



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




GRETCHEN WHITMER
 GOVERNOR

LIESL EICHLER CLARK
 DIRECTOR

VIA E-MAIL

TO: Governor Gretchen Whitmer
 Members of the Michigan Legislature

FROM: Liesl Eichler Clark, Director 

DATE: April 6, 2021

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

In accordance with Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, attached is the Department of Environment, Great Lakes, and Energy's (EGLE) Report on Activities Funded by the Staff Account of the Solid Waste Management Fund for fiscal year 2020.

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

Attachment

- cc/att: Chris Harkins, Director, Senate Fiscal Agency
 Mary Ann Cleary, Director, House Fiscal Agency
 David Massaron, Director, State Budget Office
 JoAnne Huls, Chief of Staff, Governor's Office
 George W. Cook, III, Legislative Affairs Director, Governor's Office
 Ben Dawson, Senate Fiscal Agency
 Austin Scott, House Fiscal Agency
 Jacques McNeely, State Budget Office
 Rachel Eldridge, State Budget Office
 Aaron B. Keatley, Chief Deputy Director, EGLE
 Amy Epkey, Senior Deputy Director, EGLE
 Travis Boeskool, Legislative Liaison, EGLE
 Paul McDonald, EGLE
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MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Legislative Report

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

Report Period:

October 1, 2019 – September 30, 2020

Authority:

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

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

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

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

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

Solid waste activities carried out by the Department of Environment, Great Lakes, and Energy (EGLE), Materials Management Division (MMD), in fiscal year (FY) 2020 were conducted by 40 FTEs. These positions included: permitting, licensing, compliance, and enforcement staff, such as geologists, engineers, and environmental quality analysts; district supervisors; and MMD management and administrative support staff.

(b) Construction Permit Application Decisions:

One construction permit application was pending at the beginning of FY 2020.

- (1) During FY 2020, three applications for permits to establish or expand solid waste disposal facilities were received.
- (2) A total of three applications were determined to be administratively complete. There were no applications determined to be administratively incomplete. Also, two applications were approved, and zero applicants voluntarily withdrew their application. There were zero applications denied. At the end of FY 2020, there were two applications pending a decision.
- (3) Of the applications that were determined to be administratively complete, 67 percent were decided upon within 120 days of being determined to be administratively complete, as required by Section 11511 of Part 115.¹ One applicant requested and was granted an extension to the 120-day processing period.

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

CONSTRUCTION PERMIT APPLICATIONS	
Pending Applications as of October 1, 2019	1
Number of New Applications Received	3
Number of Applications Administratively Incomplete	0
Number of Applications Withdrawn	1
Number of Permits Issued	2
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2020	2
Percent of Decisions Made on Time	100%

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

At the beginning of FY 2020, 15 operating license applications were pending a decision.

- (1) During FY 2020, 51 applications for new or renewal licenses to operate solid waste disposal facilities were received.
- (2) A total of 51 applications were determined to be administratively complete. There were two applications determined to be administratively incomplete; however, they were resubmitted as complete during FY 2020. A total of 49 applications were approved, three applicants withdrew their applications, and zero license applications were denied. At the end of FY 2020, there were 15 applications pending a decision.
- (3) Of the license applications that were determined to be administratively complete in FY 2020, 100 percent were decided upon within 90 days of being determined to be administratively complete, as required by Section 11516 of Part 115.²

OPERATING LICENSE APPLICATIONS	
Pending Applications as of October 1, 2019	15
Number of New Applications Received	51
Number of Applications Administratively Incomplete	0
Number of Applications Withdrawn	3
Number of Licenses Issued	49
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2020	15
Percent of Decisions Made on Time	100%

² The processing deadline is specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that EGLE approve or deny an application for an operating license under Section 11512 by the 90-day processing deadline, unless a deadline extension is requested by the applicant.

(d) Number of Inspections of Licensed Disposal Areas as Required by Section 11519 of Part 115:

During FY 2020, 435 inspections of licensed disposal areas were conducted.³

(e) Number of Violation Notices (VNs)⁴ Sent to Licensed Disposal Areas:

During FY 2020, 32 VNs were sent to licensed disposal areas.⁵

(f) Number of Contested Case Hearings Initiated in FY 2020: Zero.

Number of Contested Case Hearings Completed in FY 2020: Zero.

Number of Civil Actions Initiated in FY 2020: Zero.

Number of Civil Actions Completed in FY 2020: Zero.

Number of Voluntary Consent Orders and Administrative Orders Entered or Issued in FY 2020: Five.

Amount of Fines and Penalties Collected in FY 2020 Through Such Actions or Orders: \$123,825.

