MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

A Guide to Developing a Siting Process

Materials Management Planning Guidance

Each county is required to include a siting process in its Materials Management Plan (MMP). This is the process that counties will use to decide whether a proposed facility or expansion at a facility is allowed to be developed. This guide further explains the statutory requirements and provides examples.

See: MCL Section 324.11578(1)(r), 324.11578(3), 324.11579, 324.11585 for specific statutory language.

No new facility can be developed unless it is consistent with the county's MMP [11508(1)(c)].

Materials management facilities [11503(24)] include:

- Solid waste disposal areas: landfills, incinerators, and solid waste processing and transfer facilities.
- Materials utilization facilities [11503(31)]: materials recovery facilities, compost facilities, anaerobic digesters, and innovative technology facilities.
- Waste diversion facilities.

Consistency is determined through the MMP's siting process.

Materials Management Plans (MMPs) require each planning area to:

- Include a copy of any ordinance, law, rule, or regulation of a municipality, county, or governmental authority within the planning area that applies to the siting process. [11578(1)(r)]
- Include a siting process with a set of minimum criteria [11579(3)(a)].

A Siting Process

- Does not require the development of a materials utilization facility if demonstrated to the Department that the planning area has available capacity, sufficient to manage the materials identified in the MMP [11579(2)].

- Can not include siting criteria that are more restrictive than state law if a materials utilization facility could not be developed anywhere in the planning area under those criteria.
- May include facilities determined to automatically be consistent with the MMP.
- Must identify the specific types of facilities that can trigger the siting process [11585(3)(a)].
- Has distinct pathways depending on the type and authorization level of the facility. (See the pathways below)

Consistency Notifications:

- The entity designated by the MMP will notify the owner/operator of the materials management facility of its consistency determination [11585(3)].
- For a materials management facility that requires a registration, general permit, or a construction permit and operating license the Department will conduct an independent evaluation as part of the review process [11585(5)].
    - The application for a permit for a materials management facility must include documentation of the facility's consistency with the MMP.

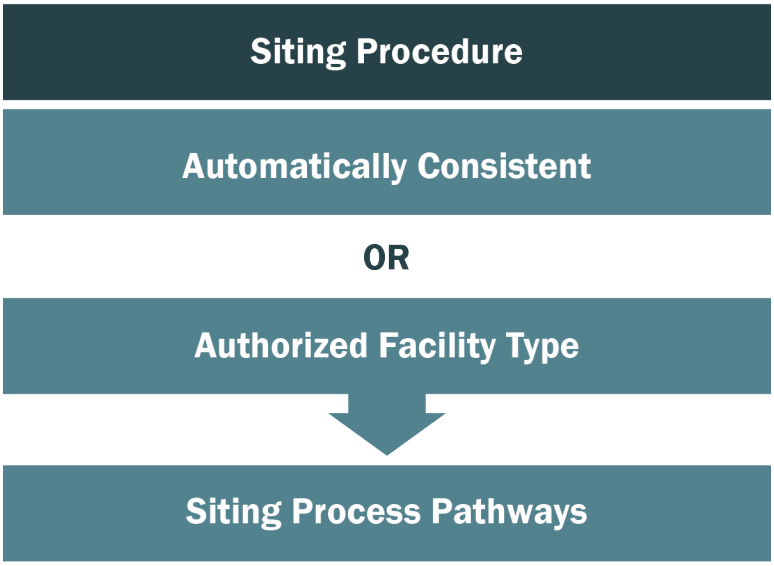
Each MMP will have a Siting Process to develop materials management facilities in your area.

A proposed facility is consistent with the MMP if one of the following is true:

1. The specific facility or facility type is identified in the MMP as being automatically consistent.
2. A proposed facility allowed per Section 11585(1) provided documentation to the Department and the **designated entity in the MMP** that the facility meets local zoning and the zoning ordinance was included in the MMP.
3. The facility that was authorized to follow and met the siting process and criteria established in the MMP.

