Responsiveness Summary for
Public Comments Received on
the

MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
MATERIALS MANAGEMENT DIVISION

DRAFT MATERIALS UTILIZATION FACILITY GENERAL PERMIT

March 13, 2025

Issued under the Provisions of Part 115, Solid Waste Management,
of the Natural Resources and Environmental Protection Act
(NREPA), 1994 PA 451, as amended, MCL 324.11501 et seq.

BACKGROUND

Michigan's solid waste law, Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 115), was amended in December 2022. Under the amended law, materials management facilities may be required to notify EGLE of their operation or obtain a registration or general permit. The type of authorization required is dependent on the type of activity, and/or the volume of material handled on-site.

Section 11568 of Part 115, Solid Waste of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, provides for a General Permit for certain Materials Utilization Facilities. This General Permit covers the following Materials Utilization Facilities: Materials Recovery Facilities that have more than 100 tons of managed material on-site at any time; Class 2 Composting Facilities or large Class 1 Composting Facilities; Anaerobic Digesters that manage only source separated materials, manures, bedding, or crop residuals that are generated off-site; and Innovative Technology Facilities.

The Materials Utilization Facility General Permit was developed in consultation with stakeholders and was posted for public comment on the Michigan Department of Environment, Great Lakes, and Energy's (EGLE) web site from December 20, 2024, through January 31, 2025. Public notices of the public comment period were also published in the Traverse City Record Eagle, the Marquette Mining Journal, Detroit Free Press/Detroit News, Ann Arbor News, Bay City Times, Flint Journal, Grand Rapids Press, Jackson Citizen Patriot, Kalamazoo Gazette, Muskegon Chronicle, Saginaw News, MLive.com, and through EGLE's calendar, and GovDelivery electronic notices.

Facilities subject to the general permit are required to submit a complete application by March 29, 2025.

COMMENTS & RESPONSES

EGLE, Materials Management Division (MMD) has prepared this responsiveness summary to address the comments that were received on the draft General Permit for Materials Utilization Facilities. In some instances, similar comments have been consolidated and paraphrased for response. A red-line version of the draft General Permit is attached to identify changes that have been made in response to comments.

Comment # 1: There were a few minor grammatical issues noted.

Response: These grammatical changes have been made.

Comment # 2: Several commenters discussed an interest in stronger regulatory oversight of materials utilization facilities by EGLE. Comments included: the general permit requirements need to be stronger due to issues such as unknown contaminants in source materials, misuse and mishandling during material transport and use, and inexperienced

operators not understanding their responsibilities; smaller facilities should be required to get a general permit instead of a just a registration; there should only be one authorization level – the General Permit; and there must be increased inspections for even small farm digester operations.

Response 2: The scope and applicability of the general permit is derived from statute. EGLE cannot expand the universe of facilities subject to the general permit or write permit conditions that are beyond the operational requirements in Part 115.

Comment # 3: Several commenters discussed an interest in the permit being more prescriptive. Comments included: the draft permit language is vague and it is unclear what value this permit provides in terms of adding needed oversight and standards for Material Utilization Facilities; as written the draft permit serves more as a checklist of related statutes that a facility must comply with rather than providing any additive text that we might expect to see in implementing the terms and conditions of a permit designed to protect the environment, including water resources; the permit should be updated to clarify and make clear what covered facilities must and must not do, should include important definitions, and provide direction on how they must calculate and report critical information required by the permit; and we would appreciate understanding the intention of the draft permit.

Response 3: The intent of the general permit is to convey the operating requirements for subject facilities in a concise format and is based on the statutory requirements of Part 115. Guidance will continue to be developed and posted on the website for specific topics.

Comment # 4: Overall, the draft general permit is concise and aligns with Part 115.

Response: Comment noted.

Comment # 5: The links on the Materials Management Facilities webpage (isolation distances and flowchart) are out of date and it may be confusing if anyone is trying to find these on the website.

Response: EGLE agrees with this comment and is working to update all web pages to reflect the correct, current information.

Comment # 6: Part 1. Facility Information - if intended for use and completion by EGLE, should specify it is for EGLE use and applicants should begin providing information in Part 2.

Response: The General Permit is completed and issued by EGLE based on information submitted by the applicant. This document is the permit template, not the

application. Application will be made through an on-line platform and will clearly differentiate between fillable fields and text.

Comment # 7: Will a facility ID number match the WDS (Waste Data System) number.

Response: Yes, the facility ID number is the WDS number.

Comment # 8: The permit states that information is to be reported on November 15th of each year, however Part 115 states that the report is due "within 45 days after the end of each state fiscal year". One commenter proposed changing the statute to read "***by November 15th***" in all instances.

Response: November 15th is 45 days after the end of the state fiscal year. The specific date is provided in the permit for clarity. Contemplating statutory changes are beyond the scope of this response, but the suggestion is noted.

Comment # 9: Page 2, Part 2.A.2. Propose removal of "for residential property". MCL 324.11568 (b) does not specify the criteria used to determine what is a facility. Part 201 allows "Site-specific criteria that have been approved by the department for application at the area, place, parcel of property, or portion of a parcel of property…", specifically 20101 (s)(iii), when making a facility determination.

Response: Suggested change has been made to the general permit language.

Comment # 10: Page 3, Part 2.B. This section should also include the language from the definition of a materials recovery facility MCL 324.11504(28)(b) stating "Material disposed of as a result of recycling market fluctuations is not included in the 15% calculation."

Response: Suggested change has been made to the general permit language.

Comment # 11: Several commenters noted that there should be an alternative option to the department's electronic applications and online reporting noted in the general permit in case the electronic format changes or is not available.

Response: Suggested change has been made to the general permit language.

Comment # 12: There is a definite need for a plain English guidance manual to help facilities understand the applicability and the implications of all requirements of the General Permit. It was particularly difficult to determine what was not included in the Draft Permit. That is, it was necessary to go back and forth between the Permit,

Part 115, and the Materials Management Facilities website to find definitions and to fully understand who was required to do what. Is there a reason why the general permit repeats much of what is already in Part 115? It seems it would be best not to repeat but to ask the permittee to complete a Compost Site Management Plan (see item 6 below) that adheres to Part 115 requirements, and to provide a sample Management Plan that incorporates all the requirements.

Response: This comment is noted. EGLE is working to update its web pages to provide clearer guidance and has developed sample plan formats to help guide facilities in preparing these required plans as part of their application. The goal of the general permit is to consolidate all the operational requirements of Part 115 that apply to materials utilization facilities in a single place so that the facility will not have to refer to multiple sections of statute to understand its regulatory obligations.

Comment #13: What needs to be included in the Site Plan/Site Map, Operations Plan, Odor Management Plan, Training Plan, Fire Prevention Plan? EGLE should provide a sample of each as provided here for the Operations Plan. Or, better yet, a sample comprehensive Compost Site Management Plan incorporating all the required sections as RRS does for compost sites and as compost operators learn when taking a USCC compost operator training course. And what training is required of general permit compost sites? In an earlier version of the Composting Site General Permit, many of these details were already provided and discussed.

Response: The proposed General Permit is based on the requirements of Part 115. There are no specific training requirements identified in statute; therefore, none have been included in the general permit. EGLE has developed template plans to help guide facilities in meeting their statutory requirements. Templates are provided for an Operations Plan, Closure Plan; Fire Prevention Plan; and an Odor Prevention Plan. The templates can be found on the Materials Management Facilities webpage.

Comment # 14: Two commenters identified challenges with getting general permit authorization before Materials Management Plans (MMPs) are approved. As the permit is written, the only option operators have is to seek written approval from the county approval agency and the municipality that the facility is in. The concern is how timely these approvals can be gathered. Since County Solid Waste Management Plans are in effect until MMPs are developed, sites that have been included in the existing plans should be considered consistent. Below are the proposed additional options.

- Add an option for a facility already included in an existing County Solid Waste Management Plan.
- Add an option for a facility that is pre-existing (i.e. in operation prior to effective date of the recent Part 115 amendments).
- Add an option for 'has host community approval' as noted in MCL 324.11585(3)(c)(i).

Response: This comment is in reference to the provisions of Section 11508, which outlines the process for EGLE to issue a general permit prior to the approval of MMPs. For a materials utilization facility that is subject to the requirement to obtain a general permit, MCL 324.11508(2)(a) requires that a facility obtain written approval from the local municipality and the county approval agency, as described by the commenter. This section must be considered alongside section 11578(1)(f), which requires MMPs to include an inventory of existing materials utilization facilities. With this context, EGLE considers the process outlined in MCL 324.11508(2) applicable only to materials utilization facilities that were established or expanded after the Part 115 amendments became effective (March 29, 2023). Accordingly, the application for the general permit will include a question asking if the facility was in operation before March 29, 2023, and prompt the applicant to attach documentation to that effect. In this instance, approval from the municipality and county will not be required.

Comment # 15: Part 3.f., which appears to be mis-numbered, describes financial assurances required for Materials Utilization Facilities under Section 11523. Since Section 11523 appears to require a financial assurance of $20,000 for any Materials Utilization Facility subject to the financial assurance requirements, this part of the Permit would be clearer and easier for permittees to understand if it listed the $20,000 assurance requirement and the types of facilities required to provide it, along with the choice of how that financial assurance will be provided.

Response: The numbering in the general permit has been corrected. Additionally, clarification has been added to the financial assurance requirements in the general permit. Materials recovery facilities, anaerobic digesters, and composting facilities must provide financial assurance in the amount of $20,000. Innovative technology facilities must submit to the department for approval, a detailed written estimate, in current dollars, of the cost for a third party to close the facility and provide financial assurance in that amount.