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

- (1) Republic Services of Michigan I, LLC (Republic) – Carleton Farms Landfill; 28800 Clark Road, Sumpter Township, Wayne County, Michigan:

On January 14, 2020, the MMD entered into an Administrative Consent Order (MMD Order No. 115-01-2020) with Republic for the Carleton Farms Landfill. The enforcement action resulted from insufficient leachate storage capacity, leachate releases, insufficient erosion control, and insufficient

³ A total of 805 compliance inspections were conducted in FY 2020. However, 435 are reported here because Subsection 11550(6)(d) only requires the number of inspections at licensed disposal areas. The remaining 370 inspections were conducted either at sites of illegal operations or at Type B solid waste transfer facilities that are authorized to operate by the statute but are not required to have an operating license.

⁴ VNs include written communications from EGLE that give notice of noncompliance with Part 115, such as Compliance Communications and Notices of Violation.

⁵ A total of 46 VNs were issued in FY 2020. However, 32 are reported here because Subsection 11550(6)(e) only requires the number of VNs sent to licensed disposal areas. The remaining 14 VNs were sent either to owners or to operators of disposal areas that are not required to have an operating license, or to owners or operators of sites determined to be illegal operations. A Type B solid waste transfer facility is an example of a solid waste disposal area that is not required to have a license to legally operate. Although these disposal areas are not licensed, they are inspected for compliance with the operational requirements of Part 115 and the administrative rules promulgated pursuant to Part 115 (Part 115 Rules). The number of VNs sent in FY 2020 may encompass some inspections made in the last quarter of FY 2019.

maintenance and management of the leachate collection system. Republic paid a penalty of \$91,520.

- (2) Kent County Department of Public Works (Kent County DPW) – Waste-to-Energy Facility Transfer Station; 950 Market Avenue SW, Grand Rapids, Kent County, Michigan:

On February 26, 2020, the MMD entered into a Fast-Track Consent Order (MMD Order No. FTO-115-02-2020) with Kent County DPW. The enforcement action resulted from Kent County DPW's failure to apply for renewal of the operating license prior to expiration of the existing license. Kent County DPW paid a penalty of \$10,500.

- (3) Pitsch Recycling and Disposal, Inc. (Pitsch) – Pitsch Sanitary Landfill; 7905 Johnson Road, Belding, Ionia County, Michigan:

On March 5, 2020, the MMD entered into a Fast-Track Consent Order (MMD Order No. FTO-115-03-2020) with Pitsch. The enforcement action resulted from Pitsch's failure to apply for renewal of the operating license prior to expiration of the existing license, failure to comply with the solid waste management plan, failure to provide updated financial assurance reporting and adjustments, the need to rehabilitate or abandon deficient groundwater monitoring wells, and the need to incorporate additional groundwater sampling and analysis. Pitsch paid a penalty of \$14,305.

- (4) Michigan Disposal, Inc. (dba Michigan Disposal Waste Treatment Plant [MDI]); 49350 North I-94 Service Drive, Belleville, Wayne County, Michigan 48111:

On March 13, 2020, the MMD entered into a Fast-Track Consent Order (MMD Order No. FTO-115-04-2020) with MDI. The enforcement action resulted from MDI's failure to apply for renewal of the operating license prior to expiration of the existing license. MDI paid a penalty of \$7,500.

- (5) EQ Detroit, Inc. (dba US Ecology – Detroit South [US Ecology]); 1923 Frederick Street, Detroit, Wayne County, Michigan:

On September 11, 2020, the MMD entered an Administrative Consent Order (MMD Order No. 115-05-2020) with US Ecology to create a compliance program and a schedule to achieve and maintain compliance with the nuisance odor provisions of the Part 115 Rules (R 299.4509(9)). The MMD did not issue an up-front penalty, due to the violation of the rule having been discovered during the operating license consistency review, and it was not formally cited until entry of the Consent Order. However, US Ecology will be subject to stipulated penalties for non-compliance with the Consent Order and/or plans required by the Consent Order.

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

During FY 2020, EGLE received 101 solid waste complaints, 70 of which were investigated via inspections. The remaining 31 complaints were resolved by the following: contacting the parties involved; referral to other EGLE divisions, offices, or other agencies; or are still under investigation.

(i) Amount of Revenue Remaining in the Staff Account at the End of FY 2020:

The amount of revenue in the Solid Waste Management Fund Staff Account at the end of FY 2020 was \$5,373,367. In 2020, \$2 million was transferred from the Staff Account of the Solid Waste Management Fund to the General Fund, per Section 11550(5) of 2020 PA 201.