Siting Exemptions:

1. Per Section 11579(2), a materials utilization facility need not be sited if the CAA or DPA demonstrates to the Department that sufficient available capacity exists to manage materials the proposed facility would handle.
2. Per 11585(6), a landfill other than a captive type III landfill, is not required to be sited if there is **66 months** of available solid waste **disposal capacity**.



Representation of the initial steps of the Siting Process

Methods to Demonstrate Consistency

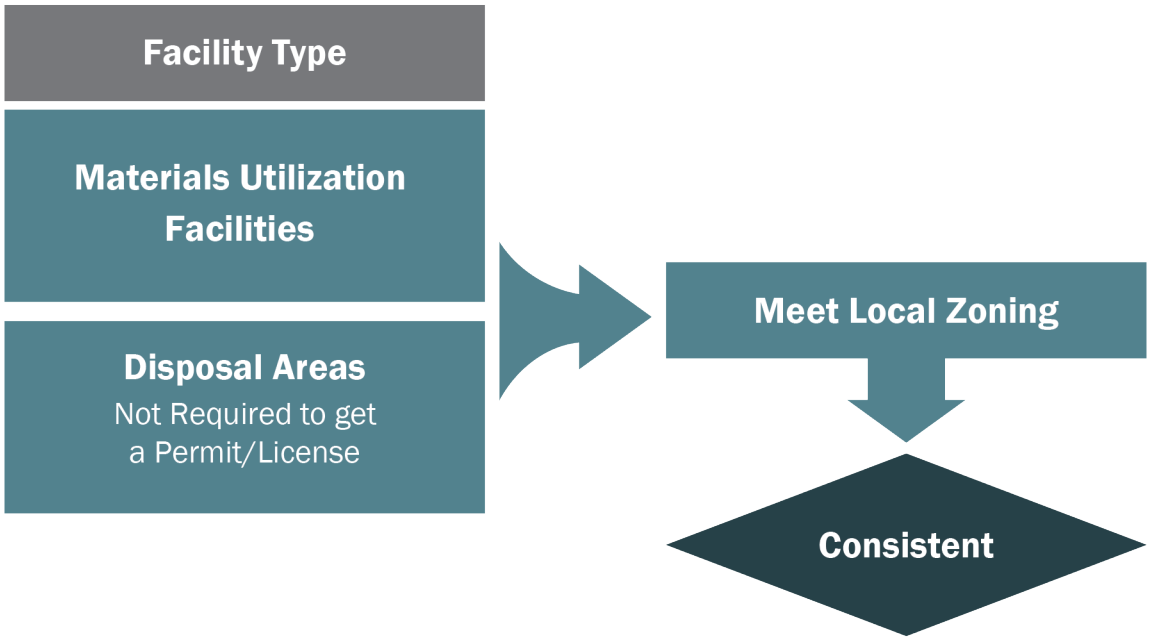
Depending on the facility type, there are different methods a facility can follow to demonstrate consistency. These methods are described as follows:

1. Consistency Determination for Materials Utilization Facility or Disposal Areas not required to receive a permit/license

A Disposal Area that does not require a license or permit and Materials Utilization Facilities can be determined consistent if the proposed facility complies with local zoning ordinance[s] included in the MMP and provides supporting documentation to the entity identified in the MMP as part of their authorization program review and application.