Comment # 16: The list of compost testing parameters, test methods, and limits should correlate to the USCC's Seal of Testing Assurance program using approved compost labs. What happens if test results do not meet compost standards provided by the lab? The test results provide compost nutrient values, which is now being contested by MDARD if compost facilities share these results on their website or to customers who ask for it. Please coordinate with MDARD to allow composters to sell their product as a compost or soil amendment without also needing to apply through MDARD as a fertilizer.

Response: The parameters that must be tested for are specifically listed in Section 11565, but the statute only provides parameters for testing, not criteria. Compost is regulated by both Part 115 and Part 85, Fertilizers, of NREPA. If composters make specific nutrient claims when selling compost, they must meet the fertilizer license and/or registration requirements of Part 85. If there are not specific nutrient claims, Part 85 regulates compost as a soil conditioner and requires an MDARD registration.

Comment # 17: Two commenters noted that Page 5. Part 2.C.14. states: "If applicable, Class 2 composting facilities shall also test for the following site-specific parameters." Will they be listed here? This should be made clear in the general permit. And what site-specific parameters are being discussed, and would these be specific to Michigan soils and water such as PFAS, phosphates, etc.?

Response: Additional parameters will be determined based on review of the materials being composted and added to Part 2.C.14 if applicable.

Comment # 18: To avoid the perception that this permit actively regulates Materials Utilization Facilities under Part 31 or 55 of the Natural Resources and Environmental Resources Protection Act (NREPA), Act 451 of 1994 as amended, Part 2.A.2. should be clear that this permit, which is authorized under Part 115 of NREPA, does not regulate by reference portions of the statute not within the authority of EGLE's Materials Management Division. Part 2.A.2. should therefore not require compliance with NREPA Part 31 or 55 or soil or groundwater requirements but rather should state that this permit does not authorize discharges under NREPA Sections 31, 55, or other sections that do not fall under Part 115.

Response: The proposed permit language is consistent with Section 11568(1)(b) which states "The operator shall comply with this act, including parts 31 and 55, and not create a facility as defined in section 20101." No change has been made in response to this comment.

Comment # 19: Two commenters noted that although there is a general requirement that facilities "shall be operated by personnel who are knowledgeable about the safe management of the types of material that are accepted and utilized," there appears to be no specific criteria for what is considered a sufficient level of knowledge nor is there a mention of possible training that EGLE might provide. Provide explanation of how EGLE will determine whether a facility manager is knowledgeable. Training should be required with minimum requirements to meet certain qualifications for any person proposing to operate any anaerobic digester, no matter what the materials are that they handle.

Response: The statute does not specify what training is required, therefore EGLE cannot require a specific type of training. EGLE suggests that facilities seek out process specific training from industry associations or other knowledgeable organizations. A determination of the qualification of the operator will be a site specific, performance-based determination. If the facility has significant operational problems that seem to stem from a lack of understanding of operational concepts, EGLE may determine that the operator appears to need more training.

Comment #20: Permittees would benefit from better understanding of what constitutes limiting access to the facility and maintaining facilities, so they do not attract or harbor rodents or other vectors.

Response: This is another area where the statute is not prescriptive, therefore EGLE cannot specify a level of effort that would satisfy the requirement. What is needed to limit access to facilities and prevent rodents or other vectors is dependent on the facility location, configuration, materials accepted, and other site specifics. Compliance will be determined based on performance. If there is excessive illegal dumping or other problems related to trespass, EGLE may determine that the facility is not adequately limiting access. Similarly, if there are signs of rodent infestations, EGLE may determine that rodent control is inadequate. Similar requirements have been in place for landfills and processing and transfer stations for many years without much disagreement on reasonable implementation.

Comment # 21: Regarding compost facility isolation distances, commenter recommends that EGLE's Materials Management Division work with the Drinking Water and Environmental Health Division and/or MDARD to develop well isolation reduction protocols to assist permittees in meeting well setback standards for composting sites where appropriate, and where public health can still be protected while allowing composters to select sites, they need to provide their beneficial services. Commenter further recommended that since the setback language is nearly identical for Part 2.C.8. of the Permit for facilities constructed after March 29, 2023, these sections should be combined to help permittees understand that well isolation requirements (as well as any isolation reduction allowances) apply to all composting facilities regardless of the date of construction.

Response: The isolation distances referenced in the general permit are consistent with the statutory language. Part 115 does not provide for isolation distance reduction protocols. Contemplating statutory changes are beyond the scope of this response, but the suggestion to combine isolation distances is noted.

Comment # 22: The Permit should be updated to add PFAS to the Part 2.C.14 list of required parameters using Method 1633 and required on at least an annual basis. The same list of parameters list in Part 1.C.14. should be required for all facilities covered by the Permit, not just compost facilities. Results must be reported to EGLE through required procedures, frequency and systems. The responsible EGLE departments must approve or disapprove the tested material based on the requirements of Section 11553(5) of Part 115.

