 6, sections 11546 to 11549 as subpart 7, section 11550 as subpart 8, section 11553 as subpart 9, sections 11555 to 11569 as subpart 10, and sections 11571 to 11587 as subpart 11, and by adding sections 11525c, 11525e, 11555, 11556, 11557, 11558, 11559, 11560, 11561, 11562, 11563, 11564, 11565, 11567, 11568, 11569, 11571, 11572, 11573, 11574, 11575, 11576, 11577, 11578, 11579, 11580, 11581, 11582, 11583, 11584, 11585, 11586, and 11587; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SUBPART 1 GENERAL AND DEFINITIONS

Sec. 11502. **(1) "AGREEMENT" MEANS A WRITTEN CONTRACT.**

(2) ~~(1)~~ "Agronomic rate" means a rate that meets both of the following requirements:

(a) Is generally recognized by the agricultural community or is calculated for a particular area of land to improve the physical nature of soil, such as structure, tilth, water retention, pH, or porosity, or to provide macronutrients or micronutrients in an amount not materially in excess of that needed by the crop, forest, or vegetation grown on the land.

(b) Takes into account and minimizes runoff of beneficial use by-products to surface water or neighboring properties, the percolation of excess nutrients beyond the root zone, and the liberation of metals from the soil into groundwater.

(3) "ANAEROBIC DIGESTER" MEANS A FACILITY THAT USES MICROORGANISMS TO BREAK DOWN BIODEGRADABLE MATERIAL IN THE ABSENCE OF OXYGEN, PRODUCING METHANE AND AN ORGANIC PRODUCT.

(4) "ANIMAL BEDDING" MEANS A MIXTURE OF MANURE AND WOOD CHIPS, SAWDUST, SHREDDED PAPER OR CARDBOARD, HAY, STRAW, OR OTHER SIMILAR FIBROUS MATERIALS NORMALLY USED FOR BEDDING ANIMALS.

(5) ~~(2)~~ "Ashes" means the residue from the burning of wood, scrap wood, tires, biomass, wastewater sludge, fossil fuels including coal or coke, or other combustible materials.

(6) "BENCHMARK RECYCLING STANDARDS" MEANS ALL OF THE FOLLOWING REQUIREMENTS:

(A) BY JANUARY 1, 2022, AT LEAST 90% OF SINGLE-FAMILY DWELLINGS IN URBANIZED AREAS AS IDENTIFIED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS AND, BY JANUARY 1, 2025, AT LEAST 90% OF SINGLE-FAMILY DWELLINGS IN MUNICIPALITIES WITH MORE THAN 5,000 RESIDENTS HAVE ACCESS TO CURBSIDE RECYCLING THAT MEETS ALL OF THE FOLLOWING CRITERIA:

(*i*) RECYCLABLE MATERIALS ARE COLLECTED AT LEAST ONCE EVERY OTHER WEEK.

(*ii*) IF RECYCLABLE MATERIALS ARE NOT COLLECTED SEPARATELY, THE MIXED LOAD IS DELIVERED TO A SOLID WASTE PROCESSING AND TRANSFER FACILITY AND THE RECYCLABLE MATERIALS ARE SEPARATED FROM MATERIAL TO BE SENT TO A SOLID WASTE DISPOSAL AREA.

(*iii*) RECYCLABLE MATERIALS COLLECTED ARE DELIVERED TO A MATERIALS RECOVERY FACILITY THAT COMPLIES WITH PART 115 OR ARE MANAGED APPROPRIATELY AT AN OUT-OF-STATE RECYCLING FACILITY.

(B) BY JANUARY 1, 2028, THE FOLLOWING ADDITIONAL CRITERIA:

(*i*) IN COUNTIES WITH A POPULATION OF LESS THAN 100,000, THERE IS AT LEAST 1 DROP-OFF LOCATION FOR EACH 10,000 RESIDENTS WITHOUT ACCESS TO CURBSIDE RECYCLING AT THEIR DWELLING, AND THE DROP-OFF LOCATION IS AVAILABLE AT LEAST 24 HOURS PER MONTH.

(*ii*) IN COUNTIES WITH A POPULATION OF 100,000 OR MORE, THERE IS AT LEAST 1 DROP-OFF LOCATION FOR EACH 50,000 RESIDENTS WITHOUT ACCESS TO CURBSIDE RECYCLING AT THEIR DWELLING, AND THE DROP-OFF LOCATION IS AVAILABLE AT LEAST 24 HOURS PER MONTH.

(7) ~~(3)~~ "Beneficial use 1" means use as aggregate, road material, or building material that in ultimate use is or will be bonded or encapsulated by cement, limes, or asphalt.

(8) ~~(4)~~ "Beneficial use 2" means use as any of the following:

(a) Construction fill at nonresidential property that meets all of the following requirements:

(*i*) Is placed at least 4 feet above the seasonal groundwater table.

(*ii*) Does not come into contact with a surface water body.

(*iii*) Is covered by concrete, asphalt pavement, or other material approved by the department.

(*iv*) Does not exceed 4 feet in thickness, except for areas where exceedances are incidental to variations in the existing topography. This subparagraph does not apply to construction fill placed underneath a building or other structure.

(b) Road base or soil stabilizer that does not exceed 4 feet in thickness except for areas where exceedances are incidental to variations in existing topography, is placed at least 4 feet above the seasonal groundwater table, does not come into contact with a surface water body, and is covered by concrete, asphalt pavement, or other material approved by the department.

(c) Road shoulder material that does not exceed 4 feet in thickness except for areas where exceedances are incidental to variations in existing topography, is placed at least 4 feet above the seasonal groundwater table, does not come into contact with a surface water body, is sloped, and is covered by asphalt pavement, concrete, 6 inches of gravel, or other material approved by the department.

(9) ~~(5)~~ "Beneficial use 3" means applied to land as a fertilizer or soil conditioner under part 85 or a liming material under 1955 PA 162, MCL 290.531 to 290.538, if all of the following requirements are met:

(a) The material is applied at an agronomic rate consistent with generally accepted agricultural and management practices.

(b) The use, placement, or storage at the location of use does not do any of the following:

(*i*) Violate part 55 or create a nuisance.

(*ii*) Cause groundwater to no longer be fit for 1 or more protected uses as defined in R 323.2202 of the Michigan ~~administrative code.~~ **ADMINISTRATIVE CODE.**

(*iii*) Cause a violation of a part 31 surface water quality standard.

(10) ~~(6)~~ "Beneficial use 4" means any of the following uses:

(a) To stabilize, neutralize, solidify, or otherwise treat waste for ultimate disposal at a facility licensed under this part or part 111.

(b) To treat wastewater, wastewater treatment sludge, or wastewater sludge in compliance with part 31 or the federal water pollution control act, 33 USC 1251 to 1388, at a private or publicly owned wastewater treatment plant.

(c) To stabilize, neutralize, solidify, cap, or otherwise remediate hazardous substances or contaminants as part of a response activity in compliance with part 201, part 213, or the comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601 to 9657, or a corrective action in compliance with part 111 or the solid waste disposal act, 42 USC 6901 to 6992k.

(d) As construction material at a landfill licensed under this part.

(11) ~~(7)~~ "Beneficial use 5" means blended with inert materials or with compost and used to manufacture soil.

(12) ~~(8)~~ "Beneficial use by-product" means the following materials if the materials are stored for beneficial use or are

used beneficially as specified and the requirements of section 11551(1) are met:

(a) Coal bottom ash or wood ash used for beneficial use 3 or wood ash or coal ash, except for segregated flue gas desulfurization material, used for beneficial use 1, 2, or 4.

(b) Pulp and paper mill ash used for beneficial use 1, 2, 3, or 4.

(c) Mixed wood ash used for beneficial use 1, 2, 3, or 4.

(d) Cement kiln dust used as a flue gas scrubbing reagent or for beneficial use 1, 2, 3, or 4.

(e) Lime kiln dust used as a flue gas scrubbing reagent or for beneficial use 1, 2, 3, or 4.

(f) Stamp sands used for beneficial use 1 or 2.

(g) Foundry sand from ferrous or aluminum foundries used for beneficial use 1, 2, 3, 4, or 5.

(h) Pulp and paper mill material, other than the following, used for beneficial use 3:

(*i*) Rejects, from screens, cleaners, and mills dispersion equipment, containing more than de minimis amounts of plastic.

(*ii*) Scrap paper.

(i) Spent media from sandblasting, with uncontaminated sand, newly manufactured, unpainted steel used for beneficial use 1 or 2.

(j) Dewatered concrete grinding slurry from public transportation agency road projects used for beneficial use 1, 2, 3, or 4.

(k) Lime softening residuals from the treatment and conditioning of water for domestic use or from a community water

supply used for beneficial use 3 or 4.

(*l*) Soil washed or otherwise removed from sugar beets that is used for beneficial use 3.

(m) Segregated flue gas desulfurization material used for beneficial use 1 or 3.

(n) Materials and uses approved by the department under section 11553(3) or (4). Approval of materials and uses by the department under section 11553(3) or (4) does not require the use of those materials by any governmental entity or any other person.

(13) ~~(9)~~ "Beverage container" means an airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains 1 gallon or less of any of the following:

(a) A soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink.

(b) A beer, ale, or other malt drink of whatever alcoholic content.

(c) A mixed wine drink or a mixed spirit drink.

(14) "BIOSOLIDS" MEANS SOLID, SEMISOLID, OR LIQUID RESIDUES GENERATED DURING THE TREATMENT OF SANITARY SEWAGE OR DOMESTIC SEWAGE IN A TREATMENT WORKS. BIOSOLIDS INCLUDES, BUT IS NOT LIMITED TO, SCUM OR SOLIDS REMOVED IN A PRIMARY, SECONDARY, OR ADVANCED WASTEWATER TREATMENT PROCESS AND A DERIVATIVE OF THE REMOVED SCUM OR SOLIDS.

(15) ~~(10)~~ "Bond" means a financial instrument **GUARANTEEING PERFORMANCE AND** executed on a form approved by the department, including a surety bond from a surety company authorized to

transact ~~business-policy~~ **BUSINESS-POLICY** in this state, a certificate of deposit, a cash bond, an irrevocable letter of credit, **AN** insurance **POLICY**, a trust fund, an escrow account, or a combination of any of these instruments in favor of the department. ~~The owner or operator of a disposal area who is required to establish a bond under another state statute or a federal statute may petition the department to allow such a bond to meet the requirements of this part. The department shall approve a bond established under another state statute or a federal statute if the bond provides equivalent funds and access by the department as other financial instruments allowed by this subsection.~~

(16) ~~(11)~~ "Captive facility" means a landfill or coal ash impoundment that accepts for disposal, and accepted for disposal during the previous calendar year, only nonhazardous industrial waste generated only by the owner of the landfill or coal ash impoundment. **[HB 6483 FROM LAST SESSION WAS DRAFTED INDEPENDENTLY OF HB 6269 OF LAST SESSION, CONCERNING COAL ASH RESIDUALS. HB 6269 WAS ENACTED AS 2018 PA 640. IT ADDED THE DEFINITION OF CAPTIVE FACILITY. DEQ SHOULD BE CONSULTED TO ENSURE THAT THE DEFINITION OF CAPTIVE FACILITY AND CAPTIVE TYPE III LANDFILL AND THE USAGES OF THOSE TERMS ARE HARMONIOUS AND CONSISTENT. LIKEWISE, MY ATTEMPTED HARMONIZATION OF HB 6483 AND 2018 PA 640, PARTICULARLY IN SECTION 11525(3), SHOULD BE REVIEWED BY DEQ.]**

(17) "CAPTIVE TYPE III LANDFILL" MEANS A TYPE III LANDFILL THAT MEETS EITHER OF THE FOLLOWING REQUIREMENTS:

(A) ACCEPTS FOR DISPOSAL ONLY NONHAZARDOUS INDUSTRIAL WASTE GENERATED ONLY BY THE OWNER OF THE LANDFILL.

1 **(B) IS A NONHAZARDOUS INDUSTRIAL WASTE LANDFILL DESCRIBED IN**
2 **SECTION 11525(4). [INSTEAD, 11525(5)?]**
3 **(18) "CBC" MEANS THE COUNTY BOARD OF COMMISSIONERS, THE**
4 **MUNICIPALITIES, OR THE REGIONAL PLANNING AGENCY, WHICHEVER SUBMITS**
5 **A NOTICE OF INTENT TO PREPARE A MATERIALS MANAGEMENT PLAN UNDER**
6 **SECTION 11571.**
7 **(19)** ~~(12)~~ "Cement kiln dust" means particulate matter
8 collected in air emission control devices serving Portland cement
9 kilns.
10 **(20)** ~~(13)~~ "Certificate of deposit" means a ~~negotiable~~
11 certificate of deposit **THAT MEETS ALL OF THE FOLLOWING**
12 **REQUIREMENTS:**
13 **(A) IS NEGOTIABLE.**
14 **(B) IS** held by a bank or other financial institution regulated
15 and examined by a state or federal agency. ~~, the value of which is~~
16 **(C) IS** fully insured by an agency of the United States
17 government. ~~A certificate of deposit used to fulfill the~~
18 ~~requirements of this part shall be~~
19 **(D) IS** in the sole name of the department. ~~with~~
20 **(E) HAS** a maturity date of not less than 1 year. ~~and shall be~~
21 **(F) IS** renewed not ~~less~~ **LATER** than 60 days before the maturity
22 date. ~~An applicant who uses a certificate of deposit as a bond~~
23 ~~shall receive any accrued interest on that certificate of deposit~~
24 ~~upon release of the bond by the department.~~
25 **(21)** ~~(14)~~ "Certified health department" means a city, county,
26 or district department of health ~~that is specifically delegated~~
27 ~~authority by the department to perform designated activities as~~

1 ~~prescribed by this part.~~**CERTIFIED UNDER SECTION 11507A.**

2 **(22) "CLASS 1 COMPOSTABLE MATERIAL" MEANS ANY OF THE**

3 **FOLLOWING:**

4 **(A) YARD WASTE.**

5 **(B) WOOD.**

6 **(C) FOOD WASTE.**

7 **(D) PAPER PRODUCTS.**

8 **(E) MANURE OR ANIMAL BEDDING.**

9 **(F) COMPOSTABLE PRODUCTS.**

10 **(G) DEAD ANIMALS UNLESS INFECTIOUS OR MANAGED UNDER 1982 PA**

11 **239, MCL 287.651 TO 287.683.**

12 **(H) SPENT GRAIN FROM BREWERIES.**

13 **(I) PAUNCH.**

14 **(J) FOOD PROCESSING RESIDUALS.**

15 **(K) AQUATIC PLANTS.**

16 **(*l*) OTHER MATERIALS APPROVED BY THE DEPARTMENT UNDER SECTION**

17 **11562.**

18 **(M) A MIXTURE OF ANY OF THESE MATERIALS.**

19 **(23) "CLASS 1 COMPOSTING FACILITY" MEANS A COMPOSTING FACILITY**

20 **WHERE ONLY CLASS 1 COMPOSTABLE MATERIAL IS COMPOSTED.**

21 **(24) "CLASS 2 COMPOSTABLE MATERIAL" MEANS MIXED MUNICIPAL**

22 **SOLID WASTE, BIOSOLIDS, STATE OR FEDERAL CONTROLLED SUBSTANCES, AND**

23 **ALL OTHER COMPOSTABLE MATERIAL THAT IS NOT LISTED OR APPROVED AS A**

24 **CLASS 1 COMPOSTABLE MATERIAL.**

25 **(25) "CLASS 2 COMPOSTING FACILITY" MEANS A COMPOSTING FACILITY**

26 **WHERE CLASS 2 COMPOSTABLE MATERIAL OR A COMBINATION OF CLASS 2**

27 **COMPOSTABLE MATERIAL AND CLASS 1 COMPOSTABLE MATERIAL IS COMPOSTED.**

(26) ~~(15)~~ "Coal ash", subject to subsection ~~(16),~~ **(27)**, means any of the following:

(a) Material recovered from systems for the control of air pollution from, or the noncombusted residue remaining after, the combustion of coal or coal coke, including, but not limited to, coal bottom ash, fly ash, boiler slag, flue gas desulfurization materials, or fluidized-bed combustion ash.

(b) Residuals removed from coal ash impoundments.

(27) ~~(16)~~ For beneficial use 2, coal ash does not include coal fly ash except for the following if used at nonresidential property:

(a) Class C fly ash under ASTM ~~standard C618-12A.~~**C618, "STANDARD SPECIFICATION FOR COAL FLY ASH AND RAW OR CALCINED NATURAL POZZOLAN FOR USE IN CONCRETE", BY ASTM INTERNATIONAL.**

(b) Class F fly ash under ASTM standard C618-12A if that fly ash forms a pozzolanic-stabilized mixture by being blended with lime, Portland cement, or cement kiln dust.

(c) A combination of class C fly ash and class F fly ash under ASTM standard C618-12A if that combination forms a pozzolanic-stabilized mixture by being blended with lime, Portland cement, or cement kiln dust and is used as a road base, soil stabilizer, or road shoulder material under ~~subsection (4)(b) or (c).~~**BENEFICIAL USE 2.**

(28) ~~(17)~~ "Coal ash impoundment" means a natural topographic depression, man-made excavation, or diked area that is not a landfill and that is designed to hold and, after October 14, 2015, accepted an accumulation of coal ash and liquids or other materials

approved by the department for treatment, storage, or disposal and did not receive department approval of its closure. A coal ash impoundment in existence before October 14, 2015 that receives waste after the effective date of the amendatory act that added this subsection, and that does not have a permit pursuant to part 31, is considered an open dump beginning 2 years after the effective date of the amendatory act that added this subsection unless the owner or operator has completed closure of the coal ash impoundment under section 11519b or obtained an operating license for the coal ash impoundment.

(29) ~~(18)~~ "Coal ash landfill" means a landfill that is used for the disposal of coal ash and may also be used for the disposal of inert materials and construction material used for purposes of meeting the definition of beneficial use 4, or other materials approved by the department.

(30) ~~(19)~~ "Coal bottom ash" means ash particles from the combustion of coal that are too large to be carried in flue gases and that collect on furnace walls or at the bottom of the furnace.

(31) ~~(20)~~ "Collection center" means a tract of land, building, unit, or appurtenance or combination thereof that is used to collect junk motor vehicles and farm implements under section 11530.

(32) "COMMERCIAL WASTE", SUBJECT TO SUBSECTION (33), MEANS SOLID WASTE GENERATED BY NONMANUFACTURING ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, SOLID WASTE FROM ANY OF THE FOLLOWING:

(A) STORES.

(B) OFFICES.

1 (C) RESTAURANTS.
2 (D) WAREHOUSES.
3 (E) MULTIFAMILY DWELLINGS.
4 (F) HOTELS AND MOTELS.
5 (G) BUNKHOUSES.
6 (H) RANGER STATIONS.
7 (I) CREW QUARTERS.
8 (J) CAMPGROUNDS.
9 (K) PICNIC GROUNDS.
10 (*l*) DAY USE RECREATION AREAS.
11 (M) HOSPITALS.
12 (N) SCHOOLS.
13 (33) COMMERCIAL WASTE DOES NOT INCLUDE HOUSEHOLD WASTE FROM
14 SINGLE-FAMILY DWELLINGS, HAZARDOUS WASTE, OR INDUSTRIAL WASTE.
15 (34) "COMPOST ADDITIVE" MEANS ANY OF THE FOLLOWING MATERIALS
16 IF ADDED TO FINISHED COMPOST TO IMPROVE THE QUALITY OF THE FINISHED
17 COMPOST:
18 (A) PRODUCTS DESIGNED TO ENHANCE FINISHED COMPOST.
19 (B) SUGAR BEET LIMES.
20 (C) WOOD ASH.
21 (D) DRYWALL.
22 (E) SYNTHETIC GYPSUM.
23 (F) OTHER MATERIALS APPROVED BY THE DEPARTMENT.
24 (35) "COMPOST WASTEWATER" MEANS LIQUIDS THAT HAVE BEEN IN
25 CONTACT WITH FINISHED COMPOST OR COMPOSTABLE MATERIAL.
26 (36) "COMPOSTABLE MATERIAL" MEANS ORGANIC MATERIAL THAT CAN BE
27 CONVERTED TO FINISHED COMPOST. COMPOSTABLE MATERIAL COMPRISES CLASS

1 COMPOSTABLE MATERIAL AND CLASS 2 COMPOSTABLE MATERIAL.

(37) "COMPOSTABLE PRODUCTS" MEANS BIODEGRADABLE CONTAINERS, FABRIC, UTENSILS, AND OTHER PRODUCTS THAT ARE BIODEGRADABLE AND SATISFY ANY OF THE FOLLOWING REQUIREMENTS:

(A) ARE CERTIFIED BY THE BIODEGRADABLE PRODUCTS INSTITUTE.

(B) MEET ASTM D6400-04, "STANDARD SPECIFICATION FOR COMPOSTABLE PLASTICS", BY ASTM INTERNATIONAL.

(C) MEET ASTM D6868, "STANDARD SPECIFICATION FOR BIODEGRADABLE PLASTICS USED AS COATINGS ON PAPER AND OTHER COMPOSTABLE SUBSTRATES", BY ASTM INTERNATIONAL.

(38) "COMPOSTING" MEANS A PROCESS OF BIOLOGICAL DECOMPOSITION OF CLASS 1 COMPOSTABLE MATERIAL OR CLASS 2 COMPOSTABLE MATERIAL THAT MEETS THE FOLLOWING REQUIREMENTS:

(A) IS CARRIED OUT AS PROVIDED IN EITHER OF THE FOLLOWING:

(*i*) IN A SYSTEM USING VERMICULTURE.

(*ii*) UNDER CONTROLLED AEROBIC CONDITIONS USING MECHANICAL HANDLING TECHNIQUES SUCH AS PHYSICAL TURNING, WINDROWING, OR AERATION OR USING OTHER MANAGEMENT TECHNIQUES APPROVED BY THE DEPARTMENT. FOR THE PURPOSES OF THIS SUBPARAGRAPH, AEROBIC CONDITIONS MAY INCLUDE THE PRESENCE OF INSIGNIFICANT ANAEROBIC ZONES WITHIN THE COMPOSTING MATERIAL.

(B) STABILIZES THE ORGANIC FRACTION INTO A MATERIAL THAT CAN BE STORED, HANDLED, AND USED EASILY, SAFELY, AND IN AN ENVIRONMENTALLY ACCEPTABLE MANNER.

(39) ~~(21)~~ "Composting facility" means a facility where composting ~~of yard clippings or other organic materials occurs using mechanical handling techniques such as physical turning,~~

~~windrowing, or aeration or using other management techniques approved by the director.~~**OCCURS. HOWEVER, COMPOSTING FACILITY DOES NOT INCLUDE A SITE WHERE ONLY COMPOSTING DESCRIBED IN SECTION 11555(1)(A), (B), OR (E) OCCURS.**

(40) ~~(22)~~ "Consistency review" means evaluation of the administrative and technical components of an application for a permit or license or evaluation of operating conditions in the course of inspection, for the purpose of determining consistency with the requirements of ~~this part, rules promulgated under this~~ part ~~,~~ **115** and approved plans and specifications.

(41) ~~(23)~~ "Corrective action" means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of constituents, as defined in a **MATERIALS MANAGEMENT** facility's approved hydrogeological monitoring plan, released into the environment from a ~~disposal area,~~ **MATERIALS MANAGEMENT FACILITY**, or the taking of other actions related to the release as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources that is consistent with **SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT**, 42 USC 6941 to 6949a and regulations promulgated thereunder.

(42) "CUSTODIAL CARE" INCLUDES ALL OF THE FOLLOWING:

(A) PREVENTING DEEP-ROOTED VEGETATION FROM ESTABLISHING ON THE FINAL COVER.

(B) REPAIRING EROSION DAMAGE ON THE FINAL COVER.

(C) MAINTAINING STORMWATER CONTROLS.

(D) MAINTAINING LIMITED ACCESS TO THE SITE.

Sec. 11503. (1) "De minimis" refers to a small amount of material or number of items, as applicable, incidentally commingled with inert material for beneficial use by-products ~~,~~ **OR WITH SOURCE SEPARATED MATERIAL** or incidentally disposed of with other solid waste.

(2) "Department", subject to section 11554, means the department of ~~environmental quality.~~**ENVIRONMENT, GREAT LAKES, AND ENERGY.**

(3) "DESIGNATED PLANNING AGENCY" OR "DPA" MEANS THE PLANNING AGENCY DESIGNATED UNDER SECTION 11571(10). DESIGNATED PLANNING AGENCY DOES NOT MEAN A REGIONAL PLANNING AGENCY UNLESS THE CBC IDENTIFIES THE REGIONAL PLANNING AGENCY IDENTIFIED AS THE DPA.

(4) ~~(3)~~ "Director" means the director of the department.

(5) ~~(4)~~ "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the environment that is or may become injurious to the public health, safety, or welfare, or to the environment.

(6) ~~(5)~~ "Disposal area", **SUBJECT TO SECTION 11555(5)**, means 1 or more of the following **THAT ACCEPTS SOLID WASTE** at a location as defined by the boundary identified in its construction permit, ~~or~~ **IN** engineering plans approved by the department, **OR IN A NOTIFICATION OR REGISTRATION:**

(a) A solid waste **PROCESSING AND** transfer facility.

(b) An incinerator.

(c) A ~~sanitary~~ landfill.

~~(d) A processing plant.~~

(D) ~~(e)~~ A coal ash impoundment.

(E) ~~(f)~~ Any other solid waste handling or disposal facility utilized in the disposal of solid waste, **AS DETERMINED BY THE DEPARTMENT**. ~~However, a waste diversion center is not a disposal area.~~

(7) ~~(6)~~ "Diverted waste" means waste that meets all of the following requirements:

(a) Is generated by households, businesses, or governmental entities.

(b) Can lawfully be disposed of at a licensed sanitary landfill or municipal solid waste incinerator.

(c) Is separated from other waste.

(d) Is 1 or more of the following:

(*i*) Hazardous material.

(*ii*) Liquid waste.

(*iii*) Pharmaceuticals.

(*iv*) Electronics.

(*v*) Batteries.

(*vi*) Light bulbs.

(*vii*) Pesticides.

(*viii*) Thermostats, switches, thermometers, or other devices that contain elemental mercury.

(*ix*) Sharps.

(*x*) Other wastes approved by the department that can be readily separated from solid waste for diversion to preferred methods of management and disposal.

(8) ~~(7)~~ "Enforceable mechanism" means a legal method ~~whereby~~

THAT AUTHORIZES this state, a county, a municipality, or another person ~~is authorized~~ to take action to guarantee compliance with ~~an approved county solid waste~~ **A MATERIALS** management plan. Enforceable mechanisms include ~~contracts, intergovernmental~~ agreements, laws, ordinances, rules, and regulations.

(9) ~~(8)~~ "Escrow account" means an account that is managed by a bank or other financial institution whose account operations are regulated and examined by a federal or state agency and that complies with section 11523b.

(10) ~~(9)~~ "Existing coal ash impoundment" means a coal ash impoundment that received coal ash before ~~the effective date of the amendatory act that added this subsection,~~ **DECEMBER 28, 2018,** and that, as of that date, ~~has~~ **HAD** not initiated elements of closure that include dewatering, stabilizing residuals, or placement of an engineered cover or otherwise closed pursuant to its part 31 permit or pursuant to R 299.4309 of the part 115 rules and, therefore, is capable of receiving coal ash in the future. A coal ash impoundment that has initiated closure is considered an open dump unless the owner or operator has completed closure of the coal ash impoundment under section 11519b or obtained an operating license for the coal ash impoundment ~~within 2 years after the effective date of the amendatory act that added this subsection.~~**DECEMBER 28, 2020.**

(11) ~~(10)~~ "Existing disposal area" means any of the following:

(a) A disposal area that has in effect a construction permit under this part.

(b) A disposal area that had engineering plans approved by the director before January 11, 1979.

(c) An industrial waste landfill that was authorized to operate by the director or by court order before October 9, 1993.

(d) An industrial waste pile that was located at the site of generation on October 9, 1993.

(e) An existing coal ash impoundment.

(12) ~~(11)~~ "Existing landfill unit" or "existing unit" means any landfill unit that received solid waste on or before October 9, 1993.

(13) ~~(12)~~ "Farm" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(14) ~~(13)~~ "Farm operation" means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(15) ~~(14)~~ "Financial assurance" means the mechanisms used to demonstrate that the funds necessary to meet the cost of closure, postclosure maintenance and monitoring, and corrective action will be available **TO THE DEPARTMENT** whenever they are needed **FOR THOSE PURPOSES.**

(16) ~~(15)~~ "Financial test" means a corporate or local government financial test or guarantee approved ~~for type II landfills~~ under **SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT**, 42 USC 6941 to 6949a, and regulations promulgated thereunder. An owner or operator may use a single financial test for more than 1 facility. Information submitted to the department to document compliance with the **FINANCIAL** test shall include a list showing the name and address of each facility and the amount of funds assured by the **FINANCIAL** test for each facility. For purposes of the financial

test, the owner or operator shall aggregate the sum of the closure, postclosure, and corrective action costs it seeks to assure with any other environmental obligations assured by a financial test under state or federal law.

(17) "FINISHED COMPOST" MEANS ORGANIC MATTER THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(A) HAS UNDERGONE BIOLOGICAL DECOMPOSITION AND HAS BEEN STABILIZED TO A DEGREE THAT IS BENEFICIAL TO PLANT GROWTH WITHOUT CREATING A NUISANCE, AS DEFINED IN THE MARKETING PLAN IF THE COMPOSTING FACILITY IS APPROVED UNDER A GENERAL PERMIT.

(B) IS USED OR SOLD FOR USE AS A SOIL AMENDMENT, FERTILIZER, TOPSOIL BLEND, OR GROWING MEDIUM AMENDMENT OR FOR OTHER SIMILAR USES.

(C) WITH ANY COMPOST ADDITIVES, DOES NOT CONTAIN MORE THAN 1%, BY WEIGHT, OF FOREIGN MATTER THAT WILL REMAIN ON A 4-MILLIMETER SCREEN OR MORE THAN A MINIMAL AMOUNT OF VIABLE WEED SEEDS.

(18) ~~(16)~~ "Flue gas desulfurization material" means the material recovered from air pollution control systems that capture sulfur dioxide from the combustion of wood, coal, or fossil fuels, or other combustible materials, if the other combustible materials constitute less than 50% by weight of the total material combusted and the department determines in writing that the other combustible materials do not materially affect the character of the residue. Flue gas desulfurization material includes synthetic gypsum.

(19) ~~(17)~~ "Food processing residuals" means any of the following:

(a) Residuals of fruits, vegetables, aquatic plants, or field

crops, **INCLUDING THOSE GENERATED BY A BREWERY OR DISTILLERY.**

(b) Otherwise unusable parts of fruits, vegetables, aquatic plants, or field crops from the processing thereof, **INCLUDING THOSE GENERATED BY A BREWERY OR DISTILLERY.**

(c) Otherwise unusable food products that do not meet size, quality, or other product specifications and that were intended for human or animal consumption.

(20) "FOOD WASTE" MEANS AN ACCUMULATION OF ANIMAL OR VEGETABLE MATTER THAT WAS USED OR INTENDED FOR HUMAN OR ANIMAL FOOD OR THAT RESULTS FROM THE PREPARATION, USE, COOKING, DEALING IN, OR STORING OF ANIMAL OR VEGETABLE MATTER IF THE ACCUMULATION IS OR IS INTENDED TO BE DISCARDED. FOOD WASTE DOES NOT INCLUDE FATS, OILS, OR GREASE.

(21) "FOREIGN MATTER" MEANS ORGANIC AND INORGANIC CONSTITUENTS, OTHER THAN STICKS AND STONES, THAT WILL NOT READILY DECOMPOSE DURING COMPOSTING AND DO NOT AID IN PRODUCING COMPOST, INCLUDING GLASS, TEXTILES, RUBBER, METAL, CERAMICS, NONCOMPOSTABLE PLASTIC, AND PAINTED, LAMINATED, OR TREATED WOOD.

(22) ~~(18)~~ "Foundry sand" means silica sand used in the metal casting process, including binding material or carbonaceous additives, from ferrous or nonferrous foundries.

(23) "FUNCTIONAL STABILITY" MEANS THE STAGE AT WHICH A LANDFILL DOES NOT POSE A SIGNIFICANT RISK TO HUMAN HEALTH AND THE ENVIRONMENT AT A POINT OF EXPOSURE, IN THE ABSENCE OF ACTIVE CONTROL SYSTEMS.

(24) ~~(19)~~ "GAAMPS" means the generally accepted agricultural and management practices under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

~~(20) "Garbage" means rejected food wastes including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that results from the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.~~

(25) "GASIFICATION" MEANS A PROCESS THROUGH WHICH MATERIALS ARE HEATED, WITHOUT COMBUSTION, IN AN OXYGEN-DEFICIENT ATMOSPHERE AND CONVERTED TO SYNTHESIS GAS, WHICH CAN BE FURTHER CONVERTED INTO CHEMICALS, CHEMICAL FEEDSTOCKS, OR FUELS, SUCH AS ETHANOL.

(26) "GENERAL PERMIT" MEANS A PERMIT THAT DOES BOTH OF THE FOLLOWING:

(A) COVERS A CATEGORY OF ACTIVITIES THAT THE DEPARTMENT DETERMINES WILL NOT NEGATIVELY IMPACT HUMAN HEALTH AND WILL NOT HAVE MORE THAN MINIMAL SHORT-TERM ADVERSE IMPACTS ON THE NATURAL RESOURCES AND ENVIRONMENT.

(B) INCLUDES REQUIREMENTS FOR A SITE PLAN, AN OPERATIONS PLAN, A FACILITY FINAL CLOSURE PLAN, AND FINANCIAL ASSURANCE.

(27) "GENERAL USE COMPOST" MEANS FINISHED COMPOST THAT IS PRODUCED FROM 1 OF THE FOLLOWING:

(A) CLASS 1 COMPOSTABLE MATERIAL.

(B) CLASS 2 COMPOSTABLE MATERIAL, INCLUDING ANY COMBINATION OF CLASS 1 COMPOSTABLE MATERIAL AND CLASS 2 COMPOSTABLE MATERIAL, THAT MEETS THE REQUIREMENTS LISTED IN SECTION 11553(5).

Sec. 11504. (1) ~~"Health officer" means a full-time administrative officer of a certified health department.~~**"HOST COMMUNITY APPROVAL" MEANS AN AGREEMENT, RESOLUTION, LETTER, OR OTHER DOCUMENT INDICATING THAT THE GOVERNING BODY OF THE**

MUNICIPALITY WHERE THE MATERIALS MANAGEMENT FACILITY IS PROPOSED TO BE LOCATED HAS REVIEWED AND APPROVED THE DEVELOPMENT OF THAT SPECIFIC FACILITY.

(2) "HOUSEHOLD WASTE" MEANS SOLID WASTE THAT IS GENERATED BY SINGLE-FAMILY HOUSEHOLDS. HOUSEHOLD WASTE DOES NOT INCLUDE COMMERCIAL WASTE, INDUSTRIAL WASTE, HAZARDOUS WASTE, AND CONSTRUCTION AND DEMOLITION WASTE.

(3) "INDUSTRIAL WASTE" MEANS SOLID WASTE THAT IS GENERATED BY MANUFACTURING OR INDUSTRIAL PROCESSES AT AN INDUSTRIAL SITE AND THAT IS NOT A HAZARDOUS WASTE REGULATED UNDER PART 111.

(4) ~~(2)~~ "Industrial waste" means solid waste that is generated by manufacturing or industrial processes and that is not a hazardous waste regulated under part 111.

(5) ~~(3)~~ "Industrial waste landfill" means a landfill that is used for the disposal of any of the following, as applicable:

(a) Industrial waste that has been characterized for hazard and that has been determined to be nonhazardous under part 111.

(b) If the landfill is an existing disposal area, nonhazardous solid waste that originates from an industrial site.

(6) ~~(4)~~ "Inert material" means any of the following:

(a) Rock.

(b) Trees, stumps, and other similar land-clearing debris, if all of the following conditions are met:

(*i*) The debris is buried on the site of origin or another site, with the approval of the owner of the site.

(*ii*) The debris is not buried in a wetland or floodplain.

(*iii*) The debris is placed at least 3 feet above the

groundwater table as observed at the time of placement.

(*iv*) The placement of the debris does not violate federal, state, or local law or create a nuisance.

(c) Uncontaminated excavated soil or dredged sediment. Excavated soil or dredged sediment is considered uncontaminated if it does not contain more than de minimis amounts of solid waste and ~~1~~ **ANY** of the following~~ applies:~~**APPLY:**

(*i*) The soil or sediment is not contaminated by a hazardous substance as a result of human activity. Soil or sediment that naturally contains elevated levels of hazardous substances above unrestricted residential or any other part 201 generic soil cleanup criteria is not considered contaminated for purposes of this subdivision. A soil or sediment analysis is not required under this subparagraph if, based on past land use, there is no reason to believe that the soil or sediment is contaminated.

(*ii*) For any hazardous substance that could reasonably be expected to be present as a result of past land use and human activity, the soil or sediment does not exceed the background concentration, as that term is defined in ~~part 201.~~**SECTION 20101.**

(*iii*) For any hazardous substance that could reasonably be expected to be present as a result of past land use and human activity, the soil or sediment falls below part 201 generic residential soil direct contact cleanup criteria and hazardous substances in leachate from the soil or sediment, using, at the option of the generator, EPA method 1311, 1312, or any other leaching protocol approved by the department, fall below part 201 generic residential health based groundwater drinking water values

or criteria, and the soil or sediment would not cause a violation of any surface water quality standard established under part 31 at the area of placement, disposal, or use.

(d) Excavated soil from a site of environmental contamination, corrective action, or response activity if the soil is not a listed hazardous waste under part 111 and if hazardous substances in the soil do not exceed generic soil cleanup criteria for unrestricted residential use as defined in ~~part 201~~ **SECTION 20101** or background concentration as defined in ~~part 201,~~ **SECTION 20101**, as applicable.

(e) Construction brick, masonry, pavement, or broken concrete that is reused for fill, rip rap, slope stabilization, or other construction, if all of the following conditions are met:

(*i*) The use of the material does not violate section 3108, part 301, or part 303.

(*ii*) The material is not materially contaminated. Typical surface oil staining on pavement and concrete from driveways, roadways, and parking lots is not material contamination. Material covered in whole or in part with lead-based paint is materially contaminated.

(*iii*) The material does not include exposed reinforcing bars.

(f) Portland cement clinker produced by a cement kiln using wood, fossil fuels, or solid waste as a fuel or feedstock, but not including cement kiln dust generated in the process.

(g) Asphalt pavement or concrete pavement that meets all of the following requirements:

(*i*) Has been removed from a public right-of-way.

(*ii*) Has been stockpiled or crushed for reuse as aggregate

material.

(*iii*) Does not include exposed reinforcement bars.

(h) Cuttings, drilling materials, and fluids used to drill or complete a well installed pursuant to part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771, if the location of the well is not a facility under part 201.

(i) Any material determined by the department under section 11553(5) or (6) to be an inert material, either for general use or for a particular use.

(7) "INNOVATIVE TECHNOLOGY OR PRACTICE FACILITY" MEANS A MATERIALS MANAGEMENT FACILITY THAT CONVERTS SOLID WASTE INTO ENERGY OR A USABLE PRODUCT AND THAT IS NOT A MATERIALS RECOVERY FACILITY, A COMPOSTING FACILITY, OR AN ANAEROBIC DIGESTER.

(8) ~~(5)~~ "Insurance" means insurance that conforms to the requirements of 40 CFR 258.74(d) **AND IS** provided by an insurer ~~who~~ **THAT** has a certificate of authority from the director of insurance and financial services to sell this line of coverage. An applicant for an operating license **OR GENERAL PERMIT** shall submit evidence of the required coverage by submitting both of the following to the department:

(a) A certificate of insurance that uses wording approved by the department.

(b) A certified true and complete copy of the insurance policy. **[SECOND SENTENCE OF THIS DEFINITION IS REGULATORY AND SHOULD BE MOVED, PERHAPS TO SECTION 11523, AS A NEW SUBSECTION (3).]**

(9) ~~(6)~~ "Landfill" means a ~~disposal area that is a sanitary~~

1 ~~landfill.~~ **TYPE OF DISPOSAL AREA CONSISTING OF 1 OR MORE LANDFILL**
2 **UNITS AND THE ACTIVE WORK AREAS ASSOCIATED WITH THOSE UNITS.**
3 **LANDFILLS ARE CLASSIFIED AS 1 OF THE FOLLOWING:**
4 **(A) A TYPE II LANDFILL, WHICH IS A MUNICIPAL SOLID WASTE**
5 **LANDFILL AND INCLUDES A MUNICIPAL SOLID WASTE INCINERATOR ASH**
6 **LANDFILL.**
7 **(B) A TYPE III LANDFILL, WHICH IS ANY LANDFILL THAT IS NOT A**
8 **MUNICIPAL SOLID WASTE LANDFILL OR HAZARDOUS WASTE LANDFILL AND**
9 **INCLUDES ALL OF THE FOLLOWING:**
10 **(*i*) A CONSTRUCTION AND DEMOLITION WASTE LANDFILL.**
11 **(*ii*) AN INDUSTRIAL WASTE LANDFILL.**
12 **(*iii*) A LANDFILL THAT ACCEPTS WASTE OTHER THAN HOUSEHOLD**
13 **WASTE, MUNICIPAL SOLID WASTE INCINERATOR ASH, OR HAZARDOUS WASTE**
14 **FROM CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS.**
15 **(*iv*) A COAL ASH LANDFILL.**
16 **(*v*) AN EXISTING COAL ASH IMPOUNDMENT THAT IS CLOSED OR IS**
17 **ACTIVELY BEING CLOSED AS A LANDFILL PURSUANT TO R 299.4309 OF THE**
18 **PART 115 RULES.**
19 **(10) "LANDFILL CARE FUND" MEANS A TRUST OR ESCROW ACCOUNT OR**
20 **LANDFILL CARE FUND BOND REQUIRED BY SECTION 11525C.**
21 **(11) "LANDFILL CARE FUND BOND" MEANS A SURETY BOND, AN**
22 **IRREVOCABLE LETTER OF CREDIT, OR A COMBINATION OF THESE INSTRUMENTS**
23 **IN FAVOR OF THE DEPARTMENT BY WHICH A LANDFILL CARE FUND IS**
24 **ESTABLISHED.**
25 **(12) "LARGE COMPOSTING FACILITY" MEANS A COMPOSTING FACILITY**
26 **THAT AT ANY TIME CONTAINS MORE THAN 10,000 CUBIC YARDS OF**
27 **COMPOSTABLE MATERIAL.**

(13) ~~(7)~~ "Lateral expansion" means a horizontal expansion of the solid waste boundary of any of the following:

(a) A landfill, other than a coal ash landfill, if the expansion is beyond the limit established in a construction permit or engineering plans approved by the solid waste control agency before January 11, 1979.

(b) A coal ash landfill, if the expansion is beyond the limit established in a construction permit issued after the effective date of the amendatory act that added this subsection or the horizontal limits of coal ash in place on or before October 14, 2015.

(c) A coal ash impoundment, if the expansion is beyond the limit established in a construction permit or the horizontal limits of coal ash in place on or before October 14, 2015.

(14) ~~(8)~~ "Letter of credit" means an irrevocable letter of credit that complies with 40 CFR 258.74(c).

(15) "LICENSE" MEANS AN OPERATING LICENSE.

(16) ~~(9)~~ "Lime kiln dust" means particulate matter collected in air emission control devices serving lime kilns.

(17) "LOCAL HEALTH OFFICER" MEANS A LOCAL HEALTH OFFICER AS DEFINED IN SECTION 1105 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.1105, TO WHICH THE DEPARTMENT DELEGATES CERTAIN DUTIES UNDER PART 115.

(18) ~~(10)~~ "Low-hazard industrial waste" means industrial material that has a low potential for groundwater contamination when managed in ~~accordance~~ **COMPLIANCE** with ~~this~~ part **115.** ~~The~~ **ALL OF THE** following materials are low-hazard industrial wastes:

(a) Coal ash or wood ash.

(b) Cement kiln dust.

(c) Pulp and paper mill material.

(d) Scrap wood.

(e) Sludge from the treatment and conditioning of water for domestic use.

(f) Residue from the thermal treatment of petroleum contaminated soil, media, or debris.

(g) Sludge from the treatment and conditioning of water from a community water supply.

(h) Foundry sand.

(i) Mixed wood ash, scrap wood ash, pulp and paper mill ash.

(j) Street cleanings.

(k) Asphalt shingles.

(*l*) New construction or production scrap drywall.

(m) Chipped or shredded tires.

(n) Copper slag.

(o) Copper stamp sands.

(p) Dredge material from nonremedial activities.

(q) Flue gas desulfurization material.

(r) Dewatered grinding slurry generated from public transportation agency road projects.

(s) Any material determined by the department under section 11553(7) to be a low-hazard industrial waste.

(19) ~~(11)~~ "Low-hazard-potential coal ash impoundment" means a coal ash impoundment that is a diked surface impoundment, the failure or misoperation of which is expected to result in no loss

of human life and low economic or environmental losses principally limited to the impoundment owner's property.

(20) "MANAGED MATERIAL" MEANS SOLID WASTE, DIVERTED WASTE, OR RECYCLABLE MATERIAL. MANAGED MATERIAL DOES NOT INCLUDE A MATERIAL OR PRODUCT THAT CONTAINS IRON, STEEL, OR NONFERROUS METALS AND THAT IS DIRECTED TO OR RECEIVED BY A PERSON SUBJECT TO THE SCRAP METAL REGULATORY ACT, 2008 PA 429, MCL 445.421 TO 445.443, OR BY A REUSER OF THESE METALS.

(21) "MATERIALS MANAGEMENT FACILITY" OR, UNLESS THE CONTEXT IMPLIES A DIFFERENT MEANING, "FACILITY" MEANS ANY OF THE FOLLOWING, SUBJECT TO SUBSECTION (22):

(A) A DISPOSAL AREA.

(B) A MATERIALS UTILIZATION FACILITY.

(C) A WASTE DIVERSION CENTER.

(22) MATERIALS MANAGEMENT FACILITY OR FACILITY DOES NOT INCLUDE A PERSON, UTILIZING MACHINERY AND EQUIPMENT AND OPERATING FROM A FIXED LOCATION, WHOSE PRINCIPAL BUSINESS IS THE PROCESSING AND MANUFACTURING OF IRON, STEEL, OR NONFERROUS METALS INTO PREPARED GRADES OF PRODUCTS SUITABLE FOR CONSUMPTION, REUSE, OR ADDITIONAL PROCESSING.

(23) "MATERIALS MANAGEMENT PLAN" OR "MMP" MEANS A PLAN REQUIRED UNDER SECTION 11571.

(24) "MATERIALS RECOVERY FACILITY", SUBJECT TO SUBSECTION (25), MEANS A FACILITY THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

(A) RECEIVES PRIMARILY SOURCE SEPARATED MATERIAL FOR REUSE, RECYCLING, OR UTILIZATION AS A RAW MATERIAL OR NEW PRODUCT.

1 (B) ON AN ANNUAL BASIS, DOES NOT RECEIVE AN AMOUNT OF SOLID
2 WASTE EQUAL TO OR MORE THAN 15% OF THE TOTAL WEIGHT OF MATERIAL
3 RECEIVED BY THE FACILITY UNLESS THE MATERIALS RECOVERY FACILITY IS
4 MAKING REASONABLE EFFORT AND HAS AN EDUCATION PROGRAM TO REDUCE THE
5 AMOUNT OF SOLID WASTE. MATERIAL DISPOSED AS A RESULT OF RECYCLING
6 MARKET FLUCTUATIONS IS NOT INCLUDED IN THE 15% CALCULATION.
7 (25) MATERIALS RECOVERY FACILITY DOES NOT INCLUDE ANY OF THE
8 FOLLOWING:
9 (A) A RETAIL, COMMERCIAL, OR INDUSTRIAL ESTABLISHMENT THAT
10 BALES FOR OFF-SITE SHIPMENT MANAGED MATERIAL THAT IT GENERATES.
11 (B) A RETAIL ESTABLISHMENT THAT COLLECTS RETURNABLE BEVERAGE
12 CONTAINERS UNDER 1976 IL 1, MCL 445.571 TO 445.576.
13 (C) A BEVERAGE DISTRIBUTOR, OR ITS AGENT, THAT MANAGES
14 RETURNABLE BEVERAGE CONTAINERS UNDER 1976 IL 1, MCL 445.571 TO
15 445.576.
16 (D) AN END USER OR SECONDARY PROCESSOR OF RECYCLED MATERIALS
17 THAT WERE PRIMARILY GENERATED BY AN INDUSTRIAL FACILITY OR WERE
18 PREVIOUSLY SORTED OR PROCESSED.
19 (26) "MATERIALS UTILIZATION" MEANS RECYCLING, COMPOSTING, OR
20 CONVERTING MATERIAL INTO ENERGY RATHER THAN DISPOSING THE MATERIAL.
21 (27) "MATERIALS UTILIZATION FACILITY" MEANS A FACILITY THAT IS
22 ANY OF THE FOLLOWING:
23 (A) A MATERIALS RECOVERY FACILITY.
24 (B) A COMPOSTING FACILITY.
25 (C) AN ANAEROBIC DIGESTER, EXCEPT AT A MANUFACTURING FACILITY
26 THAT GENERATES ITS OWN FEEDSTOCK.
27 (D) AN INNOVATIVE TECHNOLOGY OR PRACTICE FACILITY.

(28) "MATERIALS UTILIZATION GOALS" MEANS GOALS IDENTIFIED IN THE MMP PURSUANT TO SECTION 11578(A).

(29) ~~(12)~~ "Medical waste" means that term as it is defined in section 13805 of the public health code, 1978 PA 368, MCL 333.13805.

(30) "MEDIUM COMPOSTING FACILITY" MEANS A COMPOSTING FACILITY TO WHICH ALL OF THE FOLLOWING APPLY:

(A) THE SITE AT ANY TIME CONTAINS 1,000 OR MORE CUBIC YARDS OF COMPOSTABLE MATERIAL, BUT DOES NOT AT ANY TIME CONTAIN MORE THAN 10,000 CUBIC YARDS OF COMPOSTABLE MATERIAL.

(B) THE SITE DOES NOT AT ANY TIME CONTAIN MORE THAN 10% BY VOLUME OF CLASS 1 COMPOSTABLE MATERIAL OTHER THAN YARD WASTE.

(C) UNLESS APPROVED BY THE DEPARTMENT, THE SITE DOES NOT AT ANY TIME ON ANY ACRE CONTAIN MORE THAN 5,000 CUBIC YARDS OF COMPOSTABLE MATERIAL, FINISHED PRODUCT, COMPOST ADDITIVES, OR SCREENING REJECTS. [SUBDIVISIONS (B) AND (C) SEEM TO BE REGULATORY PROVISIONS. IF THEY ARE NOT MET, THEN THE FACILITY IS NOT A MEDIUM COMPOSTING FACILITY AND, BY VIRTUE OF SUBDIVISION (A), IT IS NOT A LARGE OR SMALL COMPOSTING FACILITY EITHER. SAME ISSUE ARISES IN SUBDIVISION (B) OF THE DEFINITION OF SMALL COMPOSTING FACILITY.]

(31) ~~(13)~~ "Mixed wood ash" means the material recovered from air pollution control systems for, or the noncombusted residue remaining after, the combustion of any combination of wood, scrap wood, railroad ties, or tires, if railroad ties composed less than 35% by weight of the total combusted material and tires composed less than 10% by weight of the total combusted material.

(32) "MUNICIPAL SOLID WASTE" MEANS HOUSEHOLD WASTE, COMMERCIAL

WASTE, WASTE GENERATED BY OTHER NONINDUSTRIAL LOCATIONS, WASTE THAT HAS CHARACTERISTICS SIMILAR TO THAT GENERATED AT A HOUSEHOLD OR COMMERCIAL BUSINESS, OR ANY COMBINATION THEREOF. MUNICIPAL SOLID WASTE DOES NOT INCLUDE MUNICIPAL WASTEWATER TREATMENT SLUDGES, INDUSTRIAL PROCESS WASTES, AUTOMOBILE BODIES, COMBUSTION ASH, OR CONSTRUCTION AND DEMOLITION DEBRIS.

(33) ~~(14)~~ "Municipal solid waste incinerator" means an incinerator that is owned or operated by any person, and **THAT** meets all of the following requirements:

(a) The incinerator receives solid waste from off site and burns only household waste from single and multiple dwellings, hotels, motels, and other residential sources, or this household waste together with solid waste from commercial, institutional, municipal, county, or industrial sources that, if disposed of, would not be required to be placed in a disposal facility licensed under part 111.

(b) The incinerator has established contractual requirements or other notification or inspection procedures sufficient to ensure that the incinerator receives and burns only waste referred to in subdivision (a).

(c) The incinerator meets the requirements of ~~this part and the rules promulgated under this~~ part **115.**

(d) The incinerator is not an industrial furnace as defined in 40 CFR 260.10.

(e) The incinerator is not an incinerator that receives and burns only medical waste or only waste produced at 1 or more hospitals.

(34) ~~(15)~~ "Municipal solid waste incinerator ash" means the substances remaining after combustion in a municipal solid waste incinerator.

(35) "MUNICIPAL SOLID WASTE RECYCLING RATE" MEANS THE AMOUNT OF MUNICIPAL SOLID WASTE RECYCLED OR COMPOSTED, DIVIDED BY THE AMOUNT OF MUNICIPAL SOLID WASTE RECYCLED, COMPOSTED, LANDFILLED, OR INCINERATED.

(36) ~~(16)~~ "New coal ash impoundment" means a coal ash impoundment that first receives coal ash after the effective date of the amendatory act that added this subsection.

(37) ~~(17)~~ "New disposal area" means a disposal area that requires a construction permit under this part and includes all of the following:

(a) A disposal area, other than an existing disposal area, that is proposed for construction.

(b) For a landfill, a lateral expansion, vertical expansion, or other expansion that results in an increase in the landfill's design capacity.

(c) A new coal ash impoundment, or a lateral expansion of a coal ash impoundment beyond the placement of waste as of October 14, 2015.

(d) For a disposal area other than landfills or coal ash impoundments, an enlargement in capacity beyond that indicated in the construction permit or in engineering plans approved before January 11, 1979.

(e) For any existing disposal area, an alteration of the disposal area to a different disposal area type than had been

specified in the previous construction permit application or in engineering plans that were approved by the director or his or her designee before January 11, 1979.

(38) ~~(18)~~ "Nonresidential property" means property not used or intended to be used for any of the following:

(a) A child day care center.

(b) An elementary school.

(c) An elder care and assisted living center.

(d) A nursing home.

(e) A single-family or multifamily dwelling unless the dwelling is part of a mixed use development and all dwelling units and associated outdoor residential use areas are located above the ground floor.

(39) "OPERATE" INCLUDES, BUT IS NOT LIMITED TO, CONDUCTING, MANAGING, AND MAINTAINING.

(40) "PART 115" MEANS THIS PART AND RULES PROMULGATED UNDER THIS PART.

(41) ~~(19)~~ "Part 115 rules" means R 299.4101 to R 299.4922 of the Michigan Administrative Code including any amendments to or replacements of those rules.

(42) ~~(20)~~ "Perpetual care fund" means a trust or escrow account or perpetual care fund bond provided for in section 11525.

(43) ~~(21)~~ "Perpetual care fund bond" means a surety bond, an irrevocable letter of credit, or a combination of these instruments in favor of and on a form approved by the department by which a perpetual care fund is established.

(44) "PLANNING AREA" MEANS THE GEOGRAPHIC AREA TO WHICH A

MATERIALS MANAGEMENT PLAN APPLIES.

(45) "PLANNING COMMITTEE" MEANS A COMMITTEE APPOINTED UNDER SECTION 11572.

(46) "PREEXISTING UNIT" MEANS A LANDFILL UNIT THAT IS OR WAS LICENSED UNDER PART 115 BUT HAS NOT RECEIVED WASTE AFTER OCTOBER 9, 1993.

(47) ~~(22)~~ "Pulp and paper mill ash" means the material recovered from air pollution control systems for, or the noncombusted residue remaining after, the combustion of any combination of coal, wood, pulp and paper mill material, wood or biomass fuel pellets, scrap wood, railroad ties, or tires, ~~from~~ **IN** a boiler, power plant, or furnace at a pulp and paper mill, if railroad ties composed less than 35% by weight of the total combusted material and tires composed less than 10% by weight of the total combusted material.

(48) ~~(23)~~ "Pulp and paper mill material" means all of the following materials if generated at a facility that produces pulp or paper:

(a) Wastewater treatment sludge, including wood fibers, minerals, and microbial biomass.

(b) Rejects from screens, cleaners, and mills.

(c) Bark, wood fiber, and chips.

(d) Scrap paper.

(e) Causticizing residues, including lime mud and grit and green liquor dregs.

(f) Any material that the department determines has characteristics that are similar to any of the materials listed in

subdivisions (a) to (e).

(49) "PYROLYSIS" MEANS A PROCESS THAT DOES NOT INVOLVE COMBUSTION AND THROUGH WHICH MATERIALS ARE HEATED IN THE ABSENCE OF OXYGEN UNTIL MELTED AND THERMALLY DECOMPOSED, AND THEN ARE COOLED, CONDENSED, AND CONVERTED INTO OTHER INTERMEDIATE OR FINAL PRODUCTS.

Sec. 11505. **(1) "RDDP" MEANS A RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECT FOR A NEW OR EXISTING TYPE II LANDFILL UNIT OR FOR A LATERAL EXPANSION OF A TYPE II LANDFILL UNIT.**

(2) ~~(1)~~ "Recyclable materials" means ~~source separated materials, site separated materials, high grade paper,~~ glass, metal, ~~plastic, aluminum, newspaper, corrugated~~ **PLASTICS**, paper **PRODUCTS, WOOD, RUBBER, TEXTILES, FOOD WASTE,** yard clippings, and other materials that may be recycled or composted.

(3) "RECYCLING" MEANS AN ACTION OR PROCESS, SUCH AS SEPARATION, SORTING, BALING, OR SHIPPING, APPLIED TO MATERIALS THAT ARE NO LONGER BEING USED AND THAT WOULD HAVE OTHERWISE BEEN DISPOSED AS WASTE, FOR THE PURPOSE OF CONVERTING THE MATERIALS INTO RAW MATERIALS OR NEW PRODUCTS.

(4) ~~(2)~~ "Regional ~~solid waste management~~ planning agency" means the regional solid waste planning agency designated by the governor pursuant to 42 USC 6946.

(5) ~~(3)~~ "Resource recovery facility" means machinery, equipment, structures, or any parts or accessories of machinery, equipment, or structures, installed or acquired for the primary purpose of recovering materials or energy from the waste stream.

(6) ~~(4)~~ "Response activity" means an activity that is necessary to protect the public health, safety, welfare, or the

environment, and includes, but is not limited to, evaluation, cleanup, removal, containment, isolation, treatment, monitoring, maintenance, replacement of water supplies, and temporary relocation of people.

(7) "RESTRICTED USE COMPOST" MEANS COMPOST THAT IS PRODUCED FROM CLASS 2 COMPOSTABLE MATERIAL, INCLUDING ANY COMBINATION OF CLASS 1 COMPOSTABLE MATERIAL AND CLASS 2 COMPOSTABLE MATERIAL, THAT IS NOT APPROVED AS INERT UNDER SECTION 11553(5).

(8) "REUSE" MEANS TO REMANUFACTURE, USE AGAIN, USE IN A DIFFERENT MANNER, OR USE AFTER RECLAMATION.

(9) ~~(5)~~ "Rubbish" means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard ~~clippings,~~ **WASTE**, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the public health and safety.

(10) ~~(6)~~ "Salvaging" means the lawful and controlled removal of reusable materials from solid waste.

~~(7) "Sanitary landfill" means a type of disposal area consisting of 1 or more landfill units and the active work areas associated with those units. Sanitary landfills are classified as 1 of the following types of landfills:~~

~~(a) A type II landfill, which is a municipal solid waste landfill and includes a municipal solid waste incinerator ash landfill.~~

~~(b) A type III landfill, which is any landfill that is not a municipal solid waste landfill or hazardous waste landfill and~~

~~includes all of the following:~~

~~(*i*) A construction and demolition waste landfill.~~

~~(*ii*) An industrial waste landfill.~~

~~(*iii*) A landfill that accepts waste other than household waste, municipal solid waste incinerator ash, or hazardous waste from conditionally exempt small quantity generators.~~

~~(*iv*) A coal ash landfill.~~

~~(*v*) An existing coal ash impoundment that is closed or is actively being closed as a landfill pursuant to R 299.4309 of the part 115 rules.~~

(11) ~~(8)~~ "Scrap wood" means wood or wood product that is 1 or more of the following:

(a) Plywood, particle board, pressed board, oriented strand board, fiberboard, resonated wood, or any other wood or wood product mixed with glue, resins, or filler.

(b) Wood or wood product treated with creosote or pentachlorophenol.

(c) Any wood or wood product designated as scrap wood in rules promulgated by the department.

(12) ~~(9)~~ "Sharps" means that term as defined in section 13807 of the public health code, 1978 PA 368, MCL 333.13807.

~~(10) "Site separated material" means glass, metal, wood, paper products, plastics, rubber, textiles, garbage, or any other material approved by the department that is separated from solid waste for the purpose of recycling or conversion into raw materials or new products.~~

(13) ~~(11)~~ "Slag" means the nonmetallic product resulting from

melting or smelting operations for iron or steel.

(14) "SMALL COMPOSTING FACILITY" MEANS A COMPOSTING FACILITY TO WHICH BOTH OF THE FOLLOWING APPLY:

(A) THE SITE AT ANY TIME CONTAINS MORE THAN 500 CUBIC YARDS OF COMPOSTABLE MATERIAL BUT DOES NOT AT ANY TIME CONTAIN 1,000 OR MORE CUBIC YARDS OF COMPOSTABLE MATERIAL.

(B) THE SITE DOES NOT AT ANY TIME CONTAIN MORE THAN 5% BY VOLUME OF CLASS 1 COMPOSTABLE MATERIAL OTHER THAN YARD WASTE.

Sec. 11506. (1) "Solid waste" means ~~garbage,~~ **FOOD WASTE**, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial waste, solid industrial waste, and animal waste. However, solid waste does not include **ANY OF** the following:

(a) Human body waste.

(b) Medical waste.

(c) ~~Organic waste~~ **MANURE OR ANIMAL BEDDING** generated in the production of livestock and poultry, **IF MANAGED IN COMPLIANCE WITH THE APPROPRIATE GAAMPS.**

(d) Liquid waste.

(e) Ferrous or nonferrous scrap directed to a scrap metal processor or to a reuser of ferrous or nonferrous products.

(f) Slag or slag products directed to a slag processor or to a reuser of slag or slag products.

(g) Sludges and ashes managed as recycled or nondetrimental materials appropriate for agricultural or silvicultural use pursuant to a plan approved by the department.

(h) The following materials that are used as animal feed, or

are applied on, or are composted and applied on, farmland or forestland for an agricultural or silvicultural purpose at an agronomic rate consistent with GAAMPS:

(*i*) Food processing residuals and ~~garbage.~~**FOOD WASTE.**

(*ii*) Precipitated calcium carbonate from sugar beet processing.

(*iii*) Wood ashes resulting solely from a source that burns only wood that is untreated and inert.

(*iv*) Lime from kraft pulping processes generated ~~prior to~~ **BEFORE** bleaching.

(*v*) Aquatic plants.

(i) Materials approved for emergency disposal by the department.

(j) Source separated materials.

~~(k) Site separated material.~~

(K) ~~(*l*)~~ Coal ash, when used under any of the following circumstances:

(*i*) As a component of concrete, grout, mortar, or casting molds, if the coal ash does not have more than 6% unburned carbon.

(*ii*) As a raw material in asphalt for road construction, if the coal ash does not have more than 12% unburned carbon and passes Michigan test method for water asphalt preferential test, MTM 101, as set forth in the state transportation department's manual for the Michigan test methods (MTM).

(*iii*) As aggregate, road material, or building material that in ultimate use is or will be stabilized or bonded by cement, limes, or asphalt, or itself act as a bonding agent. To be

1 considered to act as a bonding agent, the coal ash must have at
2 least 10% available lime.
3 (*iv*) As a road base or construction fill that is placed at
4 least 4 feet above the seasonal groundwater table and covered with
5 asphalt, concrete, or other material approved by the department.
6 **(*l*)** ~~(m)~~ Inert material.
7 **(M)** ~~(n)~~ Soil that is washed or otherwise removed from sugar
8 beets, has not more than 55% moisture content, and is registered as
9 a soil conditioner under part 85. Any testing required to become
10 registered under part 85 is the responsibility of the generator.
11 **(N)** ~~(o)~~ Soil that is relocated under section 20120c.
12 **(O)** ~~(p)~~ Diverted waste that is managed through a waste
13 diversion center.
14 **(P)** ~~(q)~~ Beneficial use by-products.
15 **(Q)** ~~(r)~~ Coal bottom ash, if substantially free of fly ash or
16 economizer ash, when used as cold weather road abrasive.
17 **(R)** ~~(s)~~ Stamp sands when used as cold weather road abrasive in
18 the Upper Peninsula by any of the following:
19 (*i*) A public road agency.
20 (*ii*) Any other person pursuant to a plan approved by a public
21 road agency.
22 **(S)** ~~(t)~~ Any material that is reclaimed or reused in the
23 process that generated it.
24 **(T)** ~~(u)~~ Any secondary material that, as specified in or
25 determined pursuant to 40 CFR part 241, is not a solid waste when
26 combusted.
27 **(U)** ~~(v)~~ Other wastes regulated by statute.

(2) "Solid waste hauler" means a person who owns or operates a solid waste transporting unit.

(3) "SOLID WASTE MANAGEMENT FUND" MEANS THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 11550.

(4) ~~(3)~~ "Solid waste processing ~~plant"~~ **AND TRANSFER FACILITY"** means a tract of land, **A** building ~~,~~ **OR** unit ~~, or appurtenance~~ **AND ANY APPURTENANCES** of a building or unit, **A CONTAINER**, or ~~a~~ **ANY** combination of ~~land, buildings, and units~~ **THESE** that is used or intended for use ~~for~~ **IN** the **HANDLING, STORAGE, TRANSFER, OR** processing of solid waste, ~~or the separation of material for salvage or disposal, or both, but does not include a plant engaged primarily in the acquisition, processing, and shipment of ferrous or nonferrous metal scrap, or a plant engaged primarily in the acquisition, processing, and shipment of slag or slag products.~~**AND IS NOT LOCATED AT THE SITE OF GENERATION OR THE SITE OF DISPOSAL OF THE SOLID WASTE. SOLID WASTE PROCESSING AND TRANSFER FACILITY INCLUDES A PYROLYSIS FACILITY OR GASIFICATION PLANT THAT USES SOLID WASTE AS A FEEDSTOCK.**

(5) ~~(4)~~ "Solid waste transporting unit" means a container, which may be an integral part of a truck or other piece of equipment used for the transportation of solid waste.

~~(5) "Solid waste transfer facility" means a tract of land, a building and any appurtenances, or a container, or any combination of land, buildings, or containers that is used or intended for use in the rehandling or storage of solid waste incidental to the transportation of the solid waste, but is not located at the site of generation or the site of disposal of the solid waste.~~

(6) "SOURCE REDUCTION" MEANS ANY PRACTICE THAT REDUCES OR ELIMINATES THE GENERATION OF WASTE AT THE SOURCE.

(7) ~~(6)~~ "Source separated material" means any of the following materials if separated at the source of generation **OR AT A MATERIALS MANAGEMENT FACILITY THAT COMPLIES WITH PART 115** and **IF** not speculatively accumulated:

(a) Glass, metal, wood, paper products, plastics, rubber, textiles, ~~garbage,~~ **FOOD WASTE, ELECTRONICS, LATEX PAINT, YARD WASTE,** or any other material approved by the department that is used for conversion into raw materials or new products. For the purposes of this subdivision, raw materials or new products include, but are not limited to, compost, biogas from anaerobic digestion, synthesis gas from gasification or pyrolysis, or other fuel. This subdivision does not prohibit material from being classified as a renewable energy resource as defined in section 11 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1011.

(b) Scrap wood and railroad ties used to fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55, for production of new wood products, or for other uses approved by the department.

(c) Chipped or whole tires used to fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55, or for other uses approved by the department. This subdivision does not prohibit material from being classified as a renewable energy resource as defined in section 11 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1011.

(d) Recovered paint solids if used to fuel an industrial boiler, kiln, power plant, **GASIFICATION FACILITY**, or furnace, subject to part 55; ~~,~~ **IF BONDED WITH CEMENT OR ASPHALT**; or if used for other uses approved by the department.

(e) Gypsum drywall generated from the production of wallboard used for stock returned to the production process or for other uses approved by the department.

(f) Flue gas desulfurization gypsum used for production of cement or wallboard or other uses approved by the department.

(g) Asphalt shingles that ~~do~~ **MEET BOTH OF THE FOLLOWING REQUIREMENTS:**

(*i*) DO not contain asbestos, rolled roofing, or tar paper.

(*ii*) ARE used as a component in asphalt or used to fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55, or for other uses approved by the department.

(h) Municipal solid waste incinerator ash that meets criteria specified by the department and that is used as daily cover at a disposal facility licensed pursuant to ~~this~~ part **115**.

(i) Utility poles or pole segments reused as poles, posts, or similar uses approved by the department in writing.

(j) Railroad ties reused in landscaping, embankments, or similar uses approved by the department in writing.

(k) Any materials and uses approved by the department under section 11553(8).

(*l*) LEAVES THAT ARE GROUND OR MIXED WITH GROUND WOOD AND SOLD AS MULCH FOR LANDSCAPING PURPOSES IF THE VOLUMES SO MANAGED ARE REPORTED TO THE DEPARTMENT IN THE MANNER PROVIDED IN SECTION 11560.

(M) ~~(l)~~ Any material determined by the department in writing before September 16, 2014 to be a source separated material.

(N) YARD WASTE THAT IS LAND APPLIED ON A FARM AT AGRONOMIC RATES CONSISTENT WITH GAAMPS.

(O) YARD WASTE, CLASS 1 COMPOSTABLE MATERIAL, AND CLASS 2 COMPOSTABLE MATERIAL THAT ARE DELIVERED TO AN ANAEROBIC DIGESTER AUTHORIZED UNDER PART 115 BY THE DEPARTMENT TO RECEIVE THE MATERIAL.

(P) RECYCLABLE MATERIALS.

(8) ~~(7)~~ "Stamp sands" means finely grained crushed rock resulting from mining, milling, or smelting of copper ore and includes native substances contained within the crushed rock and any ancillary material associated with the crushed rock.

(9) ~~(8)~~ "Treated wood" means wood or wood product that has been treated with 1 or more of the following:

(a) Chromated copper arsenate (CCA).

(b) Ammoniacal copper quat (ACQ).

(c) Ammoniacal copper zinc arsenate (ACZA).

(d) Any other chemical designated in rules promulgated by the department.

(10) ~~(9)~~ "Trust fund" means a fund held by a trustee who has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(11) ~~(10)~~ "Type I public water supply", "type IIa public water supply", "type IIb public water supply", and "type III public water supply" mean those terms, respectively, as described in R 325.10502 of the Michigan Administrative Code.

1 **(12) "TYPE II LANDFILL" MEANS A LANDFILL THAT RECEIVES**
2 **HOUSEHOLD WASTE OR MUNICIPAL SOLID WASTE INCINERATOR ASH, OR BOTH,**
3 **AND THAT MAY ALSO RECEIVE OTHER TYPES OF SOLID WASTE, SUCH AS ANY**
4 **OF THE FOLLOWING:**
5 **(A) CONSTRUCTION AND DEMOLITION WASTE.**
6 **(B) SEWAGE SLUDGE.**
7 **(C) COMMERCIAL WASTE.**
8 **(D) NONHAZARDOUS SLUDGE.**
9 **(E) HAZARDOUS WASTE FROM CONDITIONALLY EXEMPT SMALL QUANTITY**
10 **GENERATORS.**
11 **(F) INDUSTRIAL WASTE.**
12 **(13) "TYPE III LANDFILL" MEANS A LANDFILL THAT IS NOT A TYPE**
13 **II LANDFILL OR HAZARDOUS WASTE LANDFILL AND INCLUDES ALL OF THE**
14 **FOLLOWING:**
15 **(A) A CONSTRUCTION AND DEMOLITION WASTE LANDFILL.**
16 **(B) AN INDUSTRIAL WASTE LANDFILL.**
17 **(C) A LOW HAZARD INDUSTRIAL WASTE LANDFILL. [CAN THIS BE**
18 **INCLUDED UNDER SUBDIVISION (B)?]**
19 **(D) A SURFACE IMPOUNDMENT AUTHORIZED AS AN INDUSTRIAL WASTE**
20 **LANDFILL.**
21 **(E) A LANDFILL THAT ACCEPTS ONLY WASTE OTHER THAN HOUSEHOLD**
22 **WASTE, MUNICIPAL SOLID WASTE INCINERATOR ASH, OR HAZARDOUS WASTE**
23 **FROM CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS.**
24 **(14) "VERMICULTURE" MEANS THE CONTROLLED AND MANAGED PROCESS**
25 **BY WHICH LIVE WORMS DEGRADE ORGANIC MATERIALS INTO WORM CASTINGS OR**
26 **WORM HUMUS.**
27 **(15)** ~~(11)~~ "Waste diversion center" means property or a

building, or a portion of property or a building, designated for the purpose of receiving or collecting diverted wastes and not used for residential purposes.

(16) ~~(12)~~ "Wood" means trees, branches and associated leaves, bark, lumber, pallets, wood chips, sawdust, or other wood or wood product but does not include scrap wood, treated wood, painted wood or painted wood product, or any wood or wood product that has been contaminated during manufacture or use.

(17) ~~(13)~~ "Wood ash" means any type of ash or slag resulting from the burning of wood.

(18) ~~(14)~~ "Yard ~~clippings"~~ **WASTE"** means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings, less than 4 feet in length and 2 inches in diameter, that can be converted to compost. Yard ~~clippings do~~ **WASTE DOES** not include stumps, agricultural wastes, animal waste, roots, sewage sludge, or ~~garbage.~~**CHRISTMAS TREES OR OTHER HOLIDAY DECORATIONS MADE OF VEGETATION, FOOD WASTE, OR FINISHED COMPOST MADE FROM YARD WASTE.**

Sec. 11507. **(1) OPTIMIZING RECYCLING OPPORTUNITIES, INCLUDING ELECTRONICS RECYCLING OPPORTUNITIES, AND THE REUSE OF MATERIALS ARE A PRINCIPAL OBJECTIVE OF THIS STATE'S SOLID WASTE MANAGEMENT PLAN. RECYCLING AND REUSE OF MATERIALS, INCLUDING THE REUSE OF MATERIALS FROM ELECTRONIC DEVICES, ARE IN THE BEST INTEREST OF THE PUBLIC HEALTH AND WELFARE. THIS STATE SHOULD DEVELOP POLICIES AND PRACTICES THAT PROMOTE RECYCLING AND REUSE OF MATERIALS, WASTE REDUCTION, AND POLLUTION PREVENTION AND THAT, TO THE EXTENT PRACTICAL, MINIMIZE THE USE OF LANDFILLING AND MUNICIPAL SOLID**

WASTE INCINERATION AS METHODS FOR DISPOSAL OF WASTE. POLICIES AND PRACTICES THAT PROMOTE RECYCLING AND REUSE OF MATERIALS, INCLUDING MATERIALS FROM ELECTRONIC DEVICES, RESULT IN CONSERVATION OF RAW MATERIALS AND LANDFILL SPACE AND AVOID THE CONTAMINATION OF SOIL AND GROUNDWATER FROM HEAVY METALS AND OTHER POLLUTANTS.

(2) IT IS THE GOAL OF THIS STATE TO ACHIEVE A 45% MUNICIPAL SOLID WASTE RECYCLING RATE, AND, AS AN INTERIM STEP, A 30% MUNICIPAL SOLID WASTE RECYCLING RATE BY 2025, THROUGH THE BENCHMARK RECYCLING STANDARDS.

(3) ~~(1)~~ The department and a **LOCAL** health officer shall assist in developing and encouraging methods for the disposal of solid waste that are environmentally sound, that maximize the utilization of valuable resources, and that encourage resource conservation including source reduction and source separation.

(4) ~~(2) This part~~ **PART 115** shall be construed and administered to encourage and facilitate ~~the effort of~~ all persons to engage in source separation ~~and site separation~~ of material from solid waste, and other environmentally sound measures to prevent materials from entering the waste stream or ~~which encourage the removal of~~ **TO REMOVE** materials from the waste stream.

(5) A PERSON SHALL NOT DISPOSE, STORE, OR TRANSPORT SOLID WASTE IN THIS STATE UNLESS THE PERSON COMPLIES WITH PART 115.

(6) ~~(3) The department may exempt from regulation under this part solid waste that is determined by the department to be inert material for uses and in a manner approved by the department.~~**PART 115 IS INTENDED TO ENCOURAGE THE CONTINUATION OF THE PRIVATE SECTOR IN MATERIALS MANAGEMENT, DISPOSAL, AND TRANSPORTATION IN COMPLIANCE**

WITH PART 115. PART 115 IS NOT INTENDED TO PROHIBIT SALVAGING.

Sec. 11507a. ~~(1) The owner or operator of a landfill shall annually submit a report to the state and the county and municipality in which the landfill is located that contains information on the amount 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 this part but has not yet been constructed. The report shall be submitted on a form provided by the department within 45 days following the end of each state fiscal year.~~

~~(2) By January 31 of each year, the department shall submit to the legislature a report summarizing the information obtained under subsection (1).~~ **UNDER RULES PROMULGATED BY THE DEPARTMENT, THE DEPARTMENT MAY CERTIFY A CITY, COUNTY, OR DISTRICT HEALTH DEPARTMENT TO PERFORM A SOLID WASTE MANAGEMENT PROGRAM OR DESIGNATED ACTIVITIES AS PRESCRIBED IN PART 115. THE DEPARTMENT MAY RESCIND CERTIFICATION UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:**

(A) UPON REQUEST OF THE CERTIFIED HEALTH DEPARTMENT.

(B) AFTER REASONABLE NOTICE AND AN OPPORTUNITY FOR A HEARING IF THE DEPARTMENT FINDS THAT THE CERTIFIED HEALTH DEPARTMENT IS NOT PERFORMING THE PROGRAM OR DESIGNATED ACTIVITIES AS REQUIRED.

Sec. 11508. **(1)** ~~A city, county, or district health department may be certified by the department to perform a solid waste~~

~~management program. Certification procedures shall be established by the department by rule. The department may rescind certification upon request of the certified health department or after reasonable notice and hearing if the department finds that a certified health department is not performing the program as required.~~**A PERSON SHALL NOT OPERATE A MATERIALS MANAGEMENT FACILITY UNLESS ALL OF THE FOLLOWING REQUIREMENTS ARE MET:**

(A) THE OWNER OR OPERATOR HAS COMPLIED WITH ANY APPLICABLE REQUIREMENT OF PART 115 TO NOTIFY THE DEPARTMENT, REGISTER WITH THE DEPARTMENT, OBTAIN AN APPROVAL FROM THE DEPARTMENT UNDER A GENERAL PERMIT, OR OBTAIN A CONSTRUCTION PERMIT AND OPERATING LICENSE FROM THE DEPARTMENT.

(B) THE OPERATION IS IN COMPLIANCE WITH THE TERMS OF ANY REGISTRATION, GENERAL PERMIT, CONSTRUCTION PERMIT, OR OPERATING LICENSE ISSUED FOR THE MATERIALS MANAGEMENT FACILITY UNDER PART 115.

(C) IF THE MATERIALS MANAGEMENT FACILITY IS A DISPOSAL AREA OR MATERIALS UTILIZATION FACILITY THAT IS REQUIRED TO BE PERMITTED, LICENSED, APPROVED UNDER A GENERAL PERMIT, OR REGISTERED UNDER PART 115 OR FOR WHICH A NOTIFICATION IS REQUIRED TO BE SUBMITTED TO THE DEPARTMENT FOR OPERATION UNDER PART 115, THE FACILITY IS CONSISTENT WITH THE MMP. THIS SUBDIVISION DOES NOT APPLY TO A DISPOSAL AREA DESCRIBED IN SECTION 11509(1)(A) OR (B).

(2) THE DEPARTMENT SHALL DENY AN APPLICATION FOR A REGISTRATION, FOR APPROVAL UNDER A GENERAL PERMIT, OR FOR A CONSTRUCTION PERMIT OR OPERATING LICENSE FOR A MATERIALS MANAGEMENT FACILITY UNLESS THE DEPARTMENT HAS, UNDER SECTION 11575, APPROVED

1 AN MMP FOR THE PLANNING AREA WHERE THE FACILITY IS LOCATED OR
2 PROPOSED TO BE LOCATED AND THE FACILITY IS CONSISTENT WITH THE MMP,
3 AS DETERMINED UNDER SECTION 11585. HOWEVER, BOTH OF THE FOLLOWING
4 APPLY:
5 (A) BEFORE AN MMP IS INITIALLY APPROVED BY THE DEPARTMENT
6 UNDER SECTION 11575, THE DEPARTMENT MAY ISSUE A CONSTRUCTION PERMIT
7 FOR A SOLID WASTE PROCESSING AND TRANSFER FACILITY OR AN APPROVAL
8 UNDER A GENERAL PERMIT FOR A MATERIALS UTILIZATION FACILITY IF THE
9 CBC AND THE LEGISLATIVE BODY OF THE MUNICIPALITY IN WHICH THE
10 FACILITY IS OR IS PROPOSED TO BE LOCATED HAVE EACH NOTIFIED THE
11 DEPARTMENT IN WRITING THAT THEY APPROVE THE ISSUANCE.
12 (B) PROPOSED LANDFILL EXPANSIONS SHALL FOLLOW THE SITING
13 PROCESS OF THE EXISTING SOLID WASTE MANAGEMENT PLAN UNTIL AN MMP
14 FOR THE PLANNING AREA IS APPROVED BY THE DEPARTMENT.
15 (3) A NOTIFICATION OR APPLICATION UNDER PART 115 FOR A
16 CONSTRUCTION PERMIT, OPERATING LICENSE, APPROVAL UNDER A GENERAL
17 PERMIT, OR REGISTRATION REQUIRED TO OPERATE A MATERIALS MANAGEMENT
18 FACILITY; A NOTICE OF INTENT TO PREPARE A MATERIALS MANAGEMENT
19 PLAN; A LANDFILL CARE FUND BOND; A RISK POOLING FINANCIAL
20 MECHANISM; A REQUEST FOR THE REDUCTION OF THE AMOUNT OF A FINANCIAL
21 ASSURANCE MECHANISM; AN AGREEMENT GOVERNING THE OPERATION OF A
22 PERPETUAL CARE FUND TRUST OR ESCROW ACCOUNT; AN APPLICATION FOR A
23 GRANT OR LOAN; OR A REPORT OR OTHER INFORMATION REQUIRED TO BE
24 SUBMITTED TO THE DEPARTMENT UNDER PART 115 SHALL MEET ALL OF THE
25 FOLLOWING REQUIREMENTS:
26 (A) BE SUBMITTED ON A FORM AND IN A FORMAT PROVIDED OR
27 APPROVED BY THE DEPARTMENT.

(B) CONTAIN RELEVANT INFORMATION REQUIRED BY THE DEPARTMENT.

(C) IF AN APPLICATION, BE ACCOMPANIED BY ANY APPLICABLE APPLICATION FEE PROVIDED FOR BY THIS PART.

SUBPART 2 DISPOSAL AREAS

Sec. 11509. (1) ~~Except as otherwise provided in section 11529, a~~ **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(2) OR (3).

(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. ~~In addition, a person shall not establish a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued pursuant to this part.~~ A person proposing the establishment of a disposal area shall ~~apply~~ **SUBMIT THE APPLICATION** for a construction permit to ~~the department through~~ the **APPROPRIATE LOCAL** health officer. ~~If~~ **HOWEVER, IF** the disposal area is located in a county or city that does not have a certified health department, the application shall be ~~made~~ **SUBMITTED** directly to the department. **AN APPLICATION FOR A CONSTRUCTION PERMIT SHALL BE ACCOMPANIED BY AN ENGINEERING PLAN.**

(3) ~~(2) The application for a construction permit shall contain the name and residence of the applicant, the location of the proposed disposal area, the design capacity of the disposal~~

~~area, and other information specified by rule. A person may apply to construct more than 1 type of disposal area at the same facility under a single permit. The~~ **AN** application **FOR A CONSTRUCTION PERMIT FOR A LANDFILL** shall be accompanied by an ~~engineering plan and a construction permit~~ application fee ~~. A construction permit application for a landfill shall be accompanied by a fee in an amount that is the sum of all of the following fees, as applicable:~~**IN THE FOLLOWING AMOUNT:**

(a) For a new sanitary landfill, ~~a fee equal to the following amount:~~**THE FOLLOWING:**

(*i*) For a ~~municipal solid waste~~ **TYPE II** landfill, $1,500.00.

(*ii*) ~~For~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (*iii*), FOR** an industrial waste landfill, $1,000.00.

(*iii*) For a type III landfill limited to low hazard industrial waste, $750.00.

(b) For a lateral expansion of ~~a sanitary~~ **AN EXISTING** landfill, ~~a fee equal to the following amount:~~**THE FOLLOWING:**

(*i*) For a ~~municipal solid waste~~ **TYPE II** landfill, $1,000.00.

(*ii*) ~~For~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (*iii*), FOR** an industrial waste landfill, $750.00.

(*iii*) For a type III landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, $500.00.

(c) For a vertical expansion of an existing ~~sanitary~~ landfill, ~~a fee equal to the following amount:~~**THE FOLLOWING:**

(*i*) For a ~~municipal solid waste~~ **TYPE II** landfill, $750.00.

(*ii*) ~~For~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH (*iii*), FOR** an

industrial waste landfill, $500.00.

(*iii*) For an industrial waste landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, $250.00.

(d) For a new coal ash impoundment, ~~a fee of~~ $1,000.00.

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

(4) ~~(3) The~~ **AN** application for a construction permit for a ~~solid waste transfer facility, a solid waste processing plant, other~~ disposal area ~~, or a combination of these,~~ **THAT IS NOT A LANDFILL** shall be accompanied by ~~a~~ **AN APPLICATION** fee in the following amount:

(a) For a new ~~facility~~ **DISPOSAL AREA** for municipal solid waste, or a combination of municipal solid waste and waste listed in subdivision (b), $1,000.00.

(b) For a new ~~facility~~ **DISPOSAL AREA** for industrial waste, or construction and demolition waste, $500.00.

(c) For the expansion of an existing ~~facility~~ **DISPOSAL AREA** for any type of waste, $250.00.

(5) ~~(4)~~ If an application is returned to the applicant as administratively incomplete, ~~the department shall refund the entire fee.~~ **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, ~~the department shall refund 1/2 the amount specified in subsection (3) to the applicant. An~~ **AN**

applicant for a construction permit, within ~~12 months~~ **1 YEAR** after ~~a~~ **THE** permit denial or **APPLICATION** withdrawal, may resubmit the application, ~~and the refunded portion of the fee,~~ together with the additional information as needed to address the reasons for denial **OR WITHDRAWAL**, without ~~being required to pay~~ **PAYING** an additional application fee.

(6) ~~(5) An~~ **SUBJECT TO SECTION 11510(2)(D), AN** application for a modification to a construction permit or for renewal of a construction permit ~~which~~ **THAT** has expired shall be accompanied by a fee of $250.00. ~~Increases in final elevations that do not result in an increase in design capacity or a change in the solid waste boundary shall be considered a modification and not a vertical expansion.~~

(7) ~~(6)~~ **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) ~~(7)~~ The department shall deposit permit application fees collected under this section in the solid waste staff account of the solid waste management fund. ~~established in section 11550.~~

(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 CBC AND THE DEPARTMENT DETERMINES THAT THE LANDFILL OR INCINERATOR IS NEEDED FOR THE PLANNING AREA. THE CBC'S REQUEST

SHALL INCLUDE A DEMONSTRATION THAT MATERIALS UTILIZATION OPTIONS HAVE BEEN EXHAUSTED. THE DEPARTMENT'S DETERMINATION OF NEED SHALL BE BASED ON HUMAN 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.

Sec. 11510. (1) Before the submission of a construction permit application **UNDER SECTION 11509** for a new disposal area, the applicant shall request a **LOCAL** health officer or the department to provide an advisory analysis of the proposed disposal area. ~~However, the~~ **THE** applicant, not less than 15 days after the request, and notwithstanding an analysis result, may file an application for a construction permit.

(2) Upon receipt of a construction permit application, the department shall do all of the following:

(a) Immediately notify the clerk of the municipality in which the disposal area is located or proposed to be located, the local

soil erosion and sedimentation control agency **UNDER PART 93**, each division within the department and the department of natural resources that has responsibilities in land, air, or water management, **THE REGIONAL PLANNING AGENCY**, and the designated ~~regional solid waste management~~ planning agency **FOR THE PLANNING AREA**.

(b) Publish a notice in a newspaper **OR BY ELECTRONIC MEDIA** having major circulation **OR VIEWERSHIP** in the vicinity of the proposed disposal area. The ~~required published~~ notice shall contain ~~a~~ **ALL OF THE FOLLOWING:**

(*i*) A map indicating the location of the proposed disposal area. ~~and shall contain a~~

(*ii*) A description of the proposed disposal area. ~~and the~~

(*iii*) THE location where the complete application package may be reviewed and where copies may be obtained.

(c) Indicate in the ~~public, departmental, and municipality notice~~ **NOTICES UNDER SUBDIVISIONS (A) AND (B)** that the department ~~shall~~ **WILL** hold a public hearing in the area of the proposed disposal area if a written request is submitted by the applicant, ~~or~~ a municipality, **OR A DESIGNATED PLANNING AGENCY** within 30 days after the date of publication of the notice, or by a petition submitted to the department containing a number of signatures equal to not less than 10% of the number of registered voters of the municipality where the proposed disposal area is to be located who voted in the last gubernatorial election. The petition shall be validated by the clerk of the municipality. The public hearing shall be held after the department makes a preliminary review of

the application and all pertinent data and before a construction permit is issued or denied.

(d) Conduct a consistency review of the plans of the proposed disposal area, **INCLUDING THE SITE, PLANS, AND APPLICATION,** to determine if ~~it complies~~ **THEY COMPLY** with ~~this~~ part **115.** ~~and the rules promulgated under this part.~~ The review shall be ~~made~~ **CONDUCTED** by persons qualified in hydrogeology and, ~~sanitary~~ **IF THE DISPOSAL AREA IS A LANDFILL,** landfill engineering. ~~A~~ **THE DEPARTMENT SHALL NOT ISSUE A CONSTRUCTION PERMIT UNLESS THE PERSONS CONDUCTING THE REVIEW SUBMIT TO THE DEPARTMENT A** written acknowledgment that the application package is in compliance with the requirements of ~~this~~ part **115.** ~~and rules promulgated under this part by the persons qualified in hydrogeology and sanitary landfill engineering shall be received before a construction permit is issued. If the consistency review of the site and the plans and the application meet the requirements of this part and the rules promulgated under this part, the department shall issue a~~ **THE** construction permit ~~that~~ may contain a stipulation specifically applicable to the site and operation. Except as otherwise provided in section 11542, an expansion of the area of a disposal area, an enlargement in capacity of a disposal area, **A CHANGE IN THE SOLID WASTE BOUNDARY,** or an alteration of a disposal area to a different type of disposal area than had been specified in the previous construction permit application constitutes a new proposal for which a new construction permit, **RATHER THAN A MODIFICATION OF A CONSTRUCTION PERMIT UNDER SECTION 11509(6),** is required. The upgrading of a disposal area type required by the department to comply with ~~this part or the~~

~~rules promulgated under this~~ part **115** or to comply with a consent order does not require a new construction permit.

(e) Notify the Michigan aeronautics commission if the disposal area is a ~~sanitary~~ landfill that is a new site or a lateral expansion or vertical expansion of an existing unit proposed to be located within 5 miles of a runway or a proposed runway extension contained in a plan approved by the Michigan aeronautics commission of an airport licensed and regulated by the Michigan aeronautics commission. The department shall make a copy of the application available to the Michigan aeronautics commission. If, ~~after a period of time for review and comment not to exceed~~ **NOT MORE THAN** 60 days **AFTER RECEIVING NOTIFICATION FROM THE DEPARTMENT,** the Michigan aeronautics commission informs the department ~~that it finds~~ that operation of the proposed disposal area would present a potential hazard to air navigation and presents the basis for its findings, the department may either recommend appropriate changes in the location, construction, or operation of the proposed disposal area or deny the application for a construction permit. The department shall give an applicant an opportunity to rebut a finding of the Michigan aeronautics commission that the operation of a proposed disposal area would present a potential hazard to air navigation. The Michigan aeronautics commission shall notify the department and the owner or operator of a landfill if the Michigan aeronautics commission is considering approving a plan that would provide for a runway or the extension of a runway within 5 miles of ~~a~~ **THE** landfill.

Sec. 11511. (1) The department shall notify the clerk of the

municipality in which the disposal area is proposed to be located and the applicant of its approval or denial of an application for a construction permit **UNDER SECTION 11509** within 10 days after the final decision is made.

(2) A construction permit ~~shall expire~~ **EXPIRES** 1 year after the date of issuance, unless development under the construction permit is initiated within that year. A construction permit that has expired may be renewed upon payment of a permit renewal fee **OF $250.00** and submission of any additional relevant information the department may require.

~~(3) Except as otherwise provided in this subsection, the department shall not issue a construction permit for a disposal area within a planning area unless a solid waste management plan for that planning area has been approved pursuant to sections 11536 and 11537 and unless the disposal area complies with and is consistent with the approved solid waste management plan. The department may issue a construction permit for a disposal area designed to receive ashes produced in connection with the combustion of fossil fuels for electrical power generation in the absence of an approved county solid waste management plan, upon receipt of a letter of approval from whichever county or counties, group of municipalities, or regional planning agency has prepared or is preparing the county solid waste management plan for that planning area under section 11533 and from the municipality in which the disposal area is to be located.~~

Sec. 11511b. (1) A person may submit to the department a project abstract for an RDDP. If, based on the project abstract,

the ~~director~~ **DEPARTMENT** determines that the RDDP will provide beneficial data on alternative landfill design, construction, or operating methods, the person may apply for a construction permit under section 11509, including the renewal or modification of a construction permit, authorizing the person to establish the RDDP.

(2) An RDDP is subject to the same requirements, including, but not limited to, permitting, construction, licensing, operation, closure, postclosure, financial assurance, fees, and sanctions as apply to other type II landfills or landfill units under ~~this part and the rules promulgated under this~~ part **115**, except as provided in this section.

(3) An extension of the processing period for an RDDP construction permit is not subject to the limitations under section 1307.

(4) An application for an RDDP construction permit shall include, in addition to the applicable information required in other type II landfill construction permit applications, all of the following:

(a) A description of the RDDP goals.

(b) Details of the design, construction, and operation of the RDDP as necessary to ensure protection of human health and the environment. The design shall be at least as protective of human health and the environment as other designs that are required under ~~this~~ part **115.** ~~and rules promulgated under this part.~~

(c) A list and discussion of the types of waste that will be disposed of, excluded, or added, including the types and amount of liquids that will be added under subsection (5) and how the

addition will benefit the RDDP.

(d) A list and discussion of the types of compliance monitoring and operational monitoring that will be performed.

(e) Specific means to address potential nuisance conditions, including, but not limited to, odors and health concerns as a result of human contact.

(5) The department may authorize the addition of liquids, including, but not limited to, septage waste or other liquid waste, to solid waste in an RDDP if the applicant has demonstrated that the addition is necessary to accelerate or enhance the biostabilization of the solid waste and is not merely a means of disposal of the liquid. ~~The department may require that the septage waste, or any other liquid waste, added to an RDDP originate within the county where the RDDP is located or any county contiguous to the county where the RDDP is located.~~ If an RDDP is intended to accelerate or enhance biostabilization of solid waste, the construction permit application shall include, in addition to the ~~requirements~~ **INFORMATION REQUIRED UNDER** of subsection (4), all of the following:

(a) An evaluation of the potential for a decreased slope stability of the waste caused by any of the following:

(*i*) Increased presence of liquids.

(*ii*) Accelerated degradation of the waste.

(*iii*) Increased gas pressure buildup.

(*iv*) Other relevant factors.

(b) An operations management plan that incorporates all of the following:

(*i*) A description of and the proportion and expected quantity of all components that are needed to accelerate or enhance biostabilization of the solid waste.

(*ii*) A description of any solid or liquid waste that may be detrimental to the biostabilization of the solid waste intended to be disposed of or to the RDDP goals.

(*iii*) An explanation of how the detrimental waste described in subparagraph (*ii*) will be prevented from being disposed of in cells approved for the RDDP.

(c) Parameters, such as moisture content, stability, gas production, and settlement, that will be used by the department to determine the beginning of the postclosure period for the RDDP under subsection (10).

(d) Information to ensure that the requirements of subsection (6) will be met.

(6) An RDDP shall meet all of the following requirements:

(a) ~~Ensure that added~~ **ADDED** liquids ~~are~~ **SHALL BE** evenly distributed and ~~that~~ side slope breakout of liquids ~~is~~ prevented.

(b) ~~Ensure that daily~~ **DAILY** cover practices or disposal of low permeability solid wastes ~~does~~ **SHALL** not adversely affect the free movement of liquids and gases within the waste mass.

(c) Include all of the following:

(*i*) A means to monitor the moisture content and temperature of the waste.

(*ii*) A leachate collection system of adequate size for the anticipated increased liquid production rates. The design's factor of safety shall take into account the anticipated increased

operational temperatures and other factors as appropriate.

(*iii*) A means to monitor the depth of leachate on the liner.

(*iv*) An integrated active gas collection system. The system shall be of adequate size for the anticipated methane production rates and to control odors. The system ~~shall~~ **MUST** be operational before the addition of any material to accelerate or enhance biostabilization of the solid waste.

(7) The owner or operator of an RDDP for which a construction permit has been issued shall submit a report to the ~~director~~ **DEPARTMENT** at least once every 12 months on the progress of the RDDP in achieving its goals. The report shall include a summary of all monitoring and testing results, as well as any other operating information specified by ~~the director in~~ the permit or in a subsequent permit modification or operating condition.

(8) A permit for an RDDP shall specify the term of the permit, which shall not exceed 3 years. However, the owner or operator of an RDDP may apply for and the department may grant an extension of the term of the permit, subject to all of the following requirements:

(a) The application to extend the term of the permit must be received by the department at least 90 days before the expiration of the permit.

(b) The application shall include a detailed assessment of the RDDP showing the progress of the RDDP in achieving its goals, a list of problems with the RDDP and progress toward resolving those problems, and other information that the ~~director~~ **DEPARTMENT** determines is necessary to accomplish the purposes of ~~this~~ part

115.

(c) If the department fails to make a final decision within 90 days ~~of~~ **AFTER** receipt of an administratively complete application for an extension of the term of a permit, the term of the permit is extended for 3 years.

(d) An individual extension shall not exceed 3 years, and the total term of the permit with all extensions shall not exceed 21 years.

(9) If the ~~director~~ **DEPARTMENT** determines that the overall goals of an RDDP, including, but not limited to, protection of human health or the environment, are not being achieved, the ~~director~~ **DEPARTMENT** may order immediate termination of all or part of the operations of the RDDP or may order other corrective measures.

(10) The postclosure period for a facility authorized as an RDDP begins when the department determines that the unit or portion of the unit where the RDDP was authorized has reached a condition similar to the condition that non-RDDP landfills would reach prior to postclosure. The parameters, such as moisture content, stability, gas production, and settlement, to attain this condition shall be specified in the permit. The ~~perpetual~~ **LANDFILL** care fund ~~required under section 11525~~ shall be maintained for the period after final closure of the landfill as specified under section ~~11525.~~**11525C [11523? 11525?].**

(11) The ~~director~~ **DEPARTMENT** may authorize the conversion of an RDDP to a full-scale operation if the owner or operator of the RDDP demonstrates to the satisfaction of the ~~director~~ **DEPARTMENT**

that the goals of the RDDP have been met and the authorization does not constitute a less stringent permitting requirement than is required under subtitle D of the solid waste disposal act, 42 USC 6941 to 6949a, **AND REGULATIONS PROMULGATED THEREUNDER.**

~~(12) As used in this section, "RDDP" means a research, development, and demonstration project for a new or existing type II landfill unit or for a lateral expansion of a type II landfill unit.~~

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 ~~licensed under this part unless a person is permitted~~ **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) ~~(2)~~ Except as otherwise provided in this section, ~~or in section 11529,~~ a person shall not ~~conduct, manage, maintain, or~~ operate a disposal area ~~within this state~~ except as authorized by an operating license issued by the department pursuant to part 13. ~~In addition, a person shall not conduct, manage, maintain, or operate a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued under this part. A person who intends to conduct, manage, maintain, or operate a~~ **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 ~~the date that is 2 years after the effective date of the amendatory act that added section 11511a.~~ **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 ~~this~~ part **115** to operate more than 1 type of disposal area at the same facility may apply for a single license.

(4) ~~(3) The application for a license shall contain the name and residence of the applicant, the location of the proposed or existing disposal area, the type or types of disposal area proposed, evidence of bonding, and other information required by rule. In addition, an~~ **AN** applicant **FOR A LICENSE** for a type II **OR TYPE III** landfill shall submit evidence of financial assurance ~~adequate to meet~~ **THAT MEETS** the requirements of section 11523a, the maximum waste slope in the active portion, an estimate of remaining permitted capacity, and documentation on the amount of waste received at the disposal area during the previous license period or expected to be received, whichever is greater. ~~The application shall be accompanied by a fee as specified in subsections (7), (9), and (10).~~

(5) ~~(4) At the time of~~ **AN** application for a license for a disposal area ~~, the applicant shall submit to a health officer or the department~~ **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. ~~Any~~ **AN** applicant for a license for an existing coal ash impoundment is exempt from the preceding requirement of this subsection but, when applying for a license, shall submit documentation in the applicant's possession or control regarding the construction of the impoundment. If construction of the disposal area or a portion of the disposal area is not complete, the ~~department shall require~~ **OWNER OR OPERATOR SHALL SUBMIT** additional construction certification of that portion of the disposal area ~~during intermediate progression of the operation, as specified in section 11516(5).~~**UNDER SECTION 11516(4).**

(6) ~~(5)~~ 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) ~~(6) In order to~~ **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) ~~(7)~~ 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, ~~calculated in accordance with~~ **SUBJECT TO** subsection ~~(8):~~**(9):**

(a) Landfills receiving less than 100 tons per day, $250.00.

(b) Landfills receiving 100 tons per day or more, but less than 250 tons per day, $1,000.00.

(c) Landfills receiving 250 tons per day or more, but less than 500 tons per day, $2,500.00.

(d) Landfills receiving 500 tons per day or more, but less than 1,000 tons per day, $5,000.00.

(e) Landfills receiving 1,000 tons per day or more, but less than 1,500 tons per day, $10,000.00.

(f) Landfills receiving 1,500 tons per day or more, but less than 3,000 tons per day, $20,000.00.

(g) Landfills receiving ~~greater~~ **MORE** than 3,000 tons per day, $30,000.00.

(9) ~~(8)~~ 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 waste than projected, a supplemental fee equal to the difference shall be submitted with the next license application.

(b) If a landfill accepts less waste than projected, the department shall credit the applicant an amount equal to the difference with the next license application.

~~(c) A type II landfill that measures waste by volume rather than weight shall pay a fee based on 3 cubic yards per ton.~~

(C) ~~(d)~~ 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.

~~(e) If an application is submitted to renew a license more than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/2 the application fee.~~

~~(f) If an application is submitted to renew a license more than 6 months but less than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/4 the application fee.~~

(10) ~~(9)~~ The operating license application for a type III landfill shall be accompanied by a fee of $2,500.00.

(11) ~~(10)~~ An application for an operating license by a coal ash landfill 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 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 on the next business day.

(12) ~~(11)~~ 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) ~~(12)~~ The department shall deposit the fees collected under subsections ~~(10) and~~ (11) **AND (12)** in the coal ash care fund established in section 11550.

(14) ~~(13)~~ 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) ~~(14)~~ The notices under subsection ~~(13)~~ **(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) ~~(15)~~ A public meeting referred to in subsection ~~(14)(d)~~ **(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) ~~(16)~~ 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) ~~(17)~~ The operating license application for a solid waste processing ~~plant, solid waste~~ **AND** transfer facility **THAT MANAGES MORE THAN 200 CUBIC YARDS AT ANY TIME, OR** other disposal area ~~, or combination of these entities~~ **THAT IS NOT A LANDFILL OR SURFACE IMPOUNDMENT** shall be accompanied by a fee ~~equal to~~ **OF** $500.00.

(19) ~~(18)~~ Except as provided in subsection ~~(12),~~ **(13)**, the department shall deposit operating license application fees collected under this section in the perpetual care account of the solid waste management fund established in section 11550.

(20) ~~(19)~~ 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

1 APPROVED HYDROGEOLOGIC MONITORING PROGRAM AND THE OWNER OR OPERATOR
2 HAS PROVIDED THE DEPARTMENT WITH THE MONITORING RESULTS. THE
3 DEPARTMENT SHALL USE THIS INFORMATION IN CONJUNCTION WITH OTHER
4 INFORMATION REQUIRED BY PART 115 TO DETERMINE A COURSE OF ACTION
5 REGARDING LICENSING OF THE FACILITY CONSISTENT WITH SECTION 4005 OF
6 SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT, 42 USC 6945, AND WITH
7 PART 115. IN DECIDING A COURSE OF ACTION, THE DEPARTMENT SHALL
8 CONSIDER, AT A MINIMUM, THE HEALTH HAZARDS, ENVIRONMENTAL
9 DEGRADATION, AND OTHER PUBLIC OR PRIVATE ALTERNATIVES. IF A
10 LANDFILL OR COAL ASH IMPOUNDMENT VIOLATES PART 115, THE DEPARTMENT
11 MAY DO ANY OF THE FOLLOWING:
12 (A) REVOKE THE LANDFILL'S OR COAL ASH IMPOUNDMENT'S LICENSE.
13 (B) IF THE DISPOSAL AREA IS A COAL ASH IMPOUNDMENT THAT HAS
14 NOT BEEN PREVIOUSLY LICENSED UNDER THIS PART, DENY A LICENSE.
15 (C) ISSUE A TIMETABLE OR SCHEDULE OF REMEDIAL MEASURES,
16 INCLUDING A SEQUENCE OF ACTIONS OR OPERATIONS, THAT LEADS TO
17 COMPLIANCE WITH PART 115 WITHIN A REASONABLE TIME PERIOD BUT NOT
18 MORE THAN 1 YEAR.
19 (22) A TYPE II LANDFILL DOES NOT REQUIRE A SEPARATE SOLID
20 WASTE PROCESSING AND TRANSFER FACILITY PERMIT OR LICENSE IF THE
21 TYPE II LANDFILL IS SOLIDIFYING INDUSTRIAL WASTE SLUDGES ON-SITE IN
22 CONTAINERS OR TANKS AS SPECIFIED IN PART 121 AND THAT ACTIVITY IS
23 APPROVED BY THE DEPARTMENT AS PART OF THE FACILITY'S OPERATIONS
24 PLAN.
25 (23) AN EXISTING INDUSTRIAL WASTE LANDFILL MAY ACCEPT ANY OF
26 THE FOLLOWING:
27 (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.

Sec. 11513. (1) ~~A person shall not accept for disposal solid waste or municipal solid waste incinerator ash that is not generated in the county in which the disposal area is located unless the acceptance of solid waste or municipal solid waste incinerator ash that is not generated in the county is explicitly authorized in the approved county solid waste management plan.~~

~~(2) Subsection (1) does not apply to coal ash that is accepted for disposal at a captive facility that, after the effective date of the amendatory act that added this subsection, accepts only nonhazardous industrial waste generated only by the owner of the landfill or coal ash impoundment or its corporate affiliates.~~

1 ~~(3) The department shall take action to enforce this section~~
2 ~~within 30 days of obtaining knowledge of a violation of this~~
3 ~~section.~~**A PERSON SHALL NOT DISPOSE OF SOLID WASTE AT A SOLID WASTE**
4 **PROCESSING AND TRANSFER FACILITY DESCRIBED IN SUBSECTION (2) OR (3)**
5 **UNLESS THE FACILITY HAS COMPLIED WITH THE APPLICABLE NOTIFICATION**
6 **OR REGISTRATION REQUIREMENT OF SUBSECTION (2) OR (3), RESPECTIVELY.**
7 **(2) SUBJECT TO SUBSECTION (5), UNLESS THE PERSON HAS NOTIFIED**
8 **THE DEPARTMENT, A PERSON SHALL NOT OPERATE A SOLID WASTE PROCESSING**
9 **AND TRANSFER FACILITY THAT DOES NOT AT ANY TIME HAVE ON-SITE MORE**
10 **THAN 50 CUBIC YARDS OF SOLID WASTE AND THAT IS NOT DESIGNED TO**
11 **ACCEPT WASTE FROM VEHICLES WITH MECHANICAL COMPACTION DEVICES.**
12 **NOTIFICATION SHALL BE GIVEN UPON INITIAL OPERATION AND,**
13 **SUBSEQUENTLY, WITHIN 45 DAYS AFTER THE END OF EACH STATE FISCAL**
14 **YEAR. THE SUBSEQUENT NOTICES SHALL REPORT THE AMOUNT OF SOLID WASTE**
15 **MANAGED AT THE FACILITY DURING THE PRECEDING STATE FISCAL YEAR.**
16 **(3) SUBJECT TO SUBSECTION (5), BEGINNING 1 YEAR AFTER THE**
17 **EFFECTIVE DATE OF THE 2019 AMENDATORY ACT THAT ADDED THIS**
18 **SUBSECTION, UNLESS THE PERSON HAS REGISTERED THE FACILITY WITH THE**
19 **DEPARTMENT, A PERSON SHALL NOT OPERATE A SOLID WASTE PROCESSING AND**
20 **TRANSFER FACILITY THAT AT ANY TIME HAS ON-SITE MORE THAN 50 CUBIC**
21 **YARDS AND DOES NOT AT ANY TIME HAVE ON-SITE MORE THAN 200 CUBIC**
22 **YARDS OF SOLID WASTE AND THAT IS NOT DESIGNED TO ACCEPT WASTE FROM**
23 **VEHICLES WITH MECHANICAL COMPACTION DEVICES. THE PERSON SHALL**
24 **SUBMIT AN APPLICATION FOR REGISTRATION WITHIN 45 DAYS AFTER THE END**
25 **OF THE STATE FISCAL YEAR. THE APPLICATION SHALL CONTAIN THE NAME**
26 **AND MAILING ADDRESS OF THE APPLICANT, THE LOCATION OF THE PROPOSED**
27 **OR EXISTING SOLID WASTE PROCESSING AND TRANSFER FACILITY, AND OTHER**

1 **INFORMATION REQUIRED BY PART 115. THE TERM OF A REGISTRATION IS 5**
2 **YEARS. IN ADDITION, WITHIN 45 DAYS AFTER THE END OF EACH STATE**
3 **FISCAL YEAR, THE PERSON SHALL SUBMIT TO THE DEPARTMENT A REPORT ON**
4 **THE AMOUNT OF SOLID WASTE HANDLED AT THE FACILITY DURING THAT STATE**
5 **FISCAL YEAR.**
6 **(4) AN APPLICATION FOR REGISTRATION SUBMITTED UNDER SUBSECTION**
7 **(3) SHALL BE ACCOMPANIED BY AN OPERATIONS PLAN AND SITE MAP. THE**
8 **DEPARTMENT SHALL REVIEW OPERATIONS AND THE OPERATIONS PLAN FOR**
9 **EXISTING SOLID WASTE DISPOSAL AREAS TO ENSURE COMPLIANCE WITH**
10 **OPERATING REQUIREMENTS. IF THE DEPARTMENT DETERMINES THAT AN**
11 **EXISTING SOLID WASTE DISPOSAL AREA IS NONCOMPLIANT, THE DEPARTMENT**
12 **MAY ISSUE A SCHEDULE OF REMEDIAL MEASURES THAT WILL LEAD TO**
13 **COMPLIANCE WITHIN A REASONABLE PERIOD OF TIME NOT TO EXCEED 1 YEAR**
14 **FROM THE DETERMINATION OF DEFICIENCY.**
15 **(5) FOR A DISPOSAL AREA IN OPERATION BEFORE THE EFFECTIVE DATE**
16 **OF THE 2019 AMENDATORY ACT THAT ADDED THIS SUBSECTION, BOTH OF THE**
17 **FOLLOWING APPLY:**
18 **(A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE DISPOSAL AREAS**
19 **SHALL FOLLOW THEIR EXISTING LICENSING RENEWAL SCHEDULE.**
20 **(B) FOR A DISPOSAL AREA IS DESCRIBED IN SUBSECTION (3) OR (4),**
21 **THE OPERATOR OF THE DISPOSAL AREA SHALL SUBMIT TO THE DEPARTMENT**
22 **THE NOTIFICATION OR APPLICATION FOR REGISTRATION REQUIRED UNDER**
23 **THOSE SUBSECTIONS WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE**
24 **2019 AMENDATORY ACT THAT ADDED THIS SUBSECTION.**
25 Sec. 11514. ~~(1) Optimizing recycling opportunities, including~~
26 ~~electronics recycling opportunities, and the reuse of materials~~
27 ~~shall be a principal objective of the state's solid waste~~

~~management plan. Recycling and reuse of materials, including the reuse of materials from electronic devices, are in the best interest of promoting the public health and welfare. The state shall develop policies and practices that promote recycling and reuse of materials and, to the extent practical, minimize the use of landfilling as a method for disposal of its waste. Policies and practices that promote recycling and reuse of materials, including materials from electronic devices, will conserve raw materials, conserve landfill space, and avoid the contamination of soil and groundwater from heavy metals and other pollutants.~~

(1) ~~(2)~~ A person shall not knowingly deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, knowingly ~~permit~~ **ALLOW** disposal in the landfill of, any of the following:

(a) Medical waste, unless that medical waste has been decontaminated or is not required to be decontaminated but is packaged in the manner required under part 138 of the public health code, 1978 PA 368, MCL 333.13801 to ~~333.13831.~~**333.13832.**

(b) More than a de minimis amount of open, empty, or otherwise used beverage containers.

(c) More than a de minimis number of whole motor vehicle tires.

(d) More than a de minimis amount of yard ~~clippings,~~ **WASTE**, unless ~~they are diseased, infested, or composed of invasive species as authorized by section 11521(1)(i).~~**THEY MEET THE REQUIREMENTS OF SECTION 11555(1)(J).**

(2) ~~(3)~~ A person shall not deliver to a landfill for disposal,

or, if the person is an owner or operator of a landfill, ~~permit~~ **ALLOW** disposal in the landfill of, any of the following:

(a) Used oil as defined in section 16701.

(b) A lead acid battery as defined in section 17101.

(c) Low-level radioactive waste as defined in section 2 of the low-level radioactive waste authority act, 1987 PA 204, MCL 333.26202.

(d) Regulated hazardous waste as defined in R 299.4104 of the Michigan ~~administrative code.~~**ADMINISTRATIVE CODE.**

(e) Bulk or noncontainerized liquid waste or waste that contains free liquids, unless the waste is 1 of the following:

(*i*) Household waste other than septage waste.

(*ii*) Leachate or gas condensate that is approved for recirculation.

(*iii*) Septage waste or other liquids approved for beneficial addition under section 11511b.

(f) Sewage.

(g) PCBs as defined in 40 CFR 761.3.

(h) Asbestos waste, unless the landfill complies with 40 CFR 61.154.

(3) ~~(4)~~ A person shall not knowingly deliver to a municipal solid waste incinerator for disposal, or, if the person is an owner or operator of a municipal solid waste incinerator, knowingly ~~permit~~ **ALLOW** disposal in the incinerator of, more than a de minimis amount of yard ~~clippings,~~ **WASTE**, unless ~~they are diseased, infested, or composed of invasive species as authorized by section 11521(1)(i).~~**THEY MEET THE REQUIREMENTS OF SECTION 11555(1)(J).**

(4) The department shall post, and a solid waste hauler that disposes of solid waste in a municipal solid waste incinerator shall provide its customers with, notice of the prohibitions of ~~this~~ subsection **(3)** in the same manner as provided in section 11527a.

(5) If the department determines that a safe, sanitary, and feasible alternative does not exist for the disposal in a landfill or municipal solid waste incinerator of any items described in subsection ~~(2)~~ **(1)** or ~~(4),~~ **(3)**, respectively, the department shall submit a report setting forth that determination and the basis for the determination to the standing committees of the senate and house of representatives with primary responsibility for solid waste issues.

Sec. 11515. (1) ~~Upon receipt of a license application, the department or a health officer or an authorized representative of a health officer shall inspect the site and determine if the proposed operation complies with this part and the rules promulgated under this part.~~

~~(2) The department shall not license a landfill facility or coal ash impoundment operating without an approved hydrogeologic monitoring program until the department receives a hydrogeologic monitoring program and the results of the program. The department shall use this information in conjunction with other information required by this part or the rules promulgated under this part to determine a course of action regarding licensing of the facility consistent with section 4005 of subtitle D of the solid waste disposal act, title II of Public Law 89-272, 42 USC 6945, and with~~

~~this part and the rules promulgated pursuant to this part. In deciding a course of action, the department shall consider, at a minimum, the health hazards, environmental degradation, and other public or private alternatives. The department may do any of the following:~~

~~(a) Revoke a license.~~

~~(b) Deny a license to a coal ash impoundment that has not been previously licensed under this part.~~

~~(c) Issue a timetable or schedule to provide for compliance for the landfill or coal ash impoundment, specifying a schedule of remedial measures, including a sequence of actions or operations, which leads to compliance with this part within a reasonable time period but not more than 1 year.~~**THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT MAY INSPECT AND INVESTIGATE CONDITIONS RELATING TO THE GENERATION, STORAGE, PROCESSING, TRANSPORTATION, MANAGEMENT, OR DISPOSAL OF SOLID WASTE OR ANY MATERIAL REGULATED UNDER PART 115. IN CONDUCTING AN INSPECTION OR INVESTIGATION, THE DEPARTMENT OR ITS AUTHORIZED REPRESENTATIVE MAY, AT REASONABLE TIMES AND AFTER PRESENTING CREDENTIALS AND STATING ITS AUTHORITY AND PURPOSE, DO ANY OF THE FOLLOWING:**

(A) ENTER ANY PROPERTY.

(B) HAVE ACCESS TO AND COPY, AT REASONABLE TIMES, ANY INFORMATION OR RECORDS THAT ARE REQUIRED TO BE MAINTAINED PURSUANT TO PART 115 OR AN ORDER ISSUED UNDER PART 115.

(C) INSPECT, AT REASONABLE TIMES, ANY FACILITY, EQUIPMENT, INCLUDING MONITORING AND POLLUTION CONTROL EQUIPMENT, PRACTICES, OR OPERATIONS REGULATED OR REQUIRED UNDER PART 115 OR AN ORDER ISSUED

1 UNDER PART 115.
2 (D) SAMPLE, TEST, OR MONITOR, AT REASONABLE TIMES, SUBSTANCES
3 OR PARAMETERS FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH PART
4 115 OR AN ORDER ISSUED UNDER PART 115.
5 (2) UPON RECEIPT OF AN APPLICATION FOR A PERMIT, LICENSE, OR
6 REGISTRATION UNDER PART 115, THE DEPARTMENT OR AN AUTHORIZED
7 REPRESENTATIVE OF THE DEPARTMENT SHALL INSPECT THE MATERIALS
8 MANAGEMENT FACILITY, PROPERTY, SITE, OR PROPOSED OPERATION TO
9 DETERMINE ELIGIBILITY FOR THE PERMIT, LICENSE, OR REGISTRATION. AN
10 INSPECTION REPORT SHALL BE FILED IN WRITING BY THE DEPARTMENT
11 BEFORE ISSUING A PERMIT, LICENSE, OR REGISTRATION.
12 (3) IF THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE OF THE
13 DEPARTMENT IS REFUSED ENTRY OR ACCESS UNDER SUBSECTION (1) OR (2),
14 THE ATTORNEY GENERAL, ON BEHALF OF THE STATE, MAY DO EITHER OF THE
15 FOLLOWING:
16 (A) PETITION THE COURT OF APPROPRIATE JURISDICTION FOR A
17 WARRANT AUTHORIZING ENTRY OR ACCESS TO PROPERTY, INFORMATION OR
18 RECORDS, OR TO SAMPLE, TEST, OR MONITOR PURSUANT TO THIS SECTION.
19 (B) COMMENCE A CIVIL ACTION TO COMPEL COMPLIANCE WITH A
20 REQUEST FOR ENTRY OR ACCESS TO PROPERTY, INFORMATION OR RECORDS, OR
21 TO SAMPLE, TEST, OR MONITOR PURSUANT TO THIS SECTION.
22 (4) THE DEPARTMENT OR AN AUTHORIZED REPRESENTATIVE MAY RECEIVE
23 AND INITIATE COMPLAINTS OF AN ALLEGED VIOLATION OF PART 115 AND
24 TAKE ACTION WITH RESPECT TO THE COMPLAINT AS PROVIDED IN PART 115.
25 (5) AS USED IN THIS SECTION, "AUTHORIZED REPRESENTATIVE" MEANS
26 ANY OF THE FOLLOWING:
27 (A) A FULL- OR PART-TIME EMPLOYEE OF ANOTHER STATE DEPARTMENT

OR AGENCY ACTING PURSUANT TO LAW OR TO WHICH THE DEPARTMENT DELEGATES CERTAIN DUTIES UNDER PART 115.

(B) A LOCAL HEALTH OFFICER.

(C) FOR THE PURPOSE OF SAMPLING, TESTING, OR MONITORING UNDER SUBSECTION (1)(D), A CONTRACTOR RETAINED BY THE STATE OR A LOCAL HEALTH OFFICER.

Sec. 11516. (1) The department shall conduct a consistency review before making a final decision on a license application. The department shall notify the clerk of the municipality in which the disposal area is located and the applicant of its approval or denial of a license application within 10 days after the final decision is made.

(2) An operating license ~~shall expire~~ **EXPIRES** 5 years after the date of issuance. An operating license may be renewed before expiration upon payment of a renewal application fee specified in section ~~11512(8)~~ **11512** if the licensee is in compliance with ~~this part and the rules promulgated under this~~ part **115.**

~~(3) The issuance of the operating license under this part empowers the department or a health officer or an authorized representative of a health officer to enter at any reasonable time, pursuant to law, in or upon private or public property licensed under this part for the purpose of inspecting or investigating conditions relating to the storage, processing, or disposal of any material.~~

~~(4) Except as otherwise provided in this subsection, the department shall not issue an operating license for a new disposal area within a planning area unless a solid waste management plan~~

~~for that planning area has been approved pursuant to sections 11536 and 11537 and unless the disposal area complies with and is consistent with the approved solid waste management plan. This subsection does not prohibit the issuance of a license for a captive facility that is a coal ash impoundment or a coal ash landfill in the absence of an approved county solid waste management plan, upon receipt of a letter of approval from whichever county or counties, group of municipalities, or regional planning agency has prepared or is preparing the county solid waste management plan for that planning area under section 11533 and from the municipality in which the disposal area is to be located.~~

(3) BEFORE A MATERIALS MANAGEMENT PLAN IS APPROVED FOR A COUNTY PURSUANT TO SECTION 11575, A SOLID WASTE MANAGEMENT PLAN MAY BE AMENDED PURSUANT TO THE PROCEDURES THAT APPLIED UNDER SECTION 11533 AND FORMER SECTION 11534 TO 11537A IMMEDIATELY BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

(4) ~~(5)~~ Issuance of an operating license by the department authorizes the licensee to accept waste for disposal in certified portions of the disposal area for which a bond was established under section 11523 and, for type II landfills, for which financial assurance was demonstrated under section 11523a. If the construction of a portion of a landfill licensed under this section is not complete at the time of license application, the owner or operator of the landfill shall submit a certification under the seal of a licensed professional engineer verifying that the construction of that portion of the landfill has proceeded according to the approved plans at least 60 days ~~prior to~~ **BEFORE**

the anticipated date of waste disposal in that portion of the landfill. If the department does not deny the certification within 60 days of receipt, the owner or operator may accept waste for disposal in the certified portion. In the case of a denial, the department shall issue a written statement ~~stating~~ **OF** the reasons why the construction or certification is not consistent with ~~this part or rules promulgated under this~~ part **115** or the approved plans.

Sec. 11517. (1) ~~Within 9 months after the completion of construction of a municipal solid waste incinerator, the owner or operator of a municipal solid waste incinerator shall submit a plan to the department for a program that, to the extent practicable, reduces the incineration of noncombustible materials and dangerous combustible materials and their hazardous by-products at the incinerator. The department shall approve or disapprove the plan submitted under this subsection within 30 days after receiving it. In reviewing the plan, the department shall consider the current county solid waste management plan, available markets for separated materials, disposal alternatives for the separated materials, and collection practices for handling such separated materials. If the department disapproves a plan, the department shall notify the owner or operator submitting the plan of this fact, and shall provide modifications that, if included, would result in the plan's approval. If the department disapproves a plan, the owner or operator of a municipal solid waste incinerator shall within 30 days after receipt of the department's disapproval submit a revised plan that addresses all of the modifications provided by the~~

~~department. The department shall approve or disapprove the revised plan within 30 days after receiving it, and approval of the revised plan shall not be unreasonably withheld.~~

~~(2) Not later than 6 months after the approval of the plan by the department under subsection (1), the owner or operator shall implement the plan in accordance with the implementation schedule set forth in the plan. The operation of a municipal solid waste incinerator without an approved plan under this section shall subject the owner or operator, or both, to all of the sanctions provided by this part.~~**AFTER THE DEPARTMENT APPROVES THE CLOSURE CERTIFICATION FOR A LANDFILL UNIT UNDER SECTION 11523A, THE OWNER OR OPERATOR SHALL CONDUCT POSTCLOSURE CARE OF THAT UNIT IN COMPLIANCE WITH A POSTCLOSURE PLAN APPROVED BY THE DEPARTMENT AND SHALL MAINTAIN FINANCIAL ASSURANCE IN COMPLIANCE WITH PART 115 INCLUDING ANY ADDITIONAL FINANCIAL ASSURANCE REQUIRED BASED ON AN EXTENSION OF THE POSTCLOSURE CARE PERIOD UNDER SUBSECTION (3). THE POSTCLOSURE PLAN MAY INCLUDE MONITORING AND MAINTENANCE PROVISIONS NOT OTHERWISE REQUIRED BY PART 115, IF DESIGNED TO ACHIEVE AND DEMONSTRATE FUNCTIONAL STABILITY, SUCH AS MONITORING SETTLEMENT AND SUBSIDENCE. POSTCLOSURE CARE SHALL BE CONDUCTED FOR 30 YEARS, EXCEPT AS PROVIDED UNDER SUBSECTION (2) OR (3), AND CONSIST OF AT LEAST ALL OF THE FOLLOWING CONDUCTED AS REQUIRED BY PART 115:**

(A) MAINTAINING THE INTEGRITY AND EFFECTIVENESS OF ANY FINAL COVER, INCLUDING MAKING REPAIRS TO THE COVER AS NECESSARY TO CORRECT THE EFFECTS OF SETTLEMENT, SUBSIDENCE, EROSION, OR OTHER EVENTS, AND PREVENTING RUN-ON AND RUN-OFF FROM ERODING OR OTHERWISE DAMAGING THE FINAL COVER.

1 (B) MAINTAINING AND OPERATING THE LEACHATE COLLECTION SYSTEM,
2 IF ANY. THE DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS
3 SUBDIVISION IF THE OWNER OR OPERATOR DEMONSTRATES THAT LEACHATE NO
4 LONGER POSES A THREAT TO HUMAN HEALTH AND THE ENVIRONMENT.
5 (C) MONITORING THE GROUNDWATER AND MAINTAINING THE GROUNDWATER
6 MONITORING SYSTEM, IF ANY.
7 (D) MAINTAINING AND OPERATING THE GAS MONITORING AND
8 COLLECTION SYSTEM, IF ANY.
9 (2) THE DEPARTMENT SHALL SHORTEN THE POSTCLOSURE CARE PERIOD
10 SPECIFIED UNDER SUBSECTION (1) FOR A LANDFILL UNIT IF THE LANDFILL
11 OWNER OR OPERATOR SUBMITS TO THE DEPARTMENT A PETITION CERTIFIED BY
12 A LICENSED PROFESSIONAL ENGINEER AND A QUALIFIED GROUNDWATER
13 SCIENTIST THAT DEMONSTRATES ALL OF THE FOLLOWING:
14 (A) THE LANDFILL'S CLOSURE CERTIFICATION WAS APPROVED BY THE
15 DEPARTMENT UNDER SECTION 11523A.
16 (B) THE OWNER OR OPERATOR HAS COMPLIED WITH POSTCLOSURE CARE
17 MAINTENANCE AND MONITORING REQUIREMENTS FOR AT LEAST 15 YEARS.
18 (C) THE LANDFILL HAS ACHIEVED FUNCTIONAL STABILITY, INCLUDING,
19 BUT NOT LIMITED TO, MEETING ALL OF THE FOLLOWING REQUIREMENTS:
20 (*i*) THERE HAS BEEN NO RELEASE FROM THE FACILITY INTO
21 GROUNDWATER OR SURFACE WATER REQUIRING ONGOING CORRECTIVE ACTION.
22 (*ii*) THERE IS EITHER NO EVIDENCE OF CONTINUED SUBSIDENCE OR
23 SIGNIFICANT PAST SUBSIDENCE OF WASTE IN THE UNIT.
24 (*iii*) THE LANDFILL DOES NOT PRODUCE SIGNIFICANT AMOUNTS OF
25 COMBUSTIBLE GASES.
26 (*iv*) COMBUSTIBLE GASES FROM THE LANDFILL HAVE NOT BEEN
27 DETECTED AT OR BEYOND THE LANDFILL'S PROPERTY BOUNDARY OR IN

1 FACILITY STRUCTURES.
2 (*v*) THE LANDFILL DOES NOT PRODUCE NUISANCE ODORS REQUIRING
3 CONTROL.
4 (*vi*) LEACHATE AND GAS COLLECTION AND CONTROL SYSTEM CONDENSATE
5 GENERATION HAS CEASED, LEACHATE AND CONDENSATE QUALITY MEETS
6 CRITERIA FOR ACCEPTABLE SURFACE WATER OR GROUNDWATER DISCHARGE, OR
7 VOLUMES OF LEACHATE AND CONDENSATE ARE NEGLIGIBLE AND CAN BE
8 DISCHARGED THROUGH EXISTING LEACHATE AND CONDENSATE HANDLING
9 FACILITIES, SUCH AS SEWERS CONNECTED TO A PUBLICLY OWNED TREATMENT
10 WORKS.
11 (D) ANY OTHER CONDITIONS NECESSARY, AS DETERMINED BY THE
12 DEPARTMENT, TO PROTECT HUMAN HEALTH OR THE ENVIRONMENT ARE MET.
13 (3) THE DEPARTMENT SHALL EXTEND THE POSTCLOSURE CARE PERIOD
14 SPECIFIED IN SUBSECTION (1) FOR A LANDFILL UNIT IF ANY OF THE
15 FOLLOWING APPLY:
16 (A) THE OWNER OR OPERATOR DID NOT CLOSE THE LANDFILL UNIT AS
17 REQUIRED BY PART 115.
18 (B) THE FINAL COVER OF THE LANDFILL UNIT HAS NOT BEEN
19 MAINTAINED, AND HAS SIGNIFICANT PONDING, EROSION, OR DETRIMENTAL
20 VEGETATION PRESENT.
21 (C) GROUNDWATER MONITORING HAS NOT BEEN CONDUCTED IN
22 COMPLIANCE WITH THE APPROVED MONITORING PLAN OR GROUNDWATER IN THE
23 VICINITY OF THE LANDFILL UNIT EXCEEDS CRITERIA ESTABLISHED UNDER
24 PART 201.
25 (D) THERE IS AN ONGOING SUBSIDENCE OF WASTE, AS EVIDENCED BY
26 SIGNIFICANT PONDING OF WATER ON THE LANDFILL COVER.
27 (E) GAS MONITORING HAS DETECTED COMBUSTIBLE LANDFILL GASES AT

OR BEYOND THE LANDFILL BOUNDARY OR IN A FACILITY STRUCTURE ABOVE APPLICABLE CRITERIA OR GAS FROM THE UNIT CONTINUES TO BE GENERATED AT A RATE THAT PRODUCES NUISANCE ODORS.

(F) LEACHATE OR GAS COLLECTION AND CONTROL SYSTEM CONDENSATE CONTINUES TO BE GENERATED BY THE LANDFILL UNIT IN QUANTITIES THAT MAY THREATEN GROUNDWATER OR SURFACE WATER.

(4) THE OWNER OR OPERATOR OF A LANDFILL UNIT THAT HAS BEEN RELEASED FROM POSTCLOSURE CARE OF THE UNIT SHALL DO ALL OF THE FOLLOWING WITH RESPECT TO THE LANDFILL UNIT:

(A) EXERCISE CUSTODIAL CARE BY UNDERTAKING ANY ACTIVITY NECESSARY TO MAINTAIN THE EFFECTIVENESS OF THE FINAL COVER, PREVENT THE DISCHARGE OF LEACHATE, PREVENT IMPACTS TO THE SURFACE OR GROUNDWATER, MITIGATE THE FIRE AND EXPLOSION HAZARDS DUE TO COMBUSTIBLE GASES, AND MANAGE THE LANDFILL UNIT IN A MANNER THAT PROTECTS THE PUBLIC HEALTH AND SAFETY.

(B) COMPLY WITH ANY LAND USE OR RESOURCE USE RESTRICTIONS ESTABLISHED FOR THE LANDFILL UNIT.

Sec. 11518. (1) ~~At the time a disposal area that is a sanitary~~ **WHEN A** landfill is licensed, an instrument that imposes a restrictive covenant upon the land involved shall be executed by all of the owners of the ~~tract of~~ land upon which the landfill is to be located and the department. If the land involved is ~~state owned,~~ **OWNED BY THIS STATE,** the state administrative board shall execute the covenant on behalf of ~~the~~ **THIS** state. The **DEPARTMENT OR A LOCAL HEALTH OFFICER SHALL FILE THE** instrument imposing the restrictive covenant ~~shall be filed~~ for record ~~by the department or a health officer~~ in the office of the register of deeds of the

county, or counties, in which the ~~facility~~ **LANDFILL** is located. The covenant shall state that the land described in the covenant has been or will be used as a landfill and that neither the property owners, their servants, agents, or employees, nor any of their heirs, successors, lessees, or assigns shall, **WITHOUT AUTHORIZATION FROM THE DEPARTMENT**, engage in filling, grading, excavating, drilling, or mining on the property during the first 50 years following ~~completion of the landfill without authorization of the department.~~ **APPROVAL BY THE DEPARTMENT OF THE LANDFILL'S CLOSURE CERTIFICATION UNDER SECTION 11523A.** In giving authorization, the department shall consider the original design, type of operation, material deposited, and the stage of decomposition of the fill. ~~Special~~ **THE DEPARTMENT MAY GRANT AN** exemption from this section ~~may be granted by the department if the lands involved are federal lands or if contracts~~ **IF THE LAND INVOLVED IS FEDERALLY OWNED OR IF AGREEMENTS** existing between the landowner and the licensee on January 11, 1979 are not renegotiable.

(2) ~~This part~~ **PART 115** does not prohibit the department from conveying, leasing, or permitting the use of state land for a solid waste disposal area or a resource recovery facility as provided by applicable state law.

(3) When a disposal area that is a coal ash impoundment is licensed under this part, an instrument that imposes a restrictive covenant upon the land involved shall be executed by all of the owners of the tract of land upon which the impoundment is located or is to be located and the department. If the land involved is owned by this state, the state administrative board shall execute

the covenant on behalf of this state. The **DEPARTMENT OR A LOCAL HEALTH OFFICER SHALL FILE THE** instrument imposing the restrictive covenant ~~shall be filed~~ for record ~~by the department or a health officer~~ in the office of the register of deeds of the county, or counties, in which the disposal area is located. The covenant shall state that the land described in the covenant has been or will be used as a coal ash impoundment and that neither the property owners, their servants, agents, or employees, nor any of their heirs, successors, lessees, or assigns shall, **WITHOUT AUTHORIZATION FROM THE DEPARTMENT**, engage in filling, grading, excavating, drilling, or mining on the property during the first 50 years following completion of the impoundment. ~~without authorization of the department.~~ In giving authorization, the department shall consider the original design, type of operation, material deposited, and any removal of the materials as part of the closure of the impoundment.

(4) An industrial waste landfill may accept industrial waste of different types and from different generators, but shall not accept hazardous waste generated by conditionally exempt small quantity generators.

Sec. 11519. (1) The department shall specify, in writing, the reasons for denial of **AN APPLICATION FOR** a ~~construction~~ permit, ~~or~~ an operating license, ~~further specifying those particular~~ **AN APPROVAL UNDER A GENERAL PERMIT, OR A REGISTRATION, INCLUDING THE** sections of ~~this part or rules promulgated under this~~ part **115** that may be violated by granting the application and the manner in which the violation may occur.

(2) ~~The~~ **IF A MATERIALS MANAGEMENT FACILITY IS ESTABLISHED, CONSTRUCTED, OR OPERATED IN VIOLATION OF THE CONDITIONS OF A PERMIT, LICENSE, APPROVAL UNDER A GENERAL PERMIT, OR REGISTRATION, IN VIOLATION OF PART 115 OR AN ORDER ISSUED UNDER PART 115, OR IN A MANNER NOT CONSISTENT WITH AN MMP, ALL OF THE FOLLOWING APPLY:**

(A) A LOCAL health officer or **THE** department may issue a cease and desist order specifying a schedule of closure or remedial action in ~~accordance~~ **COMPLIANCE** with ~~this part and rules promulgated under this~~ part **115** or may ~~establish~~ **ENTER** a consent agreement specifying a schedule of closure or remedial action ~~in accordance with this part and rules promulgated under this~~ **UNDER** part **115.** ~~to a person who establishes, constructs,conducts, manages, maintains, or operates a disposal area without a permit or license or to a person who holds a permit or license but establishes, constructs, conducts, manages, maintains, or operates a disposal area contrary to an approved solid waste management plan or contrary to the permit or license issued under this part.~~

(B) ~~(3)~~ The department may issue a final order revoking, suspending, or restricting ~~a~~ **THE** permit, ~~or~~ license, **APPROVAL UNDER A GENERAL PERMIT, OR REGISTRATION OR A NOTIFICATION** after a contested case hearing as provided in the administrative procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~ **1969 PA 306, MCL** 24.201 to 24.328. ~~of the Michigan Compiled Laws, if the department finds that the disposal area is not being constructed or operated in accordance with the approved plans, the conditions of a permit or license, this part, or the rules promulgated under this part. A final order issued pursuant to this~~

~~section is subject to judicial review as provided in Act No. 306 of the Public Acts of 1969. The department or a health officer shall inspect and file a written report not less than 4 times per year for each licensed disposal area. The department or the health officer shall provide the municipality in which the licensed disposal area is located with a copy of each written inspection report if the municipality arranges with the department or the health officer to bear the expense of duplicating and mailing the reports.~~

(C) ~~(4)~~ The department may issue an order summarily suspending ~~a~~ **THE** permit, ~~or~~ license, **APPROVAL UNDER A GENERAL PERMIT, OR REGISTRATION OR A NOTIFICATION,** if the department determines that ~~a violation of this part or rules promulgated under this part has occurred which, in the department's opinion,~~ **THE VIOLATION OR INCONSISTENCY** constitutes an emergency or poses an imminent risk of injury to the public health or the environment. ~~A determination that a violation poses an imminent risk of injury to the public health shall be made by the department.~~ Summary suspension may be ordered effective on the date specified in the order or upon service of a certified copy of the order on the ~~licensee,~~ **OWNER OR OPERATOR,** whichever is later, and ~~shall remain~~ **REMAINS** effective during the proceedings. The proceedings shall be commenced within 7 days ~~of~~ **AFTER** the issuance of the order and shall be promptly determined.

(3) A FINAL ORDER ISSUED PURSUANT TO THIS SECTION IS SUBJECT TO JUDICIAL REVIEW AS PROVIDED IN THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. THE DEPARTMENT OR A

HEALTH OFFICER SHALL INSPECT AND FILE A WRITTEN REPORT NOT LESS THAN 4 TIMES PER YEAR FOR EACH LICENSED DISPOSAL AREA. THE DEPARTMENT OR THE HEALTH OFFICER SHALL PROVIDE THE MUNICIPALITY IN WHICH THE LICENSED DISPOSAL AREA OR MATERIALS MANAGEMENT FACILITY IS LOCATED WITH A COPY OF EACH WRITTEN INSPECTION REPORT IF THE MUNICIPALITY ARRANGES WITH THE DEPARTMENT OR THE HEALTH OFFICER TO PAY THE COST OF DUPLICATING AND MAILING THE REPORTS.

SUBPART 3 WASTE DIVERSION CENTERS

Sec. 11521b. (1) The operator of a waste diversion center shall comply with all of the following requirements:

(a) At least ~~90%,~~ **85%**, by volume, of the material collected at the waste diversion center shall consist of diverted waste to be managed at the waste diversion center.

(b) The waste diversion center shall be operated by personnel who are knowledgeable about the safe management of the types of diverted waste that are accepted at the waste diversion center.

(c) The operator shall manage the diverted waste in a manner that prevents the release of any diverted waste or component of diverted waste to the environment.

(d) The operator shall not store diverted waste overnight at the waste diversion center except in a secure location and with adequate containment to prevent any release of diverted ~~wastes.~~**WASTE.**

(e) Within 1 year after diverted waste is collected by the waste diversion center, that diverted waste shall be transported from the waste diversion center to ~~a~~ **ANOTHER** waste diversion center, **A** recycling facility, or **A** disposal facility that ~~is in~~

~~compliance with this act,~~ **MEETS THE REQUIREMENT OF SECTION 11508(1)(A)**, for processing, recycling, or disposal.

(f) The operator shall not process diverted waste except to the extent necessary for the safe and efficient transportation of the diverted waste.

(g) The operator shall record the types and quantities of diverted ~~wastes~~ **WASTE** collected, the period of storage, and where the diverted ~~wastes were~~ **WASTE WAS** transferred, processed, recycled, or disposed of. The operator shall maintain the records for at least 3 years and shall make the records available to the department upon request.

(h) Access to the waste diversion center shall be limited to a time when a responsible individual is on duty.

(i) The area where the diverted waste is accumulated shall be protected, as appropriate for the type of waste, from weather, fire, physical damage, and vandals.

(j) The waste diversion center shall be kept clean and free of litter **AND OPERATED IN A MANNER THAT DOES NOT CREATE A NUISANCE OR PUBLIC HEALTH OR ENVIRONMENTAL HAZARD.**

(K) IF THE PRIMARY FUNCTION OF AN ENTITY IS TO SERVE AS A WASTE DIVERSION CENTER, THE OPERATOR SHALL NOTIFY THE DEPARTMENT OF THE WASTE DIVERSION CENTER. NOTIFICATION SHALL BE GIVEN UPON INITIAL OPERATION AND SUBSEQUENTLY WITHIN 45 DAYS AFTER THE END OF EACH STATE FISCAL YEAR. THE SUBSEQUENT NOTICES SHALL REPORT THE AMOUNT OF SOLID WASTE DIVERTED AT THE FACILITY DURING THE PRECEDING STATE FISCAL YEAR. THE NOTIFICATION REQUIREMENT APPLIES TO BOTH OF THE FOLLOWING:

(*i*) FOR THE INITIAL NOTIFICATION, ENTITIES THAT ANTICIPATE COLLECTING MORE THAN 50 TONS OF DIVERTED OR RECYCLABLE MATERIALS IN THE STATE FISCAL YEAR IN WHICH THE NOTIFICATION IS GIVEN.

(*ii*) FOR SUBSEQUENT NOTIFICATIONS, ENTITIES THAT COLLECTED MORE THAN 50 TONS OF DIVERTED OR RECYCLABLE MATERIALS IN THE PRECEDING STATE FISCAL YEAR.

~~(2) Management of diverted wastes as required by this section is not considered disposal for the purposes of section 11538(6).~~

(2) ~~(3)~~ The operator of a waste diversion center may reject any diverted waste.

SUBPART 4 FINANCIAL ASSURANCE

Sec. 11523. (1) The department shall not issue a license to operate a disposal area ~~unless~~ **UNTIL** the applicant has filed, as a part of the application for a license, evidence of the following financial assurance:

(a) ~~Financial assurance established for a type III landfill or a preexisting unit at a type II landfill and until April 9, 1997, existing and new type II landfills shall be in the form of~~ **SUBJECT TO SECTION 11523B, FINANCIAL ASSURANCE FOR A LANDFILL DESCRIBED IN THIS SUBDIVISION SHALL BE** a bond in an amount equal to $20,000.00 per acre of licensed landfill within the solid waste boundary. However, the **TOTAL** amount of the bond shall not be less than $20,000.00 or more than $1,000,000.00. Each bond shall provide assurance for the maintenance of the ~~finished~~ landfill site **OR A PORTION THEREOF** for a period of 30 years ~~after~~ **BEGINNING WHEN THE DEPARTMENT APPROVED A CLOSURE CERTIFICATION AS DESCRIBED IN SECTION 11523A(5)(B) FOR** the landfill or ~~any approved portion is completed.~~

PORTION THEREOF, RESPECTIVELY. In addition to this bond, **THE OWNER OR OPERATOR OF A LANDFILL DESCRIBED IN THIS SUBDIVISION SHALL MAINTAIN** a perpetual care fund. ~~shall be maintained under section 11525.~~**ALL OF THE FOLLOWING LANDFILLS ARE SUBJECT TO THIS SUBDIVISION, UNLESS THE OWNER OR OPERATOR OF THE LANDFILL, BY WRITTEN NOTICE TO THE DEPARTMENT, ELECTS TO PROVIDE FINANCIAL ASSURANCE UNDER SUBDIVISION (B):**

(*i*) A PREEXISTING UNIT AT A TYPE II LANDFILL.

(*ii*) A TYPE II LANDFILL THAT STOPPED RECEIVING WASTE BEFORE APRIL 9, 1997.

(*iii*) A TYPE III LANDFILL THAT STOPPED RECEIVING WASTE BEFORE THE EFFECTIVE DATE OF THE 2019 AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH.

(*iv*) A TYPE III LANDFILL THAT RECEIVED WASTE ON OR AFTER THE EFFECTIVE DATE OF THE 2019 AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH. HOWEVER, SUCH A LANDFILL IS NOT SUBJECT TO THIS SUBDIVISION BUT IS SUBJECT TO SUBDIVISION (B) UPON THE ISSUANCE OF A NEW LICENSE FOR THE LANDFILL ON OR AFTER THE DATE 2 YEARS AFTER THE EFFECTIVE DATE OF THE 2019 AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH.

(b) Financial assurance for a type II **OR TYPE III** landfill that is an existing unit **NOT SUBJECT TO SUBDIVISION (A)** or a new unit **OR FOR A LANDFILL, OTHERWISE SUBJECT TO SUBDIVISION (A), WHOSE OWNER OR OPERATOR ELECTS TO BE SUBJECT TO THIS SUBDIVISION** shall be in an amount equal to the cost, in current dollars, of hiring a third party, to conduct closure, postclosure maintenance and monitoring, and if necessary, corrective action. ~~An~~ **A LICENSE**

application for a type II landfill that is ~~an existing unit or new unit~~ **SUBJECT TO THIS SUBDIVISION** shall demonstrate financial assurance in ~~accordance~~ **COMPLIANCE** with section 11523a. **A LICENSE APPLICATION FOR A TYPE III LANDFILL SHALL DEMONSTRATE FINANCIAL ASSURANCE IN COMPLIANCE WITH SECTION 11523A IF THE APPLICATION IS FILED 2 OR MORE YEARS AFTER THE EFFECTIVE DATE OF THE 2019 AMENDATORY ACT THAT ADDED SUBSECTION (2).**

(c) Financial assurance ~~established~~ for an existing coal ash impoundment shall be ~~in the form of~~ a bond in an amount equal to $20,000.00 per acre within the impoundment boundary. However, the **TOTAL** amount of the bond shall not be less than $20,000.00 or more than $1,000,000.00. The bond shall provide assurance for the maintenance of the ~~finished~~ coal ash impoundment **OR A PORTION THEREOF** for a period of 30 years after the coal ash impoundment or any approved portion is completed. In addition to the bond, **THE OWNER OR OPERATOR OF AN EXISTING COAL ASH IMPOUNDMENT SHALL MAINTAIN** a perpetual care fund. ~~shall be maintained under section 11525.~~ For applications for a license to operate submitted to the department after ~~the date that is 2 years after the effective date of the amendatory act that added section 11511a,~~ **DECEMBER 28, 2020,** an applicant that demonstrates that it meets the requirements of R 299.9709 of the Michigan Administrative Code may utilize the financial test under that rule for an amount not exceeding 95% of the closure, postclosure, and corrective action cost estimate.

(d) Financial assurance established for a **LICENSED** solid waste **PROCESSING AND** transfer facility ~~,~~ **OR** incinerator ~~, processing plant, other solid waste handling or disposal facility, or a~~

~~combination of these utilized in the disposal of solid waste shall be in the form of a bond in an amount equal to 1/4 of 1% of the construction cost of the facility, but shall not be less than $4,000.00, and~~ **SHALL BE A BOND IN THE AMOUNT OF $20,000.00. THE FINANCIAL ASSURANCE** shall be continued in effect for a period of 2 years after the disposal area is closed.

(2) THE DEPARTMENT SHALL NOT ISSUE AN APPROVAL UNDER A GENERAL PERMIT FOR A MATERIALS UTILIZATION FACILITY UNLESS THE APPLICANT HAS FILED, AS A PART OF THE APPLICATION FOR THE APPROVAL, EVIDENCE OF ADEQUATE FINANCIAL ASSURANCE, SUBJECT TO THE FOLLOWING, AS APPLICABLE:

(A) FINANCIAL ASSURANCE ESTABLISHED FOR A MATERIALS RECOVERY FACILITY OR ANAEROBIC DIGESTER THAT REQUIRES A GENERAL PERMIT SHALL BE A BOND IN THE AMOUNT OF $20,000.00 AND MAINTAINED IN EFFECT UNTIL AFTER THE FACILITY HAS CEASED ACCEPTING MATERIAL, REMOVED ALL MANAGED MATERIAL FROM THE SITE, AND HAD ITS CLOSURE CERTIFICATION APPROVED BY THE DEPARTMENT AS DESCRIBED IN SECTION 11525B(3)(A).

(B) THE AMOUNT OF FINANCIAL ASSURANCE ESTABLISHED FOR A COMPOSTING FACILITY WITH A GENERAL PERMIT SHALL BE $20,000.00. THE FINANCIAL ASSURANCE SHALL BE MAINTAINED IN EFFECT UNTIL AFTER THE FACILITY HAS CEASED ACCEPTING COMPOSTABLE MATERIALS, HAS REMOVED ANY FINISHED OR PARTIALLY FINISHED COMPOST FROM THE FACILITY, AND HAS HAD ITS CLOSURE CERTIFICATION APPROVED BY THE DEPARTMENT AS DESCRIBED IN SECTION 11525B(3)(A).

(C) AN INNOVATIVE TECHNOLOGY OR PRACTICE FACILITY SHALL SUBMIT TO THE DEPARTMENT A DETAILED WRITTEN ESTIMATE, IN CURRENT DOLLARS, OF THE COST FOR THE OWNER OR OPERATOR TO HIRE A THIRD PARTY TO

1 **CLOSE THE FACILITY, INCLUDING THE COST TO DISPOSE OF ANY REMAINING**
2 **WASTE MATERIAL, OR OTHERWISE CONTAIN AND CONTROL ANY REMAINING**
3 **WASTE RESIDUES. THE DEPARTMENT SHALL APPROVE, APPROVE WITH**
4 **MODIFICATIONS, OR DISAPPROVE THE CLOSURE COST ESTIMATE IN WRITING.**
5 **THE FINANCIAL ASSURANCE SHALL BE CONTINUED IN EFFECT UNTIL THE**
6 **FACILITY HAS CEASED ACCEPTING MATERIAL, REMOVED ALL MANAGED**
7 **MATERIAL FROM THE SITE, AND HAD ITS CLOSURE CERTIFICATION APPROVED**
8 **BY THE DEPARTMENT AS DESCRIBED IN SECTION 11525B(3)(A).**
9 **(3)** ~~(2) The owner or operator of a landfill may post a cash~~
10 ~~bond with the department instead of other bonding mechanisms to~~
11 ~~fulfill the remaining financial assurance requirements of this~~
12 ~~section.~~ An owner or operator of a ~~disposal area~~ **MATERIALS**
13 **MANAGEMENT FACILITY** who elects to post cash as a bond shall accrue
14 interest on that bond **QUARTERLY** at the annual rate of 6%, ~~to be~~
15 ~~accrued quarterly,~~ except that the interest rate payable to an
16 owner or operator shall not exceed the rate of interest accrued on
17 the state common cash fund for the quarter in which an accrual is
18 determined. Interest shall be paid to the owner or operator upon
19 release of the bond by the department. Any interest greater than 6%
20 shall be deposited in the state treasury to the credit of the
21 general fund. ~~and shall be appropriated to the department to be~~
22 ~~used by the department for administration of this part.~~**AN OWNER OR**
23 **OPERATOR WHO USES A CERTIFICATE OF DEPOSIT AS A BOND SHALL RECEIVE**
24 **ANY ACCRUED INTEREST ON THAT CERTIFICATE OF DEPOSIT UPON RELEASE OF**
25 **THE BOND BY THE DEPARTMENT.**
26 **(4)** ~~(3)~~ An owner or operator of a disposal area that is not a
27 landfill ~~who has accomplished closure in a manner approved by the~~

~~department and in accordance with this part and the rules promulgated under this part, may request a 50% reduction in the bond during the 2-year period after closure. At the end of the 2-year period, the owner or operator~~ may, **NOT LESS THAN 2 YEARS AFTER CLOSURE OF THE DISPOSAL AREA,** request that the department terminate the bond **REQUIRED UNDER THIS SECTION.** ~~The department shall approve termination of the bond within~~ **WITHIN** 60 days after the request is made, **THE DEPARTMENT SHALL APPROVE OR DENY THE REQUEST IN WRITING. THE DEPARTMENT SHALL APPROVE THE REQUEST** if all waste and waste residues have been removed from the disposal area and closure ~~is~~ **HAS BEEN** certified **BY A LICENSED PROFESSIONAL ENGINEER AND APPROVED BY THE DEPARTMENT.**

(5) ~~(4)~~ The department may utilize a bond required under this section for the closure and postclosure monitoring and maintenance of a disposal area if the owner or operator ~~fails to comply with~~ **VIOLATES** the closure and postclosure monitoring and maintenance requirements of ~~this part and the rules promulgated under this~~ part **115** to the extent necessary to correct such violations. At least 7 days before utilizing the bond, the department shall issue a notice of violation or other order that alleges violation of ~~this part or rules promulgated under this~~ part **115** and **SHALL** provide an opportunity for a hearing. This subsection does not apply to a perpetual care fund bond.

(6) ~~(5) Under the~~ **THE** terms of a surety bond, **IRREVOCABLE** letter of credit, insurance policy, or perpetual care fund bond ~~,~~ **SHALL REQUIRE** the issuing institution ~~shall~~ **TO** notify both the department and the owner or operator at least 120 days before the

expiration date or ~~any~~ cancellation of the bond. If the owner or operator does not extend the effective date of the bond, or establish alternate financial assurance within 90 days after receipt of an expiration or cancellation notice from the issuing institution, all of the following apply:

(a) The department may draw on the bond.

(b) In the case of a perpetual care fund bond, the issuing institution shall deposit the proceeds into the standby trust or escrow account unless the department agrees to the expiration or cancellation of the perpetual care fund bond.

(7) ~~(6)~~ The department shall not issue a construction permit or a new license to operate a disposal area to an applicant that is the subject of a bankruptcy action commenced under title 11 of the United States Code, 11 USC 101 to 1532, or any ~~other predecessor or~~ successor statute.

~~(7) A person required under this section to provide financial assurance in the form of a bond for a landfill may request a reduction in the bond based upon the amount of the perpetual care fund established under section 11525. A person requesting a bond reduction shall do so on a form consistent with this part and provided by the department. The department shall grant this request unless there are sufficient grounds for denial and those reasons are provided in writing. The department shall grant or deny a request for a reduction of the bond within 60 days after the request is made. If the department grants a request for a reduced bond, the department shall require a bond in an amount such that for type III landfills, and type II landfills that are preexisting~~

~~units, the amount of the perpetual care fund plus the amount of the reduced bond equals the maximum amount required in a perpetual care fund in section 11525(2).~~

~~(8) The department shall release the bond required by this section if the amount of the perpetual care fund exceeds the amount of the financial assurance required under subsection (1).~~

(8) AN OWNER OR OPERATOR OF A LANDFILL THAT UTILIZES A FINANCIAL TEST AS FINANCIAL ASSURANCE FOR THE LANDFILL MAY UTILIZE A FINANCIAL TEST FOR OTHER TYPES OF MATERIALS MANAGEMENT FACILITIES THAT ARE LOCATED ON THE PERMITTED LANDFILL SITE.

(9) THE DEPARTMENT MAY UTILIZE A BOND REQUIRED UNDER THIS SECTION FOR A FACILITY SUBJECT TO APPROVAL UNDER A GENERAL PERMIT FOR BRINGING THE FACILITY INTO COMPLIANCE WITH PART 115, INCLUDING, BUT NOT LIMITED TO, REMOVING MANAGED MATERIAL FROM THE FACILITY, CLEANUP AT THE FACILITY, AND FIRE SUPPRESSION OR OTHER EMERGENCY RESPONSE AT THE FACILITY, INCLUDING REIMBURSEMENT TO ANY LOCAL UNIT OF GOVERNMENT THAT INCURRED EMERGENCY RESPONSE COSTS. NOT LESS THAN 7 DAYS BEFORE UTILIZING THE BOND, THE DEPARTMENT SHALL ISSUE A NOTICE OF VIOLATION OR ORDER THAT ALLEGES VIOLATION OF PART 115 AND SHALL PROVIDE THE OWNER OR OPERATOR AN OPPORTUNITY FOR A HEARING.

(10) ~~(9) Prior to~~ **BEFORE** closure of a landfill, if money is disbursed from the perpetual care fund, ~~then~~ the department may require a corresponding increase in the amount of bonding ~~required to be~~ provided if necessary to meet the requirements of this section.

(11) ~~(10)~~ If an owner or operator of a disposal area fulfills the financial assurance requirements of ~~this~~ part **115** by obtaining

a bond, including, but not limited to, a perpetual care fund bond, and the surety company, insurer, trustee, bank, or financial or other institution that issued or holds the bond becomes the subject of a bankruptcy action **COMMENCED UNDER TITLE 11 OF THE UNITED STATES CODE, 11 USC 101 TO 1532, OR ANY SUCCESSOR STATUTE** or has its authority to issue or hold the bond ~~or to act as an escrow agent or trustee~~ suspended or revoked, the owner or operator shall, within 60 days after receiving notice of that event, establish alternate financial assurance under this part.

(A) THE MECHANISM IS ADMINISTERED BY A SURETY COMPANY, INSURER, SURETY, BANK, OR OTHER FINANCIAL INSTITUTION THAT HAS AUTHORITY TO ISSUE SUCH A MECHANISM AND IS REGULATED AND EXAMINED BY A STATE OR FEDERAL AGENCY.

(B) THE MECHANISM IS IRREVOCABLE AND RENEWS AUTOMATICALLY UNLESS, NOT LESS THAN 120 DAYS BEFORE THE AUTOMATIC RENEWAL DATE, THE INSURER, SURETY, BANK, OR OTHER FINANCIAL INSTITUTION NOTIFIES THE DEPARTMENT AND THE OWNERS OR OPERATORS OF THE COVERED FACILITIES THAT THE MECHANISM WILL NOT BE RENEWED, AND THE DEPARTMENT AGREES IN WRITING TO TERMINATION OF THE MECHANISM.

(C) THE AMOUNT OF FINANCIAL ASSURANCE AVAILABLE FOR ANY SINGLE COVERED FACILITY IS NOT LESS THAN WOULD BE AVAILABLE FOR THAT FACILITY IF IT WAS COVERED ALONE UNDER A BOND.

(D) THE ADDITION OR DELETION OF FACILITIES COVERED UNDER THE MECHANISM REQUIRES WRITTEN AGREEMENT OF THE DIRECTOR.

(12) THE DEPARTMENT SHALL ACCESS AND USE FUNDS UNDER A MECHANISM APPROVED UNDER SUBSECTION (11) SUBJECT TO THE PROVISIONS FOR BONDS UNDER SUBSECTION (9).

Sec. 11523a. (1) ~~Effective April 9, 1997, the~~ **THE** department shall not issue a license to operate a ~~type II~~ landfill **THAT IS SUBJECT TO SECTION 11523(1)(B)** unless the applicant demonstrates that ~~for any new unit or existing unit at the facility,~~ the combination of the ~~perpetual~~ **LANDFILL** care fund established under section ~~11525, bonds,~~ **11525C** and the financial capability of the applicant as evidenced by a financial test ~~,~~ provides financial assurance in an amount not less than that required by this section. An applicant may utilize a financial test for an amount ~~up to, but~~ not ~~exceeding,~~ **MORE THAN** 70% of the closure, postclosure, and corrective action cost estimate. **FOR APPLICATIONS FOR A LICENSE TO OPERATE SUBMITTED AFTER 2 YEARS AFTER THE EFFECTIVE DATE OF THE 2018 ACT THAT AMENDED THIS SECTION, AN APPLICANT MAY UTILIZE A FINANCIAL TEST FOR AN AMOUNT MORE THAN 70% BUT NOT MORE THAN 95% OF THE CLOSURE, POSTCLOSURE, AND CORRECTIVE ACTION COST ESTIMATE IF THE OWNER OR OPERATOR DEMONSTRATES THAT THE OWNER OR OPERATOR PASSES A FINANCIAL TEST UNDER AND OTHERWISE MEETS THE REQUIREMENTS OF R 299.9709 OF THE MICHIGAN ADMINISTRATIVE CODE.**

(2) An applicant may demonstrate compliance with this section by submitting evidence, with a form consistent with ~~this~~ part **115** and provided by the department, that the applicant has financial assurance for any existing unit or new unit in an amount equal to or ~~greater~~ **MORE** than the sum of the following standardized costs:

(a) A standard closure cost estimate. The standard closure cost estimate shall be based upon the sum of the following costs in ~~1996~~ **2018** dollars, adjusted for inflation and partial closures, if any, as specified in subsections (4) and (5):

(*i*) A base cost of ~~$20,000.00~~ **$40,000.00** per acre to construct a compacted soil final cover using on-site material.

(*ii*) A supplemental cost of ~~$20,000.00~~ **$40,000.00** per acre, to install a synthetic cover liner, if required by rules under this part.

(*iii*) A supplemental cost of ~~$5,000.00~~ **$10,000.00** per acre, if low permeability soil must be transported from off-site to construct the final cover or if a bentonite geocomposite liner is used instead of low permeability soil in a composite cover.

(*iv*) A supplemental cost of ~~$5,000.00~~ **$9,000.00** per acre, to construct a passive gas collection system in the final cover ~~, unless an active gas collection system has been installed at the facility.~~**OR A SUPPLEMENTAL COST OF $15,000.00 PER ACRE FOR AN ACTIVE LANDFILL GAS COLLECTION SYSTEM, FOR THOSE AREAS WITHOUT A GAS COLLECTION AND CONTROL SYSTEM ALREADY INSTALLED.**

(b) A standard postclosure cost estimate. The standard postclosure cost estimate shall be based upon the sum of the following costs, adjusted for inflation as specified in section ~~11525(2):~~**11525(3):**

(*i*) A final cover maintenance cost of ~~$200.00~~ **$400.00** per acre per year.

(*ii*) A leachate disposal cost of ~~$100.00~~ **$400.00** per acre per year.

(*iii*) A leachate transportation cost of ~~$1,000.00~~ **$4,000.00** per acre per year, if leachate is required to be transported off-site for treatment.

(*iv*) AN ACTIVE GAS COLLECTION SYSTEM MAINTENANCE COST OF

$900.00 PER ACRE PER YEAR FOR GAS COLLECTION SYSTEMS SUBJECT TO THE REQUIREMENTS OF STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES, 40 CFR PART 60.

(*v*) AN ACTIVE GAS COLLECTION SYSTEM MAINTENANCE COST OF $500.00 PER ACRE PER YEAR FOR LANDFILLS NOT SUBJECT TO THE REQUIREMENTS OF STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES, 40 CFR PART 60.

(*vi*) A PASSIVE GAS COLLECTION SYSTEM MAINTENANCE COST OF $35.00 PER ACRE PER YEAR.

(*vii*) ~~(*iv*)~~ A groundwater monitoring cost of ~~$1,000.00~~ **$2,000.00** per monitoring well per year.

(*viii*) ~~(*v*)~~ A gas monitoring cost of ~~$100.00~~ **$200.00** per monitoring point per year, for monitoring points used to detect landfill gas at or beyond the facility property boundary.

(c) ~~The~~ **A** corrective action cost estimate, if any. The corrective action cost estimate shall be a detailed written estimate, in current dollars, of the cost of hiring a third party to perform corrective action in ~~accordance~~ **COMPLIANCE** with ~~this~~ part **115.**

(3) Instead of using some or all of the standardized costs specified in subsection (2), an applicant may estimate the site specific costs of closure or postclosure maintenance and monitoring. A site specific cost estimate shall be a written estimate, in current dollars, of the cost of hiring a third party to perform the activity. For the purposes of this subsection, a parent corporation or a subsidiary of the owner or operator is not a third party. Site specific cost estimates shall ~~be based on~~

COMPLY WITH the following, **AS APPLICABLE:**

(a) For closure, **BE BASED ON** the cost to close the largest area of the landfill ~~ever~~ requiring a final cover at any time during the active life, when the extent and manner of its operation would make closure the most expensive, in ~~accordance~~ **COMPLIANCE** with the approved closure plan. The closure cost estimate ~~may~~ **SHALL** not incorporate any salvage value ~~that may be realized by~~ **FROM** the sale of structures, land, equipment, or other assets associated with the facility at the time of final closure.

(b) For postclosure, **BE BASED ON** the cost to conduct postclosure maintenance and monitoring in ~~accordance~~ **COMPLIANCE** with the approved postclosure plan for the entire postclosure period, **BUT NEED NOT BE PROVIDED IN AN AMOUNT SUFFICIENT FOR A PERIOD OF NOT MORE THAN 30 YEARS AT ANY GIVEN TIME.**

(C) FOR COSTS FOR OPERATION AND MAINTENANCE OF AN ON-SITE WASTEWATER TREATMENT FACILITY MANAGING LEACHATE AT A LANDFILL THAT ARE SUBSTITUTED FOR THE STANDARDIZED LEACHATE DISPOSAL AND TRANSPORTATION COSTS OF THIS SECTION, BE BASED ON AN ENGINEERING EVALUATION OF TOTAL WASTEWATER FLOW AND INCLUDE UTILITIES, STAFFING, AND INCIDENTAL COSTS TO MAINTAIN AND ENSURE COMPLIANCE WITH ALL APPLICABLE PERMITS.

(4) The owner or operator of a landfill subject to this section shall, during the active life of the landfill and during the postclosure care period, annually adjust the financial assurance cost estimates and corresponding amount of financial assurance for inflation. ~~Cost estimates~~ **THE STANDARD CLOSURE COST ESTIMATE AND CORRECTIVE ACTION COST ESTIMATE** shall be adjusted for

inflation by multiplying the cost estimate by an inflation factor derived from the most recent United States Department of the Interior, Bureau of Reclamation ~~composite index~~ **COMPOSITE INDEX** published by the United States Department of Commerce or another index that is more representative of the costs of closure and postclosure monitoring and maintenance as determined appropriate by the department. The owner or operator shall document the adjustment on a form consistent with ~~this~~ part **115** as prepared by the department and shall place the documentation in the operating record of the facility.

(5) The owner or operator of a landfill subject to this section may request that the department authorize a reduction in the approved cost estimates and corresponding financial assurance for the landfill. ~~by submitting a form consistent with this part and provided by the department certifying~~ **WITHIN 60 DAYS AFTER RECEIVING THE FINANCIAL ASSURANCE REDUCTION REQUEST UNDER THIS SUBDIVISION, THE DEPARTMENT SHALL APPROVE OR DENY THE REQUEST IN WRITING. A DENIAL SHALL STATE THE REASONS FOR THE DENIAL. A FINANCIAL ASSURANCE REDUCTION REQUEST SHALL CERTIFY** completion of any of the following activities:

(a) Partial closure of the landfill. The current closure cost estimate for partially closed portions of a landfill unit may be reduced by 80%, if the maximum waste slope on the unclosed portions of the unit does not exceed 25%. The percentage of the cost estimate reduction approved by the department for the partially closed portion shall be reduced 1% for every 1% increase in the slope of waste over 25% in the active portion. An owner or operator

requesting a reduction in financial assurance for partial closure shall ~~enclose~~ **SUBMIT** with the request a certification under the seal of a licensed professional engineer ~~that certifies~~ **OF** both of the following:

(*i*) That a portion of the licensed landfill unit has reached final grades and has had a final cover installed in compliance with the approved closure plan and ~~rules promulgated under this~~ part **115.**

(*ii*) The maximum slope of waste in the active portion of the landfill unit at the time of partial closure.

(b) Final closure of the landfill. An owner or operator requesting a cost estimate reduction for final closure shall submit **WITH THE REQUEST** a certification under the seal of a licensed professional engineer that closure of that landfill unit has been fully completed in ~~accordance~~ **COMPLIANCE** with the approved closure plan for the landfill. Within 60 days of receiving a certification under this ~~subsection,~~ **SUBDIVISION,** the department shall perform a consistency review of the submitted certification and do 1 of the following:

(*i*) Approve the certification and notify the owner or operator that ~~he or she may reduce~~ the closure cost estimate **MAY BE REDUCED** to zero.

(*ii*) Disapprove the certification and provide the owner or operator with a detailed written statement of the reasons ~~why~~ the department has determined that closure certification has not been conducted in ~~accordance~~ **COMPLIANCE** with ~~this part, the rules promulgated under this~~ part ~~,~~ **115** or an approved closure plan.

(c) Postclosure maintenance and monitoring. The owner or operator of a landfill unit who has completed final closure of the unit may request a reduction in the postclosure cost estimate and corresponding financial assurance for 1 year or more of postclosure maintenance and monitoring if the landfill has been monitored and maintained in ~~accordance~~ **COMPLIANCE** with the approved postclosure plan. ~~The department shall, within~~ **WITHIN** 60 days ~~of~~ **AFTER** receiving a cost estimate reduction request, **THE DEPARTMENT SHALL** grant written approval or issue a written denial stating the reason for denial. ~~The~~ **IF THE** department ~~shall grant~~ **GRANTS** the request, ~~and~~ the owner or operator may reduce the postclosure cost estimate to reflect the number of years remaining in the postclosure period. ~~unless the~~ **THE** department ~~denies~~ **SHALL DENY** the request ~~and the written denial states that~~ **IF** the owner or operator has not performed the specific tasks consistent with ~~this part, rules promulgated under this~~ part ~~,~~ **115** and an approved **POSTCLOSURE** plan. **THE DEPARTMENT SHALL NOT GRANT A REQUEST UNDER THIS SUBDIVISION TO REDUCE THE POSTCLOSURE COST ESTIMATE AND THE CORRESPONDING FINANCIAL ASSURANCE TO BELOW THE MAXIMUM REQUIRED PERPETUAL CARE FUND AMOUNT SPECIFIED IN SECTION 11525(3) UNLESS THE OWNER OR OPERATOR HAS DEMONSTRATED WITHIN THE PAST 5-YEAR PERIOD THAT THE LANDFILL IS ON TARGET TO ACHIEVE FUNCTIONAL STABILITY AS DESCRIBED IN SECTION 11517 WITHIN THE TIME REMAINING IN THE POSTCLOSURE PERIOD.**

(6) The owner or operator of a landfill subject to this section may request a reduction in the amount of ~~one~~ **1** or more of the financial assurance mechanisms in place. If the combined value

of the remaining financial assurance mechanisms equals the amount required under this section, the department shall approve the request.

~~(7) An owner or operator requesting that the department approve a financial assurance reduction under subsection (5) or (6) shall do so on a form consistent with this part and provided by the department. The department shall grant written approval or, within 60 days of receiving a financial assurance reduction request, issue a written denial stating the reason for the denial.~~

Sec. 11523b. (1) The owner or operator of a landfill or coal ash impoundment may establish a trust fund or escrow account to fulfill the requirements of sections 11523 and 11523a. The trust fund or escrow account shall be executed on a form provided by the department.

~~(2) Payments into a trust fund or escrow account shall be made annually over the term of the first operating license issued after the effective date of this section. The first payment into a trust fund or escrow account shall be made prior to licensure and shall be at least equal to the portion of the financial assurance requirement to be covered by the trust fund or escrow account divided by the term of the operating license. Subsequent payments shall be equal to the remaining financial assurance requirement divided by the number of years remaining until the license expires.~~

~~(3) If the owner or operator of a landfill or coal ash impoundment establishes a trust fund or escrow account after having used one or more alternate forms of financial assurance, the initial payment into the trust fund or escrow account shall be at~~

~~least the amount the fund would contain if the fund were established initially and annual payments made according to subsection (2).~~

(2) ~~(4)~~ All earnings and interest from a trust fund or escrow account shall be credited to the fund or account. However, the custodian may be compensated for reasonable fees and costs for ~~his or her~~ **THE CUSTODIAN'S** responsibilities as custodian. The custodian shall ensure the filing of all required tax returns for which the trust fund or escrow account is liable and shall disburse funds from earnings to pay ~~lawfully due~~ taxes owed by the trust fund or escrow account, without permission of the department.

(3) ~~(5)~~ The custodian shall annually, 30 days preceding the anniversary date of establishment of the fund, furnish to the owner or operator and to the department a statement confirming the value of the fund or account as of the end of that month.

(4) ~~(6)~~ The owner or operator may request that the department authorize the release of funds from a trust fund or escrow account. The department shall grant the request if the owner or operator demonstrates that the value of the fund or account exceeds the owner's or operator's financial assurance obligation. A payment or disbursement from the fund or account shall not be made without the prior written approval of the department.

(5) ~~(7)~~ The owner or operator shall receive all interest or earnings from a trust fund or escrow account upon its termination.

(6) IF AN OWNER OR OPERATOR OF A DISPOSAL AREA FULFILLS THE FINANCIAL ASSURANCE REQUIREMENTS OF PART 115 BY ESTABLISHING A TRUST FUND OR ESCROW ACCOUNT AND THE CUSTODIAN HAS ITS AUTHORITY TO

ACT AS A CUSTODIAN SUSPENDED OR REVOKED, THE OWNER OR OPERATOR SHALL, WITHIN 60 DAYS AFTER RECEIVING NOTICE OF THE SUSPENSION OR REVOCATION, ESTABLISH ALTERNATIVE FINANCIAL ASSURANCE UNDER PART 115.

(7) ~~(8)~~ As used in this section, "custodian" means the trustee of a trust fund or escrow agent of an escrow account.

Sec. 11525. (1) **THIS SECTION APPLIES ONLY TO LANDFILLS SUBJECT TO SECTION 11523(1)(A).**

(2) The owner or operator of a landfill or coal ash impoundment shall establish and maintain a perpetual care fund for a period of 30 years after final closure of the landfill or coal ash impoundment as specified in this section. A perpetual care fund may be established as a trust, an escrow account, or a perpetual care fund bond and may be used to demonstrate financial assurance for ~~type II and type III landfills and coal ash impoundments under sections 11523 and 11523a.~~**A LANDFILL OR COAL ASH IMPOUNDMENT.**

(3) ~~(2)~~ Except as otherwise provided in this section, the owner or operator of a landfill shall increase the amount of ~~his or her~~ **THE** perpetual care fund 75 cents for each ton or portion of a ton ~~or 25 cents for each cubic yard or portion of a cubic yard~~ of solid waste that is disposed of in the landfill ~~after June 17, 1990~~ until the fund reaches the maximum required fund amount. As of July 1, ~~1996,~~ **2018,** the maximum required fund amount for a landfill or coal ash impoundment is ~~$1,156,000.00. This amount shall be annually adjusted for inflation and rounded to the nearest thousand.~~ **$2,257,000.00.** The department shall **ANNUALLY** adjust ~~the maximum required fund~~ **THIS** amount for inflation annually by

multiplying the amount by an inflation factor derived from the most recent United States Department of the Interior, Bureau of Reclamation ~~composite index~~ **COMPOSITE INDEX** published by the United States Department of Commerce or another index more representative of the costs of closure and postclosure monitoring and maintenance as determined appropriate by the department. **THE DEPARTMENT SHALL ROUND THE RESULTING AMOUNT TO THE NEAREST THOUSAND DOLLARS.** Increases to the amount of a perpetual care fund required under this subsection shall be calculated based on solid waste disposed of in the landfill as of the end of the state fiscal year and shall be made within 30 days after the end of each state fiscal year.

(4) ~~(3)~~ The owner or operator of a landfill or coal ash impoundment ~~that is used for the disposal of the following materials~~ shall increase the amount of the perpetual care fund 7.5 cents for each ton ~~or cubic yard~~ or portion of a ton ~~or cubic yard~~ of the following ~~materials~~ that are disposed of in the landfill or coal ash impoundment after ~~the effective date of the amendatory act that added section 11511a~~ **DECEMBER 28, 2020** until the fund reaches the maximum required fund amount under subsection (2):

(a) Coal ash, wood ash, ~~or~~ cement kiln dust, **OR A COMBINATION THEREOF**, that is disposed ~~of in a landfill that~~ **IF THE DISPOSAL AREA** is used only for the disposal of ~~coal ash, wood ash, or cement kiln dust, or a combination of these materials, or that is~~ **THESE MATERIALS OR THESE MATERIALS ARE** permanently segregated in ~~a landfill.~~**THE DISPOSAL AREA.**

(b) Wastewater treatment sludge or sediments from wood pulp or paper producing industries that is disposed of in a landfill ~~that~~

IF THE LANDFILL is used only for the disposal of ~~wastewater treatment sludge and sediments from wood pulp or paper producing industries, or that is~~ **THESE MATERIALS OR THESE MATERIALS ARE** permanently segregated in ~~a~~ **THE** landfill.

(c) Foundry sand or other material that is approved by the department for use as daily cover at **THE LANDFILL IF IT IS** an operating landfill, **FOUNDRY SAND** that is disposed of in a landfill ~~that~~ **IF THE LANDFILL** is used only for the disposal of foundry sand, or **FOUNDRY SAND** that is permanently segregated in a landfill.

(5) ~~(4)~~ The owner or operator of a landfill that is used only for the disposal of a mixture of 2 or more of the materials described in subsection ~~(3)(a)~~ **(4)(A)** to (c) or in which a mixture of 2 or more of these materials are permanently segregated shall increase the amount of the perpetual care fund 7.5 cents for each ton ~~or cubic yard~~ or portion of a ton ~~or cubic yard~~ of these materials that are disposed of in the landfill. ~~after July 1, 1996.~~

(6) ~~(5)~~ The amount of a perpetual care fund is not required to be increased for materials that are regulated under part 631.

(7) ~~(6)~~ The owner or operator of a landfill may increase the amount of the perpetual care fund above the amount otherwise required by this section at his or her discretion.

(8) ~~(7)~~ The custodian of a perpetual care fund trust or escrow account shall be a bank or other financial institution that has the authority to act as a custodian and whose account operations are regulated and examined by a federal or state agency. Until the perpetual care fund trust or escrow account reaches the maximum required fund amount, the custodian of ~~a~~ **THE** perpetual care fund

trust or escrow account shall credit any interest and earnings of the perpetual care fund trust or escrow account to the perpetual care fund trust or escrow account. After the perpetual care fund trust or escrow account reaches the maximum required fund amount, any interest and earnings shall be distributed as directed by the owner or operator. ~~The agreement governing the operation of the perpetual care fund trust or escrow account shall be executed on a form consistent with this part and provided by the department.~~ The custodian may be compensated from the fund for reasonable fees and costs incurred ~~for his or her~~ **IN DISCHARGING THE CUSTODIAN'S** responsibilities. ~~as custodian.~~ The custodian of a perpetual care fund trust or escrow account shall make an accounting to the department within 30 days following the close of each state fiscal year.

(9) ~~(8)~~ The custodian of a perpetual care fund shall not disburse any funds to the owner or operator of a landfill or coal ash impoundment for the purposes of the perpetual care fund except upon the prior written approval of the department. However, the custodian shall ensure the filing of all required tax returns for which the perpetual care fund is liable and shall disburse funds to pay ~~lawfully due~~ taxes owed by the perpetual care fund without permission of the department. The owner or operator of the landfill or coal ash impoundment shall provide notice of requests for disbursement and **THE DEPARTMENT'S** denials and approvals to the custodian of the perpetual care fund. Requests for disbursement from a perpetual care fund shall be submitted not more frequently than semiannually. The owner or operator of a landfill or coal ash

impoundment may request disbursement of funds from a perpetual care fund ~~whenever~~ **IF** the amount of money in the fund exceeds the maximum required fund amount **UNDER SUBSECTION (3), UNLESS A DISBURSEMENT FOR THAT REASON HAS BEEN APPROVED BY THE DEPARTMENT WITHIN THE PRECEDING 180 DAYS.** The department shall approve the disbursement if the total amount of financial assurance maintained meets the requirements of ~~sections 11523 and 11523a. As used in this subsection, "maximum required fund amount" means:~~**SECTION 11523(1)(A) OR (C), AS APPLICABLE.**

~~(a) For those landfills or coal ash impoundments containing only those materials specified in subsection (3), an amount equal to 1/2 of the maximum required fund amount specified in subsection (2).~~

~~(b) For all other landfills, an amount equal to the maximum required fund amount specified in subsection (2).~~

(10) ~~(9)~~ If the owner or operator of a landfill or coal ash impoundment ~~refuses or~~ fails to conduct closure, postclosure monitoring and maintenance, or corrective action as necessary to protect the public health, safety, or welfare, or the environment or fails to request the disbursement of money from a perpetual care fund when necessary to protect the public health, safety, or welfare, or the environment, or fails to pay the solid waste management program administration fee or the surcharge required under section 11525a, then the department may draw on the perpetual care fund and may expend the money for closure, postclosure monitoring and maintenance, and corrective action, as necessary. The department may **ALSO** draw on a perpetual care fund for

administrative costs associated with actions taken under this subsection.

(11) ~~(10)~~ Upon approval by the department of a request to terminate financial assurance for a landfill or coal ash impoundment under section 11525b, any money in the perpetual care fund for that landfill or coal ash impoundment shall be disbursed by the custodian to the owner of the landfill or coal ash impoundment unless ~~a contract~~ **AN AGREEMENT** between the owner and the operator provides otherwise.

(12) ~~(11)~~ The owner of a landfill or coal ash impoundment shall provide notice to the custodian of the perpetual care fund for that landfill or coal ash impoundment if there is a change of ownership of the landfill. The custodian shall maintain records of ownership of a landfill or coal ash impoundment during the period of existence of the perpetual care fund.

(13) ~~(12)~~ This section does not relieve an owner or operator of a landfill or coal ash impoundment of any liability that ~~he or she~~ **THE OWNER OR OPERATOR** may have under this part or as otherwise provided by law.

(14) ~~(13)~~ This section does not create a cause of action at law or in equity against a custodian of a perpetual care fund other than for errors or omissions related to investments, accountings, disbursements, filings of required tax returns, and maintenance of records required by this section or the applicable perpetual care fund.

~~(14) As used in this section, "custodian" means the trustee or escrow agent of any of the following:~~

~~(a) A perpetual care fund that is established as a trust or escrow account.~~

~~(b) A standby trust or escrow account for a perpetual care fund bond.~~

(15) A perpetual care fund that is established as a trust or escrow account may be replaced with a perpetual care fund that is established as a perpetual care fund bond that complies with this section. Upon such replacement, the ~~director~~ **DEPARTMENT** shall authorize the custodian of the trust or escrow account to disburse the money in the trust or escrow account to the owner of the landfill or coal ash impoundment unless ~~a contract~~ **AN AGREEMENT** between the owner and operator specifies otherwise.

(16) An owner or operator of a landfill or coal ash impoundment ~~who~~ **THAT** uses a perpetual care fund bond to satisfy the requirements of this section shall also establish a standby trust or escrow account. All payments made under the terms of the perpetual care fund bond shall be deposited by the custodian directly into the standby trust or escrow account in ~~accordance~~ **COMPLIANCE** with instructions from the ~~director.~~ **DEPARTMENT.** The standby trust or escrow account must meet the requirements for a trust or escrow account established as a perpetual care fund under subsection ~~(1),~~ **(2),** except that until the standby trust or escrow account is funded pursuant to the requirements of this subsection, the following are not required:

(a) Payments into the standby trust or escrow account as specified in subsection ~~(2).~~**(3).**

(b) Annual ~~accounting valuations~~ **ACCOUNTINGS** as required in

subsection ~~(7).~~**(8).**

(17) AS USED IN THIS SECTION, "CUSTODIAN" MEANS THE TRUSTEE OR ESCROW AGENT OF ANY OF THE FOLLOWING:

(A) A PERPETUAL CARE FUND THAT IS ESTABLISHED AS A TRUST OR ESCROW ACCOUNT.

(B) A STANDBY TRUST OR ESCROW ACCOUNT FOR A PERPETUAL CARE FUND BOND.

Sec. 11525a. (1) The owner or operator of a landfill or coal ash impoundment shall pay **TO THE DEPARTMENT** a surcharge as follows:

(a) For a landfill or coal ash impoundment that is not a captive facility, 12 cents for each cubic yard or portion of a cubic yard of solid waste or municipal solid waste incinerator ash that is disposed of in the landfill or coal ash impoundment before October 1, 2019.

(b) For a type III landfill or coal ash impoundment that is a captive facility, the following ~~annual~~ amounts **FOR EACH STATE FISCAL YEAR, BASED ON THE AMOUNT OF WASTE RECEIVED DURING THAT FISCAL YEAR:**

(*i*) For a captive facility that receives 100,000 or more cubic yards of waste, $3,000.00.

(*ii*) For a captive facility that receives 75,000 or more but less than 100,000 cubic yards of waste, $2,500.00.

(*iii*) For a captive facility that receives 50,000 or more but less than 75,000 cubic yards of waste, $2,000.00.

(*iv*) For a captive facility that receives 25,000 or more but less than 50,000 cubic yards of waste, $1,000.00.

(*v*) For a captive facility that receives less than 25,000

cubic yards of waste, $500.00.

(2) ~~The~~ **WITHIN 30 DAYS AFTER THE END OF EACH QUARTER OF A STATE FISCAL YEAR, THE** owner or operator of a landfill or coal ash impoundment that is not a captive facility shall pay the surcharge under subsection (1)(a) ~~within 30 days after the end of each~~ **FOR WASTE RECEIVED DURING THAT** quarter of the state fiscal year. ~~The~~ **WITHIN 30 DAYS AFTER THE END OF A STATE FISCAL YEAR, THE** owner or operator of a type III landfill or coal ash impoundment that is a captive facility shall pay the surcharge under subsection (1)(b) ~~by January 31 of each~~ **FOR WASTE RECEIVED DURING THAT STATE FISCAL** year.

(3) The owner or operator of a landfill or coal ash impoundment who is required to pay the surcharge under subsection (1) shall pass through and collect the surcharge from any person who generated the solid waste or who arranged for its delivery to the solid waste hauler or **SOLID WASTE PROCESSING AND** transfer facility notwithstanding the provisions of any ~~contract or~~ agreement to the contrary or the absence of any ~~contract or~~ agreement.

(4) Surcharges collected under this section shall be forwarded to the state treasurer for deposit in the solid waste staff account of the solid waste management fund. ~~established in section 11550.~~

Sec. 11525b. (1) The owner or operator of **A MATERIALS UTILIZATION FACILITY FOR WHICH FINANCIAL ASSURANCE IS REQUIRED UNDER SECTION 11523 OR OF** a disposal area shall provide continuous financial assurance coverage until released from these requirements by the department under the provisions of ~~this~~ part **115.**

(2) UPON TRANSFER OF A MATERIALS UTILIZATION FACILITY FOR WHICH FINANCIAL ASSURANCE IS REQUIRED UNDER SECTION 11523 OR OF A DISPOSAL AREA, THE FORMER OWNER OR OPERATOR SHALL CONTINUE TO MAINTAIN FINANCIAL ASSURANCE UNTIL THE FINANCIAL ASSURANCE IS REPLACED BY THE NEW OWNER OR OPERATOR OR UNTIL THE MATERIALS UTILIZATION FACILITY OR DISPOSAL AREA IS RELEASED FROM THE FINANCIAL ASSURANCE OBLIGATION AT THE END OF THE POSTCLOSURE PERIOD.

(3) ~~(2) The~~ **IF THE** owner or operator of a landfill or coal ash impoundment ~~who~~ has completed postclosure maintenance and monitoring in ~~accordance with this part, rules promulgated under this part,~~ **COMPLIANCE WITH PART 115** and approved postclosure plan, **THE OWNER OR OPERATOR** may request that financial assurance required by sections 11523 and 11523a be terminated. A person requesting termination of ~~bonding and~~ financial assurance **UNDER THIS SUBSECTION** shall submit to the department a statement that the landfill or coal ash impoundment has been monitored and maintained in ~~accordance with this part, rules promulgated under this part,~~ **COMPLIANCE WITH PART 115** and the approved postclosure plan for the postclosure period specified in section 11523 and shall certify that the landfill or coal ash impoundment is not subject to corrective action under section ~~11515.~~ **11512(21). FOR OTHER MATERIALS MANAGEMENT FACILTIES WITH FINANCIAL ASSURANCE, THE OWNER OR OPERATOR OF THE FACILITY SHALL SUBMIT TO THE DEPARTMENT A STATEMENT THAT THE FACILITY HAS BEEN MAINTAINED IN COMPLIANCE WITH PART 115 AND HAS REMOVED ALL MANAGED MATERIAL FROM THE FACILITY.** Within 60 days ~~of~~ **AFTER** receiving a statement under this

subsection, the department shall perform a consistency review of the submitted statement and do 1 of the following:

(a) Approve the statement, notify the owner or operator that he or she is no longer required to maintain financial assurance, return or release all financial assurance mechanisms, and, if the perpetual care fund is established as a trust or escrow account, notify the custodian of the perpetual care fund that money from the fund shall be disbursed as provided in section ~~11525(10).~~**11525(11).**

(b) Disapprove the statement and provide the owner or operator with a detailed written statement of the reasons why the department has determined that postclosure maintenance and monitoring and corrective action, if any, have not been conducted in ~~accordance with this part, the rules promulgated under this part, or an~~ **COMPLIANCE WITH PART 115 OR THE** approved postclosure plan.

SEC. 11525C. (1) THIS SECTION APPLIES ONLY TO LANDFILLS SUBJECT TO SECTION 11523(1)(B).

(2) THE OWNER OR OPERATOR OF A LANDFILL SHALL ESTABLISH AND MAINTAIN A LANDFILL CARE FUND AS SPECIFIED IN THIS SECTION. A LANDFILL CARE FUND MAY BE ESTABLISHED AS A TRUST, AN ESCROW ACCOUNT, OR A LANDFILL CARE FUND BOND AND MAY BE USED TO DEMONSTRATE FINANCIAL ASSURANCE FOR LANDFILLS UNDER SECTION 11523A.

(3) THE OWNER OR OPERATOR OF A LANDFILL MAY INCREASE THE AMOUNT OF THE LANDFILL CARE FUND ABOVE THE AMOUNT OTHERWISE REQUIRED BY THIS SECTION AT HIS OR HER DISCRETION.

(4) THE CUSTODIAN OF A LANDFILL CARE FUND TRUST OR ESCROW ACCOUNT SHALL BE A BANK OR OTHER FINANCIAL INSTITUTION THAT HAS THE

1 AUTHORITY TO ACT AS A CUSTODIAN AND WHOSE ACCOUNT OPERATIONS ARE
2 REGULATED AND EXAMINED BY A FEDERAL OR STATE AGENCY. ANY INTEREST
3 AND EARNINGS ON THE FUND SHALL BE DISTRIBUTED AS DIRECTED BY THE
4 OWNER OR OPERATOR OF THE LANDFILL. THE CUSTODIAN MAY BE COMPENSATED
5 FROM THE FUND FOR REASONABLE FEES AND COSTS INCURRED FOR THE
6 CUSTODIAN'S RESPONSIBILITIES AS CUSTODIAN. THE CUSTODIAN OF A
7 LANDFILL CARE FUND TRUST OR ESCROW ACCOUNT SHALL MAKE AN ACCOUNTING
8 TO THE DEPARTMENT WITHIN 30 DAYS FOLLOWING THE CLOSE OF EACH STATE
9 FISCAL YEAR.
10 (5) THE CUSTODIAN OF A LANDFILL CARE FUND TRUST OR ESCROW
11 ACCOUNT SHALL NOT DISBURSE ANY FUNDS TO THE OWNER OR OPERATOR OF A
12 LANDFILL FOR THE PURPOSES OF THE LANDFILL CARE FUND AND THE ISSUER
13 OR HOLDER OF A LANDFILL CARE FUND BOND SHALL NOT REDUCE THE AMOUNT
14 OF THE BOND EXCEPT UPON THE PRIOR WRITTEN APPROVAL OF THE
15 DEPARTMENT. HOWEVER, THE CUSTODIAN SHALL ENSURE THE FILING OF ALL
16 REQUIRED TAX RETURNS FOR WHICH THE LANDFILL CARE FUND IS LIABLE AND
17 SHALL DISBURSE FUNDS TO PAY TAXES OWED BY THE LANDFILL CARE FUND,
18 WITHOUT PERMISSION OF THE DEPARTMENT. THE OWNER OR OPERATOR OF THE
19 LANDFILL SHALL PROVIDE NOTICE OF REQUESTS FOR DISBURSEMENT FROM A
20 LANDFILL CARE FUND TRUST OR ESCROW ACCOUNT OR REDUCTION OF A
21 LANDFILL CARE FUND BOND AND THE DEPARTMENT'S DENIALS AND APPROVALS
22 TO THE CUSTODIAN OF THE LANDFILL CARE FUND TRUST OR ESCROW ACCOUNT
23 OR THE ISSUER OR HOLDER OF THE LANDFILL CARE FUND BOND. REQUESTS
24 FOR DISBURSEMENT FROM A LANDFILL CARE FUND TRUST OR ESCROW ACCOUNT
25 OR A REDUCTION OF A LANDFILL CARE FUND BOND SHALL BE SUBMITTED NOT
26 MORE FREQUENTLY THAN SEMIANNUALLY. THE OWNER OR OPERATOR OF A
27 LANDFILL MAY REQUEST DISBURSEMENT OF FUNDS FROM A LANDFILL CARE

1 FUND TRUST OR ESCROW ACCOUNT OR A REDUCTION OF A LANDFILL CARE FUND
2 BOND. THE DEPARTMENT SHALL APPROVE THE REQUEST IF THE TOTAL AMOUNT
3 OF FINANCIAL ASSURANCE MAINTAINED MEETS THE REQUIREMENTS OF SECTION
4 11523A.
5 (6) IF THE OWNER OR OPERATOR OF A LANDFILL FAILS TO CONDUCT
6 CLOSURE, POSTCLOSURE MONITORING AND MAINTENANCE, OR CORRECTIVE
7 ACTION AS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, OR
8 WELFARE, OR THE ENVIRONMENT, OR FAILS TO REQUEST THE DISBURSEMENT
9 OF MONEY FROM A LANDFILL CARE FUND WHEN NECESSARY TO PROTECT THE
10 PUBLIC HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT, OR FAILS TO
11 PAY THE SOLID WASTE MANAGEMENT PROGRAM ADMINISTRATION FEE OR THE
12 SURCHARGE REQUIRED UNDER SECTION 11525A, THEN THE DEPARTMENT MAY
13 ALSO DRAW ON THE LANDFILL CARE FUND AND MAY EXPEND THE MONEY FOR
14 CLOSURE, POSTCLOSURE MONITORING AND MAINTENANCE, AND CORRECTIVE
15 ACTION, AS NECESSARY. THE DEPARTMENT MAY DRAW ON A LANDFILL CARE
16 FUND FOR ADMINISTRATIVE COSTS ASSOCIATED WITH ACTIONS TAKEN UNDER
17 THIS SUBSECTION.
18 (7) UPON APPROVAL BY THE DEPARTMENT OF A REQUEST TO TERMINATE
19 FINANCIAL ASSURANCE FOR A LANDFILL UNDER SECTION 11525B, ANY MONEY
20 IN THE LANDFILL CARE FUND FOR THAT LANDFILL SHALL BE DISBURSED BY
21 THE CUSTODIAN TO THE OWNER OF THE LANDFILL UNLESS AN AGREEMENT
22 BETWEEN THE OWNER AND THE OPERATOR OF THE LANDFILL PROVIDES
23 OTHERWISE.
24 (8) THE OWNER OF A LANDFILL SHALL PROVIDE NOTICE TO THE
25 CUSTODIAN OF THE LANDFILL CARE FUND FOR THAT LANDFILL IF THERE IS A
26 CHANGE OF OWNERSHIP OF THE LANDFILL. THE CUSTODIAN SHALL MAINTAIN
27 RECORDS OF OWNERSHIP OF A LANDFILL DURING THE PERIOD OF EXISTENCE

1 OF THE LANDFILL CARE FUND.
2 (9) THIS SECTION DOES NOT RELIEVE AN OWNER OR OPERATOR OF A
3 LANDFILL OF ANY LIABILITY THE OWNER OR OPERATOR MAY HAVE UNDER PART
4 115 OR AS OTHERWISE PROVIDED BY LAW.
5 (10) THIS SECTION DOES NOT CREATE A CAUSE OF ACTION AT LAW OR
6 IN EQUITY AGAINST A CUSTODIAN OF A LANDFILL CARE FUND OTHER THAN
7 FOR ERRORS OR OMISSIONS RELATED TO INVESTMENTS, ACCOUNTINGS,
8 DISBURSEMENTS, FILINGS OF REQUIRED TAX RETURNS, AND MAINTENANCE OF
9 RECORDS REQUIRED BY THIS SECTION OR THE APPLICABLE LANDFILL CARE
10 FUND.
11 (11) A PERPETUAL CARE FUND AND ANY OTHER BOND THAT IS UTILIZED
12 BY A LANDFILL TO DEMONSTRATE FINANCIAL ASSURANCE UNDER PART 115 AND
13 THAT IS IN EXISTENCE ON THE EFFECTIVE DATE OF THE 2019 AMENDATORY
14 ACT THAT ADDED THIS SECTION IS CONSIDERED A LANDFILL CARE FUND
15 UNDER THIS SECTION FOR PURPOSES OF DEMONSTRATING COMPLIANCE WITH
16 SECTION 11523A UNTIL THE ISSUANCE OF A NEW LICENSE FOR THE LANDFILL
17 ON OR AFTER THE DATE 2 YEARS AFTER THE EFFECTIVE DATE OF THE 2019
18 AMENDATORY ACT THAT ADDED THIS SECTION. A LANDFILL OWNER OR
19 OPERATOR MAY REPLACE A PERPETUAL CARE FUND OR A BOND WITH A
20 LANDFILL CARE FUND THAT COMPLIES WITH THIS SECTION AT ANY TIME
21 WITHOUT A LICENSE MODIFICATION AND WITHOUT THE ISSUANCE OF A NEW
22 LICENSE. UPON SUCH REPLACEMENT, THE DEPARTMENT SHALL AUTHORIZE THE
23 CUSTODIAN OF A PERPETUAL CARE FUND TRUST OR ESCROW ACCOUNT TO
24 DISBURSE THE MONEY IN THE TRUST OR ESCROW ACCOUNT TO THE OWNER OF
25 THE LANDFILL UNLESS AN AGREEMENT BETWEEN THE OWNER AND OPERATOR OF
26 THE LANDFILL SPECIFIES OTHERWISE.
27 (12) AN OWNER OR OPERATOR OF A LANDFILL THAT USES A LANDFILL

1 **CARE FUND BOND TO SATISFY THE REQUIREMENTS OF THIS SECTION SHALL**
2 **ALSO ESTABLISH A STANDBY TRUST OR ESCROW ACCOUNT. ALL PAYMENTS MADE**
3 **UNDER THE TERMS OF THE LANDFILL CARE FUND BOND SHALL BE DEPOSITED**
4 **BY THE CUSTODIAN DIRECTLY INTO THE STANDBY TRUST OR ESCROW ACCOUNT**
5 **IN COMPLIANCE WITH INSTRUCTIONS FROM THE DEPARTMENT. THE STANDBY**
6 **TRUST OR ESCROW ACCOUNT MUST MEET THE REQUIREMENTS FOR A TRUST OR**
7 **ESCROW ACCOUNT ESTABLISHED AS A LANDFILL CARE FUND UNDER SUBSECTION**
8 **(2), EXCEPT THAT, UNTIL THE STANDBY TRUST OR ESCROW ACCOUNT IS**
9 **FUNDED PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION, ANNUAL**
10 **ACCOUNTINGS OF THE STANDBY TRUST OR ESCROW ACCOUNT ARE NOT**
11 **REQUIRED.**
12 **(13) AS USED IN THIS SECTION, "CUSTODIAN" MEANS THE TRUSTEE OR**
13 **ESCROW AGENT OF ANY OF THE FOLLOWING:**
14 **(A) A LANDFILL CARE FUND THAT IS ESTABLISHED AS A TRUST OR**
15 **ESCROW ACCOUNT.**
16 **(B) A STANDBY TRUST OR ESCROW ACCOUNT FOR A LANDFILL CARE FUND**
17 **BOND.**
18 **SEC. 11525E. IF THE OWNER OR OPERATOR OF A MATERIALS**
19 **MANAGEMENT FACILITY IS REQUIRED TO ESTABLISH A BOND UNDER ANOTHER**
20 **STATE STATUTE OR A FEDERAL STATUTE, THE OWNER OR OPERATOR MAY**
21 **REQUEST THE DEPARTMENT TO ALLOW THE BOND TO MEET THE REQUIREMENTS**
22 **OF PART 115. THE DEPARTMENT SHALL APPROVE A BOND ESTABLISHED UNDER**
23 **ANOTHER STATE STATUTE OR A FEDERAL STATUTE IF THE BOND PROVIDES**
24 **EQUIVALENT FUNDS AND ACCESS BY THE DEPARTMENT AS OTHER FINANCIAL**
25 **INSTRUMENTS UNDER PART 115.**
26 **SUBPART 5 MISCELLANEOUS**
27 Sec. 11526. (1) The department, a **LOCAL** health officer, or a

law enforcement officer of competent jurisdiction may inspect a solid waste transporting unit that is being used to transport solid waste along a public road to determine if the solid waste transporting unit is designed, maintained, and operated in a manner to prevent littering or to determine if the owner or operator of the solid waste transporting unit is performing in compliance with ~~this part and the rules promulgated under this~~ part **115.**

(2) ~~In order to~~ **TO** protect the public health, safety, ~~and~~ **OR** welfare, ~~and~~ **OR** the environment of this state, from items and substances being illegally disposed of in landfills in this state, the department, in conjunction with the department of state police, shall ~~administer this part so as to~~ do all of the following:

(a) Ensure that ~~all disposal areas are~~ **EACH MATERIALS MANAGEMENT FACILITY IS** in full compliance with ~~this~~ part ~~and the rules promulgated under this part.~~**115.**

(b) Provide for the inspection of each **LICENSED** solid waste disposal area for compliance with ~~this part and the rules promulgated under this~~ part **115** at least 4 times per year.

(C) PROVIDE FOR THE ANNUAL INSPECTION FOR COMPLIANCE WITH PART 115 OF EACH MATERIALS MANAGEMENT FACILITY THAT IS NOT A DISPOSAL AREA AND IS APPROVED UNDER A GENERAL PERMIT OR REGISTERED UNDER PART 115.

(D) ~~(c)~~ Ensure that all persons disposing of solid waste are doing so in compliance with ~~this part and the rules promulgated under this~~ part **115.**

(3) The department and the department of state police may conduct ~~regular,~~ random inspections of waste being transported ~~for~~

~~disposal at disposal areas~~ **TO A MATERIALS MANAGEMENT FACILITY** in this state. Inspections under this subsection may be conducted **DURING TRANSPORTATION OR** at ~~disposal areas at the end original destination.~~**THE MATERIALS MANAGEMENT FACILITY.**

(4) AN INSPECTION DESCRIBED IN THIS SECTION MAY ALSO BE CONDUCTED UPON RECEIPT OF A COMPLAINT OR AS THE DEPARTMENT DETERMINES TO BE NECESSARY TO ENSURE COMPLIANCE WITH PART 115.

Sec. 11526a. (1) ~~Beginning October 1, 2004, in order to protect the public health, safety, and welfare and the environment of this state from the improper disposal of waste that is prohibited from disposal in a landfill, and in recognition that the nature of solid waste collection and transport limits the ability of the state to conduct cost effective inspections to ensure compliance with state law, the~~ **THE** owner or operator of a landfill shall not accept for disposal in this state solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of this state unless 1 or more of the following are met:

(a) The solid waste is composed of a uniform type of item, material, or substance, other than municipal solid waste incinerator ash, that meets the requirements for disposal in a landfill under ~~this~~ part ~~and the rules promulgated under this part.~~**115.**

(b) The solid waste was received through a ~~material recovery facility, a transfer station, or other~~ facility that has documented that it has removed from the solid waste being delivered to the landfill those items that are prohibited from disposal in a

landfill.

(c) The country, state, province, or local jurisdiction in which the solid waste was generated is approved by the department for inclusion on the list compiled by the department under section 11526b.

(2) Notwithstanding ~~section 11538 or~~ any other provision of ~~this~~ part **115**, if there is sufficient disposal capacity for a ~~county's~~ **PLANNING AREA'S** disposal needs in or within 150 miles of the ~~county, all of the following apply:~~

~~(a) The county is not required to identify a site for a new landfill in its solid waste management plan.~~

~~(b) An interim siting mechanism shall not become operative in the county unless the county board of commissioners determines otherwise.~~

~~(c) The~~ **PLANNING AREA, THE** department is not required to issue a construction permit for a new landfill **OR MUNICIPAL SOLID WASTE INCINERATOR** in the ~~county.~~**PLANNING AREA.**

Sec. 11527. (1) A solid waste hauler transporting solid waste over a public road in this state shall ~~deliver~~ **DO BOTH OF THE FOLLOWING:**

(A) DELIVER all waste to a disposal area **LICENSED UNDER PART 115** or **A** solid waste **PROCESSING AND** transfer facility licensed **OR REGISTERED OR FOR WHICH A NOTIFICATION HAS BEEN SUBMITTED** under ~~this~~ part ~~and shall use~~ **115.**

(B) USE only a vehicle or container that does not contribute to littering and that conforms to ~~the rules promulgated by the department.~~**PART 115.**

(2) A solid waste hauler ~~who violates this part or a rule promulgated under this part, or who~~ **THAT** is responsible for a vehicle that has ~~in part~~ contributed to a violation of ~~this part or a rule promulgated under this part, is subject to a penalty as provided in section 11549.~~**PART 115 IS CONSIDERED TO HAVE COMMITTED THE VIOLATION.**

(3) A SOLID WASTE HAULER OPERATING WITHIN A COUNTY WITH A MATERIALS MANAGEMENT PLAN PREPARED BY THE DEPARTMENT SHALL PROVIDE CURBSIDE RECYCLING SERVICES THAT MEET THE REQUIREMENTS OF THE BENCHMARK RECYCLING STANDARD FOR SINGLE-FAMILY RESIDENCES FOR WHICH IT PROVIDES SOLID WASTE HAULING SERVICES.

Sec. 11528. (1) A solid waste transporting unit used for ~~garbage,~~ **FOOD WASTE**, industrial or domestic sludges, or other moisture laden materials not specifically covered by part 121 shall be watertight and constructed, maintained, and operated to prevent littering. Solid waste transporting units used for hauling other solid waste shall be designed and operated to prevent littering or any other nuisance.

~~(2) A solid waste hauler who violates this part or the rules promulgated under this part is subject to the penalties provided in this part.~~

(2) ~~(3)~~ The department, a **LOCAL** health officer, or a law enforcement officer may order a solid waste transporting unit out of service if the unit does not comply with the requirements of ~~this part or the rules promulgated under this~~ part **115**. Continued use of a solid waste transporting unit ordered out of service is a violation of this part.

Sec. 11531. (1) A municipality or county shall ~~assure~~ **ENSURE** that all solid waste is removed from the site of generation frequently enough to protect the public health, and is delivered to ~~licensed disposal areas,~~ **A MATERIALS MANAGEMENT FACILITY THAT MEETS THE REQUIREMENTS OF SECTION 11508(1)(A)**, except waste that is permitted by state law or rules promulgated by the department to be disposed of at the site of generation.

(2) An ordinance ~~enacted~~ **ADOPTED** before February 8, 1988 by a county or municipality incidental to the financing of a publicly owned disposal area or areas under construction that directs that all or part of the solid waste generated in that county or municipality be directed to the disposal area or areas is an acceptable means of compliance with subsection (1), notwithstanding that the ordinance, in the case of a county, has not been approved by the governor. This subsection ~~applies only to ordinances adopted by the governing body of a county or municipality before February 8, 1988, and~~ does not validate or invalidate an ordinance adopted **ON OR** after February 8, 1988 as an acceptable means of compliance with subsection (1).

Sec. 11532. (1) Except as provided in subsection ~~(3),~~ **(2)**, a municipality may impose an impact fee of not more than ~~10~~ **30** cents per ~~cubic yard~~ **TON** on solid waste, **INCLUDING MUNICIPAL SOLID WASTE INCINERATOR ASH**, that is disposed of in a landfill located within the municipality that is utilized by the public and utilized to dispose of solid waste collected from 2 or more persons. However, if the landfill is located within a village, the impact fee ~~provided for in this subsection~~ shall be imposed **ONLY** by the

township ~~in~~ **PURSUANT TO AN** agreement with the village. ~~The~~ **AN** impact fee shall be assessed uniformly on all wastes accepted for disposal.

~~(2) Except as provided in subsection (3), a municipality may impose an impact fee of not more than 10 cents per cubic yard on municipal solid waste incinerator ash that is disposed of in a landfill located within the municipality that is utilized to dispose of municipal solid waste incinerator ash. However, if the landfill is located within a village, the impact fee provided for in this subsection shall be imposed by the township in agreement with the village.~~

(2) ~~(3)~~ A municipality may enter into an agreement with the owner or operator of a landfill to establish a higher impact fee than those provided for in ~~subsections (1) and (2).~~**SUBSECTION (1).**

(3) ~~(4)~~ The impact fees imposed under this section shall be collected by the owner or operator of a landfill and shall be paid to the municipality quarterly by the thirtieth day after the end of each calendar quarter. However, the impact fees allowed to be assessed to each landfill under this section shall be reduced by any amount of revenue paid to or available to the municipality from the landfill under the terms of any preexisting agreements, ~~including, but not limited to, contracts,~~ special use permit conditions, court settlement agreement conditions, and trusts.

(4) ~~(5)~~ Unless a trust fund is established by a municipality pursuant to subsection ~~(6),~~ **(5)**, the revenue collected by a municipality ~~under subsections (1) and (2)~~ **PURSUANT TO SUBSECTION (1)** shall be deposited in its general fund. ~~to be~~ **SUBJECT TO**

SUBSECTION (8), THE REVENUE SHALL BE used for any purpose that promotes the public health, safety, or welfare of the citizens of the municipality. ~~However, revenue collected pursuant to this section shall not be used to bring or support a lawsuit or other legal action against an owner or operator of a landfill who is collecting an impact fee pursuant to subsection (4) unless the owner or operator of the landfill has instituted a lawsuit or other legal action against the municipality.~~

(5) ~~(6) The~~ **A** municipality may establish a trust fund to receive revenue collected pursuant to this section. The trust fund shall be administered by a board of trustees. The board of trustees shall consist of the following members:

(a) The chief elected official of the municipality. ~~creating the trust fund.~~

(b) ~~An individual from~~ **A RESIDENT OF** the municipality appointed by the governing ~~board~~ **BODY** of the municipality.

(c) An individual approved by the owners or operators of the landfills within the municipality and appointed by the governing ~~board~~ **BODY** of the municipality.

(6) ~~(7)~~ Individuals appointed to serve on the board of trustees under subsection ~~(6)(b)~~ **(5)(B)** and (c) shall serve for terms of 2 years.

(7) ~~(8) Money~~ **SUBJECT TO SUBSECTION (8), MONEY** in ~~the~~ **A** trust fund **UNDER SUBSECTION (5)** may be expended, pursuant to a majority vote of the board of trustees, for any purpose that promotes the public health, safety, or welfare of the citizens of the municipality. ~~However, revenue~~

(8) REVENUE collected pursuant to this section shall not be used to bring or support a lawsuit or other legal action against ~~an~~ **A LANDFILL** owner or operator ~~of a landfill who~~ **THAT** is collecting an impact fee ~~pursuant to~~ **UNDER** subsection ~~(4)~~ **(3)** unless the owner or operator of the landfill has instituted a lawsuit or other legal action against the municipality.

Sec. 11533. ~~(1) Each solid waste management plan shall include an enforceable program and process to assure that the nonhazardous solid waste generated or to be generated in the planning area for a period of 10 years or more is collected and recovered, processed, or disposed of at disposal areas that comply with state law and rules promulgated by the department governing location, design, and operation of the disposal areas. Each solid waste management plan may include an enforceable program and process to assure that only items authorized for disposal in a disposal area under this part and the rules promulgated under this part are disposed of in the disposal area.~~

~~(2) An initial solid waste management plan shall be prepared and approved under this section and shall be submitted to the director not later than January 5, 1984. Following submittal of the initial plan, the solid waste management plan shall be reviewed and updated every 5 years. An updated solid waste management plan and an amendment to a solid waste management plan shall be prepared and approved as provided in this section and sections 11534, 11535, 11536, 11537, and 11537a. The solid waste management plan shall encompass all municipalities within the county. The solid waste management plan shall at a minimum comply with the requirements of~~

~~sections 11537a and 11538. The solid waste management plan shall take into consideration solid waste management plans in contiguous counties and existing local approved solid waste management plans as they relate to the county's needs. At a minimum, a county preparing a solid waste management plan shall consult with the regional planning agency from the beginning to the completion of the plan.~~

~~(3) Not later than July 1, 1981, each county shall file with the department and with each municipality within the county on a form provided by the department, a notice of intent, indicating the county's intent to prepare a solid waste management plan or to upgrade an existing solid waste management plan. The notice shall identify the designated agency which shall be responsible for preparing the solid waste management plan.~~

~~(4) If the county fails to file a notice of intent with the department within the prescribed time, the department immediately shall notify each municipality within the county and shall request those municipalities to prepare a solid waste management plan for the county and shall convene a meeting to discuss the plan preparation. Within 4 months following notification by the department, the municipalities shall decide by a majority vote of the municipalities in the county whether or not to file a notice of intent to prepare the solid waste management plan. Each municipality in the county shall have 1 vote. If a majority does not agree, then a notice of intent shall not be filed. The notice shall identify the designated agency which is responsible for preparing the solid waste management plan.~~

1 ~~(5) If the municipalities fail to file a notice of intent to~~
2 ~~prepare a solid waste management plan with the department within~~
3 ~~the prescribed time, the department shall request the appropriate~~
4 ~~regional solid waste management planning agency to prepare the~~
5 ~~solid waste management plan. The regional solid waste management~~
6 ~~planning agency shall respond within 90 days after the date of the~~
7 ~~request.~~
8 ~~(6) If the regional solid waste management planning agency~~
9 ~~declines to prepare a solid waste management plan, the department~~
10 ~~shall prepare a solid waste management plan for the county and that~~
11 ~~plan shall be final.~~
12 ~~(7) A solid waste management planning agency, upon request of~~
13 ~~the department, shall submit a progress report in preparing its~~
14 ~~solid waste management plan.~~**THE DEPARTMENT MAY PROMULGATE RULES**
15 **THAT CONTAIN DESIGN AND OPERATIONAL STANDARDS FOR SOLID WASTE**
16 **TRANSPORTING UNITS AND MATERIALS MANAGEMENT FACILITIES OR OTHERWISE**
17 **IMPLEMENT THIS PART. THE RULES MAY INCLUDE STANDARDS FOR ANY OF THE**
18 **FOLLOWING:**
19 **(A) HYDROGEOLOGIC INVESTIGATIONS.**
20 **(B) MONITORING.**
21 **(C) LINER MATERIALS.**
22 **(D) LEACHATE COLLECTION AND TREATMENT, IF APPLICABLE.**
23 **(E) GROUNDWATER SEPARATION DISTANCES.**
24 **(F) ENVIRONMENTAL ASSESSMENTS.**
25 **(G) METHANE GAS CONTROL.**
26 **(H) SOIL EROSION.**
27 **(I) SEDIMENTATION CONTROL.**

(J) GROUNDWATER AND SURFACE WATER QUALITY.

(K) NOISE AND AIR POLLUTION.

(*l*) THE USE OF FLOODPLAINS AND WETLANDS.

SUBPART 6 INCINERATORS AND OPEN BURNING

Sec. 11539. (1) ~~The director shall not approve a plan update unless:~~

~~(a) The plan contains an analysis or evaluation of the best available information applicable to the plan area in regard to recyclable materials and all of the following:~~

~~(*i*) The kind and volume of material in the plan area's waste stream that may be recycled or composted.~~

~~(*ii*) How various factors do or may affect a recycling and composting program in the plan area. Factors shall include an evaluation of the existing solid waste collection system; materials market; transportation networks; local composting and recycling support groups, or both; institutional arrangements; the population in the plan area; and other pertinent factors.~~

~~(*iii*) An identification of impediments to implementing a recycling and composting program and recommended strategies for removing or minimizing impediments.~~

~~(*iv*) How recycling and composting and other processing or disposal methods could complement each other and an examination of the feasibility of excluding site separated material and source separated material from other processing or disposal methods.~~

~~(*v*) Identification and quantification of environmental, economic, and other benefits that could result from the implementation of a recycling and composting program.~~

~~(*vi*) The feasibility of source separation of materials that contain potentially hazardous components at disposal areas. This subparagraph applies only to plan updates that are due after January 31, 1989.~~

~~(b) The plan either provides for recycling and composting recyclable materials from the plan area's waste stream or establishes that recycling and composting are not necessary or feasible or is only necessary or feasible to a limited extent.~~

~~(c) A plan that proposes a recycling or composting program, or both, details the major features of that program, including all of the following:~~

~~(*i*) The kinds and volumes of recyclable materials that will be recycled or composted.~~

~~(*ii*) Collection methods.~~

~~(*iii*) Measures that will ensure collection such as ordinances or cooperative arrangements, or both.~~

~~(*iv*) Ordinances or regulations affecting the program.~~

~~(*v*) The role of counties and municipalities in implementing the plan.~~

~~(*vi*) The involvement of existing recycling interests, solid waste haulers, and the community.~~

~~(*vii*) Anticipated costs.~~

~~(*viii*) On-going program financing.~~

~~(*ix*) Equipment selection.~~

~~(*x*) Public and private sector involvement.~~

~~(*xi*) Site availability and selection.~~

~~(*xii*) Operating parameters such as pH and heat range.~~

1 ~~(d) The plan includes an evaluation of how the planning entity~~
2 ~~is meeting the state's waste reduction and recycling goals as~~
3 ~~established pursuant to section 11541(4).~~
4 ~~(2) A disposal area permitted, licensed, or otherwise in~~
5 ~~existence on the date of approval of the solid waste management~~
6 ~~plan for the planning area where the disposal area is located shall~~
7 ~~be considered to be consistent with the plan and included in the~~
8 ~~plan.~~
9 ~~(3) The director may promulgate rules as may be necessary to~~
10 ~~implement this section.~~**THE OPEN BURNING OF YARD WASTE OR LEAVES IS**
11 **PROHIBITED IN ANY MUNICIPALITY HAVING A POPULATION OF 7,500 OR**
12 **MORE, UNLESS SPECIFICALLY AUTHORIZED BY LOCAL ORDINANCE. WITHIN 30**
13 **DAYS AFTER ADOPTION OF SUCH AN ORDINANCE, THE CLERK OF THE**
14 **MUNICIPALITY SHALL NOTIFY THE DEPARTMENT OF ITS ADOPTION.**
15 **(2) SUBSECTION (1) DOES NOT PERMIT A COUNTY OR MUNICIPALITY TO**
16 **AUTHORIZE OPEN BURNING OF YARD WASTE OR LEAVES BY AN ORDINANCE THAT**
17 **IS PROHIBITED UNDER PART 55 OR RULES PROMULGATED UNDER THAT PART.**
18 **(3) A PERSON SHALL NOT CONDUCT OPEN BURNING OF HOUSEHOLD WASTE**
19 **THAT CONTAINS PLASTIC, RUBBER, FOAM, CHEMICALLY TREATED WOOD,**
20 **TEXTILES, ELECTRONICS, CHEMICALS, OR HAZARDOUS MATERIALS.**
21 **(4) SUBPART 7 DOES NOT APPLY TO AN INDIVIDUAL WHO VIOLATES**
22 **SUBSECTION (3) BY OPEN BURNING OF WASTE FROM THAT INDIVIDUAL'S**
23 **HOUSEHOLD. THE INDIVIDUAL IS RESPONSIBLE FOR A STATE CIVIL**
24 **INFRACTION AND IS SUBJECT TO THE FOLLOWING:**
25 **(A) FOR A FIRST OFFENSE WITHIN A 3-YEAR PERIOD, A WARNING BY**
26 **THE JUDGE OR MAGISTRATE.**
27 **(B) FOR A SECOND OFFENSE WITHIN A 3-YEAR PERIOD, A CIVIL FINE**

1 OF NOT MORE THAN $75.00.
2 (C) FOR A THIRD OFFENSE WITHIN A 3-YEAR PERIOD, A CIVIL FINE
3 OF NOT MORE THAN $150.00.
4 (D) FOR A FOURTH OR SUBSEQUENT OFFENSE WITHIN A 3-YEAR PERIOD,
5 A CIVIL FINE OF NOT MORE THAN $300.00.
6 (5) NOTWITHSTANDING SECTION 5512, THE DEPARTMENT SHALL NOT
7 PROMULGATE OR ENFORCE A RULE THAT EXTENDS THE PROHIBITION UNDER
8 SUBSECTION (3) TO MATERIALS NOT LISTED IN SUBSECTION (3).
9 (6) PART 115, PART 55, OR RULES PROMULGATED UNDER PART 55 DO
10 NOT PROHIBIT A PERSON FROM CONDUCTING OPEN BURNING OF WOODEN FRUIT
11 OR VEGETABLE STORAGE BINS CONSTRUCTED FROM UNTREATED LUMBER IF ALL
12 OF THE FOLLOWING REQUIREMENTS ARE MET:
13 (A) THE BURNING IS CONDUCTED FOR DISEASE OR PEST CONTROL.
14 (B) THE BURNING IS NOT CONDUCTED AT ANY OF THE FOLLOWING
15 LOCATIONS:
16 (*i*) WITHIN A PRIORITY I AREA AS LISTED IN TABLE 33 OR A
17 PRIORITY II AREA AS LISTED IN TABLE 34 OF R 336.1331 OF THE
18 MICHIGAN ADMINISTRATIVE CODE.
19 (*ii*) IN A CITY OR VILLAGE.
20 (*iii*) WITHIN 1,400 FEET OUTSIDE THE BOUNDARY OF A CITY OR
21 VILLAGE.
22 (7) SUBSECTIONS (5) AND (6) DO NOT AUTHORIZE OPEN BURNING THAT
23 IS PROHIBITED BY A LOCAL ORDINANCE.
24 (8) A CONGRESSIONALLY CHARTERED PATRIOTIC ORGANIZATION THAT
25 DISPOSES OF AN UNSERVICEABLE FLAG OF THE UNITED STATES BY BURNING
26 THAT FLAG IS NOT SUBJECT TO REGULATION OR SANCTION FOR VIOLATING
27 STATE LAW OR LOCAL ORDINANCE PERTAINING TO OPEN BURNING.

Sec. 11540. **(1)** ~~Not later than September 11, 1979, the department shall submit to the legislature rules that contain sanitary design and operational standards for solid waste transporting units and disposal areas and otherwise implement this part. The rules shall include standards for hydrogeologic investigations; monitoring; liner materials; leachate collection and treatment, if applicable; groundwater separation distances; environmental assessments; methane gas control; soil erosion; sedimentation control; groundwater and surface water quality; noise and air pollution; and the use of floodplains and wetlands.~~**THE OWNER OR OPERATOR OF AN INCINERATOR MAY, BUT IS NOT REQUIRED TO, COMPLY WITH THE DISPOSAL AREA CONSTRUCTION PERMIT AND OPERATING LICENSE REQUIREMENTS OF SUBPART 2 IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:**

(A) SOLID WASTE TO BE INCINERATED IS MANAGED IN A PROPERLY ENCLOSED AREA IN A MANNER THAT PREVENTS FUGITIVE DUST, LITTER, LEACHATE GENERATION, PRECIPITATION RUNOFF, OR ANY RELEASE OF SOLID WASTE TO THE AIR, SOIL, SURFACE WATER, OR GROUNDWATER.

(B) THE INCINERATOR HAS A PERMIT ISSUED UNDER PART 55.

(2) AN INCINERATOR THAT DOES NOT COMPLY WITH THE CONSTRUCTION PERMIT AND OPERATING LICENSE REQUIREMENTS OF SUBPART 2 AS AUTHORIZED BY SUBSECTION (1) IS SUBJECT TO THE PLANNING PROVISIONS OF PART 115 AND MUST BE INCLUDED IN THE COUNTY MATERIALS MANAGEMENT PLAN FOR THE COUNTY IN WHICH THE INCINERATOR IS LOCATED.

Sec. 11541. (1) ~~The state solid waste management plan shall consist of the state solid waste plan and all county plans approved or prepared by the department.~~

1 ~~(2) The department shall consult and assist in the preparation~~
2 ~~and implementation of the county solid waste management plans.~~
3 ~~(3) The department may undertake or contract for studies or~~
4 ~~reports necessary or useful in the preparation of the state solid~~
5 ~~waste management plan.~~
6 ~~(4) The department shall promote policies that encourage~~
7 ~~resource recovery and establishment of waste-to-energy~~
8 ~~facilities.~~**WITHIN 9 MONTHS AFTER THE COMPLETION OF CONSTRUCTION OF**
9 **A MUNICIPAL SOLID WASTE INCINERATOR, THE OWNER OR OPERATOR SHALL**
10 **SUBMIT A PLAN TO THE DEPARTMENT FOR A PROGRAM THAT, TO THE EXTENT**
11 **PRACTICABLE, REDUCES THE INCINERATION OF NONCOMBUSTIBLE MATERIALS**
12 **AND DANGEROUS COMBUSTIBLE MATERIALS AND THEIR HAZARDOUS BY-PRODUCTS**
13 **AT THE INCINERATOR. WITHIN 30 DAYS AFTER RECEIVING THE PLAN, THE**
14 **DEPARTMENT SHALL APPROVE OR DISAPPROVE THE PLAN AND NOTIFY THE**
15 **OWNER OR OPERATOR IN WRITING. IN REVIEWING THE PLAN, THE DEPARTMENT**
16 **SHALL CONSIDER THE CURRENT MATERIALS MANAGEMENT PLAN FOR THE**
17 **PLANNING AREA WHERE THE INCINERATOR IS LOCATED AND AVAILABLE**
18 **MARKETS, DISPOSAL ALTERNATIVES, AND COLLECTION PRACTICES FOR THE**
19 **MANAGED MATERIALS. IF THE DEPARTMENT DISAPPROVES A PLAN, THE NOTICE**
20 **SHALL SPECIFY THE REASONS FOR DISAPPROVAL. IF THE DEPARTMENT**
21 **DISAPPROVES THE PLAN, THE OWNER OR OPERATOR SHALL WITHIN 30 DAYS**
22 **AFTER RECEIPT OF THE DEPARTMENT'S DISAPPROVAL SUBMIT A REVISED PLAN**
23 **THAT ADDRESSES ALL OF THE REASONS FOR DISAPPROVAL SPECIFIED BY THE**
24 **DEPARTMENT. THE DEPARTMENT SHALL APPROVE OR DISAPPROVE THE REVISED**
25 **PLAN WITHIN 30 DAYS AFTER RECEIVING THE REVISED PLAN AND NOTIFY THE**
26 **OWNER OR OPERATOR IN WRITING. IF THE DEPARTMENT DISAPPROVES THE**
27 **REVISED PLAN, THE NOTICE SHALL SPECIFY THE REASONS FOR DISAPPROVAL.**

IF THE DEPARTMENT DISAPPROVES THE REVISED PLAN, THE DEPARTMENT MAY CONTINUE WITH THE APPROVAL PROCESS UNDER THIS SUBSECTION OR TAKE APPROPRIATE ENFORCEMENT ACTION.

(2) NOT LATER THAN 6 MONTHS AFTER THE APPROVAL OF THE PLAN BY THE DEPARTMENT UNDER SUBSECTION (1), THE OWNER OR OPERATOR SHALL IMPLEMENT THE PLAN IN COMPLIANCE WITH THE IMPLEMENTATION SCHEDULE SET FORTH IN THE PLAN. THE OPERATION OF A MUNICIPAL SOLID WASTE INCINERATOR WITHOUT AN APPROVED PLAN UNDER THIS SECTION SUBJECTS THE OWNER OR OPERATOR, OR BOTH, TO THE SANCTIONS PROVIDED BY THIS PART.

SUBPART 7 ENFORCEMENT

Sec. 11546. (1) The department or a **LOCAL** health officer may request that the attorney general bring an action in the name of the people of ~~the~~ **THIS** state, or a municipality or county may bring an action based on facts arising within its boundaries, for any appropriate relief, including injunctive relief, for a violation of ~~this part or rules promulgated under this~~ part **115.**

(2) In addition to any other relief provided by this section, the court may impose on any person who violates ~~any provision~~ of ~~this part or rules promulgated under this part or who fails to comply with any permit, license, or final order issued pursuant to this~~ part **115** a civil fine as follows:

(a) Except as provided in subdivision (b), ~~a civil fine of~~ not more than $10,000.00 for each day of violation.

(b) For a second or subsequent violation, ~~a civil fine of~~ not more than $25,000.00 for each day of violation.

(3) In addition to any other relief provided by this section,

the court may order a person who violates ~~this part or the rules promulgated under this~~ part **115** to restore, or to pay to ~~the~~ **THIS** state an amount equal to the cost of restoring, the natural resources of this state affected by the violation to their original condition before the violation, and to pay to ~~the~~ **THIS** state the costs of surveillance and enforcement incurred by ~~the~~ **THIS** state as a result of the violation.

(4) In addition to any other relief provided by this section, the court shall order a person who violates section 11526e to return, or to pay to ~~the~~ **THIS** state an amount equal to the cost of returning, the solid waste that is the subject of the violation to the country in which that waste was generated.

(5) ~~This part~~ **PART 115** does not preclude any person from commencing a civil action based on facts that may ~~also~~ constitute a violation of ~~this part or the rules promulgated under this part.~~**PART 115.**

Sec. 11549. (1) A person who violates ~~this part, a rule promulgated under this part, or a condition of a permit, license, or final order issued pursuant to this~~ part **115** is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 for each violation and costs of prosecution and, if in default of payment of fine and costs, imprisonment for not more than 6 months.

(2) A person who knowingly violates section 11526e is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(3) Each day upon which a violation described in this section occurs is a separate offense.

SUBPART 8 FUND AND GRANTS

Sec. 11550. (1) The solid waste management fund is created within the state treasury. The state treasurer may receive money from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. **THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.**

(2) Money in the solid waste management fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) The state treasurer shall establish, within the solid waste management fund, a solid waste staff account, ~~and~~ a perpetual care account, **AND A GRANT ACCOUNT.**

(4) Money shall be expended from the solid waste staff account, upon appropriation, only for the following purposes:

(a) Preparing generally applicable guidance regarding the ~~solid waste permit and license~~ **MATERIALS MANAGEMENT FACILITY** program or its implementation or enforcement.

(b) Reviewing and acting on any **NOTIFICATION, REGISTRATION, APPLICATION FOR APPROVAL UNDER A GENERAL PERMIT,** application for a permit or license, permit or license revision, or permit or license renewal, including the cost of public notice and public hearings.

(c) ~~Performing~~ **PROVIDING** an advisory analysis under section 11510(1).

(d) General administrative costs of running the permit, ~~and~~ license, **REGISTRATION, AND NOTIFICATION** program, including permit,

~~and~~ license, **REGISTRATION, AND NOTIFICATION** tracking and data entry.

(e) Inspection of ~~licensed disposal areas~~ **MATERIALS MANAGEMENT FACILITIES** and open dumps.

(f) Implementing and enforcing the conditions of any permit, ~~or~~ license, **APPROVAL UNDER A GENERAL PERMIT, REGISTRATION, OR ORDER.**

(g) Groundwater monitoring audits at disposal areas ~~which~~ **THAT** are or have been licensed under ~~this~~ part **115 OR AT ANY OTHER MATERIALS MANAGEMENT FACILITY THAT REQUIRES GROUNDWATER MONITORING BECAUSE OF A RELEASE OR SUSPECTED RELEASE.**

(h) Reviewing and acting upon corrective action plans for ~~disposal areas which are or have been licensed~~ **MATERIALS MANAGEMENT FACILITIES** under ~~this~~ part **115.**

(i) Review of certifications of closure.

(j) Postclosure maintenance and monitoring inspections and review.

(k) Review of bonds and financial assurance documentation at ~~disposal areas which are or have been licensed~~ **MATERIALS MANAGEMENT FACILITIES, IF REQUIRED** under ~~this~~ part **115.**

(*l*) MATERIALS MANAGEMENT PLANNING.

(M) MATERIALS UTILIZATION EDUCATION AND OUTREACH.

(N) DEVELOPMENT OF A MATERIALS UTILIZATION AND RECYCLED MATERIALS MARKET DIRECTORY.

(O) ADMINISTRATION OF GRANTS AND LOANS UNDER PART 115 FOR PLANNING, MARKET DEVELOPMENT AND RECYCLING INFRASTRUCTURE, OUTREACH, AND EDUCATION.

(P) UP TO 1 FULL-TIME EQUIVALENT EMPLOYEE FOR THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION TO ADDRESS RECYCLED MATERIALS MARKET DEVELOPMENT.

(5) Money shall be expended from the perpetual care account, upon appropriation, only for ~~the purpose of conducting~~ the following activities at ~~disposal areas which are or have been licensed under this part:~~**MATERIALS MANAGEMENT FACILITIES FOR WHICH THE REQUIREMENTS OF SECTION 11508(1)(A) ARE OR WERE MET AND FOR WHICH FEES HAVE BEEN COLLECTED AND DEPOSITED INTO THE PERPETUAL CARE ACCOUNT:**

(a) ~~Postclosure~~ **TO CONDUCT A POSTCLOSURE** maintenance and monitoring at ~~a disposal area where~~ **MATERIALS MANAGEMENT FACILITY IF** the owner or operator is no longer required to do so.

(b) To conduct closure, or postclosure maintenance and monitoring and corrective action if necessary, at a ~~disposal area where~~ **MATERIALS MANAGEMENT FACILITY IF** the owner or operator has failed to do so. Money shall be expended from the account only after funds from any ~~perpetual care fund or~~ other financial assurance mechanisms held by the owner or operator have been expended and the department has ~~used~~ **MADE** reasonable efforts to obtain funding from other sources.

(6) MONEY SHALL BE EXPENDED FROM THE GRANT ACCOUNT, UPON APPROPRIATION, ONLY FOR THE FOLLOWING PURPOSES:

(A) THE RECYCLING MARKETS PROGRAM ESTABLISHED UNDER SUBSECTION (7).

(B) THE LOCAL RECYCLING INNOVATION PROGRAM ESTABLISHED UNDER SUBSECTION (8).

1 (C) THE RECYCLING ACCESS AND VOLUNTARY PARTICIPATION PROGRAM
2 ESTABLISHED UNDER SUBSECTION (9).
3 (D) COSTS INCURRED BY THE DEPARTMENT IN ADMINISTERING THE
4 PROGRAMS LISTED IN SUBDIVISIONS (A) TO (C).
5 (7) THE DEPARTMENT SHALL ESTABLISH A RECYCLING MARKETS
6 PROGRAM. THE PROGRAM SHALL PROVIDE GRANTS OR LOANS FOR PURCHASING
7 EQUIPMENT, RESEARCH AND DEVELOPMENT, OR ASSOCIATED ACTIVITIES TO
8 PROVIDE FOR NEW OR INCREASED USE OF RECYCLED MATERIALS OR TO
9 SUPPORT THE DEVELOPMENT OF RECYCLING MARKETS. LOCAL UNITS OF
10 GOVERNMENT AND NONPROFIT AND FOR-PROFIT ENTITIES ARE ELIGIBLE FOR
11 FUNDING UNDER THE PROGRAM. THE FUNDING IS NOT LIMITED TO ENTITIES
12 IN COUNTIES WITH APPROVED MATERIALS MANAGEMENT PLANS. IN ADDITION
13 TO ANY OTHER REPORTING REQUIREMENTS ESTABLISHED BY THE DEPARTMENT,
14 GRANT RECIPIENTS UNDER THE PROGRAM SHALL PROVIDE INFORMATION ON THE
15 MATERIALS MANAGED.
16 (8) THE DEPARTMENT SHALL ESTABLISH A LOCAL RECYCLING
17 INNOVATION PROGRAM. THE PROGRAM SHALL PROVIDE GRANTS OR LOANS FOR
18 DEVELOPING LOCAL RECYCLING INFRASTRUCTURE, FOR RECYCLING EDUCATION
19 CAMPAIGNS FOR RESIDENTS AND BUSINESSES, FOR OTHER ACTIVITIES THAT
20 RESULT IN INCREASING RECYCLING ACCESS AND PARTICIPATION, FOR
21 REDUCING WASTE, AND FOR SUSTAINABLE MATERIALS MANAGEMENT. LOCAL
22 UNITS OF GOVERNMENT AND NONPROFIT AND FOR-PROFIT ENTITIES ARE
23 ELIGIBLE FOR FUNDING UNDER THE PROGRAM. THE FUNDING IS NOT LIMITED
24 TO ENTITIES IN COUNTIES WITH APPROVED MATERIALS MANAGEMENT PLANS.
25 IN ADDITION TO ANY OTHER REPORTING REQUIREMENTS ESTABLISHED BY THE
26 DEPARTMENT, GRANT RECIPIENTS UNDER THE PROGRAM SHALL PROVIDE THE
27 DEPARTMENT INFORMATION ON THE MATERIALS MANAGED.

1 **(9) THE DEPARTMENT SHALL ESTABLISH A RECYCLING ACCESS AND**
2 **VOLUNTARY PARTICIPATION PROGRAM. THE PROGRAM SHALL PROVIDE GRANTS**
3 **OR LOANS TO ASSIST LOCAL UNITS OF GOVERNMENT IN IMPLEMENTING BEST**
4 **MATERIALS UTILIZATION PRACTICES AND IDENTIFYING WAYS TO INNOVATE**
5 **AND TO COLLABORATE WITH OTHER LOCAL UNITS AND THE PRIVATE SECTOR.**
6 **TO BE ELIGIBLE FOR A GRANT, A LOCAL UNIT OF GOVERNMENT MUST BE A**
7 **COUNTY THAT MEETS, OR A MUNICIPALITY LOCATED WITHIN A COUNTY THAT**
8 **MEETS, BOTH OF THE FOLLOWING REQUIREMENTS:**
9 **(A) HAS A MATERIALS MANAGEMENT PLAN.**
10 **(B) HAS DOCUMENTED PROGRESS TOWARD MEETING OR HAS MET ITS**
11 **MATERIALS UTILIZATION GOALS AND BENCHMARK RECYCLING STANDARDS.**
12 **(10) THE DEPARTMENT SHALL PUBLISH AND MAKE AVAILABLE TO GRANT**
13 **AND LOAN APPLICANTS CRITERIA UPON WHICH THE GRANTS AND LOANS WILL**
14 **BE MADE.**
15 **(11)** ~~(6)~~ By March 1 annually, the department shall prepare and
16 submit to the governor, the legislature, the chairs of the standing
17 committees of the senate and house of representatives with primary
18 responsibility for issues related to natural resources and the
19 environment, and the chairs of the subcommittees of the senate and
20 house appropriations committees with primary responsibility for
21 appropriations to the department a report that details the
22 activities of the previous fiscal year funded by the staff account
23 of the solid waste management fund. This report shall include, at a
24 minimum, all of the following as it relates to the department:
25 (a) The number of full-time equated positions performing solid
26 waste management ~~permitting,~~ **AUTHORIZATION**, compliance, and
27 enforcement activities.

(b) All of the following information related to the construction permit applications received under section 11509:

(*i*) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

(*ii*) The number of applications determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(*iii*) The percentage and number of applications determined to be administratively complete for which a final decision was made within the period required by part 13.

(c) All of the following information related to the operating license applications received under section 11512:

(*i*) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

(*ii*) The number of applications determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(*iii*) The percentage and number of applications determined to be administratively complete for which a final decision was made

within the period required by part 13.

(d) The number of inspections conducted at licensed disposal areas as required by section 11519.

(e) The number of letters of warning sent to licensed disposal areas.

(f) The number of contested case hearings and civil actions initiated and completed, the number of voluntary consent orders and administrative orders entered or issued, and the amount of fines and penalties collected through such actions or orders.

(g) For each enforcement action that includes a penalty, a description of ~~what~~ **THE** corrective actions **THAT** were required by the enforcement action.

(h) The number of solid waste complaints received, investigated, resolved, and not resolved by the department.

(i) The amount of revenue in the staff account of the solid waste management fund and the coal ash care fund at the end of the fiscal year.

(12) ~~(7)~~ The coal ash care fund is created within the state treasury. The state treasurer may receive money from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(13) ~~(8)~~ Money shall be expended from the coal ash care fund, upon appropriation, only for the following purposes relating to coal ash impoundments and coal ash landfills:

(a) Preparing generally applicable guidance regarding the solid waste permit and license program or its implementation or

enforcement.

(b) Reviewing and acting on any application for a permit or license, permit or license revision, or permit or license renewal, including the cost of public notice and public hearings.

(c) Performing an advisory analysis under section 11510(1).

(d) General administrative costs of running the permit and license program, including permit and license tracking and data entry.

(e) Inspection of licensed disposal areas and open dumps.

(f) Implementing and enforcing the conditions of any permit or license.

(g) Groundwater monitoring audits at disposal areas that are or have been licensed under this part.

(h) Reviewing and acting upon corrective action plans for disposal areas that are or have been licensed under this part.

(i) Review of certifications of closure.

(j) Postclosure maintenance and monitoring inspections and review.

(k) Review of bonds and financial assurance documentation at disposal areas that are or have been licensed under this part.

SUBPART 9 BENEFICIAL USE BY-PRODUCTS

Sec. 11553. (1) Consistent with the requirements of ~~this~~ part **115**, the department shall apply this section so as to promote and foster the use of wastes and by-products for recycling or beneficial purposes.

(2) Any person may request the department, consistent with the definitions and other terms of ~~this~~ part **115**, to approve a

1 material, a use, or a material and use as a source separated
2 material; a beneficial use by-product for beneficial use 1, 2, 4,
3 or 5; an inert material; a low-hazard industrial waste;
4 **NONDETRIMENTAL MATERIAL MANAGED FOR AGRICULTURAL OR SILVICULTURAL**
5 **USE**; or another material, use, or material and use that can be
6 approved under this part. Among other things, a person may request
7 the department to approve a use that does not ~~qualify as~~ **MEET THE**
8 **DEFINITION OF** beneficial use 2 under section ~~11502(4)(a)~~
9 **11502(8)(A)** because the property is not nonresidential property or
10 under section ~~11502(4)(a),~~ **11502(8)(A)**, (b), or (c) because the
11 material exceeds 4 feet in thickness. A request under this
12 subsection shall **BE IN WRITING AND** contain a description of the
13 material including the process generating it; results of analyses
14 of representative samples of the material for any hazardous
15 substances that the person has knowledge or reason to believe could
16 be present in the material, based on its source, its composition,
17 or the process that generated it; and, if applicable, a description
18 of the proposed use. The analysis and sampling of the material
19 under this subsection shall be consistent with the methods
20 contained in the EPA document entitled ~~"test methods for the~~
21 ~~evaluation of solid waste, physical/chemical methods,"~~ **"TEST**
22 **METHODS FOR THE EVALUATION OF SOLID WASTE, PHYSICAL/CHEMICAL**
23 **METHODS"**, SW 846 ~~3rd edition;~~ **REVISION 8, JULY 2014, UPDATE V**; 1 or
24 more peer-reviewed standards developed by a national or
25 international organization, such as ASTM ~~international;~~
26 **INTERNATIONAL**; or 1 or more standards or methods approved by the
27 department or the EPA. The department shall approve or deny the

1 request **IN WRITING** within 150 days after the request is received,
2 unless the parties agree to an extension. If the department
3 determines that the request does not include sufficient
4 information, the department shall, not more than 60 days after
5 receipt of the request, notify the requester. The notice shall
6 specify the additional information that is required. The 150-day
7 period is tolled until the requestor submits the information
8 specified in the notice. If the department approves a request under
9 this subsection, the approval shall include the following
10 statement: "This approval does not require any use of any
11 beneficial use by-product by a governmental entity or any other
12 person." The department may impose conditions and other
13 requirements consistent with the purposes of ~~this~~ part **115** on a
14 material, a use, or a material and use approved under this section
15 that are reasonably necessary for the use. If a request is approved
16 with conditions or other requirements, the approval shall
17 specifically state the conditions or other requirements. If the
18 request is denied, the department's denial shall, to the extent
19 practical, state with specificity all of the reasons for denial. If
20 the department fails to approve or deny the request within the 150-
21 day period, the request is considered approved. A person requesting
22 approval under this subsection may seek review of any final
23 department decision pursuant to section 631 of the revised
24 judicature act of 1961, 1961 PA 236, MCL 600.631.
25 (3) The department shall approve a material for a specified
26 use as a beneficial use by-product if all of the following
27 requirements are met:

(a) The material is an industrial or commercial material that is or has the potential to be generated in high volumes.

(b) The proposed use serves a legitimate beneficial purpose other than providing a means to discard the material.

(c) A market exists for the material or there is a reasonable potential for the creation of a new market for the material if it is approved as a beneficial use by-product.

(d) The material and use meet all federal and state consumer protection and product safety laws and regulations.

(e) The material meets all of the following requirements:

(*i*) Hazardous substances in the material do not pose a direct contact health hazard to humans.

(*ii*) The material does not leach, decompose, or dissolve in a way that forms an unacceptably contaminated leachate. An unacceptably contaminated leachate is ~~one~~ **LEACHATE** that exceeds either part 201 generic residential groundwater drinking water criteria or surface water quality standards established under part 31.

(*iii*) The material does not produce emissions that violate part 55 or that create a nuisance.

(4) The department may approve a material for a specified use as a beneficial use by-product **OR AS RESTRICTED USE COMPOST** if the material meets the requirements of subsection (3)(a), (b), (c), and (d) but fails to meet the requirements of subsection (3)(e) and if the department determines that the material and use are protective of the public health and environment. In making the determination, the department shall consider the potential for exposure and risk

to human health and the environment given the nature of the material, its proposed use, and the environmental fate and transport of any hazardous substances in the material in soil, groundwater, or other relevant media.

(5) The department shall approve a material as inert **OR AS GENERAL USE COMPOST** if all of the following requirements are met:

(a) The material is proposed to be used for a legitimate purpose other than a means to dispose of the material.

(b) Hazardous substances in the material do not pose a direct contact health hazard to humans.

(c) The material does not leach, decompose, or dissolve in a way that forms an unacceptably contaminated leachate upon contact with water or other liquids likely to be found at the area of placement, disposal, or use. An unacceptably contaminated leachate is leachate that exceeds part 201 generic residential groundwater drinking water criteria or surface water quality standards established under part 31.

(d) The material does not produce emissions that violate part 55 or that create a nuisance.

(6) The department may approve a material as inert if the material meets the requirements of subsection (5)(a) but fails to meet the requirements of subsection (5)(b), (c), or (d) and if the department determines that the material is protective of the public health and environment. In making the determination, the department shall consider the potential for exposure and risk to human health and the environment given the nature of the material, its proposed use, and the environmental fate and transport of any hazardous

substances in the material in soil, groundwater, or other relevant media.

(7) The department shall approve a material as a low-hazard industrial waste if hazardous substances in representative samples of the material do not leach, using, at the option of the generator, EPA method 1311, 1312, or any other method approved by the department that more accurately simulates mobility, above the higher of the following:

(a) One-tenth the hazardous waste toxicity characteristic threshold as set forth in rules promulgated under part 111.

(b) Ten times the generic residential groundwater drinking water cleanup criteria as set forth in rules promulgated under part 201.

(8) The department shall approve a material as a source separated material if the person who seeks the designation demonstrates that the material can be recycled or converted into raw materials or new products by being returned to the original process from which it was generated, by use or reuse as an ingredient in an industrial process to make a product, or by use or reuse as an effective substitute for a commercial product. To qualify as a source separated material, the material, product, or reuse must meet all federal and state consumer protection and product safety laws and regulations and must not create a nuisance. If a material will be applied to or placed on ~~the~~ land, or will be used to produce products that are applied to or placed on ~~the~~ land, the material must qualify as an inert material or beneficial use by-product.

(9) Any written determination by the department made ~~prior to the effective date of the amendatory act that added this section~~ **BEFORE SEPTEMBER 16, 2014,** designating a material as an inert material, an inert material appropriate for general reuse, an inert material appropriate for reuse at a specific location, an inert material appropriate for specific reuse instead of virgin material, a source separated material, ~~a site separated material,~~ a low-hazard industrial waste, or a non-solid-waste material remains in effect according to its terms or until forfeited in writing by the person who received the determination. Upon termination, expiration, or forfeiture of the written determination, the current requirements of ~~this~~ part **115** control. The amendments made to this part by ~~the amendatory act that added this section~~ **2014 PA 178** do not rescind, invalidate, limit, or modify any such prior determination in any way.

SUBPART 10 MATERIALS UTILIZATION FACILITIES

SEC. 11555. (1) COMPOSTABLE MATERIAL SHALL BE MANAGED BY 1 OF THE FOLLOWING MEANS:

(A) COMPOSTED ON THE PROPERTY WHERE THE COMPOSTABLE MATERIAL IS GENERATED.

(B) IF YARD WASTE, TEMPORARILY ACCUMULATED SUBJECT TO SUBSECTION (2).

(C) COMPOSTED AT A COMPOSTING FACILITY WHERE THE QUANTITY OF COMPOSTABLE MATERIAL, BULKING AGENTS, AND COMPOST DOES NOT EXCEED 500 CUBIC YARDS AND DOES NOT CREATE A NUISANCE.

(D) COMPOSTED AT A SMALL COMPOSTING FACILITY FOR WHICH NOTIFICATION HAS BEEN GIVEN UNDER SECTION 11568(3), WHEN

1 APPLICABLE.

2 (E) COMPOSTED ON A FARM AS DESCRIBED BY SUBSECTION (3).

3 (F) COMPOSTED AT A MEDIUM COMPOSTING FACILITY REGISTERED UNDER

4 SECTION 11568(3), WHEN APPLICABLE.

5 (G) COMPOSTED AT ANY OF THE FOLLOWING THAT HAS RECEIVED

6 APPROVAL UNDER A GENERAL PERMIT UNDER SECTION 11568(3), WHEN

7 APPLICABLE:

8 (*i*) A LARGE COMPOSTING FACILITY.

9 (*ii*) A CLASS 1 COMPOSTING FACILITY.

10 (*iii*) A CLASS 2 COMPOSTING FACILITY.

11 (H) DECOMPOSED IN A CONTROLLED MANNER USING A CLOSED CONTAINER

12 TO CREATE AND MAINTAIN ANAEROBIC CONDITIONS IF IN COMPLIANCE WITH

13 PART 55 AND OTHERWISE APPROVED BY THE DEPARTMENT UNDER PART 115.

14 (I) COMPOSTED AND USED AS PART OF NORMAL OPERATIONS BY A TYPE

15 II LANDFILL IF THE LANDFILL REPORTS ANNUALLY THE CUBIC YARDS OF

16 COMPOST MANAGED AND THE COMPOSTING AND USE MEET THE FOLLOWING

17 REQUIREMENTS:

18 (*i*) TAKE PLACE ON PROPERTY DESCRIBED IN THE LANDFILL

19 CONSTRUCTION PERMIT.

20 (*ii*) ARE DESCRIBED IN AND CONSISTENT WITH THE LANDFILL

21 OPERATIONS PLANS.

22 (*iii*) ARE OTHERWISE IN COMPLIANCE WITH THIS ACT.

23 (J) DISPOSED OF IN A LANDFILL OR AN INCINERATOR. THIS

24 SUBDIVISION APPLIES TO YARD WASTE ONLY IF ALL OF THE FOLLOWING

25 REQUIREMENTS ARE MET:

26 (*i*) THE YARD WASTE IS DISEASED OR INFESTED, IS COMPOSED OF

27 INVASIVE PLANTS, SUCH AS GARLIC MUSTARD, PURPLE LOOSESTRIFE, OR

1 SPOTTED KNAPWEED, THAT WERE COLLECTED THROUGH AN ERADICATION OR
2 CONTROL PROGRAM, OR IS A STATE OR FEDERAL CONTROLLED SUBSTANCE.
3 (*ii*) THE YARD WASTE INCLUDES NO MORE THAN A DE MINIMIS AMOUNT
4 OF YARD WASTE OTHER THAN THAT DESCRIBED IN SUBPARAGRAPH (*i*).
5 (*iii*) IF THE YARD WASTE IS COMPOSTED, USE OF THE COMPOST MAY
6 CONTRIBUTE TO THE SPREAD OF THE DISEASE OR INFESTATION OR OF VIABLE
7 INVASIVE PLANT OR CONTROLLED SUBSTANCE SEEDS OR OTHER PROPAGULES.
8 (2) A PERSON MAY TEMPORARILY ACCUMULATE YARD WASTE UNDER
9 SUBSECTION (1)(B) AT A SITE NOT DESIGNED FOR COMPOSTING IF ALL OF
10 THE FOLLOWING REQUIREMENTS ARE MET:
11 (A) THE ACCUMULATION DOES NOT CREATE A NUISANCE OR RESULT IN A
12 VIOLATION OF THIS ACT.
13 (B) THE YARD WASTE IS NOT MIXED WITH OTHER COMPOSTABLE
14 MATERIALS.
15 (C) NO MORE THAN 1,000 CUBIC YARDS ARE PLACED ON-SITE UNLESS A
16 GREATER VOLUME IS APPROVED BY THE DEPARTMENT.
17 (D) YARD WASTE PLACED ON-SITE ON OR AFTER APRIL 1 BUT BEFORE
18 DECEMBER 1 IS MOVED TO ANOTHER LOCATION AND MANAGED AS PROVIDED IN
19 SUBSECTION (1) WITHIN 30 DAYS AFTER BEING PLACED ON-SITE. THE
20 DEPARTMENT MAY APPROVE A LONGER TIME PERIOD BASED ON A
21 DEMONSTRATION THAT ADDITIONAL TIME IS NECESSARY.
22 (E) YARD WASTE PLACED ON-SITE ON OR AFTER DECEMBER 1 BUT
23 BEFORE THE NEXT APRIL 1 IS MOVED TO ANOTHER LOCATION AND MANAGED AS
24 PROVIDED IN SUBSECTION (1) BY THE NEXT APRIL 1 AFTER THE YARD WASTE
25 IS PLACED ON-SITE.
26 (F) THE OWNER OR OPERATOR OF THE SITE MAINTAINS AND MAKES
27 AVAILABLE TO THE DEPARTMENT RECORDS NECESSARY TO DEMONSTRATE THAT

1 THE REQUIREMENTS OF THIS SUBSECTION ARE MET.
2 (G) THE OWNER OR OPERATOR OF THE SITE ANNUALLY NOTIFIES THE
3 DEPARTMENT THAT IT IS A TEMPORARY YARD WASTE ACCUMULATION SITE.
4 (3) A PERSON MAY COMPOST CLASS 1 COMPOSTABLE MATERIAL ON A
5 FARM UNDER SUBSECTION (1)(E) IF ALL OF THE FOLLOWING REQUIREMENTS
6 ARE MET:
7 (A) THE COMPOST IS USED ON THE FARM.
8 (B) THE COMPOSTING DOES NOT RESULT IN A VIOLATION OF THIS ACT
9 AND IS DONE IN COMPLIANCE WITH GAAMPS UNDER THE MICHIGAN RIGHT TO
10 FARM ACT, 1981 PA 93, MCL 286.471 TO 286.474.
11 (C) ANY OF THE FOLLOWING APPLY:
12 (*i*) ONLY CLASS 1 COMPOSTABLE MATERIAL THAT IS GENERATED ON THE
13 FARM AND DOES NOT CONTAIN PAPER PRODUCTS, DEAD ANIMALS, OR
14 COMPOSTABLE PRODUCTS IS COMPOSTED.
15 (*ii*) THERE IS NOT MORE THAN 5,000 CUBIC YARDS OF CLASS 1
16 COMPOSTABLE MATERIAL ON THE FARM AT ANY TIME.
17 (*iii*) IF THERE IS MORE THAN 5,000 CUBIC YARDS OF CLASS 1
18 COMPOSTABLE MATERIAL ON THE FARM AT ANY TIME, ALL OF THE FOLLOWING
19 REQUIREMENTS ARE MET:
20 (A) THE FARM OPERATION ACCEPTS CLASS 1 COMPOSTABLE MATERIAL
21 ONLY TO ASSIST IN MANAGEMENT OF WASTE MATERIAL GENERATED BY THE
22 FARM OPERATION OR TO SUPPLY THE NUTRIENT NEEDS OF THE FARM AS
23 DETERMINED BY A CERTIFIED CROP ADVISOR, MICHIGAN AGRICULTURE
24 ENVIRONMENTAL ASSURANCE PROGRAM TECHNICIAN, COMPREHENSIVE NUTRIENT
25 MANAGEMENT PLAN WRITER, LICENSED PROFESSIONAL ENGINEER, OR STAFF OF
26 THE DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT WHO ADMINISTER
27 THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.471 TO 286.474.

1 (B) THE FARM OPERATION DOES NOT ACCEPT COMPOSTABLE MATERIAL
2 GENERATED AT A LOCATION OTHER THAN THE FARM FOR MONETARY OR OTHER
3 VALUABLE CONSIDERATION.
4 (C) THE OWNER OR OPERATOR OF THE FARM REGISTERS WITH THE
5 DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT ON A FORM AND IN A
6 FORMAT PROVIDED BY THE DEPARTMENT OF AGRICULTURE AND RURAL
7 DEVELOPMENT AND CERTIFIES THAT THE FARM OPERATION MEETS AND WILL
8 CONTINUE TO MEET THE REQUIREMENTS OF SUB-SUBPARAGRAPHS (A) AND (B).
9 (4) THE OWNER OR OPERATOR OF A COMPOSTING FACILITY THAT IS
10 SUBJECT TO A REQUIREMENT FOR NOTIFICATION, REGISTRATION, OR
11 APPROVAL UNDER A GENERAL PERMIT UNDER SECTION 11568(3) SHALL MEET
12 THE FOLLOWING REQUIREMENTS, AS APPLICABLE:
13 (A) IF THE SITE IS A SMALL COMPOSTING FACILITY, THE SITE IS
14 OPERATED IN COMPLIANCE WITH THE FOLLOWING LOCATION CONDITIONS:
15 (*i*) IF THE SITE IS IN OPERATION ON DECEMBER 1, 2007, THE
16 MANAGEMENT OR STORAGE OF COMPOST, COMPOSTABLE MATERIAL, AND
17 RESIDUALS DOES NOT EXPAND FROM ITS LOCATION ON THAT DATE TO AN AREA
18 THAT IS WITHIN THE FOLLOWING DISTANCES FROM ANY OF THE FOLLOWING
19 FEATURES:
20 (A) 50 FEET FROM A PROPERTY LINE.
21 (B) 200 FEET FROM A RESIDENCE.
22 (C) 100 FEET FROM A BODY OF SURFACE WATER, INCLUDING A LAKE,
23 STREAM, OR WETLAND.
24 (*ii*) IF THE SITE BEGINS OPERATION AFTER DECEMBER 1, 2007, THE
25 MANAGEMENT OR STORAGE OF COMPOST, COMPOSTABLE MATERIAL, AND
26 RESIDUALS OCCURS IN AN AREA THAT IS NOT IN THE 100-YEAR FLOODPLAIN
27 AND IS NOT WITHIN THE FOLLOWING DISTANCES FROM ANY OF THE FOLLOWING

1 **FEATURES:**
2 **(A) 50 FEET FROM A PROPERTY LINE.**
3 **(B) 200 FEET FROM A RESIDENCE.**
4 **(C) 100 FEET FROM A BODY OF SURFACE WATER, INCLUDING A LAKE,**
5 **STREAM, OR WETLAND.**
6 **(D) 2,000 FEET FROM A TYPE I OR TYPE IIA WATER SUPPLY WELL.**
7 **(E) 800 FEET FROM A TYPE IIB OR TYPE III WATER SUPPLY WELL.**
8 **(F) 500 FEET FROM A CHURCH OR OTHER HOUSE OF WORSHIP,**
9 **HOSPITAL, NURSING HOME, LICENSED DAY CARE CENTER, OR SCHOOL, OTHER**
10 **THAN A HOME SCHOOL.**
11 **(G) 4 FEET ABOVE GROUNDWATER.**
12 **A LOCAL UNIT OF GOVERNMENT MAY IMPOSE LOCATION RESTRICTIONS THAT**
13 **ARE MORE RESTRICTIVE THAN THOSE IN SUBPARAGRAPHS (*i*) AND (*ii*) BUT**
14 **NOT SO RESTRICTIVE THAT A FACILITY THAT MEETS THE REQUIREMENTS OF**
15 **THE SITING PROCESS IN THE MATERIALS MANAGEMENT PLAN CANNOT BE**
16 **ESTABLISHED.**
17 **(B) COMPOSTING AND MANAGEMENT OF THE SITE OCCURS IN A MANNER**
18 **THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:**
19 **(*i*) DOES NOT RESULT IN AN ACCUMULATION OF COMPOSTABLE MATERIAL**
20 **FOR A PERIOD OF OVER 3 YEARS UNLESS THE SITE HAS THE CAPACITY TO**
21 **COMPOST THE COMPOSTABLE MATERIAL AND THE OWNER OR OPERATOR OF THE**
22 **SITE CAN DEMONSTRATE, BEGINNING IN THE THIRD YEAR OF OPERATION AND**
23 **EACH YEAR THEREAFTER, UNLESS A LONGER TIME IS APPROVED BY THE**
24 **DEPARTMENT, THAT THE AMOUNT OF COMPOSTABLE MATERIAL AND COMPOST**
25 **THAT IS TRANSFERRED OFF-SITE IN A CALENDAR YEAR IS NOT LESS THAN**
26 **75% BY WEIGHT OR VOLUME, ACCOUNTING FOR NATURAL VOLUME REDUCTION,**
27 **OF THE AMOUNT OF COMPOSTABLE MATERIAL AND COMPOST THAT WAS ON-SITE**

1 AT THE BEGINNING OF THE CALENDAR YEAR.

2 (*ii*) RESULTS IN FINISHED COMPOST WITH NOT MORE THAN 1%, BY
3 WEIGHT, OF FOREIGN MATTER THAT WILL REMAIN ON A 4-MILLIMETER
4 SCREEN.

5 (*iii*) IF YARD WASTE IS COLLECTED IN BAGS OTHER THAN PAPER BAGS
6 OR COMPOSTABLE BAGS MEETING ASTM D6400 "STANDARD SPECIFICATION FOR
7 COMPOSTABLE PLASTICS", BY ASTM INTERNATIONAL, DEBAGS THE YARD WASTE
8 BY THE END OF EACH BUSINESS DAY.

9 (*iv*) PREVENTS THE POOLING OF WATER BY MAINTAINING PROPER
10 SLOPES AND GRADES.

11 (*v*) PROPERLY MANAGES COMPOST WASTEWATER AND STORMWATER RUNOFF
12 IN COMPLIANCE WITH PART 31.

13 (*vi*) DOES NOT ATTRACT OR HARBOR RODENTS OR OTHER VECTORS.

14 (C) THE OWNER OR OPERATOR MAINTAINS, AND MAKES AVAILABLE TO
15 THE DEPARTMENT, ALL OF THE FOLLOWING RECORDS:

16 (*i*) RECORDS IDENTIFYING THE VOLUME OF OTHER COMPOSTABLE
17 MATERIAL ACCEPTED BY THE FACILITY EACH MONTH, THE VOLUME OF
18 COMPOSTABLE MATERIAL AND OF COMPOST TRANSFERRED OFF-SITE EACH
19 MONTH, AND THE VOLUME OF COMPOSTABLE MATERIAL ON-SITE ON OCTOBER 1
20 EACH YEAR.

21 (*ii*) RECORDS DEMONSTRATING THAT THE COMPOSTING IS BEING
22 PERFORMED IN A MANNER THAT PREVENTS NUISANCES AND MINIMIZES
23 ANAEROBIC CONDITIONS. UNLESS OTHERWISE PROVIDED BY THE DEPARTMENT,
24 THESE RECORDS SHALL INCLUDE CARBON-TO-NITROGEN RATIOS, THE AMOUNT
25 OF LEAVES AND THE AMOUNT OF GRASS IN TONS OR CUBIC YARDS,
26 TEMPERATURE READINGS, MOISTURE CONTENT READINGS, AND LAB ANALYSIS
27 OF FINISHED COMPOST PRODUCTS.

1 (5) A SITE AT WHICH COMPOSTABLE MATERIAL IS MANAGED IN
2 COMPLIANCE WITH THIS SECTION, OTHER THAN A SITE DESCRIBED IN
3 SUBSECTION (1)(I) OR (J), IS NOT A DISPOSAL AREA.
4 (6) THE DEPARTMENT SHALL MAINTAIN AND POST ON ITS WEBSITE A
5 LIST OF COMPOSTING FACILITIES IN COMPLIANCE WITH THIS SECTION.
6 EXCEPT AS PROVIDED IN SECTION 11514, A HAULER SHALL NOT DELIVER
7 YARD WASTE TO A SITE THAT IS NOT ON THE LIST.
8 SEC. 11556. (1) A PERSON WHO COMPOSTS CLASS 1 COMPOSTABLE
9 MATERIAL SHALL DO SO AT 1 OF THE FOLLOWING:
10 (A) A CLASS 1 COMPOSTING FACILITY.
11 (B) A SMALL OR MEDIUM COMPOSTING FACILITY THAT MEETS THE
12 CONDITIONS OF SECTION 11555(4) AND WHERE THE TOTAL VOLUME OF CLASS
13 1 COMPOSTABLE MATERIAL OTHER THAN YARD WASTE IS EQUALLY DISTRIBUTED
14 AND DOES NOT EXCEED 5% FOR A SMALL COMPOSTING FACILITY, OR 10% FOR
15 A MEDIUM COMPOSTING FACILITY, OF THE TOTAL VOLUME OF COMPOSTABLE
16 MATERIAL ON-SITE OR A GREATER PERCENTAGE IF APPROVED BY THE
17 DEPARTMENT.
18 (C) AT A SITE DESCRIBED IN SECTION 11555(1)(C).
19 (2) CLASS 1 COMPOSTABLE MATERIAL IS CONSIDERED TO BE SOURCE
20 SEPARATED FOR CONVERSION INTO COMPOST IF THE CLASS 1 COMPOSTABLE
21 MATERIAL IS COMPOSTED AT A SITE THAT IS DESCRIBED IN AND MEETS THE
22 REQUIREMENTS OF SECTION 11555(4) OR SECTION 11557(2).
23 (3) COMPOSTING OF CLASS 2 COMPOSTABLE MATERIAL SHALL BE DONE
24 AT A CLASS 2 COMPOSTING FACILITY. CLASS 2 COMPOSTABLE MATERIAL IS
25 CONSIDERED TO BE SOURCE SEPARATED FOR CONVERSION INTO COMPOST IF
26 THE CLASS 2 COMPOSTABLE MATERIAL IS COMPOSTED AT A CLASS 2
27 COMPOSTING FACILITY.

1 (4) COMPOSTING OF DEAD ANIMALS USING BULKING AGENTS AS DEFINED
2 IN SECTION 3 OF 1982 PA 239, MCL 287.653, IS SUBJECT TO PART 115 IF
3 THE COMPOSTING OCCURS AT ANY OF THE FOLLOWING:
4 (A) A FARM THAT MAINTAINS MORE THAN 5,000 CUBIC YARDS OF
5 BULKING AGENTS FROM A SOURCE OTHER THAN THE FARM.
6 (B) A SLAUGHTERING FACILITY THAT, FOR COMPOSTING PURPOSES,
7 MAINTAINS ON-SITE MORE THAN 5,000 CUBIC YARDS OF BULKING AGENTS AS
8 DEFINED IN SECTION 3 OF THE BODIES OF DEAD ANIMALS ACT, 1982 PA
9 239, MCL 287.653.
10 (C) A FACILITY THAT MANAGES DEAD ANIMALS FROM MORE THAN 1 FARM
11 OR SLAUGHTERING FACILITY.
12 SEC. 11557. (1) THE LOCATION AT A MEDIUM OR LARGE COMPOSTING
13 FACILITY, OR A CLASS 1 OR CLASS 2 COMPOSTING FACILITY, WHERE CLASS
14 1 AND CLASS 2 COMPOSTABLE MATERIAL, FINISHED COMPOST, AND RESIDUALS
15 WERE MANAGED AND STORED ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
16 THAT ADDED THIS SECTION SHALL NOT BE EXPANDED TO AN AREA THAT IS
17 WITHIN THE FOLLOWING DISTANCES FROM ANY OF THE FOLLOWING FEATURES:
18 (A) 100 FEET FROM A PROPERTY LINE.
19 (B) 300 FEET FROM A RESIDENCE.
20 (C) 200 FEET FROM A BODY OF SURFACE WATER, INCLUDING A LAKE,
21 STREAM, OR WETLAND.
22 (2) IF A MEDIUM OR LARGE COMPOSTING FACILITY OR A CLASS 1 OR 2
23 COMPOSTING FACILITY BEGINS OPERATION AFTER THE EFFECTIVE DATE OF
24 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE MANAGEMENT AND
25 STORAGE OF CLASS 1 AND CLASS 2 COMPOSTABLE MATERIAL, COMPOST, AND
26 RESIDUALS SHALL NOT OCCUR IN A WETLAND OR FLOODPLAIN, OR IN AN AREA
27 THAT IS WITHIN THE FOLLOWING DISTANCES FROM ANY OF THE FOLLOWING

1 FEATURES:
2 (A) 100 FEET FROM A PROPERTY LINE.
3 (B) 300 FEET FROM A RESIDENCE.
4 (C) 200 FEET FROM A BODY OF SURFACE WATER, INCLUDING A LAKE,
5 STREAM, OR WETLAND.
6 (D) 2,000 FEET FROM A TYPE I OR TYPE IIA WATER SUPPLY WELL.
7 (E) 800 FEET FROM A TYPE IIB OR TYPE III WATER SUPPLY WELL.
8 (F) 4 FEET ABOVE GROUNDWATER.
9 (3) NOT LATER THAN 90 DAYS AFTER THE ESTABLISHMENT OF A NEW
10 CLASS 1 OR CLASS 2 COMPOSTING FACILITY OR THE EXPANSION OF THE
11 LOCATION AT A CLASS 1 COMPOSTING FACILITY WHERE CLASS 1 COMPOSTABLE
12 MATERIAL, FINISHED COMPOST, AND RESIDUALS WERE MANAGED AND STORED
13 ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
14 SECTION, THE OWNER OR OPERATOR OF THE COMPOSTING FACILITY SHALL, IF
15 THE COMPOSTING FACILITY IS LOCATED WITHIN 5 MILES OF THE END OF AN
16 AIRPORT RUNWAY THAT IS USED BY TURBOJET OR PISTON TYPE AIRCRAFT,
17 NOTIFY IN WRITING THE AFFECTED AIRPORT AND THE FEDERAL AVIATION
18 ADMINISTRATION.
19 SEC. 11558. (1) THE OWNER OR OPERATOR OF A LARGE COMPOSTING
20 FACILITY THAT COMPOSTS ONLY YARD WASTE OR OF A CLASS 1 OR CLASS 2
21 COMPOSTING FACILITY SHALL DEVELOP AND SUBMIT TO THE DEPARTMENT THE
22 FOLLOWING ITEMS:
23 (A) A SITE MAP.
24 (B) AN OPERATIONS PLAN.
25 (C) AN ODOR MANAGEMENT PLAN.
26 (D) A MARKETING PLAN.
27 (E) A TRAINING PLAN.

1 (F) A FIRE PREVENTION PLAN.
2 (G) A FACILITY CLOSURE PLAN.
3 (2) THE OWNER OR OPERATOR OF A COMPOSTING FACILITY DESCRIBED
4 IN SUBSECTION (1) SHALL, BASED ON THE VOLUME OF MATERIAL MANAGED,
5 DO 1 OF THE FOLLOWING:
6 (A) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
7 ACT THAT ADDED THIS SECTION, SUBMIT TO THE DEPARTMENT A COMPLETE
8 APPLICATION FOR REGISTRATION. THE TERM OF THE REGISTRATION IS 5
9 YEARS.
10 (B) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
11 ACT THAT ADDED THIS SECTION, SUBMIT TO THE DEPARTMENT A COMPLETE
12 APPLICATION FOR APPROVAL UNDER A GENERAL PERMIT. THE TERM OF
13 APPROVAL UNDER THE GENERAL PERMIT IS 5 YEARS.
14 (3) THE OWNER OR OPERATOR OF A LARGE COMPOSTING FACILITY SHALL
15 ENSURE THAT ALL OF THE FOLLOWING REQUIREMENTS ARE MET:
16 (A) FINISHED COMPOST IS TESTED IN COMPLIANCE WITH SECTION
17 11564.
18 (B) THE COMPOSTABLE MATERIAL IS NOT STORED IN A MANNER
19 CONSTITUTING SPECULATIVE ACCUMULATION. THE OWNER OR OPERATOR OF THE
20 LARGE COMPOSTING FACILITY SHALL MAINTAIN AND MAKE AVAILABLE TO THE
21 DEPARTMENT RECORDS TO DEMONSTRATE COMPLIANCE WITH THIS REQUIREMENT.
22 (C) COMPOSTING DOES NOT RESULT IN STANDING WATER OR ATTRACT OR
23 HARBOR RODENTS OR OTHER VECTORS.
24 (D) UNLESS APPROVED BY THE DEPARTMENT, THE COMPOSTING
25 OPERATIONS DO NOT RESULT IN MORE THAN THE FOLLOWING VOLUME ON ANY
26 ACRE:
27 (*i*) 5,000 CUBIC YARDS OF COMPOSTABLE MATERIAL, FINISHED

1 COMPOST, COMPOST ADDITIVES, OR SCREENING REJECTS OR ANY COMBINATION
2 THEREOF.
3 (*ii*) 10,000 CUBIC YARDS OF COMPOSTABLE MATERIAL IF THE SITE IS
4 USING FORCED AIR STATIC PILE COMPOSTING.
5 (E) THE COMPOSTING FACILITY COMPLIES WITH WELLHEAD PROTECTION
6 PROGRAMS.
7 SEC. 11559. (1) A PERSON SHALL NOT ESTABLISH OR OPERATE A
8 CLASS 2 COMPOSTING FACILITY WITHOUT APPROVAL UNDER A GENERAL
9 PERMIT.
10 (2) THE APPLICATION FOR APPROVAL UNDER SUBSECTION (1) SHALL
11 INCLUDE THE LOCATION OF THE COMPOSTING OPERATION AND THE TYPE AND
12 THE AMOUNT OF MATERIALS TO BE COMPOSTED.
13 (3) WHEN EVALUATING AN APPLICATION FOR APPROVAL TO COMPOST
14 CLASS 2 COMPOSTABLE MATERIAL AT A CLASS 2 COMPOSTING FACILITY, THE
15 DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING:
16 (A) THE APPLICABLE LOCATION RESTRICTIONS IN SECTION 11557.
17 (B) THE APPLICABLE COMPOSTING FACILITY REQUIREMENTS IN SECTION
18 11558.
19 (C) THE CLASSIFICATION OF THE COMPOSTABLE MATERIAL AND
20 FINISHED COMPOST AS ESTABLISHED UNDER SECTIONS 11562 AND 11563.
21 (4) THE DEPARTMENT SHALL MAKE A FINAL DECISION ON AN
22 APPLICATION FOR A CLASS 2 COMPOSTING FACILITY WITHIN 90 DAYS AFTER
23 RECEIVING A COMPLETE APPLICATION. THE TERM OF THE GENERAL PERMIT
24 APPROVAL TO COMPOST CLASS 2 COMPOSTABLE MATERIAL AT A CLASS 2
25 COMPOSTING FACILITY IS 5 YEARS. THE APPROVAL MAY BE RENEWED UPON
26 THE SUBMITTAL OF A TIMELY AND SUFFICIENT APPLICATION. TO BE
27 CONSIDERED TIMELY AND SUFFICIENT FOR PURPOSES OF SECTION 91 OF THE

1 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.291, AN
2 APPLICATION FOR RENEWAL OF AN APPROVAL UNDER A GENERAL PERMIT SHALL
3 MEET ALL OF THE FOLLOWING REQUIREMENTS:
4 (A) CONTAIN THE INFORMATION DESCRIBED IN SUBSECTION (2).
5 (B) BE RECEIVED BY THE DEPARTMENT NOT LATER THAN 90 DAYS
6 BEFORE THE EXPIRATION OF THE PRECEDING APPROVAL.
7 (5) CLASS 2 COMPOSTABLE MATERIAL SHALL BE SEPARATED OUT FROM
8 OTHER SOLID WASTE AND MAINTAINED SEPARATELY UNTIL USED TO PRODUCE
9 COMPOST UNLESS OTHERWISE AUTHORIZED BY THE DEPARTMENT.
10 SEC. 11560. THE OWNER OR OPERATOR OF A COMPOSTING FACILITY
11 THAT IS REQUIRED TO NOTIFY OR REGISTER UNDER PART 115 OR THAT IS
12 APPROVED UNDER A GENERAL PERMIT SHALL, WITHIN 45 DAYS AFTER THE END
13 OF EACH STATE FISCAL YEAR, REPORT TO THE DEPARTMENT ALL OF THE
14 FOLLOWING INFORMATION FOR THAT FISCAL YEAR:
15 (A) THE AMOUNT OF COMPOSTABLE MATERIAL BROUGHT TO THE SITE BY
16 PLANNING AREA OF ORIGIN.
17 (B) THE AMOUNT OF FINISHED COMPOST REMOVED FROM THE SITE.
18 (C) THE VOLUME OF RESIDUALS REMOVED FROM THE SITE.
19 (D) THE TOTAL AMOUNT OF COMPOSTABLE MATERIAL, COMPOST, AND
20 RESIDUALS ON-SITE AT THE END OF THE FISCAL YEAR.
21 SEC. 11561. (1) A PERSON SHALL NOT USE COMPOST PRODUCED FROM
22 CLASS 2 COMPOSTABLE MATERIAL UNLESS THE DEPARTMENT APPROVES THE
23 CLASS 2 COMPOSTABLE MATERIAL AS APPROPRIATE FOR THE USE UNDER PART
24 115.
25 (2) A PERSON SHALL NOT SEPARATE WASTE FOR USE AS COMPOSTABLE
26 MATERIAL UNLESS THE PERSON HAS FILED A PETITION UNDER R 299.4118A
27 OF THE MICHIGAN ADMINISTRATIVE CODE AND OBTAINED APPROVAL FROM THE

1 DEPARTMENT. TO CHARACTERIZE THE FINISHED COMPOST, THE PETITIONER
2 SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION IN THE PETITION, IN
3 ADDITION TO THE INFORMATION REQUIRED IN R 299.4118A:
4 (A) THE TYPE OF WASTE AND ITS POTENTIAL FOR CREATING A
5 NUISANCE OR ENVIRONMENTAL CONTAMINATION.
6 (B) THE TIME REQUIRED FOR COMPOST TO REACH MATURITY, AS
7 DETERMINED BY A REDUCTION OF ORGANIC MATTER CONTENT DURING
8 COMPOSTING. ORGANIC MATTER CONTENT SHALL BE DETERMINED BY MEASURING
9 THE VOLATILE RESIDUES CONTENT USING A METHOD THAT IS APPROVED BY
10 THE DEPARTMENT OR EPA METHOD 160.4, CONTAINED IN THE PUBLICATION
11 ENTITLED "METHODS FOR CHEMICAL ANALYSIS OF WATER AND WASTE", EPA-
12 600, REVISION 8, JULY 2014, UPDATE V.
13 (C) THE FOREIGN MATTER CONTENT OF FINISHED COMPOST. THE
14 FOREIGN MATTER CONTENT SHALL BE DETERMINED AS FOLLOWS:
15 (*i*) A WEIGHED SAMPLE OF THE FINISHED COMPOST IS SIFTED THROUGH
16 A 4.0-MILLIMETER SCREEN.
17 (*ii*) THE FOREIGN MATTER REMAINING ON THE SCREEN IS SEPARATED
18 AND WEIGHED.
19 (*iii*) THE WEIGHT OF THE SEPARATED FOREIGN MATTER IS DIVIDED BY
20 THE WEIGHT OF THE FINISHED COMPOST.
21 (*iv*) THE QUOTIENT UNDER SUBPARAGRAPH (*iii*) IS MULTIPLIED BY
22 100.
23 (D) PARTICLE SIZE, AS DETERMINED BY SIEVE ANALYSIS.
24 (3) THE DEPARTMENT SHALL APPROVE A MATERIAL FOR USE AS
25 COMPOSTABLE MATERIAL IF THE PERSON WHO PROPOSES THE USE
26 DEMONSTRATES ALL OF THE FOLLOWING:
27 (A) THE MATERIAL HAS OR WILL BE CONVERTED TO COMPOST UNDER

1 CONTROLLED CONDITIONS AT A CLASS 2 COMPOSTING FACILITY.
2 (B) THE MATERIAL WILL NOT BE A SOURCE OF ENVIRONMENTAL
3 CONTAMINATION OR CAUSE A NUISANCE.
4 (C) THE END USER WILL BE GIVEN WRITTEN INSTRUCTIONS ON THE
5 PROPER USE OF THE FINISHED COMPOST.
6 SEC. 11562. (1) A PERSON MAY PETITION THE DEPARTMENT TO DO ANY
7 OF THE FOLLOWING:
8 (A) CLASSIFY A SOLID WASTE, A CLASS 2 COMPOSTABLE MATERIAL, OR
9 A COMBINATION OF CLASS 1 COMPOSTABLE MATERIAL AND CLASS 2
10 COMPOSTABLE MATERIAL, AS A CLASS 1 COMPOSTABLE MATERIAL.
11 (B) CLASSIFY COMPOST PRODUCED FROM SOLID WASTE, CLASS 2
12 COMPOSTABLE MATERIAL, OR A COMBINATION OF CLASS 1 COMPOSTABLE
13 MATERIAL AND CLASS 2 COMPOSTABLE MATERIAL, AS GENERAL USE COMPOST.
14 (2) A PETITION UNDER SUBSECTION (1) SHALL MEET THE
15 REQUIREMENTS OF R 299.4118A OF THE MICHIGAN ADMINISTRATIVE CODE. IF
16 AUTHORIZED BY THE DEPARTMENT IN WRITING, A PERSON MAY CONDUCT A
17 PILOT COMPOSTING PROJECT TO SUPPORT A PETITION UNDER SUBSECTION
18 (1).
19 (3) IN GRANTING A PETITION UNDER SUBSECTION (1), THE
20 DEPARTMENT SHALL SPECIFY WHICH PARAMETERS LISTED IN SECTION 11565
21 SHALL BE TESTED UNDER SUBSECTION (4). THE DEPARTMENT'S DECISION
22 SHALL BE BASED ON BOTH OF THE FOLLOWING:
23 (A) THE DIFFERENCE BETWEEN THE CONCENTRATION OF A GIVEN
24 PARAMETER IN THE COMPOST AND THE CRITERIA FOR THAT PARAMETER IN
25 SECTION 11553(5). [CHECK CITE WITH DEQ.]
26 (B) THE VARIABILITY OF THE RESULTS AMONG THE SAMPLES.
27 (4) IF A MATERIAL IS CLASSIFIED AS A CLASS 1 COMPOSTABLE

1 MATERIAL BY THE DEPARTMENT BASED ON THE PETITION UNDER SUBSECTION
2 (1), THE OPERATOR SHALL TEST COMPOST PRODUCED FROM THE CLASS 1
3 COMPOSTABLE MATERIAL WHEN BOTH OF THE FOLLOWING APPLY:
4 (A) THERE IS A SIGNIFICANT CHANGE IN THE PROCESS THAT
5 GENERATED THE COMPOST.
6 (B) THE CHANGE HAS THE POTENTIAL TO ALTER THE CLASSIFICATION
7 OF THE FINISHED COMPOST AS GENERAL USE COMPOST UNDER SECTION
8 11553(5).
9 (5) IF ANY FINISHED COMPOST PRODUCED FROM THE CLASS 2
10 COMPOSTABLE MATERIAL THAT HAS BEEN CLASSIFIED AS A GENERAL USE
11 COMPOST FAILS TO MEET THE REQUIREMENTS FOR A GENERAL USE COMPOST
12 UNDER SECTION 11553(5), BOTH OF THE FOLLOWING APPLY:
13 (A) THE FINISHED COMPOST IS RECLASSIFIED AS A RESTRICTED USE
14 COMPOST.
15 (B) THE OWNER OR OPERATOR OF THE COMPOSTING FACILITY SHALL
16 NOTIFY THE DEPARTMENT WITHIN 10 BUSINESS DAYS AFTER RECEIPT OF
17 INFORMATION THAT THE FINISHED COMPOST NO LONGER MEETS THE CRITERIA
18 TO BE CLASSIFIED AS GENERAL USE COMPOST, AND SHALL DO 1 OF THE
19 FOLLOWING WITH THE FINISHED COMPOST:
20 (*i*) DISPOSE OF THE REMAINING FINISHED COMPOST AT A PROPERLY
21 LICENSED LANDFILL.
22 (*ii*) STOCKPILE THE FINISHED COMPOST ON-SITE UNTIL THE
23 GENERATOR RE-PETITIONS THE DEPARTMENT AND THE DEPARTMENT
24 RECLASSIFIES THE COMPOST AS PROVIDED IN THIS SECTION.
25 (*iii*) USE THE FINISHED COMPOST FOR A SPECIFIED USE IF APPROVED
26 FOR THAT SPECIFIED USE UNDER SECTION 11553(4).
27 (6) IF FINISHED COMPOST PRODUCED BY A COMPOSING FACILITY IS

1 RESTRICTED USE COMPOST, THE OWNER OR OPERATOR OF THE COMPOSTING
2 FACILITY SHALL DO THE FOLLOWING, AS APPLICABLE:
3 (A) RETEST THE FINISHED COMPOST NOT LESS THAN ANNUALLY, OR
4 BIENNIALLY IF THE DEPARTMENT HAS DETERMINED THAT THE TEST RESULTS
5 DEMONSTRATE INSIGNIFICANT VARIABILITY OVER A 2-YEAR PERIOD, USING
6 THE PROCEDURES SPECIFIED IN R 299.4118A OF THE MICHIGAN
7 ADMINISTRATIVE CODE. [CONFIRM CITE WITH DEQ.] THE OWNER OR OPERATOR
8 SHALL SUBMIT THE TEST RESULTS TO THE DEPARTMENT. THE DEPARTMENT
9 SHALL SPECIFY A MORE FREQUENT SCHEDULE FOR TESTING IF THE
10 CHARACTERISTICS OF THE MATERIAL VARY SIGNIFICANTLY.
11 (B) IF THE OWNER OR OPERATOR OF THE COMPOSTING FACILITY
12 RECEIVES INFORMATION THAT TEST RESULTS VARY GREATLY FROM PREVIOUS
13 TEST RESULTS, NOTIFY THE DEPARTMENT WITHIN 10 BUSINESS DAYS AND DO
14 ANY OF THE FOLLOWING WITH THE FINISHED COMPOST:
15 (*i*) DISPOSE OF THE FINISHED COMPOST AT A PROPERLY LICENSED
16 LANDFILL.
17 (*ii*) STOCKPILE THE FINISHED COMPOST ON-SITE UNTIL THE
18 GENERATOR RE-PETITIONS THE DEPARTMENT AND THE DEPARTMENT
19 RECLASSIFIES THE COMPOST UNDER THIS SECTION.
20 (*iii*) USE THE FINISHED COMPOST FOR A USE SPECIFIED BY THE
21 DEPARTMENT UNDER SECTION 11553(3).
22 SEC. 11563. (1) GENERAL USE COMPOST OFFERED FOR SALE SHALL BE
23 ACCOMPANIED BY A LABEL, IN THE CASE OF BAGGED COMPOST, OR AN
24 INFORMATION SHEET IN THE CASE OF BULK SALES. THE LABEL OR
25 INFORMATION SHEET SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:
26 (A) THE NAME AND GENERATOR OF THE COMPOST.
27 (B) THE FEEDSTOCK AND BULKING AGENTS USED TO PRODUCE THE

1 COMPOST.

2 (C) USE INSTRUCTIONS, INCLUDING APPLICATION RATES AND ANY
3 RESTRICTIONS ON USE.

4 (D) IF THE COMPOST IS MARKETED AS A FERTILIZER, MICRONUTRIENT,
5 OR SOIL CONDITIONER, THE LABEL SHALL LIST THE APPLICABLE PARAMETERS
6 UNDER SECTION 11565 AND CONCENTRATION LEVELS AND SHALL INCLUDE A
7 STATEMENT INDICATING THAT THE PERSON OFFERING THE COMPOST FOR SALE
8 IS IN COMPLIANCE WITH THE APPLICABLE REQUIREMENTS OF PART 85. THE
9 PERSON OFFERING THE COMPOST FOR SALE SHALL INDICATE ON THE LABEL
10 THE PERSON'S LICENSE NUMBER UNDER PART 85, IF APPLICABLE.

11 (E) IF THE COMPOST IS MARKETED AS A LIMING MATERIAL, THE LABEL
12 SHALL LIST THE APPLICABLE PARAMETERS UNDER SECTION 11565 AND SHALL
13 INCLUDE A STATEMENT INDICATING THAT THE GENERATOR OF THE COMPOST IS
14 IN COMPLIANCE WITH THE APPLICABLE REQUIREMENTS OF 1955 PA 162, MCL
15 290.531 TO 290.538. THE GENERATOR SHALL INDICATE ON THE LABEL THE
16 LIMING LICENSE NUMBER.

17 (F) A STATEMENT INDICATING HOW THE USER OF THE COMPOST CAN
18 OBTAIN THE RESULTS OF ALL TESTING, INCLUDING TEST PARAMETERS AND
19 CONCENTRATION LEVELS.

20 (2) RESTRICTED USE COMPOST SHALL BE MANAGED AS PROVIDED IN ANY
21 OF THE FOLLOWING:

22 (A) DISPOSED OF AT A PROPERLY LICENSED LANDFILL.

23 (B) STOCKPILED ON-SITE UNTIL THE GENERATOR PETITIONS THE
24 DEPARTMENT UNDER SECTION 11562 AND THE DEPARTMENT RECLASSIFIES THE
25 COMPOST AS PROVIDED IN THAT SECTION.

26 (C) USED FOR A USE SPECIFIED BY THE DEPARTMENT UNDER SECTION
27 11553(3).

1 (D) IF OFFERED FOR SALE, ACCOMPANIED BY A LABEL, IN THE CASE
2 OF BAGGED COMPOST, OR AN INFORMATION SHEET IN THE CASE OF BULK
3 SALES. THE LABEL OR INFORMATION SHEET SHALL CONTAIN BOTH OF THE
4 FOLLOWING:
5 (*i*) THE INFORMATION REQUIRED BY SUBSECTION (1).
6 (*ii*) A STATEMENT THAT THE COMPOST HAS BEEN APPROVED FOR USE BY
7 THIS STATE AND FURTHER INDICATING HOW THE USER OF THE COMPOST MAY
8 OBTAIN THE RESULTS OF ALL TESTING INCLUDING TEST PARAMETERS,
9 CONCENTRATION LEVELS, AND THE APPLICABLE STANDARDS.
10 (3) THE DEPARTMENT MAY IMPOSE CONDITIONS FOR USE OF RESTRICTED
11 USE COMPOST TO ENSURE THE PROTECTION OF THE PUBLIC HEALTH, SAFETY,
12 OR WELFARE, OR THE ENVIRONMENT.
13 SEC. 11564. (1) ALL OF THE FOLLOWING SITES SHALL TEST THEIR
14 FINISHED COMPOST IN COMPLIANCE WITH THE US COMPOSTING COUNCIL'S
15 SEAL OF TESTING ASSURANCE, UNLESS THE DEPARTMENT HAS APPROVED AN
16 ALTERNATE PROCEDURE:
17 (A) CLASS 1 COMPOSTING FACILITIES THAT ONLY MANAGE YARD WASTE
18 AND THAT PRODUCE OVER 10,000 CUBIC YARDS OF FINISHED COMPOST PER
19 YEAR. THE FINISHED COMPOST SHALL BE ANALYZED FOR THE PARAMETERS
20 LISTED IN SECTION 11565.
21 (B) CLASS 1 COMPOSTING FACILITIES THAT PRODUCE OVER 2,000
22 CUBIC YARDS OF FINISHED COMPOST PER YEAR. THE FINISHED COMPOST
23 SHALL BE ANALYZED FOR THE PARAMETERS LISTED IN SECTION 11565.
24 (C) ALL CLASS 2 COMPOSTING FACILITIES. THE FINISHED COMPOST
25 SHALL BE ANALYZED FOR THE PARAMETERS LISTED IN SECTION 11565 AND,
26 IF THE COMPOST IS PRODUCED FROM CLASS 2 COMPOSTABLE MATERIAL, OTHER
27 PARAMETERS IDENTIFIED IN THE FACILITY'S GENERAL PERMIT.

1 (2) ALL SITES NOT LISTED IN SUBSECTION (1) SHALL TEST AT LEAST
2 1 SAMPLE OF FINISHED COMPOST PER 4,000 CUBIC YARDS OR 2,000 TONS
3 PER YEAR FOR THE PARAMETERS LISTED IN SECTION 11565, UNLESS THE
4 DEPARTMENT HAS APPROVED AN ALTERNATE PROCEDURE.
5 SEC. 11565. ALL OF THE FOLLOWING ARE GENERAL USE PARAMETERS
6 FOR COMPOST:
7 (A) PH.
8 (B) CARBON-TO-NITROGEN RATIO.
9 (C) SOLUBLE SALTS.
10 (D) TOTAL AVAILABLE NITROGEN.
11 (E) PHOSPHORUS REPORTED AS P_2O_5.
12 (F) POTASSIUM REPORTED AS K_2O.
13 (G) CALCIUM.
14 (H) MAGNESIUM.
15 (I) CHLORIDE.
16 (J) SULFATE.
17 (K) ARSENIC.
18 (*l*) CADMIUM.
19 (M) COPPER.
20 (N) LEAD.
21 (O) MERCURY.
22 (P) MOLYBDENUM.
23 (Q) NICKEL.
24 (R) SELENIUM.
25 (S) ZINC.
26 (T) PERCENT FOREIGN MATTER CONTENT.
27 (U) PATHOGENS.

1 (V) FECAL COLIFORMS.
2 (W) SALMONELLA.
3 (X) OTHER PATHOGENS AS DETERMINED BY THE DEPARTMENT.
4 (Y) PERCENT ORGANIC MATTER.
5 SEC. 11567. (1) A PERSON MAY BLEND LOW HAZARD INDUSTRIAL WASTE
6 OR COMPOST ADDITIVES WITH GENERAL USE COMPOST OR COMPOST PRODUCED
7 FROM YARD WASTE TO CREATE A SOIL-LIKE PRODUCT IF ALL OF THE
8 FOLLOWING CONDITIONS ARE MET:
9 (A) THE BLENDING OCCURS AT A CLASS 1 OR CLASS 2 COMPOSTING
10 FACILITY.
11 (B) THE MIXTURE MEETS THE CRITERIA IN SECTION 11553(5) OR
12 OTHER CRITERIA APPROVED BY THE DEPARTMENT.
13 (C) THE LOW HAZARD INDUSTRIAL WASTE IS BLENDED WITH THE
14 GENERAL USE COMPOST WITHIN 30 DAYS AFTER THE LOW-HAZARD INDUSTRIAL
15 WASTE IS COLLECTED AT THE CLASS 1 OR CLASS 2 COMPOSTING FACILITY.
16 (2) GYPSUM DRYWALL MAY BE ADDED TO FINISHED COMPOST IF IT
17 CONSTITUTES LESS THAN 50% OF THE COMPOST BY WEIGHT AND IS LESS THAN
18 1/4 INCH IN DIAMETER.
19 SEC. 11568. (1) THE OPERATOR OF A MATERIALS UTILIZATION
20 FACILITY SHALL COMPLY WITH ALL OF THE FOLLOWING:
21 (A) THE OPERATOR SHALL OPERATE THE FACILITY IN A MANNER THAT
22 DOES NOT CREATE A NUISANCE OR PUBLIC HEALTH OR ENVIRONMENTAL HAZARD
23 AND KEEP THE FACILITY CLEAN AND FREE OF LITTER.
24 (B) THE OPERATOR SHALL COMPLY, AS APPLICABLE, WITH GENERALLY
25 ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES AND WITH THIS ACT,
26 INCLUDING PARTS 31 AND 55, AND NOT CREATE A FACILITY AS DEFINED IN
27 SECTION 20101.

1 (C) UNLESS EXEMPTED, THE OPERATOR SHALL RECORD THE TYPES AND
2 QUANTITIES IN TONS, OR CUBIC YARDS FOR COMPOSTING FACILITIES, OF
3 MATERIAL COLLECTED, THE PERIOD OF STORAGE, THE PLANNING AREA OF
4 ORIGIN OF THE MATERIAL, AND WHERE THE MATERIAL IS TRANSFERRED,
5 PROCESSED, RECYCLED, OR DISPOSED. THE OPERATOR SHALL REPORT TO THE
6 DEPARTMENT THIS INFORMATION FOR EACH STATE FISCAL YEAR WITHIN 45
7 DAYS AFTER THE END OF THE STATE FISCAL YEAR.
8 (D) ON AN ANNUAL BASIS, THE VOLUME OF SOLID WASTE RESIDUALS
9 SHALL BE LESS THAN 15% OF THE TOTAL VOLUME OF MATERIAL RECEIVED
10 UNLESS THE REQUIREMENTS OF SUBDIVISION (B) OF THE DEFINITION OF
11 MATERIALS RECOVERY FACILITY IN SECTION 11504 ARE MET.
12 (E) THE FACILITY SHALL BE OPERATED BY PERSONNEL WHO ARE
13 KNOWLEDGEABLE ABOUT THE SAFE MANAGEMENT OF THE TYPES OF MATERIAL
14 THAT ARE ACCEPTED AND UTILIZED.
15 (F) THE OPERATOR SHALL LIMIT ACCESS TO THE FACILITY TO A TIME
16 WHEN A RESPONSIBLE INDIVIDUAL IS ON DUTY.
17 (G) THE OPERATOR SHALL NOT STORE MATERIAL OVERNIGHT AT THE
18 FACILITY EXCEPT IN A SECURE LOCATION AND WITH ADEQUATE CONTAINMENT
19 TO PREVENT ANY RELEASE OF MATERIAL.
20 (H) WITHIN 1 YEAR AFTER MATERIAL IS COLLECTED BY THE FACILITY,
21 THE MATERIAL SHALL BE TRANSPORTED FROM THE FACILITY FOR ULTIMATE
22 END USE PRODUCTS OR DISPOSAL.
23 (I) THE MATERIAL SHALL BE PROTECTED, AS APPROPRIATE FOR THE
24 TYPE OF MATERIAL, FROM WEATHER, FIRE, PHYSICAL DAMAGE, AND
25 VANDALISM.
26 (J) OPERATIONS SHALL NOT ATTRACT OR HARBOR RODENTS OR OTHER
27 VECTORS.

1 (K) IF SALVAGING IS PERMITTED, SALVAGED MATERIAL SHALL BE
2 REMOVED FROM THE SITE AT THE END OF EACH BUSINESS DAY OR SALVAGING
3 SHALL BE CONFINED TO A STORAGE AREA THAT IS APPROVED BY THE
4 DEPARTMENT.
5 (*l*) HANDLING AND PROCESSING EQUIPMENT THAT IS OF ADEQUATE
6 SIZE, QUANTITY, AND OPERATING CONDITION SHALL BE AVAILABLE AS
7 NEEDED TO ENSURE PROPER MANAGEMENT OF THE FACILITY. IF THE HANDLING
8 OR PROCESSING EQUIPMENT IS INOPERABLE FOR MORE THAN 24 HOURS, AN
9 ALTERNATIVE METHOD THAT IS APPROVED BY THE DEPARTMENT SHALL BE USED
10 TO MANAGE THE MATERIAL.
11 (M) BURNING OF SOLID WASTE SHALL NOT OCCUR AT THE FACILITY.
12 (2) THE OPERATOR OF A MATERIALS RECOVERY FACILITY, INCLUDING
13 AN ELECTRONIC WASTE PROCESSOR NOT REQUIRED TO REPORT UNDER PART
14 173, SHALL COMPLY WITH BOTH OF THE FOLLOWING:
15 (A) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE
16 AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT OPERATE
17 A MATERIALS RECOVERY FACILITY THAT SORTS, BALES, OR PROCESSES MORE
18 THAN 100 TONS OF MATERIAL PER YEAR AND DOES NOT HAVE MORE THAN 100
19 TONS OF MANAGED MATERIAL ON-SITE AT ANY TIME UNLESS THE OWNER OR
20 OPERATOR HAS REGISTERED THE MATERIALS RECOVERY FACILITY WITH THE
21 DEPARTMENT. THE TERM OF THE REGISTRATION IS 5 YEARS.
22 (B) SUBJECT TO SUBSECTION (6), BEGINNING 2 YEARS AFTER THE
23 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, A
24 PERSON SHALL NOT OPERATE A MATERIALS RECOVERY FACILITY THAT HAS
25 MORE THAN 100 TONS OF MANAGED MATERIAL ON-SITE AT ANY TIME UNLESS
26 THE OWNER OR OPERATOR HAS OBTAINED APPROVAL OF THE MATERIALS
27 RECOVERY FACILITY UNDER A GENERAL PERMIT. THE TERM OF APPROVAL

1 UNDER THE GENERAL PERMIT IS 5 YEARS.
2 (3) THE OPERATOR OF A COMPOSTING FACILITY SHALL COMPLY WITH
3 ALL OF THE FOLLOWING:
4 (A) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE
5 AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT OPERATE
6 A SMALL COMPOSTING FACILITY UNLESS THE OWNER OR OPERATOR HAS
7 NOTIFIED THE DEPARTMENT. NOTIFICATION SHALL BE GIVEN UPON INITIAL
8 OPERATION AND, SUBSEQUENTLY, WITHIN 45 DAYS AFTER THE END OF EACH
9 STATE FISCAL YEAR. THE SUBSEQUENT NOTICES SHALL REPORT THE AMOUNT
10 OF COMPOSTABLE MATERIAL MANAGED AT THE FACILITY DURING THE
11 PRECEDING STATE FISCAL YEAR.
12 (B) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE
13 AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT OPERATE
14 A MEDIUM COMPOSTING FACILITY UNLESS THE OWNER OR OPERATOR HAS
15 REGISTERED WITH THE DEPARTMENT. THE TERM OF THE REGISTRATION IS 5
16 YEARS.
17 (C) SUBJECT TO SUBSECTION (6), BEGINNING 2 YEARS AFTER THE
18 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, A
19 PERSON SHALL NOT OPERATE A LARGE COMPOSTING FACILITY UNLESS
20 APPROVED BY THE DEPARTMENT UNDER A GENERAL PERMIT. THE TERM OF
21 APPROVAL UNDER THE GENERAL PERMIT IS 5 YEARS.
22 (4) THE OPERATOR OF AN ANAEROBIC DIGESTER SHALL COMPLY WITH
23 ALL OF THE FOLLOWING:
24 (A) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE
25 AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT OPERATE
26 AN ANAEROBIC DIGESTER THAT MANAGES SOURCE SEPARATED MATERIAL AND
27 NOT MORE THAN 20% MATERIAL GENERATED OFF-SITE UNLESS THE OWNER OR

1 OPERATOR HAS NOTIFIED THE DEPARTMENT. NOTIFICATION SHALL BE GIVEN
2 UPON INITIAL OPERATION AND, SUBSEQUENTLY, WITHIN 45 DAYS AFTER THE
3 END OF EACH STATE FISCAL YEAR. THE SUBSEQUENT NOTICES SHALL REPORT
4 THE AMOUNT OF MATERIAL MANAGED AT THE ANAEROBIC DIGESTER DURING THE
5 PRECEDING STATE FISCAL YEAR.
6 (B) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE
7 AMENDATORY ACT THAT ADDED THIS SECTION, A PERSON SHALL NOT OPERATE
8 AN ANAEROBIC DIGESTER THAT MANAGES ORGANIC WASTE FOR ON-SITE ENERGY
9 PRODUCTION UNLESS THE OWNER OR OPERATOR HAS REGISTERED THE
10 ANAEROBIC DIGESTER WITH THE DEPARTMENT. THE TERM OF THE
11 REGISTRATION IS 5 YEARS.
12 (C) SUBJECT TO SUBSECTION (6), BEGINNING 2 YEARS AFTER THE
13 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, A
14 PERSON SHALL NOT OPERATE AN ANAEROBIC DIGESTER THAT MANAGES SOURCE
15 SEPARATED MATERIAL GENERATED OFF-SITE, THAT MANAGES SOURCE
16 SEPARATED MATERIAL OR MANURES, BEDDING, OR CROP RESIDUALS GENERATED
17 ON-SITE AND UP TO 20% OTHER MATERIAL NOT GENERATED ON-SITE, OR THAT
18 IS A COMMERCIAL OPERATION UNLESS APPROVED BY THE DEPARTMENT UNDER A
19 GENERAL PERMIT. THE TERM OF APPROVAL UNDER THE GENERAL PERMIT IS 5
20 YEARS.
21 (5) SUBJECT TO SUBSECTION (6), BEGINNING 2 YEARS AFTER THE
22 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, A
23 PERSON SHALL NOT OPERATE AN INNOVATIVE TECHNOLOGY OR PRACTICE
24 FACILITY UNLESS APPROVED BY THE DEPARTMENT UNDER A GENERAL PERMIT.
25 THE APPLICATION FOR APPROVAL SHALL BE ACCOMPANIED BY A FEE OF
26 $1,000.00. THE TERM OF APPROVAL UNDER THE GENERAL PERMIT IS 2
27 YEARS.

1 (6) IF THE OWNER OR OPERATOR OF A MATERIALS UTILIZATION
2 FACILITY THAT IS IN OPERATION ON THE EFFECTIVE DATE OF THE
3 AMENDATORY ACT THAT ADDED THIS SECTION IS REQUIRED TO OBTAIN
4 APPROVAL UNDER A GENERAL PERMIT UNDER THIS SECTION, THAT PERSON
5 SHALL SUBMIT A COMPLETE APPLICATION FOR THE APPROVAL WITHIN 2 YEARS
6 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
7 SECTION.
8 (7) AN APPLICANT FOR APPROVAL UNDER A GENERAL PERMIT, WITHIN 6
9 MONTHS AFTER A GENERAL PERMIT DENIAL, MAY RESUBMIT THE APPLICATION
10 TOGETHER WITH ADDITIONAL INFORMATION OR CORRECTIONS NECESSARY TO
11 ADDRESS THE REASON FOR DENIAL. [IS A FEE REQUIRED? COMPARE SECTION
12 11509(5).]
13 SEC. 11569. (1) WITH A REGISTRATION OR AN APPLICATION FOR
14 APPROVAL UNDER A GENERAL PERMIT REQUIRED UNDER SECTION 11568, THE
15 OWNER OR OPERATOR OF A MATERIALS UTILIZATION FACILITY SHALL SUBMIT
16 A SITE MAP AND OPERATIONS PLAN FOR THE MATERIALS UTILIZATION
17 FACILITY. THE OWNER OR OPERATOR SHALL ALSO SUBMIT A FINAL CLOSURE
18 PLAN WITH AN APPLICATION FOR APPROVAL UNDER A GENERAL PERMIT.
19 PENDING REGISTRATION OR AUTHORIZATION UNDER A GENERAL PERMIT OF A
20 MATERIALS UTILIZATION FACILITY IN OPERATION ON THE EFFECTIVE DATE
21 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL
22 REVIEW THE OPERATING REQUIREMENTS FOR THE FACILITY. IF THE
23 DEPARTMENT DETERMINES UPON REVIEW THAT THE OPERATING REQUIREMENTS
24 DO NOT COMPLY WITH PART 115, THE DEPARTMENT SHALL ISSUE A SCHEDULE
25 OF REMEDIAL MEASURES THAT WILL LEAD TO COMPLIANCE WITHIN A
26 REASONABLE PERIOD OF TIME NOT TO EXCEED 1 YEAR FROM THE
27 DETERMINATION OF NONCOMPLIANCE.

1 (2) IF AN INCREASE IN THE VOLUME OR CHANGE IN THE TYPE OF
2 MATERIAL MANAGED BY A MATERIALS UTILIZATION FACILITY TRIGGERS A
3 REQUIREMENT FOR NOTIFICATION, REGISTRATION, OR APPROVAL UNDER A
4 GENERAL PERMIT, THE OWNER OR OPERATOR OF THE FACILITY SHALL SUBMIT
5 THE NOTIFICATION, COMPLETE APPLICATION FOR REGISTRATION, OR
6 COMPLETE APPLICATION FOR APPROVAL UNDER A GENERAL PERMIT WITHIN 90
7 DAYS.
8 (3) AN APPROVAL UNDER A GENERAL PERMIT UNDER PART 115 MAY BE
9 RENEWED UPON THE SUBMITTAL OF A TIMELY AND SUFFICIENT APPLICATION.
10 TO BE CONSIDERED TIMELY AND SUFFICIENT FOR PURPOSES OF SECTION 91
11 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
12 24.291, AN APPLICATION FOR RENEWAL OF A GENERAL PERMIT APPROVAL
13 SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:
14 (A) CONTAIN THE INFORMATION AS REQUIRED BY THE APPLICABLE
15 GENERAL PERMIT APPLICATION.
16 (B) BE RECEIVED BY THE DEPARTMENT NOT LATER THAN 90 DAYS
17 BEFORE THE EXPIRATION OF THE PRECEDING AUTHORIZATION.
18 SUBPART 11 MATERIALS MANAGEMENT PLANS
19 SEC. 11571. (1) THE DEPARTMENT SHALL ENSURE THAT EACH COUNTY
20 HAS AN APPROVED MATERIALS MANAGEMENT PLAN.
21 (2) THE PLANNING AREA OF A SINGLE MMP MAY INCLUDE 2 OR MORE
22 COUNTIES IF THE CBCS FOR THOSE COUNTIES AGREE TO THE JOINT EXERCISE
23 OF THEIR POWERS AND PERFORMANCE OF THEIR DUTIES UNDER THIS SUBPART.
24 IN ADDITION, IF THE DEPARTMENT IS RESPONSIBLE FOR PREPARING THE MMP
25 FOR 2 OR MORE COUNTIES UNDER SECTION 11575, THE DEPARTMENT MAY
26 INCLUDE THOSE COUNTIES IN THE PLANNING AREA OF A SINGLE MMP AND MAY
27 EXERCISE ITS POWERS AND PERFORM ITS DUTIES UNDER THIS SUBPART FOR

1 THOSE COUNTIES JOINTLY.

2 (3) MULTICOUNTY MMPS ARE SUBJECT TO THE SAME PROCEDURE FOR
3 APPROVAL AS SINGLE-COUNTY MMPS, AND EACH CBC SHALL TAKE FORMAL
4 ACTION ON A MULTICOUNTY MMP AS APPROPRIATE. A MULTICOUNTY MMP SHALL
5 INCLUDE A PROCESS TO ENSURE THAT THE REQUIREMENTS OF SECTION
6 11508(1)(B) ARE MET.

7 (4) ALL OF THE MUNICIPALITIES OF A COUNTY SHALL BE INCLUDED IN
8 THE PLANNING AREA OF A SINGLE MMP. HOWEVER, A MUNICIPALITY LOCATED
9 IN 2 COUNTIES THAT ARE NOT IN THE SAME PLANNING AREA MAY REQUEST
10 THAT THE ENTIRE MUNICIPALITY BE INCLUDED IN THE PLANNING AREA FOR 1
11 OF THOSE COUNTIES AND EXCLUDED FROM THE PLANNING AREA OF THE OTHER
12 COUNTY. A MUNICIPALITY THAT IS ADJACENT TO A COUNTY BOUNDARY MAY
13 REQUEST THAT IT BE INCLUDED IN THE PLANNING AREA OF THE MMP FOR THE
14 ADJACENT COUNTY. A REQUEST UNDER THIS SUBSECTION SHALL BE SUBMITTED
15 TO AND IS SUBJECT TO THE APPROVAL OF THE COUNTY BOARD OF
16 COMMISSIONERS OF EACH OF THE AFFECTED COUNTIES. IF A COUNTY BOARD
17 OF COMMISSIONERS FAILS TO APPROVE A REQUEST UNDER THIS SUBSECTION
18 WITHIN 90 DAYS AFTER THE REQUEST IS SUBMITTED TO THE COUNTY BOARD,
19 THE MUNICIPALITY MAKING THE REQUEST MAY APPEAL TO THE DEPARTMENT.
20 THE DEPARTMENT SHALL ISSUE A DECISION ON THE APPEAL WITHIN 45 DAYS
21 AFTER THE APPEAL IS FILED WITH THE DEPARTMENT. THE DECISION OF THE
22 DEPARTMENT IS FINAL.

23 (5) WITHIN 180 DAYS AFTER APPROPRIATED FUNDS ARE AVAILABLE FOR
24 THE MATERIALS MANAGEMENT GRANT PROGRAM UNDER SECTION 11587, THE
25 DEPARTMENT SHALL, IN WRITING, REQUEST THE COUNTY BOARD OF
26 COMMISSIONERS OF EACH COUNTY TO SUBMIT TO THE DEPARTMENT, WITHIN
27 180 DAYS AFTER THE REQUEST IS DELIVERED, A NOTICE OF INTENT TO

1 PREPARE AN MMP. IF THE COUNTY BOARD OF COMMISSIONERS DECLINES TO
2 PREPARE THE MMP, ALL OF THE FOLLOWING APPLY:
3 (A) THE COUNTY BOARD OF COMMISSIONERS SHALL ADVISE THE
4 MUNICIPALITIES IN THE COUNTY AND THE REGIONAL PLANNING AGENCY FOR
5 THE COUNTY OF ITS DECISION.
6 (B) THE DEPARTMENT SHALL PROVIDE A SPECIFIC DEADLINE BY WHICH
7 ALL THE MUNICIPALITIES IN THE COUNTY OR THE REGIONAL PLANNING
8 AGENCY FOR THE COUNTY MAY SUBMIT TO THE DEPARTMENT A NOTICE OF
9 INTENT TO PREPARE AN MMP.
10 (C) UPON REQUEST OF THE MUNICIPALITIES OR REGIONAL PLANNING
11 AGENCY, THE DEPARTMENT MAY EXTEND THE DEADLINE TO ALLOW THE PARTIES
12 AN OPPORTUNITY TO DETERMINE WHO WILL FILE THE NOTICE OF INTENT.
13 (6) IF THE COUNTY BOARD OF COMMISSIONERS, MUNICIPALITIES, AND
14 THE REGIONAL PLANNING AGENCY DO NOT FILE A NOTICE OF INTENT BY THE
15 APPLICABLE DEADLINE UNDER SUBSECTION (5), THE DEPARTMENT MAY
16 PREPARE AN MMP FOR THE COUNTY, SUBJECT TO SECTION 11575(11).
17 (7) A NOTICE OF INTENT UNDER SUBSECTION (5) SHALL MEET ALL OF
18 THE FOLLOWING REQUIREMENTS:
19 (A) BE ON A FORM AND IN A FORMAT PROVIDED BY THE DEPARTMENT.
20 (B) STATE THAT THE CBC WILL PREPARE AN MMP.
21 (C) BE ACCOMPANIED BY DOCUMENTATION EVIDENCING THAT THE COUNTY
22 CONSULTED WITH ADJACENT COUNTIES REGARDING THE FEASIBILITY OF
23 PREPARING A MULTICOUNTY MMP PURSUANT TO THE URBAN COOPERATION ACT
24 OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, AND
25 DOCUMENTATION OF THE OUTCOME OF THE CONSULTATIONS, INCLUDING A COPY
26 OF ANY INTERLOCAL AGREEMENT.
27 (8) THE SUBMITTAL OF A NOTICE OF INTENT UNDER SUBSECTION (5)

1 COMMENCES THE RUNNING OF A 3-YEAR DEADLINE FOR MUNICIPAL APPROVAL
2 OF THE MMP AND SUBMISSION OF THE MMP TO THE DEPARTMENT UNDER
3 SECTION 11575.
4 (9) NOT MORE THAN 30 DAYS AFTER THE CBC SUBMITS A NOTICE OF
5 INTENT TO THE DEPARTMENT, THE CBC SHALL DO BOTH OF THE FOLLOWING:
6 (A) SUBMIT A COPY OF THE NOTICE OF INTENT TO THE LEGISLATIVE
7 BODY OF EACH MUNICIPALITY LOCATED WITHIN THE PLANNING AREA.
8 (B) PUBLISH THE NOTICE OF INTENT IN A NEWSPAPER OF GENERAL
9 CIRCULATION IN THE PLANNING AREA.
10 (10) IF THE CBC SUBMITS A NOTICE OF INTENT TO THE DEPARTMENT
11 UNDER SUBSECTION (5), THE CBC SHALL DO ALL OF THE FOLLOWING:
12 (A) WITHIN 120 DAYS AFTER SUBMITTING THE NOTICE OF INTENT,
13 DESIGNATE A PLANNING AGENCY AND AN INDIVIDUAL WITHIN THE DPA WHO
14 SHALL SERVE AS THE DPA'S CONTACT PERSON FOR THE PURPOSES OF THIS
15 SUBPART.
16 (B) APPOINT A PLANNING COMMITTEE UNDER SECTION 11572.
17 (C) OVERSEE THE CREATION AND IMPLEMENTATION OF THE DPA'S WORK
18 PROGRAM UNDER SECTION 11587(4).
19 (D) UPON REQUEST OF THE DEPARTMENT, SUBMIT A REPORT ON
20 PROGRESS IN THE PREPARATION OF THE MMP.
21 (11) ALL SUBMITTALS AND NOTICES UNDER THIS SECTION AND
22 SECTIONS 11572 TO 11576 SHALL BE IN WRITING. A WRITTEN NOTICE MAY
23 BE GIVEN BY ELECTRONIC MAIL IF THE RECIPIENT HAS INDICATED BY
24 ELECTRONIC MAIL THAT THE RECIPIENT WILL RECEIVE NOTICE BY
25 ELECTRONIC MAIL AT THE ELECTRONIC MAIL ADDRESS TO WHICH THE NOTICE
26 IS SENT.
27 SEC. 11572. (1) WITHIN 120 DAYS AFTER THE CBC SUBMITS A NOTICE

1 OF INTENT TO THE DEPARTMENT UNDER SECTION 11571, THE CBC SHALL
2 APPOINT A PLANNING COMMITTEE. THE PLANNING COMMITTEE IS A PERMANENT
3 BODY. INITIAL PLANNING COMMITTEE MEMBERS SHALL BE APPOINTED FOR 5-
4 YEAR TERMS. THEIR IMMEDIATE SUCCESSORS SHALL BE APPOINTED FOR 2-,
5 3-, 4-, OR 5-YEAR TERMS SUCH THAT, AS NEARLY AS POSSIBLE, THE SAME
6 NUMBER ARE APPOINTED FOR EACH TERM LENGTH. SUBSEQUENTLY, MEMBERS
7 SHALL BE APPOINTED FOR TERMS OF 5 YEARS. A MEMBER MAY BE
8 REAPPOINTED.
9 (2) IF A VACANCY OCCURS ON THE PLANNING COMMITTEE, THE CBC
10 SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER
11 AS THE ORIGINAL APPOINTMENT. THE CBC MAY REMOVE A MEMBER OF THE
12 PLANNING COMMITTEE FOR INCOMPETENCE, DERELICTION OF DUTY, OR
13 MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE.
14 (3) THE FIRST MEETING OF THE PLANNING COMMITTEE SHALL BE
15 CALLED BY THE DESIGNATED PLANNING AGENCY. AT THE FIRST MEETING, THE
16 PLANNING COMMITTEE SHALL ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON
17 AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. A
18 MAJORITY OF THE MEMBERS OF THE PLANNING COMMITTEE CONSTITUTE A
19 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE PLANNING
20 COMMITTEE. THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS
21 APPOINTED IS REQUIRED FOR OFFICIAL ACTION OF THE PLANNING
22 COMMITTEE. HOWEVER, PLANNING COMMITTEE APPROVAL OF AN MMP REQUIRES
23 THE AFFIRMATIVE VOTE OF A MAJORITY OF THE FULL PLANNING COMMITTEE,
24 WITHOUT REGARD TO VACANCIES. A PLANNING COMMITTEE SHALL ADOPT
25 PROCEDURES FOR THE CONDUCT OF ITS BUSINESS.
26 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PLANNING
27 COMMITTEE SHALL CONSIST OF THE FOLLOWING MEMBERS:

1 (A) A SOLID WASTE DISPOSAL FACILITY OPERATOR THAT PROVIDES
2 SERVICES IN THE PLANNING AREA.
3 (B) A REPRESENTATIVE OF A HAULER OF MANAGED MATERIAL THAT
4 PROVIDES SERVICES IN THE PLANNING AREA.
5 (C) A MATERIALS RECOVERY FACILITY OPERATOR THAT PROVIDES
6 SERVICES IN THE PLANNING AREA.
7 (D) A COMPOST OR OTHER ORGANICS FACILITY OPERATOR THAT
8 PROVIDES SERVICES IN THE PLANNING AREA.
9 (E) A WASTE DIVERSION, REUSE, OR REDUCTION FACILITY OPERATOR
10 THAT PROVIDES SERVICES IN THE PLANNING AREA.
11 (F) A REPRESENTATIVE OF AN ENVIRONMENTAL INTEREST GROUP THAT
12 HAS MEMBERS RESIDING IN THE PLANNING AREA.
13 (G) AN ELECTED OFFICIAL OF THE COUNTY.
14 (H) AN ELECTED OFFICIAL OF A TOWNSHIP IN THE PLANNING AREA.
15 (I) AN ELECTED OFFICIAL OF A CITY OR VILLAGE IN THE PLANNING
16 AREA.
17 (J) AN INDIVIDUAL WHO GENERATES A MANAGED MATERIAL IN THE
18 PLANNING AREA.
19 (K) A REPRESENTATIVE OF THE REGIONAL PLANNING AGENCY WHOSE
20 TERRITORY INCLUDES THE PLANNING AREA.
21 (5) THE CBC MAY APPOINT TO THE PLANNING COMMITTEE 1 ADDITIONAL
22 REPRESENTATIVE THAT DOES BUSINESS IN OR RESIDES IN AN ADJACENT
23 COMMUNITY OUTSIDE THE PLANNING AREA.
24 (6) CBCS PREPARING A MULTICOUNTY MMP UNDER SECTION 11571 SHALL
25 APPOINT A SINGLE PLANNING COMMITTEE. FOR EACH COUNTY, BOTH OF THE
26 FOLLOWING ADDITIONAL MEMBERS MAY BE APPOINTED TO THE PLANNING
27 COMMITTEE:

1 (A) AN ELECTED OFFICIAL OF THE COUNTY OR A MUNICIPALITY IN THE
2 PLANNING AREA.
3 (B) A REPRESENTATIVE FROM A BUSINESS THAT GENERATES MANAGED
4 MATERIALS WITHIN THE PLANNING AREA.
5 (7) IF, DURING THE MMP DEVELOPMENT OR AMENDMENT PROCESS, A
6 SOLID WASTE LANDFILL IS PROPOSED TO BE DEVELOPED IN THE PLANNING
7 AREA WITHIN 2 MILES OF A MUNICIPALITY IN THIS STATE THAT IS LOCATED
8 ADJACENT TO THE PLANNING AREA, OR IF A SOLID WASTE PROCESSING AND
9 TRANSFER FACILITY OR MATERIALS UTILIZATION FACILITY IS PROPOSED TO
10 BE DEVELOPED IN THE PLANNING AREA WITHIN 1 MILE OF SUCH A
11 MUNICIPALITY, THE CBC SHALL NOTIFY THE ADJACENT MUNICIPALITY IN
12 WRITING. IF REQUESTED BY THE ADJACENT MUNICIPALITY, THE CBC MAY
13 APPOINT TO THE PLANNING COMMITTEE AN ADDITIONAL MEMBER
14 REPRESENTATIVE OF THE ADJACENT MUNICIPALITY TO SERVE AS A REGULAR
15 PLANNING COMMITTEE MEMBER OR AS AN ADVISORY MEMBER WITHOUT VOTING
16 RIGHTS, AS INDICATED IN WRITING BY THE CBC AT THE TIME OF
17 APPOINTMENT.
18 (8) IF THE CBC HAS DIFFICULTY FINDING QUALIFIED INDIVIDUALS TO
19 SERVE ON THE PLANNING COMMITTEE, THE DEPARTMENT MAY APPROVE A
20 REDUCTION IN THE NUMBER OF MEMBERS OF THE PLANNING COMMITTEE.
21 HOWEVER, AT A MINIMUM, THE PLANNING COMMITTEE SHALL INCLUDE ALL OF
22 THE FOLLOWING MEMBERS:
23 (A) TWO REPRESENTATIVES OF THE MATERIALS MANAGEMENT INDUSTRY
24 PROVIDING SERVICES IN THE PLANNING AREA.
25 (B) TWO REPRESENTATIVES OF ENVIRONMENTAL INTEREST GROUPS THAT
26 HAVE MEMBERS RESIDING IN THE PLANNING AREA OR THE REGIONAL PLANNING
27 AGENCY.

1 (C) AN ELECTED OFFICIAL OF THE COUNTY.
2 (D) AN ELECTED OFFICIAL OF A TOWNSHIP IN THE PLANNING AREA.
3 (E) AN ELECTED OFFICIAL OF A CITY OR VILLAGE IN THE PLANNING
4 AREA.
5 SEC. 11573. IN ADDITION TO ITS OTHER RESPONSIBILITIES UNDER
6 PART 115, THE PLANNING COMMITTEE SHALL DO ALL OF THE FOLLOWING:
7 (A) DIRECT THE DPA IN THE PREPARATION OF THE MMP.
8 (B) REVIEW AND APPROVE THE DPA'S WORK PROGRAM UNDER SECTION
9 11587(4).
10 (C) IDENTIFY RELEVANT LOCAL MATERIALS MANAGEMENT POLICIES AND
11 PRIORITIES.
12 (D) ENSURE COORDINATION IN THE PREPARATION OF THE MMP.
13 (E) ADVISE COUNTIES AND MUNICIPALITIES WITH RESPECT TO THE
14 MMP.
15 (F) ENSURE THAT THE DPA IS FULFILLING ALL OF THE REQUIREMENTS
16 OF PART 115 AS TO BOTH THE CONTENT OF THE MMP AND PUBLIC
17 PARTICIPATION. THE PLANNING COMMITTEE SHALL NOTIFY THE DPA OF ANY
18 DEFICIENCIES. IF THE DEFICIENCIES ARE NOT ADDRESSED BY THE DPA TO
19 THE PLANNING COMMITTEE'S SATISFACTION, THE PLANNING COMMITTEE SHALL
20 NOTIFY THE CBC. IF THE DEFICIENCIES ARE NOT ADDRESSED BY THE CBC TO
21 THE PLANNING COMMITTEE'S SATISFACTION, THE PLANNING COMMITTEE SHALL
22 NOTIFY THE DEPARTMENT. THE DEPARTMENT SHALL ADDRESS THE
23 DEFICIENCIES AND MAY PREPARE THE MMP UNDER SECTION 11575(11).
24 SEC. 11574. (1) IN ADDITION TO ITS OTHER RESPONSIBILITIES
25 UNDER PART 115, A DPA SHALL DO ALL OF THE FOLLOWING:
26 (A) SERVE AS THE PRIMARY GOVERNMENT RESOURCE IN THE PLANNING
27 AREA FOR INFORMATION ABOUT THE MMP AND THE MMP DEVELOPMENT PROCESS.

1 (B) UNDER THE DIRECTION OF THE PLANNING COMMITTEE, PREPARE AN
2 MMP.
3 (C) DURING THE PREPARATION OF AN MMP, SOLICIT THE ADVICE OF
4 AND CONSULT WITH ALL OF THE FOLLOWING:
5 (*i*) PERIODICALLY, THE MUNICIPALITIES, APPROPRIATE
6 ORGANIZATIONS, AND THE PRIVATE SECTOR IN THE PLANNING AREA.
7 (*ii*) THE APPROPRIATE COUNTY OR REGIONAL PLANNING AGENCY.
8 (*iii*) COUNTIES AND MUNICIPALITIES, IN ADJACENT COUNTIES, THAT
9 MAY BE SIGNIFICANTLY AFFECTED BY THE MMP.
10 (D) NOT LESS THAN 10 DAYS BEFORE EACH PUBLIC MEETING AT WHICH
11 THE DPA WILL DISCUSS THE MMP, GIVE NOTICE OF THE MEETING TO THE
12 CHIEF ELECTED OFFICIAL OF EACH MUNICIPALITY WITHIN THE PLANNING
13 AREA AND ANY OTHER PERSON WITHIN THE PLANNING AREA THAT REQUESTS
14 NOTICE. THE NOTICE SHALL INDICATE AS PRECISELY AS POSSIBLE THE
15 SUBJECT MATTER BEING DISCUSSED.
16 (E) OBTAIN WRITTEN APPROVAL OF THE MMP FROM THE PLANNING
17 COMMITTEE.
18 (F) SUBMIT A COPY OF THE MMP AS APPROVED BY THE PLANNING
19 COMMITTEE TO ALL OF THE FOLLOWING WITH A NOTICE SPECIFYING THE END
20 OF THE PUBLIC COMMENT PERIOD UNDER SUBDIVISION (H):
21 (*i*) THE DEPARTMENT.
22 (*ii*) EACH MUNICIPALITY WITHIN THE PLANNING AREA.
23 (*iii*) COUNTIES AND MUNICIPALITIES ADJACENT TO THE PLANNING
24 AREA THAT MAY BE SIGNIFICANTLY AFFECTED BY THE MMP OR THAT HAVE
25 REQUESTED THE OPPORTUNITY TO REVIEW THE MMP.
26 (*iv*) THE REGIONAL PLANNING AGENCY FOR EACH COUNTY INCLUDED IN
27 THE PLANNING AREA.

1 (G) PUBLISH A NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN
2 THE PLANNING AREA. THE NOTICE SHALL INDICATE A LOCATION WHERE
3 COPIES OF THE PROPOSED MMP ARE AVAILABLE FOR PUBLIC INSPECTION OR
4 COPYING AT COST, SPECIFY THE END OF THE PUBLIC COMMENT PERIOD UNDER
5 SUBDIVISION (H), AND SOLICIT PUBLIC COMMENT.
6 (H) RECEIVE PUBLIC COMMENTS ON THE MMP FOR NOT LESS THAN 60
7 DAYS AFTER THE PUBLICATION OF THE NOTICE UNDER SUBDIVISION (G).
8 (I) DURING THE PUBLIC COMMENT PERIOD UNDER SUBDIVISION (H),
9 CONDUCT A PUBLIC HEARING ON THE MMP. THE PLANNING COMMITTEE SHALL
10 PUBLISH A NOTICE FOR NOT LESS THAN 30 DAYS BEFORE THE HEARING IN A
11 NEWSPAPER OF GENERAL CIRCULATION WITHIN THE PLANNING AREA. THE
12 NOTICE SHALL INDICATE A LOCATION WHERE COPIES OF THE PROPOSED MMP
13 ARE AVAILABLE FOR PUBLIC INSPECTION OR COPYING AT COST AND SHALL
14 INDICATE THE TIME AND PLACE OF THE PUBLIC HEARING. THE SAME NOTICE
15 MAY BE USED TO SATISFY THE REQUIREMENTS OF THIS SUBDIVISION AND
16 SUBDIVISION (G). THE PLANNING COMMITTEE SHALL SUBMIT TO THE
17 DEPARTMENT PROOF OF NOTICE PUBLICATION UNDER THIS SUBDIVISION AND
18 SUBDIVISION (G).
19 (J) SUBMIT TO THE PLANNING COMMITTEE A SUMMARY OF THE COMMENTS
20 RECEIVED DURING THE PUBLIC COMMENT PERIOD.
21 (2) THE DPA, OR THE DEPARTMENT IF THE DEPARTMENT PREPARES AN
22 MMP, SHALL USE A STANDARD FORMAT IN PREPARING THE MMP. THE
23 DEPARTMENT SHALL PREPARE THE STANDARD FORMAT AND PROVIDE A COPY OF
24 THE STANDARD FORMAT TO EACH DPA THAT THE DEPARTMENT KNOWS WILL
25 PREPARE AN MMP. THE DEPARTMENT SHALL PROVIDE THE STANDARD FORMAT TO
26 ANY OTHER PERSON UPON REQUEST.
27 (3) THE PLANNING COMMITTEE SHALL CONSIDER THE COMMENT SUMMARY

1 RECEIVED FROM THE DPA UNDER SUBSECTION (1)(J) AND MAY DIRECT THE
2 DPA TO REVISE THE MMP. THE DPA SHALL REVISE THE MMP AS DIRECTED BY
3 THE PLANNING COMMITTEE. NOT MORE THAN 30 DAYS AFTER THE END OF THE
4 PUBLIC COMMENT PERIOD, THE DPA SHALL SUBMIT THE PROPOSED MMP, AS
5 REVISED, IF APPLICABLE, TO THE PLANNING COMMITTEE.
6 (4) NOT MORE THAN 30 DAYS AFTER THE MMP IS SUBMITTED TO THE
7 PLANNING COMMITTEE UNDER SUBSECTION (3), THE PLANNING COMMITTEE
8 SHALL TAKE FORMAL ACTION ON THE MMP AND, IF THE PLANNING COMMITTEE
9 APPROVES THE MMP IN COMPLIANCE WITH SECTION 11572(3), THE DPA SHALL
10 SUBMIT THE MMP TO THE CBC.
11 SEC. 11575. (1) NOT MORE THAN 60 DAYS AFTER THE MMP IS
12 SUBMITTED TO THE CBC UNDER SECTION 11574(4), THE CBC SHALL APPROVE
13 OR REJECT THE MMP AND NOTIFY THE PLANNING COMMITTEE. A NOTICE THAT
14 THE CBC REJECTS THE MMP SHALL INCLUDE THE SPECIFIC REASONS IN
15 WRITING FOR THE REJECTION.
16 (2) NOT MORE THAN 30 DAYS AFTER NOTICE OF THE REJECTION OF THE
17 MMP IS SENT UNDER SUBSECTION (1), THE PLANNING COMMITTEE MAY REVISE
18 THE MMP AND SUBMIT THE REVISED MMP TO THE CBC. AFTER A REVISED MMP
19 IS TIMELY SUBMITTED TO THE CBC UNDER THIS SUBSECTION OR THE 30-DAY
20 PERIOD EXPIRES AND A REVISED MMP IS NOT SUBMITTED, THE CBC SHALL
21 APPROVE OR REJECT THE REVISED MMP OR ORIGINAL MMP, RESPECTIVELY,
22 AND NOTIFY THE PLANNING COMMITTEE.
23 (3) IF THE CBC REJECTS THE MMP UNDER SUBSECTION (2), THE CBC
24 SHALL PREPARE AND APPROVE AN MMP, SUBJECT TO THE CONTINUED RUNNING
25 OF THE 3-YEAR PERIOD UNDER SECTION 11571(8).
26 (4) NOT MORE THAN 10 DAYS AFTER THE CBC APPROVES AN MMP UNDER
27 SUBSECTION (1), (2), OR (3), THE DPA SHALL SUBMIT A COPY OF THE MMP

1 TO THE LEGISLATIVE BODY OF EACH MUNICIPALITY LOCATED WITHIN THE
2 PLANNING AREA.
3 (5) NOT MORE THAN 120 DAYS AFTER THE MMP IS SUBMITTED TO THE
4 LEGISLATIVE BODY OF A MUNICIPALITY, THE LEGISLATIVE BODY MAY
5 APPROVE OR REJECT THE MMP. THE LEGISLATIVE BODY SHALL NOTIFY THE
6 DPA OF AN APPROVAL OR REJECTION.
7 (6) WITHIN 30 DAYS AFTER THE DEADLINE FOR MUNICIPAL
8 NOTIFICATION TO THE DPA UNDER SUBSECTION (5), THE DPA SHALL NOTIFY
9 THE DEPARTMENT WHICH MUNICIPALITIES TIMELY APPROVED THE MMP, WHICH
10 TIMELY REJECTED THE MMP, AND WHICH DID NOT TIMELY NOTIFY THE DPA OF
11 APPROVAL OR REJECTION. THE NOTICE SHALL BE ACCOMPANIED BY A COPY OF
12 THE MMP. IF THE MMP IS NOT APPROVED BY AT LEAST 2/3 OF THE
13 MUNICIPALITIES THAT TIMELY NOTIFY THE DPA OF THEIR APPROVAL OR
14 REJECTION UNDER SUBSECTION (5), THEN THE DEPARTMENT SHALL PROCEED
15 UNDER SUBSECTION (7) OR (9). IF THE MMP IS APPROVED BY AT LEAST 2/3
16 OF THE MUNICIPALITIES THAT TIMELY NOTIFY THE DPA OF THEIR APPROVAL
17 OR REJECTION UNDER SUBSECTION (5), THEN SUBSECTION (9) APPLIES.
18 (7) THE DEPARTMENT MAY APPROVE AN EXTENSION OF A DEADLINE
19 UNDER SUBSECTIONS (2) TO (6) IF THE EXTENSION IS REQUESTED BY THE
20 ENTITY SUBJECT TO THE DEADLINE WITHIN A REASONABLE TIME AFTER THE
21 ISSUES GIVING RISE TO THE NEED FOR AN EXTENSION ARISE.
22 (8) IF THE MMP IS NEITHER APPROVED NOR REJECTED BY A DEADLINE
23 ESTABLISHED IN THIS SUBPART, SUBJECT TO ANY EXTENSION UNDER
24 SUBSECTION (7), THE MMP IS CONSIDERED AUTOMATICALLY APPROVED AT
25 THAT STEP IN THE APPROVAL PROCESS, AND THE APPROVAL PROCESS SHALL
26 CONTINUE AT THE NEXT STEP. THIS SUBSECTION DOES NOT APPLY TO
27 FAILURE OF AN INDIVIDUAL MUNICIPALITY TO APPROVE OR DISAPPROVE THE

1 MMP UNDER SUBSECTION (5).
2 (9) WITHIN 180 DAYS AFTER THE MMP IS SUBMITTED TO THE
3 DEPARTMENT UNDER SUBSECTION (6), THE DEPARTMENT SHALL APPROVE OR
4 REJECT THE MMP. THE DEPARTMENT SHALL APPROVE THE MMP IF THE MMP
5 COMPLIES WITH PART 115. IF THE DEPARTMENT APPROVES THE MMP, THE MMP
6 IS FINAL. IF THE DEPARTMENT REJECTS THE MMP, SUBSECTION (11)
7 APPLIES.
8 (10) BEFORE APPROVING OR REJECTING AN MMP UNDER SUBSECTION
9 (9), THE DEPARTMENT MAY RETURN THE MMP TO THE CBC WITH A WRITTEN
10 REQUEST FOR MODIFICATIONS NECESSARY FOR APPROVAL UNDER SUBSECTION
11 (9) OR TO CLARIFY THE MMP. IF THE DEPARTMENT RETURNS THE MMP FOR
12 MODIFICATIONS, THE RUNNING OF THE 180-DAY PERIOD IS TOLLED FOR 90
13 DAYS OR UNTIL THE CBC RESPONDS TO THE DEPARTMENT'S REQUEST,
14 WHICHEVER OCCURS FIRST. IF THE CBC DOES NOT APPROVE THE
15 MODIFICATIONS REQUESTED BY THE DEPARTMENT, SUBSECTION (11) APPLIES.
16 (11) SUBJECT TO SUBSECTION (9), IF A CBC DOES NOT PREPARE AN
17 MMP OR THE MMP DOES NOT TIMELY OBTAIN AN APPROVAL REQUIRED BY PART
18 115, THE DEPARTMENT MAY PREPARE AND APPROVE AN MMP FOR THE COUNTY.
19 AN MMP PREPARED AND APPROVED BY THE DEPARTMENT IS FINAL. ONCE THE
20 MMP IS FINAL, THE COUNTY SHALL IMPLEMENT THE MMP.
21 SEC. 11576. (1) AMENDMENTS TO AN MMP SHALL BE MADE ONLY AS
22 PROVIDED IN SUBSECTION (2), (3), OR (4).
23 (2) THE DEPARTMENT SHALL INITIATE THE ADOPTION OF 1 OR MORE
24 AMENDMENTS TO AN MMP IF THE DEPARTMENT DETERMINES THAT THE GUIDANCE
25 PROVIDED BY LEGISLATION, BY THIS STATE'S SOLID WASTE POLICY, OR BY
26 REPORTS AND INITIATIVES OF THE DEPARTMENT HAS SIGNIFICANTLY CHANGED
27 THE REQUIRED CONTENTS OF AN MMP OR IF AS A RESULT OF CHANGES IN

1 CONDITIONS IN THE PLANNING AREA THE MMP NO LONGER COMPLIES WITH THE
2 REQUIREMENTS OF PART 115. THE PROCEDURE FOR ADOPTING AMENDMENTS TO
3 THE MMP UNDER THIS SUBSECTION IS THE SAME AS THE PROCEDURE FOR
4 ADOPTION OF AN INITIAL MMP.
5 (3) THE CBC MAY INITIATE 1 OR MORE AMENDMENTS BY FILING A
6 NOTICE OF INTENT WITH THE DEPARTMENT. EXCEPT AS PROVIDED IN
7 SUBSECTION (4), THE PROCEDURE FOR ADOPTING AN AMENDMENT IS THE SAME
8 AS THE PROCEDURE FOR ADOPTION OF AN INITIAL MMP EXCEPT AS FOLLOWS:
9 (A) THE COUNTY SUBMITS A NOTICE OF INTENT ON ITS OWN
10 INITIATIVE RATHER THAN IN RESPONSE TO A REQUEST FROM THE DEPARTMENT
11 UNDER SECTION 11571.
12 (B) IF THE CBC REJECTS A REVISED AMENDMENT UNDER SECTION
13 11575(2), THE AMENDMENT PROCESS TERMINATES.
14 (C) SECTION 11575(11) DOES NOT APPLY. INSTEAD, IF ANY REQUIRED
15 APPROVAL IS NOT TIMELY GRANTED, THE AMENDMENT PROCESS TERMINATES
16 AND THE AMENDMENTS ARE NOT ADOPTED.
17 (4) IF, AFTER A NOTICE OF INTENT IS FILED UNDER SUBSECTION
18 (3), THE DEPARTMENT DETERMINES THAT THE AMENDMENT WILL INCREASE
19 MATERIALS UTILIZATION OR THE RECOVERY OF MANAGED MATERIAL AND
20 COMPLIES WITH PART 115, THE DEPARTMENT MAY AUTHORIZE THE CBC TO
21 AMEND THE MMP BY SIMPLY SUBMITTING THE AMENDMENT TO THE DEPARTMENT
22 IN WRITING. THE DEPARTMENT SHALL PROVIDE THE CBC WITH WRITTEN
23 APPROVAL OF THE SUBMITTED AMENDMENT.
24 (5) A COUNTY SHALL KEEP ITS MMP CURRENT. THE FOLLOWING CHANGES
25 DO NOT REQUIRE AN AMENDMENT IF MADE IN A SUPPLEMENT TO THE MMP
26 PROVIDED FOR BY THE DEPARTMENT UNDER SECTION 11574(2) FOR THE
27 PURPOSE OF CHANGES NOT REQUIRING AN AMENDMENT:

1 (A) TRANSPORTATION INFRASTRUCTURE.
2 (B) POPULATION DENSITY.
3 (C) MATERIALS MANAGEMENT FACILITY INVENTORY.
4 (D) LOCAL ORDINANCES THAT DO NOT CONTROL THE DEVELOPMENT OF A
5 MATERIALS MANAGEMENT FACILITY AND THAT MINIMALLY CONTROL THE
6 OPERATION OF THE MATERIALS MANAGEMENT FACILITY, SUCH AS ORDINANCES
7 ADDRESSING LANDSCAPING, SCREENING, AND OTHER ANCILLARY CONSTRUCTION
8 DETAILS; HOURS OF OPERATION; OPERATING RECORDS AND REPORTING
9 REQUIREMENTS; NOISE, LITTER, ODOR, DUST, AND OTHER SITE NUISANCES;
10 AND FACILITY SECURITY AND SAFETY.
11 (6) CHANGES MADE WITHOUT AMENDMENT UNDER SUBSECTION (5) SHALL
12 BE INCORPORATED IN THE NEXT AMENDMENT MADE UNDER SUBSECTION (2) OR
13 (3).
14 (7) EVERY 5 YEARS AFTER THE INITIAL MMP IS APPROVED, THE CBC
15 SHALL COMPLETE AN MMP REVIEW. THE PURPOSE OF THE REVIEW IS TO
16 ENSURE THAT THE MMP COMPLIES WITH PART 115 AND TO EVALUATE THE
17 PROGRESS THAT HAS BEEN MADE IN MEETING THE MMP'S MATERIALS
18 UTILIZATION GOALS, INCLUDING THE BENCHMARK RECYCLING STANDARD. ONCE
19 THE REVIEW IS COMPLETE, THE CBC SHALL SUBMIT TO THE DEPARTMENT 1 OF
20 THE FOLLOWING, AS APPROPRIATE:
21 (A) AN MMP AMENDMENT.
22 (B) A STATEMENT INDICATING THAT AN AMENDMENT IS NOT NEEDED TO
23 ADVANCE THE MATERIALS UTILIZATION GOALS.
24 (8) THE DEPARTMENT MAY REVIEW AN MMP PERIODICALLY AND
25 DETERMINE IF ANY AMENDMENTS ARE NECESSARY TO COMPLY WITH PART 115.
26 IF THE DEPARTMENT DETERMINES THAT AN AMENDMENT IS NECESSARY, ALL OF
27 THE FOLLOWING APPLY:

1 (A) THE DEPARTMENT, AFTER NOTICE AND OPPORTUNITY FOR A PUBLIC
2 HEARING HELD PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
3 1969 PA 306, MCL 24.201 TO 24.328, MAY WITHDRAW APPROVAL OF THE MMP
4 OR THE NONCOMPLIANT PORTION OF THE MMP.
5 (B) THE DEPARTMENT SHALL ESTABLISH A SCHEDULE FOR COMPLIANCE
6 WITH PART 115.
7 (C) IF THE PLANNING AREA DOES NOT AMEND ITS MMP WITHIN THE
8 SCHEDULE ESTABLISHED UNDER SUBDIVISION (B), THE DEPARTMENT SHALL
9 AMEND THE MMP TO ADDRESS THE DEFICIENCIES.
10 SEC. 11577. THE GOALS OF AN MMP ARE ALL OF THE FOLLOWING:
11 (A) TO PREVENT ADVERSE EFFECTS ON THE PUBLIC HEALTH OR THE
12 ENVIRONMENT RESULTING FROM IMPROPER MATERIALS MANAGEMENT
13 COLLECTION, PROCESSING, RECOVERY, OR DISPOSAL, INCLUDING PROTECTION
14 OF SURFACE WATER AND GROUNDWATER, AIR, AND LAND.
15 (B) TO SUSTAINABLY MANAGE MATERIALS IN A WAY THAT BENEFITS THE
16 ECONOMY, COMMUNITIES, AND THE ENVIRONMENT.
17 (C) TO ENSURE THAT ALL MANAGED MATERIAL GENERATED IN THE
18 PLANNING AREA IS COLLECTED AND RECOVERED, PROCESSED, OR DISPOSED AT
19 MATERIALS MANAGEMENT FACILITIES THAT COMPLY WITH STATE STATUTES AND
20 RULES OR MANAGED APPROPRIATELY AT OUT-OF-STATE FACILITIES.
21 SEC. 11578. (1) AN MMP SHALL MEET ALL OF THE FOLLOWING
22 REQUIREMENTS:
23 (A) INCLUDE MEASURABLE, OBJECTIVE, AND SPECIFIC GOALS FOR THE
24 PLANNING AREA FOR SOLID WASTE DIVERSION FROM DISPOSAL AREAS,
25 INCLUDING, BUT NOT LIMITED TO, THE BENCHMARK RECYCLING STANDARD.
26 (B) INCLUDE AN IMPLEMENTATION STRATEGY FOR THE COUNTY TO MEET
27 THE MATERIALS UTILIZATION GOALS BY THE TIME OF THE 5-YEAR MMP

1 REVIEW UNDER SECTION 11576(7). THE IMPLEMENTATION STRATEGY SHALL
2 INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:
3 (*i*) HOW PROGRESS WILL BE MADE TO REDUCE THE AMOUNT OF ORGANIC
4 MATERIAL BEING DISPOSED OF THROUGH FOOD WASTE REDUCTION,
5 COMPOSTING, AND ANAEROBIC DIGESTION.
6 (*ii*) HOW PROGRESS WILL BE MADE TO REDUCE THE AMOUNT OF
7 RECYCLABLE MATERIALS BEING DISPOSED OF THROUGH INCREASED RECYCLING,
8 INCLUDING EXPANDING CONVENIENT ACCESS AND RECYCLING AT SINGLE AND
9 MULTIFAMILY DWELLINGS, BUSINESSES, AND INSTITUTIONS.
10 (*iii*) A PROCESS WHEREBY EACH OF A PLANNING AREA'S MATERIALS
11 UTILIZATION FACILITIES ARE EVALUATED BASED ON THE TYPE, ORIGIN, AND
12 QUANTITIES OF SOURCE SEPARATED OR RECYCLABLE MATERIALS IN TONS ON
13 AN ANNUAL BASIS AS REPORTED TO THE DEPARTMENT.
14 (*iv*) A DESCRIPTION OF THE RESOURCES NEEDED FOR MEETING THE
15 MATERIALS UTILIZATION GOALS AND HOW THE DEVELOPMENT OF NECESSARY
16 MATERIALS UTILIZATION FACILITIES AND ACTIVITIES WILL BE PROMOTED.
17 (*v*) A DESCRIPTION OF HOW THE BENCHMARK RECYCLING STANDARDS
18 WILL BE MET.
19 (C) IDENTIFY BY TYPE AND TONNAGE ALL MANAGED MATERIAL
20 GENERATED IN THE PLANNING AREA AND ALL MANAGED MATERIAL THAT IS
21 INCLUDED IN THE PLANNING AREA'S MATERIALS UTILIZATION GOALS.
22 AMOUNTS OF MATERIAL MAY BE ESTIMATED USING A FORMULA PROVIDED BY
23 THE DEPARTMENT.
24 (D) REQUIRE THAT A PROPOSED MATERIALS MANAGEMENT FACILITY MEET
25 THE REQUIREMENTS OF PART 115 AND BE CONSISTENT WITH THE MATERIALS
26 UTILIZATION GOALS.
27 (E) TO THE EXTENT PRACTICABLE, IDENTIFY AND EVALUATE AVAILABLE

1 MATERIALS MANAGEMENT INFRASTRUCTURE AND SYSTEMS THAT CONTRIBUTE TO
2 MEETING THE GOAL UNDER SECTION 11577(C) AND OTHER OPTIONS TO MEET
3 THAT GOAL.
4 (F) INCLUDE AN INVENTORY OF THE NAMES AND ADDRESSES OF ALL OF
5 THE FOLLOWING, SUBJECT TO SUBDIVISION (G):
6 (*i*) EXISTING DISPOSAL AREAS.
7 (*ii*) MATERIALS UTILIZATION FACILITIES THAT MEET BOTH OF THE
8 FOLLOWING REQUIREMENTS:
9 (A) ARE IN OPERATION ON THE EFFECTIVE DATE OF THE AMENDATORY
10 ACT THAT ADDED THIS SECTION.
11 (B) ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
12 THIS SECTION, COMPLY WITH PART 115 OR, WITHIN 1 YEAR AFTER THAT
13 DATE, ARE IN THE PROCESS OF BECOMING COMPLIANT.
14 (*iii*) WASTE DIVERSION CENTERS FOR WHICH NOTIFICATION HAS BEEN
15 GIVEN TO THE DEPARTMENT UNDER SECTION 11521B.
16 (G) INCLUDE A MATERIALS MANAGEMENT FACILITY IN THE INVENTORY
17 UNDER SUBDIVISION (F) ONLY IF THE OWNER OR OPERATOR OF THE FACILITY
18 HAS SUBMITTED TO THE COUNTY A WRITTEN ACKNOWLEDGMENT INDICATING
19 THAT THE OWNER OR OPERATOR IS AWARE OF THE PROPOSED INCLUSION OF
20 THE FACILITY IN THE MMP RELATIVE TO THE MATERIALS CAPACITY NEEDS
21 IDENTIFIED IN SUBDIVISION (C) AND THAT THE FACILITY HAS THE
22 INDICATED CAPACITY TO MANAGE THE MATERIALS IDENTIFIED UNDER
23 SUBDIVISION (H). THE MMP SHALL INCLUDE A STATEMENT THAT THE OWNER
24 OR OPERATOR OF EACH FACILITY LISTED IN THE MMP HAS SUBMITTED SUCH
25 AN ACKNOWLEDGMENT TO THE COUNTY. IF THE SUBMITTED ACKNOWLEDGMENTS
26 DO NOT DOCUMENT SUFFICIENT CAPACITY FOR DISPOSAL OR MATERIALS
27 UTILIZATION TO REACH THE MMP'S MATERIALS MANAGEMENT CAPACITY

1 REQUIREMENTS, INCLUDING THE MATERIALS UTILIZATION GOALS, THE MMP
2 SHALL IDENTIFY SPECIFIC STRATEGIES, INCLUDING A SCHEDULE AND
3 APPROACH TO DEVELOP AND FUND CAPACITY.
4 (H) DESCRIBE THE FACILITIES INVENTORIED PURSUANT TO
5 SUBDIVISION (F), INCLUDING A SUMMARY OF THE DEFICIENCIES, IF ANY,
6 OF THE FACILITIES IN MEETING CURRENT MATERIALS MANAGEMENT NEEDS.
7 THE DESCRIPTION SHALL, AT A MINIMUM, INCLUDE ALL OF THE FOLLOWING
8 INFORMATION:
9 (*i*) THE FACILITY LATITUDE AND LONGITUDE.
10 (*ii*) THE ESTIMATED FACILITY ACREAGE.
11 (*iii*) A DESCRIPTION OF THE MATERIALS MANAGED.
12 (*iv*) THE PROCESSES FOR HANDLING MATERIALS AT THE FACILITY.
13 (*v*) THE TOTAL AUTHORIZED CAPACITY OF THE FACILITY.
14 (I) ENSURE THAT THE PLANNING AREA HAS, AND WILL HAVE DURING
15 THE PLANNING PERIOD, SUFFICIENT AVAILABLE AND SUITABLE LAND AND
16 ACCESSIBLE TRANSPORTATION TO ACCOMMODATE THE DEVELOPMENT AND
17 OPERATION OF MATERIALS UTILIZATION FACILITIES AND SOLID WASTE
18 PROCESSING AND TRANSFER FACILITIES IDENTIFIED IN THE INVENTORY
19 UNDER SUBDIVISION (F).
20 (J) ENSURE THAT THE MATERIALS MANAGEMENT FACILITIES ARE
21 IDENTIFIED IN THE INVENTORY UNDER SUBDIVISION (F) ONLY IF THE
22 FACILITIES CAN BE DEVELOPED IN COMPLIANCE WITH STATE LAW PERTAINING
23 TO PROTECTION OF THE PUBLIC HEALTH AND THE ENVIRONMENT, CONSIDERING
24 THE AVAILABLE LAND IN THE PLANNING AREA AND THE TECHNICAL
25 FEASIBILITY OF, AND ECONOMIC COSTS ASSOCIATED WITH, THE FACILITIES.
26 (K) INCLUDE AN ENFORCEABLE MECHANISM TO MEET THE GOAL OF
27 SECTION 11577(C) AND OTHERWISE IMPLEMENT THE MMP, AND IDENTIFY THE

1 PARTY RESPONSIBLE TO ENSURE COMPLIANCE WITH PART 115. THE MMP MAY
2 CONTAIN A MECHANISM FOR THE COUNTY AND MUNICIPALITIES IN THE
3 PLANNING AREA TO ASSIST THE DEPARTMENT AND THE DEPARTMENT OF STATE
4 POLICE IN CONDUCTING THE INSPECTION PROGRAM ESTABLISHED IN SECTION
5 11526(2) AND (3). THIS SUBDIVISION DOES NOT PRECLUDE THE PRIVATE
6 SECTOR'S PARTICIPATION IN PROVIDING MATERIALS MANAGEMENT SERVICES
7 CONSISTENT WITH THE MMP FOR THE PLANNING AREA.
8 (*l*) CALCULATE THE MUNICIPAL SOLID WASTE RECYCLING RATE FOR THE
9 PLANNING AREA.
10 (M) DESCRIBE RELEVANT TRANSPORTATION INFRASTRUCTURE.
11 (N) INCLUDE CURRENT AND PROJECTED POPULATION DENSITIES AND
12 IDENTIFY POPULATION CENTERS AND CENTERS OF MANAGED MATERIALS
13 GENERATION IN THE PLANNING AREA, USING A FORMULA PROVIDED BY THE
14 DEPARTMENT, TO DEMONSTRATE THAT THE CAPACITY REQUIRED FOR MANAGED
15 MATERIAL IS MET.
16 (O) DESCRIBE THE MECHANISMS BY WHICH MUNICIPALITIES IN THE
17 PLANNING AREA WILL ENSURE CONVENIENT RECYCLING ACCESS, SUCH AS
18 ASSIGNMENT OF THE RESPONSIBILITY TO THE COUNTY OR AN AUTHORITY,
19 FRANCHISE AGREEMENTS, INTERGOVERNMENTAL AGREEMENTS, MUNICIPAL
20 SERVICES, HAULER LICENSING UNDER AN ORDINANCE, OR PUBLIC-PRIVATE
21 PARTNERSHIP.
22 (P) ALLOW A COUNTY OR A MUNICIPALITY WITHIN THE PLANNING AREA,
23 AT ITS DISCRETION, TO REQUIRE HAULERS OPERATING IN ITS JURISDICTION
24 TO PROVIDE A MINIMUM LEVEL OF RECYCLING SERVICE.
25 (Q) IDENTIFY THE DPA AND THE ENTITY OR ENTITIES RESPONSIBLE
26 FOR EACH OF THE FOLLOWING AND DOCUMENT THE APPROPRIATENESS OF THE
27 DPA AND OTHER IDENTIFIED ENTITIES TO CARRY OUT THEIR RESPECTIVE

1 RESPONSIBILITIES:
2 (*i*) IMPLEMENTING THE BENCHMARK RECYCLING STANDARDS ACCESS
3 REQUIREMENTS.
4 (*ii*) IDENTIFYING THE MATERIALS UTILIZATION FRAMEWORK AND THE
5 ACHIEVEMENT OF THE MATERIALS UTILIZATION GOALS.
6 (*iii*) OTHERWISE MONITORING, IMPLEMENTING, AND ENFORCING THE
7 MMP AND PROVIDING ANY REQUIRED REPORTS TO THE DEPARTMENT.
8 (*iv*) ADMINISTERING THE FUNDING MECHANISMS IDENTIFIED IN
9 SECTION 11581 THAT WILL BE USED TO IMPLEMENT THE MMP.
10 (*v*) ENSURING COMPLIANCE WITH PART 115.
11 THIS STATE MAY SERVE AS A RESPONSIBLE PARTY UNDER THIS SUBDIVISION
12 ON BEHALF OF A MUNICIPALITY IF THE MUNICIPALITY IS UNDER A
13 FINANCIAL CONSENT ORDER OR IN RECEIVERSHIP.
14 (R) WITH RESPECT TO EDUCATION AND OUTREACH FOR RESIDENTS AND
15 BUSINESSES IN THE PLANNING AREA, DO ALL OF THE FOLLOWING:
16 (*i*) IDENTIFY THE PERSONS RESPONSIBLE FOR EDUCATION AND
17 OUTREACH.
18 (*ii*) SPECIFY THE BUDGET AND MEANS OF FUNDING EDUCATION AND
19 OUTREACH.
20 (*iii*) IF THE RESPONSIBILITY FOR ACTIVITIES TO MEET THE
21 REQUIREMENTS OF SUBPARAGRAPHS (*i*) AND (*ii*) IS PRIMARILY PLACED ON
22 THE PRIVATE SECTOR SERVICE PROVIDERS, INCLUDE COPIES OF AGREEMENTS
23 WITH THE SERVICE PROVIDERS OR AN ORDINANCE OR OTHER ENFORCEABLE
24 MECHANISM THAT ENSURES COMPLIANCE WITH PART 115.
25 (*iv*) DESCRIBE THE COUNTY OR REGIONAL ROLE IN PROVIDING
26 RECYCLING EDUCATION, INCLUDING A WEBSITE, TELEPHONE NUMBER, AND
27 SAMPLE RECYCLING GUIDE THAT WILL BE PROVIDED TO RESIDENTS AND

1 BUSINESSES.

2 (S) INCLUDE A SITING PROCESS UNDER SECTION 11579 AND A COPY OF
3 ANY ORDINANCE, LAW, RULE, OR REGULATION OF A MUNICIPALITY, COUNTY,
4 OR GOVERNMENTAL AUTHORITY WITHIN THE PLANNING AREA THAT APPLIES TO
5 THE SITING PROCESS.

6 (T) TAKE INTO CONSIDERATION THE MMPS OF COUNTIES ADJACENT TO
7 THE PLANNING AREA AS THEY RELATE TO THE PLANNING AREA'S NEEDS.

8 (U) PROVIDE FOR ALL OF THE FOLLOWING WITH RESPECT TO ANY
9 MUNICIPALITY THAT INCLUDES OR IS LOCATED WITHIN 2 MILES OF A
10 PROPOSED SOLID WASTE LANDFILL DEVELOPMENT OR EXPANSION THAT WOULD
11 REQUIRE A NEW CONSTRUCTION PERMIT OR INCLUDES OR IS LOCATED WITHIN
12 1 MILE OF A SOLID WASTE PROCESSING AND TRANSFER FACILITY OR
13 MATERIALS UTILIZATION FACILITY:

14 (*i*) NOTIFICATION OF THE MUNICIPALITY.

15 (*ii*) AN OPPORTUNITY FOR THE MUNICIPALITY TO COMMENT ON THE
16 LANDFILL DEVELOPMENT OR EXPANSION OF THE SOLID WASTE PROCESSING AND
17 TRANSFER FACILITY OR MATERIALS UTILIZATION FACILITY.

18 (*iii*) A REQUIREMENT THAT THE MATERIALS MANAGEMENT FACILITY
19 DEVELOPER AND THE PLANNING COMMITTEE ADDRESS, TO THE EXTENT
20 PRACTICABLE, EACH CONCERN IDENTIFIED BY THE MUNICIPALITY. THE
21 COUNTY SHALL DOCUMENT COMPLIANCE WITH THIS SUBDIVISION, IF
22 APPLICABLE.

23 (V) INCLUDE A SCHEDULE FOR IMPLEMENTING THE MMP.

24 (W) DOCUMENT ALL OPPORTUNITIES FOR PARTICIPATION AND
25 INVOLVEMENT OF THE PUBLIC, ALL AFFECTED AGENCIES AND PARTIES, AND
26 THE PRIVATE SECTOR IN THE PREPARATION OF THE MMP.

27 SEC. 11579. (1) AN MMP SHALL INCLUDE A SITING PROCESS WITH A

1 SET OF MINIMUM CRITERIA FOR THE PURPOSES OF SECTION 11585(3).
2 (2) A MATERIALS UTILIZATION FACILITY NEED NOT BE SITED IF THE
3 CBC DEMONSTRATES TO THE DEPARTMENT THAT THE PLANNING AREA HAS
4 AVAILABLE CAPACITY SUFFICIENT TO ADDRESS THE MANAGED MATERIALS
5 IDENTIFIED BY THE MMP AS BEING GENERATED IN THE PLANNING AREA.
6 (3) THE SITING PROCESS SHALL NOT INCLUDE SITING CRITERIA MORE
7 RESTRICTIVE THAN STATE LAW IF A MATERIALS UTILIZATION FACILITY
8 COULD NOT BE DEVELOPED ANYWHERE IN THE PLANNING AREA UNDER THOSE
9 CRITERIA.
10 SEC. 11580. (1) IN ADDITION TO THE OTHER REQUIREMENTS OF PART
11 115, IF THE COUNTY BOARD OF COMMISSIONERS, MUNICIPALITIES, AND
12 REGIONAL PLANNING AGENCY DO NOT TIMELY SUBMIT A NOTICE OF INTENT TO
13 PREPARE AN MMP AND THE DEPARTMENT PREPARES AN MMP AS AUTHORIZED
14 UNDER SECTION 11571, THE MMP PREPARED BY THE DEPARTMENT SHALL
15 COMPLY WITH ALL OF THE FOLLOWING:
16 (A) AUTOMATICALLY FIND ALL MATERIALS UTILIZATION FACILITIES OR
17 SOLID WASTE PROCESSING AND TRANSFER FACILITIES THAT ARE EXEMPT FROM
18 PERMIT AND LICENSE REQUIREMENTS, THAT COMPLY WITH LOCAL ZONING
19 REQUIREMENTS, AND THAT HAVE BEEN INCLUDED IN THE MMP TO BE
20 CONSISTENT WITH THE MMP.
21 (B) NOT ALLOW APPROVAL OF ADDITIONAL SOLID WASTE LANDFILL
22 DISPOSAL CAPACITY.
23 (C) REQUIRE ALL HAULERS SERVING THE PLANNING AREA TO PROVIDE
24 RECYCLING ACCESS CONSISTENT WITH THE BENCHMARK RECYCLING STANDARDS.
25 (2) IF THE DEPARTMENT PREPARES AN MMP, THE MMP NEED NOT
26 CONTAIN A REQUIREMENT FOR A PROPOSED MATERIALS MANAGEMENT FACILITY
27 TO MEET ADDITIONAL SITING CRITERIA OR OBTAIN HOST COMMUNITY

1 APPROVAL UNDER SECTION 11585(3)(C).

2 SEC. 11581. (1) IN ADDITION TO THE MATERIALS MANAGEMENT

3 PLANNING GRANTS UNDER SECTION 11587, A MUNICIPALITY OR COUNTY MAY

4 UTILIZE ANY OF THE FOLLOWING MECHANISMS, AS APPLICABLE, TO FUND

5 IMPLEMENTATION OF AN MMP:

6 (A) A MILLAGE UNDER 1917 PA 298, MCL 123.261.

7 (B) A MUNICIPAL UTILITY SERVICE FEE.

8 (C) SPECIAL ASSESSMENTS UNDER 1957 PA 185, MCL 123.731 TO

9 123.786; 1954 PA 188, MCL 41.721 TO 41.738; OR 1923 PA 116, MCL

10 41.411 TO 41.419.

11 (D) A SERVICE PROVIDER FRANCHISE AGREEMENT.

12 (E) HAULER LICENSING FEES.

13 (F) A VOTER-APPROVED MILLAGE.

14 (G) A GENERAL FUND APPROPRIATION.

15 (H) SUPPLEMENTAL FEES FOR SERVICE.

16 (I) A SURCHARGE UNDER SECTION 8A OF THE URBAN COOPERATION ACT

17 OF 1967, 1967 (EX SESS) PA 7, MCL 124.508A.

18 (J) A LANDFILL SURCHARGE.

19 (K) ANY OTHER LAWFUL MECHANISM.

20 (2) APPROPRIATE USES FOR FUNDING DESCRIBED IN SUBSECTION (1)

21 MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

22 (A) RECYCLING PROGRAMS.

23 (B) ORGANIC MATERIALS MANAGEMENT.

24 (C) EDUCATION AND OUTREACH REGARDING RECYCLING AND MATERIALS

25 UTILIZATION.

26 (D) RELEVANT MARKET DEVELOPMENT.

27 (E) MATERIALS REDUCTION AND REUSE INITIATIVES.

1 SEC. 11582. (1) THE CBC SHALL CERTIFY TO THE DEPARTMENT THE
2 CBC'S PROGRESS TOWARD MEETING ITS MATERIALS UTILIZATION GOALS. THE
3 FIRST CERTIFICATION SHALL BE SUBMITTED BY THE FIRST JUNE 30 THAT IS
4 MORE THAN 2 YEARS AFTER THE DEPARTMENT'S APPROVAL OF THE INITIAL
5 MMP OR MMP AMENDMENT. SUBSEQUENT CERTIFICATIONS SHALL BE SUBMITTED
6 BY JUNE 30 EVERY 2 YEARS AFTER THE FIRST CERTIFICATION.
7 (2) IF A COUNTY DOES NOT MAKE PROGRESS TOWARD MEETING ITS
8 MATERIALS UTILIZATION GOALS, THE COUNTY IS INELIGIBLE FOR
9 ASSISTANCE FROM THE GROWING RECYCLING ACCESS AND VOLUNTARY
10 PARTICIPATION PROGRAM UNDER SECTION 11550(9) UNTIL BOTH OF THE
11 FOLLOWING REQUIREMENTS ARE MET:
12 (A) THE COUNTY ADOPTS AN ORDINANCE OR OTHER ENFORCEABLE
13 MECHANISM TO ENSURE THAT ANY SOLID WASTE HAULER PROVIDING CURBSIDE
14 SOLID WASTE HAULING SERVICE ALSO OFFERS CURBSIDE RECYCLING SERVICE
15 TO DWELLINGS OF 4 OR FEWER UNITS IN THE PLANNING AREA.
16 (B) ANY REMAINING DEFICIENCIES IN A COUNTY'S PROGRESS TOWARD
17 MEETING ITS MATERIALS UTILIZATION GOALS ARE ADDRESSED.
18 SEC. 11583. AN ORDINANCE, LAW, RULE, REGULATION, POLICY, OR
19 PRACTICE OF A MUNICIPALITY, COUNTY, OR GOVERNMENTAL AUTHORITY
20 CREATED BY STATUTE THAT CONFLICTS WITH PART 115 IS NOT ENFORCEABLE
21 IF EITHER OF THE FOLLOWING APPLIES:
22 (A) IT PROHIBITS DEVELOPMENT OF A MATERIALS MANAGEMENT
23 FACILITY AND IS NOT INCORPORATED BY REFERENCE IN THE MMP FOR THE
24 COUNTY.
25 (B) IT VIOLATES SECTION 207 OF THE MICHIGAN ZONING ENABLING
26 ACT, 2006 PA 110, MCL 125.3207, WITH RESPECT TO A MATERIALS
27 MANAGEMENT FACILITY.

1 SEC. 11584. (1) A COUNTY, MUNICIPALITY, AUTHORITY, OR REGIONAL
2 PLANNING AGENCY THAT OWNS A SOLID WASTE DISPOSAL FACILITY MAY ADOPT
3 REQUIREMENTS CONTROLLING THE FLOW OF SOLID WASTE TO THAT SOLID
4 WASTE DISPOSAL FACILITY.
5 (2) THE CBC MAY ESTABLISH MATERIALS MANAGEMENT AUTHORIZATIONS
6 OR FEES OR ANY OTHER REGULATORY ORDINANCES OR AGREEMENTS NEEDED TO
7 ACHIEVE THE MATERIALS UTILIZATION GOALS.
8 (3) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:
9 (A) MAINTAIN A DATABASE FOR MATERIALS MANAGEMENT FACILITIES TO
10 REPORT TO THE DEPARTMENT CERTAIN INFORMATION REQUIRED UNDER PART
11 115, AS DETERMINED BY THE DEPARTMENT.
12 (B) PROVIDE MATERIALS MANAGEMENT FACILITIES WITH INSTRUCTIONS
13 NECESSARY TO ADD INFORMATION TO THE DATABASE.
14 (C) PROVIDE CBCS ACCESS TO INFORMATION IN THE DATABASE.
15 SEC. 11585. (1) IF A DISPOSAL AREA THAT DOES NOT REQUIRE A
16 LICENSE OR PERMIT UNDER PART 115 OR A MATERIALS UTILIZATION
17 FACILITY IS PROPOSED TO BE LOCATED IN A LOCAL UNIT OF GOVERNMENT
18 THAT HAS A ZONING ORDINANCE, THE DISPOSAL AREA OR MATERIALS
19 UTILIZATION FACILITY IS CONSISTENT WITH THE MMP IF IT COMPLIES WITH
20 THE ZONING ORDINANCE AND THE OWNER OR OPERATOR OF THE PROPOSED
21 DISPOSAL AREA OR MATERIALS UTILIZATION FACILITY PRESENTS
22 DOCUMENTATION TO THE DEPARTMENT AND THE CBC FROM THE LOCAL UNIT OF
23 GOVERNMENT EXERCISING ZONING AUTHORITY DEMONSTRATING THAT THE
24 DISPOSAL AREA COMPLIES WITH LOCAL ZONING.
25 (2) A DISPOSAL AREA OR MATERIALS UTILIZATION FACILITY IS
26 AUTOMATICALLY CONSISTENT WITH THE MMP IF THE SPECIFIC FACILITY OR
27 TYPE OF FACILITY IS IDENTIFIED IN THE MMP AS BEING AUTOMATICALLY

1 CONSISTENT.

2 (3) A MATERIALS MANAGEMENT FACILITY THAT IS NOT AUTOMATICALLY
3 CONSISTENT WITH THE MMP IS CONSIDERED CONSISTENT IF, AS DETERMINED
4 BY THE CBC OR OTHER ENTITY SPECIFIED BY THE MMP AND BY THE
5 DEPARTMENT, ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

6 (A) THE MMP AUTHORIZES THAT TYPE OF MATERIALS MANAGEMENT
7 FACILITY TO BE SITED BY FOLLOWING THE SITING PROCEDURE AND MEETING
8 THE MINIMUM SITING CRITERIA INCLUDED IN THE MMP UNDER SECTION 11579
9 OR THE FACILITY IS A CAPTIVE TYPE III LANDFILL AND BOTH OF THE
10 FOLLOWING APPLY:

11 (*i*) THE LANDFILL DOES NOT ACCEPT OFF-SITE WASTE.

12 (*ii*) THE LANDFILL MET LOCAL LAND USE REQUIREMENTS WHEN
13 INITIALLY SITED.

14 (B) THE MATERIALS MANAGEMENT FACILITY FOLLOWS THE SITING
15 PROCEDURE AND MEETS MINIMUM SITING CRITERIA IN THE MMP.

16 (C) THE MATERIALS MANAGEMENT FACILITY MEETS EITHER OF THE
17 FOLLOWING REQUIREMENTS:

18 (*i*) HAS HOST COMMUNITY APPROVAL.

19 (*ii*) MEETS ANY SUPPLEMENTAL SITING CRITERIA IN THE MMP FOR
20 MATERIALS MANAGEMENT FACILITIES THAT DO NOT HAVE HOST COMMUNITY
21 APPROVAL.

22 (4) THE CBC OR OTHER ENTITY SPECIFIED BY THE MMP SHALL
23 PROMPTLY NOTIFY THE OWNER OR OPERATOR OF THE MATERIALS MANAGEMENT
24 FACILITY IN WRITING OF ITS DETERMINATION UNDER SUBSECTION (3)
25 WHETHER THE MATERIALS MANAGEMENT FACILITY IS CONSISTENT WITH THE
26 MMP.

27 (5) THE DEPARTMENT SHALL DETERMINE WHETHER A MATERIALS

1 MANAGEMENT FACILITY IS CONSISTENT WITH THE MMP THROUGH AN
2 INDEPENDENT EVALUATION AS PART OF THE REVIEW PROCESS FOR AN
3 APPLICATION FOR A REGISTRATION, FOR APPROVAL UNDER A GENERAL
4 PERMIT, OR FOR A CONSTRUCTION PERMIT OR OPERATING LICENSE. THE
5 APPLICANT FOR A PERMIT FOR A MATERIALS MANAGEMENT FACILITY SHALL
6 INCLUDE IN THE APPLICATION DOCUMENTATION OF THE FACILITY'S
7 CONSISTENCY WITH THE MMP.
8 (6) A LANDFILL, OTHER THAN A CAPTIVE TYPE III LANDFILL, OR A
9 MUNICIPAL SOLID WASTE INCINERATOR NEED NOT BE SITED IF THE CBC
10 DEMONSTRATES TO THE DEPARTMENT THROUGH ITS MATERIALS MANAGEMENT
11 PLAN THAT THE PLANNING AREA HAS AT LEAST 66 MONTHS OF AVAILABLE
12 SOLID WASTE DISPOSAL CAPACITY.
13 (7) AN EXISTING CAPTIVE TYPE III COAL ASH LANDFILL OR EXISTING
14 CAPTIVE COAL ASH IMPOUNDMENT, OR BOTH, IS CONSIDERED CONSISTENT
15 WITH AND INCLUDED IN THE MMP IF THE DISPOSAL AREA CONTINUES TO
16 ACCEPT WASTE GENERATED ONLY BY THE OWNER OF THE DISPOSAL AREA AND
17 MEETS ANY OF THE FOLLOWING REQUIREMENTS:
18 (A) WAS ISSUED A CONSTRUCTION PERMIT AND LICENSED FOR
19 OPERATION UNDER THIS PART.
20 (B) MET LOCAL LAND USE LAW REQUIREMENTS WHEN INITIALLY SITED
21 OR CONSTRUCTED. [THE LANGUAGE IN SUBSECTION (7) IS BORROWED FROM
22 SECTION 11538(3), WHICH WAS ADDED BY 2018 PA 640. SECTION 11538 IS
23 REPEALED BY THIS DRAFT. WITH INPUT FROM DEQ, WE MAY BE ABLE TO
24 INTEGRATE THIS LANGUAGE WITH SUBSECTION (3).]
25 (8) A DISPOSAL AREA PERMITTED, LICENSED, OR OTHERWISE IN
26 EXISTENCE ON THE DATE OF APPROVAL OF THE SOLID WASTE MANAGEMENT
27 PLAN FOR THE PLANNING AREA WHERE THE DISPOSAL AREA IS LOCATED SHALL

1 BE CONSIDERED TO BE CONSISTENT WITH THE PLAN AND INCLUDED IN THE
2 PLAN. [THE LANGUAGE IN SUBSECTION (8) IS BORROWED FROM SECTION
3 11539(2), WHICH WAS ADDED BY 2018 PA 640. ALL THE CURRENT TEXT OF
4 SECTION 11539 IS BEING STRICKEN BY THIS DRAFT. WITH INPUT FROM DEQ,
5 WE MAY BE ABLE TO INTEGRATE THIS LANGUAGE WITH SUBSECTION (2).]
6 SEC. 11586. (1) THE STATE SOLID WASTE MANAGEMENT PLAN CONSISTS
7 OF THE STATE SOLID WASTE PLAN AND ALL MMPS APPROVED BY THE
8 DEPARTMENT.
9 (2) THE DEPARTMENT SHALL CONSULT AND ASSIST IN THE PREPARATION
10 AND IMPLEMENTATION OF MMPS.
11 (3) THE DEPARTMENT MAY UNDERTAKE OR CONTRACT FOR STUDIES OR
12 REPORTS NECESSARY OR USEFUL IN THE PREPARATION OF THE STATE SOLID
13 WASTE MANAGEMENT PLAN.
14 (4) THE DEPARTMENT SHALL PROMOTE POLICIES THAT ENCOURAGE
15 RESOURCE RECOVERY AND ESTABLISHMENT OF MATERIALS UTILIZATION
16 FACILITIES.
17 SEC. 11587. (1) SUBJECT TO APPROPRIATIONS, A MATERIALS
18 MANAGEMENT PLANNING GRANT PROGRAM IS ESTABLISHED TO PROVIDE GRANTS,
19 TO BE KNOWN AS MATERIALS MANAGEMENT PLANNING GRANTS, TO CBCS. THE
20 DEPARTMENT MAY PROMULGATE RULES FOR THE IMPLEMENTATION OF THE GRANT
21 PROGRAM. GRANT FUNDS SHALL BE AWARDED PURSUANT TO A GRANT
22 AGREEMENT. IF THE DEPARTMENT PREPARES THE MMP, GRANT FUNDS
23 APPROPRIATED FOR LOCAL PLANNING MAY BE USED BY THE DEPARTMENT FOR
24 MMP PREPARATION.
25 (2) GRANTS SHALL BE USED FOR ADMINISTRATIVE COSTS FOR
26 PREPARING, IMPLEMENTING, AND MAINTAINING AN MMP, INCLUDING, BUT NOT
27 LIMITED TO, THE FOLLOWING:

1 (A) DEVELOPMENT OF A WORK PROGRAM AS DESCRIBED IN SUBSECTION
2 (4)(B) AND R 299.4704 AND R 299.4705 OF THE MICHIGAN ADMINISTRATIVE
3 CODE, INCLUDING A PRIOR WORK PROGRAM.
4 (B) INITIAL MMP DEVELOPMENT AND MMP AMENDMENTS.
5 (C) ENSURING PUBLIC PARTICIPATION.
6 (D) DETERMINING WHETHER NEW MATERIALS MANAGEMENT FACILITIES
7 ARE CONSISTENT WITH THE MMP.
8 (E) COSTS TO COLLECT AND SUBMIT DATA FOR THE DATABASE UTILIZED
9 BY THE DEPARTMENT FOR MATERIALS MANAGEMENT FACILITY REPORTING
10 PURPOSES AND COSTS TO EVALUATE DATA HOUSED IN THE DATABASE FOR THE
11 PLANNING AREA.
12 (F) RECYCLING EDUCATION AND OUTREACH.
13 (G) RECYCLING AND MATERIALS UTILIZATION PROGRAMS.
14 (H) PREPARATION OF REQUIRED REPORTS TO THE DEPARTMENT.
15 (I) MMP IMPLEMENTATION.
16 (3) MATERIALS MANAGEMENT PLANNING GRANTS SHALL COVER 100% OF
17 ELIGIBLE COSTS UP TO THE AUTHORIZED MAXIMUM AMOUNT AS SPECIFIED BY
18 RULE.
19 (4) IN THE FIRST YEAR OF THE GRANT PROGRAM, THE INITIAL ROUND
20 OF GRANTS SHALL BE AWARDED FOR A 3-YEAR PERIOD AND PAID IN
21 INSTALLMENTS AS SPECIFIED IN THE GRANT AGREEMENT. TO BE ELIGIBLE
22 FOR A GRANT IN THE FIRST YEAR, THE CBC MUST DO BOTH OF THE
23 FOLLOWING:
24 (A) SUBMIT A NOTICE OF INTENT TO PREPARE AN MMP UNDER SECTION
25 11571.
26 (B) WITHIN 120 DAYS AFTER SUBMITTING THE NOTICE OF INTENT TO
27 PREPARE AN MMP, SUBMIT TO AND OBTAIN DEPARTMENT APPROVAL OF A WORK

1 PROGRAM FOR PREPARING THE MMP. THE WORK PROGRAM SHALL BE PREPARED
2 BY THE DPA AND REVIEWED AND APPROVED BY THE PLANNING COMMITTEE. THE
3 WORK PROGRAM SHALL DESCRIBE THE ACTIVITIES FOR DEVELOPING AND
4 IMPLEMENTING THE MMP AND ASSOCIATED COSTS TO BE COVERED BY THE
5 COUNTY AND THE GRANT.
6 (5) THE AMOUNT OF A GRANT IN THE INITIAL ROUND SHALL EQUAL THE
7 SUM OF THE FOLLOWING:
8 (A) $60,000.00 FOR EACH COUNTY IN THE PLANNING AREA.
9 (B) $0.50 FOR EACH RESIDENT OF THE PLANNING AREA, UP TO
10 600,000 RESIDENTS.
11 (C) AN ADDITIONAL $10,000.00 FOR EACH COUNTY IN THE PLANNING
12 AREA IF THE PLANNING AREA INCLUDES MORE THAN 1 COUNTY.
13 (6) ANNUAL GRANTS SHALL BE AWARDED FOR EACH YEAR AFTER
14 EXPIRATION OF THE 3-YEAR GRANTS UNDER SUBSECTION (4). TO BE
15 ELIGIBLE FOR AN ANNUAL GRANT, THE COUNTY MUST HAVE AN APPROVED WORK
16 PROGRAM UNDER SUBSECTION (4) OR AN MMP. THE AMOUNT OF AN ANNUAL
17 GRANT TO THE CBC SHALL EQUAL THE SUM OF THE FOLLOWING, AS
18 APPLICABLE:
19 (A) $60,000.00 FOR EACH COUNTY IN THE PLANNING AREA.
20 (B) AN ADDITIONAL $10,000.00 FOR EACH COUNTY IN THE PLANNING
21 AREA IF THE PLANNING AREA INCLUDES MORE THAN 1 COUNTY AND THE CBCS
22 WERE RESPONSIBLE FOR PREPARING THE MMP.
23 (7) A GRANTEE UNDER THIS SECTION SHALL KEEP RECORDS, SUBJECT
24 TO AUDIT, DOCUMENTING USE OF THE GRANT FOR MMP DEVELOPMENT AND
25 IMPLEMENTATION.
26 (8) FOR THE PURPOSE OF DETERMINING THE NUMBER OF COUNTIES IN A
27 PLANNING AREA UNDER THIS SECTION, THE INCLUSION OR EXCLUSION OF A

1 **MUNICIPALITY UNDER SECTION 11571(4) SHALL NOT BE CONSIDERED.**

2 Enacting section 1. Sections 11521, 11522, 11529, 11534 to
3 11538, 11539a, 11547, and 11548 of the natural resources and
4 environmental protection act, 1994 PA 451, MCL 324.11521,
5 324.11522, 324.11529, 324.11534 to 324.11538, 324.11539a,
6 324.11547, and 324.11548, are repealed.

7 Enacting section 2. This amendatory act takes effect 90 days
8 after the date it is enacted into law.