Noting that 11583 requires that any ordinance, law, rule, regulation, policy, or practice of a municipality, county, or governmental authority created by statute that is **included in the MMP** is not enforceable if any of the following apply:

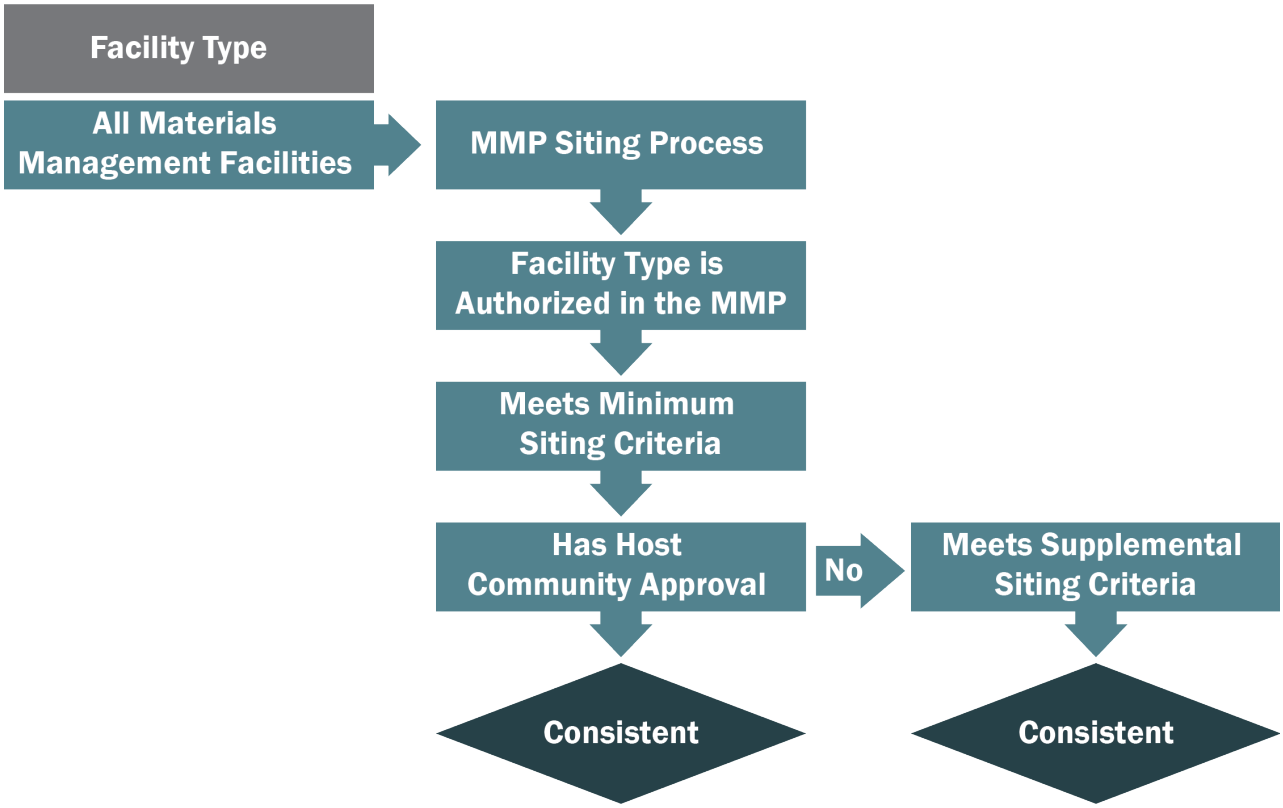
- It conflicts with part 115.
- It prohibits or regulates the location or development of a materials management facility and is ***not part*** of or not consistent with the materials management plan for the county.
- It violates Section 207 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3207, with respect to a materials management facility.



2. Consistency Determination for all Materials Management Facilities

If a materials management facility is NOT automatically consistent with the MMP, the facility may be considered consistent by the designated entity in the MMP if the facility meets all the following requirements:

- The MMP authorizes the specific type of materials management facility to be sited by following the siting process and meeting the minimum siting criteria included in the MMP or the facility is a captive type III landfill and both of the following apply [11579(1) & 11579(3)(a)]:
  - The landfill accepts waste generated only by the owner or operator of the landfill.
  - The landfill met local land use requirements when initially sited.
- The materials management facility follows the siting process and meets minimum siting criteria in the MMP.
- The materials management facility meets either of the following requirements[11579(3)(b)]:
  - Has host community approval.
  - Meets any supplemental siting criteria in the MMP for materials management facilities that do not have host community approval.