Response: The testing parameters in the proposed General Permit are specifically identified in Part 115 and are applicable only to compost facilities. Class 2 composting facilities may have additional testing requirements based on site specific facility inputs. Part 115 does not specify testing for anaerobic digesters or other types of facilities. Testing protocols for digester residuals will depend on inputs to the digester and how the residuals are being managed. Section 11553(5) is not the only option for compost or digester residuals management.

Comment # 23: Definitions from Part 115 that are related to composting facilities in the Permit are confusing and could lead to unwanted consequences. What is confusing is that Class 2 compostable materials clearly include known solid wastes that could contain harmful chemicals such as PFAS and that have already been rejected by EGLE as "not considered inert." So shouldn't all composts that includes Class 2 materials be "restricted?" New or modified definitions should be added to the General Permit for Class 1 and 2 materials. Similar to compostable materials, "Class 2 materials" would be defined as all finished products that use feedstock that includes mixed municipal solid waste, biosolids, state or federal controlled substances, and all other material that is not listed or approved as a Class 1 material. The Permit should more clearly specify that facilities with feedstock that includes wastewater treatment plant (WWTP) sludge, biosolids, food product packaging, septage and other organic materials that could contain harmful chemicals such as PFAS and pharmaceuticals, at any percentage, should be tested and designated as "restricted use."

Response: Part 115 states "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, which is not approved as inert under Section 11553(5). This means that all compost that is produced from Class 2 compostable material is considered restricted use compost. While EGLE can provide guidance materials to help clarify statutory definitions, any changes in the statutory language would need to go through the legislative process.

Comment # 24: Page 4, Part 2.C.6. "the amount of leaves and the amount of grass in tons or cubic yards" should be changed to: "the amount of compostable materials, by type (i.e. leaves, yard waste, brush, food waste), including bulking agent such as screened overs or wood chips, added to the active compost piles in cubic yards and their individual bulk densities (pounds per cubic yard)."

Response: The language in the proposed General Permit is based on the requirements of Section 11555(4(b)(ii). However, this section also allows for the department to approve alternative record keeping, and individual facilities could implement alternatives through approved Operations Plans.

Comment # 25: The draft permit standards do not address fundamental issues with on-farm compost oversight in Michigan. The draft permit does not appear to improve the oversight and functioning of compost operations in Michigan, particularly composting operations that blur the line between on-farm operations and commercial composting facilities that accept primarily municipal waste/by products. EGLE and MDARD have long pointed at one another for which agency has (regulatory) oversight of these facilities, and we would appreciate understanding how the agencies are collaborating to address solid waste management oversight gaps and how this permit may clarify each agency's role.

Response: Section 11555 provides the options for managing compostable materials, including the provisions for on-farm composting. Only large Class 1 composters and Class 2 composters are required to obtain a general permit, which is why the permit

language does not address on-farm composting specifically. To address any regulatory gaps or challenges with facilities that may involve both MDARD and EGLE, the two agencies have a standing work group that meets monthly to identify and resolve such issues.

Comment # 26: The requirement to 'notify' and/or 'register' is not mentioned in the draft Permit and there is no explanation anywhere that describes how a facility should notify or register under these new requirements. MCL 324.11568(1)(c), mentions facility exemptions but there is no description in the permit or in Part 115 that describes how or within what criteria a facility can become exempt from applicable requirements. It should be clearly spelled out in the Permit. The concern is that, without specific criteria to become exempt, facilities will be able to request and be granted an exemption without consideration to protection of people or the environment and without public comment or knowledge.

Response: Guidance is available on the website for facilities to determine what level of authorization is required. The statute exempts certain facilities from regulation, including certain scrap metal recyclers. The statute does not provide for facilities to request to be exempted. EGLE is working to update all the web pages and information for facilities to provide additional information and clarity.

Comment # 27: Part 2.B. of the Permit, which covers material recovery facilities, requires that, "The weight of solid waste residuals must be less than 15% of the total weight of material received unless the materials utilization facility is making reasonable effort and has an education program to reduce the amount of solid waste." Small material recovery facilities that process less than 100 tons of materials per year and has less than 100 tons on-site at any time are exempt and are not required to report or have information on file to show that they remain exempt. It is not clear in the Permit, how these criteria must be documented and enforced, especially in the case of exempt facilities. In addition, and although MCL 324.11506(1) includes an extensive definition of solid waste, "solid waste residuals" is not defined in the Permit or in Part 115.

Response: If not defined in statute, the dictionary definition of a term is used. In this case, solid waste residuals are materials that are sorted out to be disposed rather than recycled. This is usually household trash that should not have been put in the recycling bin or sometimes it's recyclables that are too contaminated to be processed, such as greasy pizza boxes. If during an inspection, EGLE observes excessive solid waste coming in with the recyclables, business records may be requested to establish a solid waste residual, or contamination, rate. This issue is generally remedied by community education.

Comment # 28: There are a variety of requirements in the Permit that allude to facilities that must not speculatively accumulate the materials that they use or make. The way that these requirements are presented are fragmented and confusing. Requirements that are applicable to all material utilization facilities authorized by the Permit, includes a requirement that "Material shall be transported from the facility for use in production of ultimate end use

products or disposal within 1 year after material is collected by the facility." Nowhere in the Permit or in Part 115 is speculative accumulation defined or a full explanation of its importance. Speculative accumulation was developed by EPA to prevent people from avoiding RCRA regulation of their wastes merely by claiming that they will recycle them.

Response: An Operations Plan template is available on the website that offers a plain explanation regarding accumulation timeframes for recyclable materials. Additionally, for purposes of regulation under Part 115, speculative accumulation is defined in the Part 115 Rules, specifically R 299.4105(l). The definition states: "Speculative accumulation means the storage of material intended for recycling or reuse at a site for a period of over 1 year, or for low-hazard industrial waste accumulated at the site of generation, a period of 3 years. A material is not accumulated speculatively, however, if the person who accumulates it can show that the material can be recycled into marketable raw materials or new products and that, during the period, the amount of material that is recycled or that is transferred to a different site for recycling equals not less than 75%, by weight or volume, of the amount of material that was accumulated at the beginning of the period."

Comment # 29: Several comments were made that expressed an interest in more stringent regulation of anaerobic digesters. Comments included: Anaerobic digester owners are required to obtain a Permit if they "only manage source separated material, manures, bedding, or crop residuals that are generated off-site." This leaves the rest of the anaerobic digester in the state, only required to *notify or register* with few enforceable requirements. The requirements for being covered under the Permit or not should make sense and must be based on protection of people and the environment. On-site materials, manure, bedding and/or crop residuals can be just as problematic as similar off-site materials. Anaerobic digesters are a singular problem and require a singular and strong solution. The draft permit does not provide any specific requirements for anaerobic digesters (AD) and only provides specific requirements for composting facilities. If the reason is that all necessary conditions are included elsewhere in Part 115, it would be helpful to understand why the draft permit does not expressly incorporate those statutory terms as it does for compost facilities.

Response: The draft General Permit is in alignment with the statutory requirements for each of the materials utilization facility types. The operational requirements of Section 11568 apply to all materials utilization facilities, including anaerobic digesters. These requirements apply to facilities that have to notify, register, or obtain a general permit.

Comment # 30: Permit applicability to on-farm anaerobic digesters and composting of livestock waste. Will livestock facilities – specifically CAFOs – that operate an AD be required to obtain a permit under MMD in addition to permits from WRD and AQD? Second, we are concerned that the draft permit could be used to bypass the requirements in the CAFO permit specific to storage and land application restrictions. We are aware of at least one situation where two CAFOs stockpile solid waste to a 'composting facility' owned by a third party nearby and then return to pick up solids for land application. This facility itself, while owned by a third party, is located on a field in one of those CAFOs' CNMPs as an application site under the control of that CAFO. While properly composted, stored, and land-applied livestock manure

itself without the added pollutants from livestock operations may be a beneficial fertilizer, CAFO waste is not that and composting without proper sewage treatment poses an environmental and human health risk. We would appreciate understanding how the draft permit – in coordination with other EGLE divisions – prevents the transferring of material to the same entity to bypass proper storage requirements and if facilities composting livestock waste will be required to obtain a permit through MMD.

Response: Digesters that manage material generated on site and up to 20% materials from off-site must notify. Digesters that accept more than 20% of materials from off-site must register. Facilities that solely manage off-site materials are required to obtain a General Permit. These authorization levels are specified in statute. On-farm anaerobic digesters will not be required to get a General Permit if they only take on-farm generated waste as feedstock for the digester.

Comment # 31: Regarding 30-day Change of Ownership Notification There is no requirement in Part 115 for submission of the notification. There are also timeframes that are beyond the operator's control where a change of ownership may happen in less than 30 days. Commenter requests the language to be changed from "30-days prior to" to "within 30 days of" to allow flexibility in notification.

Response: EGLE recognizes that the 30-day advanced notice is not an enforceable requirement. However, Part 115 does not provide for a process to transfer an authorization to a new entity. As a courtesy, EGLE is willing to accept advance notice of such changes and will make every reasonable effort to issue a new authorization in the new owner's name once financial assurances are provided. This approach helps to avoid any potential gap in authorization. The alternative to providing advanced notice is that the authorizations are not transferable, and new owners will need to submit a new application for authorization. EGLE has 90 days to process such applications, and operating without proper authorization would be a violation of Part 115. EGLE cannot accommodate the suggestion to allow notification of ownership changes up to 30 days after the event, as this could create situations where facilities are not properly authorized to operate.

Comment # 32: The Permit states that it shall be in effect until its expiration date, unless revoked. Section 11568(8) of Part 115 states that the term of a general permit is 5 years, unless it is approved under an innovative technology permit, which has a term of 2 years. These terms should be stated in the Permit to provide clarity to permittees for how long their permit lasts once approved. It will also help improve compliance with requirements to renew permits in a timely manner.

Response: The term of the general permit will be reflected in the expiration date on the first page of the permit. It will be as noted in the comment, 5-years from the issuance date, unless the general permit is for an innovative technology facility. Then the expiration date will be 2-years from the issuance date.

Michigan Department of Environment, Great Lakes, and Energy

Materials Management Division

Materials Utilization Facility General Permit

This General Permit (Permit) is issued under the provisions of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.11501 et seq., and authorizes the operation of this Materials Utilization Facility (Facility) in the state of Michigan. Any operation of this Facility that may cause or contribute to a violation of NREPA is not authorized by this Permit. Unless otherwise expressly provided herein, terms used in this Permit that are defined in Part 115 will have the definitions given to them in Part 115.

PART 1. FACILITY INFORMATION

FACILITY NAME:

PERMITTEE/OPERATOR:

FACILITY OWNER:

PROPERTY OWNER:

FACILITY ID NUMBER:

COUNTY:

PERMIT NUMBER:

ISSUE DATE:

EXPIRATION DATE:

FACILITY DESCRIPTION:

The facility located at , in the city of , in the township of , in the county of , Michigan, as identified in Attachment A (site map), and operates as the following type of Materials Utilization Facility (check all that apply):

- ☐ A materials recovery facility.
- ☐ A large class 1 composting facility.
- ☐ A class 2 composting facility.
- ☐ An anaerobic digester.
- ☐ An innovative technology facility.

_____

Rhonda S. Oyer, Manager
Solid Waste Section
Materials Management Division

PART 2. OPERATIONAL REQUIREMENTS

This Permit includes the Permit application and any attachments to this Permit. The permittee shall comply with all terms of this Permit and the provisions of Part 115, including, but not limited to, the following:

A. REQUIREMENTS APPLICABLE TO ALL MATERIALS UTILIZATION FACILITIES

The following requirements are applicable to all facilities authorized by this General Permit.

1. Operate the facility in a manner that does not create a nuisance or a hazard to the environment, natural resources, or the public health, safety, or welfare and shall keep the facility clean and free of litter (MCL 324.11568(1)(a)).

2. Comply with NREPA, including Part 31, ~~(~~Water Resources Protection~~)~~ and Part 55, ~~(~~Air Pollution Control~~)~~, and not cause contamination in soil or groundwater at concentrations above Michigan's cleanup criteria so as to create a facility, as defined in ~~section~~ Section 20101, Part 201, Environmental Remediation of the NREPA (MCL 324.11568(1)(b)).

3. Record and report information on materials managed during the fiscal year to EGLE each year by November 15th (MCL324.11560 and 324.11568(1)(c)).

4. The facility shall be operated by personnel who are knowledgeable about the safe management of the types of material that are accepted and utilized (MCL 324.11568(1)(e)).

5. Limit access to the facility to a time when a responsible individual is on duty (MCL 324.11568(1)(f)).

6. Do not store material overnight at the facility except in a secure location and with adequate containment to prevent any release of material (MCL 324.11568(1)(g)).

7. Material shall be transported from the facility for use in production of ultimate end use products or disposal within 1 year after material is collected by the facility (MCL 324.11568(1)(h)). Except at composting facilities per C.1. and C.9. below.

8. Protect material, as appropriate for the type of material, from weather, fire, physical damage, and vandalism (MCL 324.11568(1)(i)).

9. Operations shall not attract or harbor rodents or other vectors (MCL 324.11568(1)(j)).

10. If salvaging is permitted, remove salvaged material from the site at the end of each business day or confine to a storage area that is identified on the site map or otherwise approved by the department (MCL 324.11568(1)(k)).

11. Provide handling and processing equipment that is of adequate size, quantity, and operating condition to ensure proper management of the facility. If the handling or processing equipment is inoperable for more than 72 hours, an alternative method that is approved by the department shall be used to manage the material (MCL 324.11568(1)(l)).

12. Do not burn solid waste at the facility (MCL 324.11568(1)(m)).

B. MATERIAL RECOVERY FACILITIES

In addition to the operational requirements in Section A above, the following requirements are applicable to Materials Recovery Facilities:

The weight of solid waste residuals must be less than 15 percent of the total weight of material received unless the facility is making reasonable effort and has an education program to reduce the amount of solid waste received (MCL 324.11568(1)(d)). Material disposed as a result of recycling market fluctuations is not included in the 15~~%~~ percent calculation.

C. COMPOST FACILITIES

In addition to the operational requirements in Section A above, the following requirements are applicable to Compost Facilities:

1. Maintain and make available records to demonstrate that the site does not accumulate compostable materials over 3 state fiscal years unless the site has the capacity to compost the material and can demonstrate, beginning with the third full state fiscal year after commencement of operation and each state fiscal year thereafter, unless a longer time is approved by the department, that the amount of compostable material and compost that is transferred off-site in a state fiscal year is not less than 75 percent by weight or volume, accounting for natural volume reduction, of the amount of compostable material and compost that was on-site at the beginning of the state fiscal year (MCL 324.11555(4)(a)(i)).

2. Finished compost has less than 1 percent, by weight, of foreign matter that will remain on a 4-millimeter screen (MCL 324.11555(4)(a)(ii)).

3. If yard waste is collected in bags other than paper bags or compostable bags meeting ASTM D6400 “Standard Specification for Compostable Plastics,” by ASTM International, a composting facility shall debag yard waste by the end of each business day (MCL 324.11555(4)(a)(iii)).

4. Prevent the pooling of water by maintaining proper slopes and grades (MCL 324.11555(4)(a)(iv)).

5. Maintain records identifying the volume of compostable material accepted by the facility each month, the volume of compostable material and of compost transferred off-site each month, and the volume of compostable material on-site on October 1st each year (MCL 324.11555(4)(b)(i)).

6. Maintain records demonstrating that the composting is performed in a manner that prevents nuisances and minimizes anaerobic conditions. Unless otherwise provided by the department, these records shall include carbon-to-nitrogen ratios, the amount of leaves and the amount of grass in tons or cubic yards, temperature readings, moisture content readings, and lab analysis of finished compost products (MCL 324.11555(4)(b)(ii)).

7. If in existence before March 29, 2023, do not expand the management or storage of compostable materials, finished compost, or residuals into a wetland or floodplain; or within 100 feet from a property line; 300 feet from a residence; 200 feet from a surface water body, including a lake, stream, or wetland; 2,000 feet from a Type I or Type IIa water supply well; 800 feet from a Type IIb or Type III water supply well; 4 feet above groundwater; or 500 feet from a church or other house of worship, a hospital, a nursing home, a licensed day care center, or a school, other than a home school (MCL 324.11557(1)).

8. If operations begin after March 29, 2023, do not manage or store compostable material, finished compost, or residuals in a wetland or floodplain, or within 100 feet from a property line; 300 feet from a residence; 200 feet from a surface water body, including a lake, stream, or wetland; 2,000 feet from a Type I or Type IIa water supply well; 800 feet from a Type IIb or Type III water supply well; 4 feet above groundwater; or 500 feet from a church or other house of worship, a hospital, a nursing home, a licensed day care center, or a school, other than a home school (MCL 324.11557(2)).

9. Maintain and make available to the department records to demonstrate that compostable material is not stored in a manner constituting speculative accumulation (MCL 324.11558(2)(b)).

10. Unless approved by the department, limit volume to less than 5,000 cubic yards of compostable material, finished compost, compost additives, or screening rejects or any combination thereof on any acre; or less than 10,000 cubic yards of compostable material on any acre if the site is using forced air static pile composting (MCL 324.11558(2)(d)).

11. Class 2 compostable material shall be separated out from other solid waste and maintained separately until used to produce compost, unless otherwise authorized by the department (MCL 324.11558(3)).

12. By November 15th of each year, report the following information for the previous fiscal year using the department's online reporting platform or department approved alternative (MCL 324.11560):

    a. Amount of compostable material brought to the site, by county of origin.
    b. Amount of finished compost removed from the site.

c. Amount of unfinished compostable material removed from the site.
d. Volume of residuals removed from the site.
e. Total amount of compostable material, compost, and residuals on-site at the end of the fiscal year.

13. A facility shall not compost solid waste unless the person obtained approval from the department (MCL 324.11561(2)).

14. Class 1 composting facilities that produce over 2,000 cubic yards of finished compost per year and all Class 2 composting facilities shall test their finished compost in compliance with the US Composting Council's Seal of Testing Assurance for the following parameters (MCL 324.11564(1)(a)):

a. pH.
b. Carbon-to-nitrogen ratio.
c. Soluble salts.
d. Total available nitrogen.
e. Phosphorus reported as P2O5.
f. Potassium reported as K2O.
g. Calcium.
h. Magnesium.
i. Chloride.
j. Sulfate.
k. Arsenic.
l. Cadmium.
m. Copper.
n. Lead.
o. Mercury.
p. Molybdenum.
q. Nickel.
r. Selenium.
s. Zinc.
t. Pathogens.
u. Fecal coliforms.
v. Salmonella.
w. Percent organic matter.
x. Percent foreign matter.

If applicable, Class 2 composting facilities shall also test for the following site-specific parameters (MCL 324.11564(1)(b)):

15. Class 1 composting facilities that produce less than 2,000 cubic yards of finished compost per year shall test at least 1 sample of finished compost per year for the parameters listed in paragraph 14 above, unless an alternate procedure is approved and listed here (MCL 324.11564(2)).

PART 3. APPLICATION AND APPROVED PLANS

The required documents, approved plans, and site map are incorporated into and are enforceable requirements of this Permit.

Issuance of this Permit is conditioned on the accuracy of the information submitted by the Applicant in the Application. Any material or intentional inaccuracies found in that information is grounds for the revocation or modification of this Permit and may be grounds for enforcement action. The permittee shall inform EGLE's MMD District Name, District Supervisor, of any inaccuracies in the information in the Application upon discovery.

This Permit is issued based on EGLE's review of the Application, submitted by , for the site named , dated , and the EGLE site inspection conducted dated . The Application consists of the following:

a. Application Form(s).
b. Application fee.
c. Site Plan/Site Map dated .
d. Operations Plan dated .
e. Facility Closure Plan dated .
f. Odor Management Plan dated (Compost facilities) .
g. Training Plan dated (Compost facilities) .
h. Fire Prevention Plan dated (Compost facilities) .
i. Materials Management Plan Consistency Documentation:

- ☐ The site is consistent with the Materials Management Plan for the planning area, adopted on .
- ☐ Documentation proving consistency with the MMP is provided with this Permit.
- ☐ An MMP has not yet been adopted, and in the interim, the county approval agency and the legislative body of the municipality in which the facility is or is proposed to be located have each notified the department in writing that they approve the siting.

j. Financial Assurance.

Materials recovery facilities, anaerobic digesters, and composting facilities must provide financial assurance in the amount of $20,000. Innovative technology facilities must submit to the department for approval, a detailed written estimate, in current dollars, of the cost for a third party to close the facility and provide financial assurance in that amount (MCL 324.11513(a)).

The Facility has provided financial assurance totaling $, based on the requirements of Section 11523 of Part 115. The financial assurance mechanisms used by the Facility are summarized below. If multiple activities subject to general permit requirements are located on one contiguous site, financial assurance shall be provided for each activity.

Surety Bond	$
Letter of Credit	$
Other	$
Total Amount Received:	$

Part 4. GENERAL CONDITIONS RIGHT of ENTRY

Under the authority of MCL 324.11515, 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 any information or records that are required to be maintained pursuant to Part 115 or an order issued under Part 115.
c. Inspect any facility, equipment, including monitoring and pollution control equipment, practices, or operations regulated or required under Part 115, or an order issued under Part 115.
d. Sample, test, or monitor substances or parameters for the purpose of determining compliance with Part 115 or an order issued under Part 115.

CHANGE in OWNERSHIP or CONTROL

The owner/operator shall notify the department, in writing, at least 30 days in advance of a change in ownership or control of the facility to ensure continued permit authorization and financial assurance.

TERM, RENEWAL, and REVOCATION

This General Permit shall remain in effect until its expiration date, unless revoked, superseded by a subsequent authorization, or continued in effect, as provided by the Administrative Procedures Act, 1969 PA 306, as amended. To continue in effect, a complete application for renewal of a general permit must be received by the department not later than 90 days before the expiration date of this permit.

This Permit is subject to revocation procedures by the Michigan Department of Environment, Great Lakes, and Energy, if the department finds that this Facility is not being operated in accordance with the approved plans, the conditions of this Permit, Part 115, or the administrative rules

promulgated thereunder. The provisions of this Permit are severable. After notice and opportunity for a hearing, as provided by MCL 24.292, and followed by a contested case hearing, as provided in MCL 324.11519(2)(b), this Permit may be restricted, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules. In accordance with MCL 324.11519(2)(c), the department may issue an order summarily suspending this General Permit if the department finds that a violation constitutes an emergency or poses an imminent risk of injury to the environment, natural resources, or the public health, safety, or welfare. Failure to comply with the terms and provisions of this Permit may result in legal action leading to civil and/or criminal penalties pursuant to Part 115. This Permit does not obviate the need to obtain other authorizations as may be required by local, state, or federal law.

FACILITY CLOSURE and PERMIT TERMINATION

In the event of facility closure, the owner/operator shall submit notice to the department and written confirmation that the Facility Closure Plan has been implemented. After the department confirms that all regulated materials have been removed and the facility closure plan has been properly implemented from the site, the permittee may request that this permit be terminated, and financial assurances released.

END OF PERMIT

If you need this information in an alternate format, contact EGLE-Accessibility@Michigan.gov or call 800-662-9278.

EGLE does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in the administration of any of its programs or activities, and prohibits intimidation and retaliation, as required by applicable laws and regulations. Questions or concerns should be directed to the Nondiscrimination Compliance Coordinator at EGLE-NondiscriminationCC@Michigan.gov or 517-249-0906.

This form and its contents are subject to the Freedom of Information Act and may be released to the public.

ATTACHMENT A
Completed Application Forms