Siting Process Examples:

Describe the process a materials management facility would follow to demonstrate consistency:

- Proposals for all new materials management facilities must be found consistent with the criteria contained in the following section before a determination of consistency may be met.
- To initiate the review under this Plan, the facility developer shall submit a PDF copy of the proposal to the following email: example@email.com.
- Upon receipt of the proposed facility's application the designated planning agency shall have 30 days to review.
- *Add additional process items as needed.*

Minimum Siting Criteria:

The authorized facility types must meet the following minimum criteria:

- Located in an area not zoned x area. [ex: residential]
- A facility shall not be located in a designated historic or archaeological area defined by the state historical preservation officer.
- *Add additional appropriate criteria as needed.*

Host Community Approval and Supplemental Criteria:

If the minimum siting criteria has been met, the facility must either obtain Host Community Approval and/or meet the following supplemental criteria listed:

- Identify what qualifies for host community approval (ex: resolution, letter of agreement).
- Examples of supplemental criteria:
    1. A facility may only be located in x more specific zoned areas (ex: agricultural, industrial, commercial).
    2. A facility may not be closer than X feet of property lines unless the facility provides a signed statement that it shall ensure at least a X foot screening via fence or natural screening to be completed prior to the facility being in operation.
    3. *Add additional appropriate criteria as needed.*

See the attached Example Siting Process.

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Example Siting Process

There are three distinct pathways for siting new materials management facilities and determining consistency with the Plan, subject to capacity exemptions.

Per Section 11579(2), a materials utilization facility need not be sited if the CAA or DPA demonstrates to the department that the planning area has available capacity sufficient to address the managed materials identified by the Plan as being generated in the planning area and be aligned with the Plan's materials management goals.

Per 11585(6), a landfill other than a captive type III landfill, need not be sited if 66 months of available solid waste disposal capacity.

Capacity Exempted Facilities

The following specific facility type is not required to be sited based on the demonstration of sufficient capacity to manage X type of material.

- X Facility type
    - Calculation of capacity need and available capacity
    - Acknowledgement from appropriate facilities is included in the appendix

Pathway A: Automatically Consistent

The following specific facilities and facility types are automatically consistent with the Plan:

- X Name Facility located at Y is deemed automatically consistent as X type of facility

Pathway B: Local Zoning

This pathway applies to proposed Disposal Areas that do not require a license or permit and Materials Utilization Facilities. To ensure consistency with the Materials Management Plan (MMP), the relevant local ordinance must be included in the MMP, the proposed facility must comply with that ordinance, and the local zoning entity must provide documentation confirming the facility's compliance with the ordinance requirements.

Authorized Facility Types

The following facility types are authorized specifically by the applicable zoning ordinance(s) found in the MMP appendix.

- Facility Type 1 in Township X per zoning ordinance A
- Facility Type 2 in Township Y per zoning ordinance B

Pathway C: Siting Criteria

The following process describes the criteria and procedures to be used to site facilities and determine consistency with this Plan. The siting process shall not include siting criteria that are more restrictive than state law if a materials utilization facility could not be developed anywhere in the planning area under those criteria. Siting criteria should be objective and measurable. The siting process and criteria may differ by facility type and/or county, if applicable.

Authorized Facility Types

The following facility types are authorized to be sited by this Plan by following the process and meeting the criteria specified below:

- Facility Type 1
- Facility Type 2

Siting Process

Describe the process a materials management facility would follow to demonstrate consistency:

- Add process

Minimum Siting Criteria

The authorized facility types must meet the following minimum criteria:

- Criteria 1:
- Criteria 2:
- Criteria 3:

Host Community Approval and Supplemental Criteria

If the minimum criteria above have been met, the facility must either obtain Host Community Approval or meet the supplemental criteria listed below:

- Criteria 1:
- Criteria 2:
- Criteria 3: