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April 5, 2023

VIA EMAIL
jgibbs@miottawa.org

Mr. John Gibbs
County Administrator
Ottawa County
12220 Fillmore Street, Room 310
West Olive, MI 49460

Re: Ottawa County Solid Waste Management Plan Amendment and County Agreement with Ottawa Farms

Dear Mr. Gibbs:

As you are aware, Ottawa Farms has opposed draft amendments to the Ottawa County Solid Waste Management Plan (Plan). We believe the amendments contain legally unenforceable provisions and are premature, given recent amendments to Part 115 of the Michigan Natural Resources and Environmental Protection Act (Part 115).

Specifically, Ottawa Farms objected to the new section III.16.4.8, which would require landfills to accept "non-biosolid" wastes generated within the County that they are licensed to receive if other landfills designated in the County's export authorization will not accept such waste so long as the receipt of such wastes "will not compromise the safe operation of the landfill". As EGLE indicated in its March 13, 2023 letter to Kimberly Wolters, "Part 115 does not authorize local governments to require private businesses to accept wastes." EGLE also indicated that the plan amendment would not be approved with this provision and that it should be deleted. Further, with respect to biosolids, the proposed Plan amendment basically leaves it up to the Planning Committee to ultimately determine whether a landfill should be forced to accept the County's biosolids if the landfill does not voluntarily accept the biosolids. This too, EGLE indicated would not be allowed under Part 115. EGLE made it clear that any attempt to force a landfill to accept wastes would be inconsistent with Part 115 and would not be approved in a Plan amendment.

With respect to the proposed Materials Fee, Ottawa Farms is not opposed to discussing the County's needs for increased funds to deal with specified and appropriate solid waste planning needs, but pointed out that the parties already had an agreement that provided for a waste surcharge fee and that the County should not have unilaterally ignored that agreement.

Finally, as EGLE pointed out in its letter to Kimberly Wolters, given the recent amendments to Part 115, the County may want to reconsider amending their Solid Waste Management Plan at this time, as the plan will need to be further amended in the near future to meet the new Part 115 requirements.

Having said all that, Ottawa Farms proposes that the County not move forward with the proposed Plan amendments and instead, amend the existing agreement between the County and Ottawa Farms to increase the annual volume cap for the Ottawa Farms Landfill to 1,500,000 tons, similar to the proposed plan amendment. Ottawa Farms is also willing to negotiate a reasonable increase in the solid waste surcharge to cover the County's needs. This will give the County the time to fully evaluate its solid waste planning requirements and development of a Materials Management Plan as provided in the Part 155 amendments and still fund current needs in its solid waste program.

We look forward to having further discussions with the County regarding our proposal.

Very truly yours,

Butzel Long

Susan L. Johnson

SLJ:kpv

AGREEMENT

THIS AGREEMENT dated September 25, 1990, and effective as of September 1, 1990, is made between LAIDLAW WASTE SYSTEMS, INC., (Laidlaw) the COUNTY OF OTTAWA, a Michigan municipal corporation (County), and the TOWNSHIP OF POLKTON, a Michigan municipal corporation (Township).

Background

A. The County is in the process of preparing an Update to the Solid Waste Management Plan (the Plan Update) pursuant to Act 641 of the Public Acts of 1978.

B. By letters dated January 3, 1990 and January 9, 1990, Laidlaw has set forth its position on two matters contained in the proposed Plan Update, the tipping fee surcharge and the restrictions contained in the Plan Update regarding importation of out of county waste into landfills located in the County. In these letters, Laidlaw has set forth its position that the tipping fee surcharge contained in the 1983 Solid Waste Management Plan, and in the proposed Plan Update, is not authorized by law and that Laidlaw is entitled to a refund of all amounts paid. Laidlaw has further stated its position that restrictions on the importation of solid waste into the County, contained in the Plan Update, are not authorized or required by law.

C. The County, Township and Laidlaw wish to settle the differences they may have with respect to the payment and refund of the tipping fee surcharge and with respect to restrictions on importation of out of county solid waste into landfills located in the County without the necessity of litigation. This Agreement is therefore entered into by the parties to settle those differences.

permitting the import of solid waste for disposal in the County. Beginning January 1, 1991, for the five year period ending December 31, 1995, Laidlaw agrees that it will not accept for disposal in the OCF Landfill more than 3,500,000 tons of solid waste, except if permitted to do so pursuant to subparagraph (b) below. The 3,500,000 ton total is a cap on the amount of solid waste which can be disposed of in the OCF Landfill during this five year period, and shall not be deemed to be a guarantee by the County or the Township of the amount of waste which will actually be available for disposal at the OCF Landfill. Laidlaw further agrees to abide by the limitations on tonnage from each county named in the Plan Update for disposal of commercial, residential and Industrial waste, as those terms are defined in Appendix A attached hereto and made a part hereof. Laidlaw will provide to the County on a semi-annual basis a report detailing the amount of waste accepted in the OCF Landfill from each county during the preceding six month period. Solid waste which Is recycled or composted and which Is not disposed of in the OCF Landfill is not included in the above-referenced 3,500,000 ton figure or In the limitations on tonnage from each county named in the Plan Update.

b. If Laidlaw wishes to dispose of solid wastes in the CF landfill in excess of the tonnage limits as provided in subparagraph (a) above, if Laidlaw wishes to import into the OCF landfill wastes from counties other than from the four counties identified in the Plan Update, Laidlaw shall present its proposal for the disposal of such county or counties' solid waste to the Solid Waste Planning Committee (Committee) (or a sub-committee appointed by the Committee). The committee or a sub-committee appointed thereby shall have authority to approve or deny Laidlaw's request pursuant to this subparagraph, in accordance with the procedures and standards set forth in Section V. of the 1989 Plan Update.

c. Laidlaw represents and agrees that the OCF Landfill shall provide disposal capacity for solid waste generated in Ottawa County until the year 2002 In the currently permitted OCF landfill space. Although Laidlaw believes that the OCF Landfill has the capacity to accept annually more than 850,000 tons of solid waste for 12 consecutive years, the parties acknowledge that this representation is made on the basis of, and assumes,

a restriction on the ability of the County to take legislative action with respect to importation of solid waste into the County to be disposed of at the OCF Landfill after December 31, 1995, provided that as an element of the negotiations described in Article 6, the County and Laidlaw shall act in good faith and the County shall attempt to accomodate Laidlaw's acknowledged concerns as a private landfill operator for obtaining a sufficient waste stream at the OCF landfill and shall consider the remaining disposal capacity for the life of the facility.

Article 3. USE OF SURCHARGE FUNDS

Surcharge funds paid by Laidlaw pursuant to this Agreement, and interest earned thereon, excluding, however, monies transferred to the Township, shall be kept by the County in a segregated account. The County will provide Laidlaw, on an annual basis, an accounting showing generally how funds in the account have been used. No funds paid by Laidlaw pursuant to this Agreement, or interest thereon, shall be used by the County to initiate, or to prosecute litigation which the County has initiated or voluntarily joined as a plaintiff or cross complainant, against Laidlaw relating to landfill regulation. In the event that such funds are used for such purpose, Laidlaw will be entitled to return of all funds so used by the County.

Article 4. RECYCLING PROGRAM

Laidlaw agrees to establish a recycling and/or composting program at the OCF Landfill. Within 12 months from the date of this Agreement, Laidlaw will spend at least $200,000 to establish such a program. Laidlaw will provide to the County and the Township a report showing generally how the funds have been used for this purpose.

Article 5. LIMITS ON DISPOSAL OF WASTE AT OCF LANDFILL, OUT OF COUNTY AND OUT OF STATE WASTE

a. OCF shall be used for disposal of waste from Ottawa County and those other counties identified in Section V.D.1.(b) of the Plan Update or counties with which the County develops agreements in the future

Article 2. WAIVER OF RIGHT TO SEEK REPAYMENT OF SURCHARGE OR TO CHALLENGE LEGALITY OF SURCHARGE

Laidlaw agrees to waive any claim against the County or the Township for return of any amounts paid by Laidlaw before the date hereof or the prior owner of the OCF landfill as a surcharge under the 1983 Plan, and Laidlaw releases the County and the Township from liability for repayment of said amounts. Laidlaw further agrees to pay the 3% surcharge hereunder in accordance with the terms of this Agreement and not to challenge the legality or the constitutionality of the surcharge to be paid as a contractual matter under this Agreement, regardless of whether such surcharges generally, or any surcharge imposed by the Plan Update specifically, may be challenged or may be declared illegal by a court of competent jurisdiction. The County and Township agree not to impose a higher surcharge on Laidlaw even if a higher surcharge is authorized in a future Plan Update or otherwise by law. In the event of legislative action by the County to (1) impose a higher surcharge, or (2) prior to December 31, 1995, directly restrict the rights of Laidlaw to import solid waste into the County or lower maximum tonnage levels to be disposed of at the OCF Landfill contrary to the terms of this Agreement, the obligations of Laidlaw to pay the 2% portion of the tipping fee retained by the County pursuant to this Agreement or any other surcharge or fee under the Plan Update for the benefit of the County shall thereupon be null and void and without further force or effect. In the event of legislative action by the Township to (1) impose a higher surcharge, or (2) prior to December 31, 1995, directly restrict the right of Laidlaw to import solid waste into the County or lower maximum tonnage levels to be disposed of at the OCF Landfill contrary to the terms of this Agreement, the obligations of Laidlaw to pay the 1% portion of the tipping fee to be transferred by the County to the Township pursuant to the terms of the Plan Update or any other surcharge or fee under the Plan Update to be transferred to the Township shall thereupon be null and void and without further force or effect. In the event of the occurrence of any legislative action as described above, Laidlaw's right to challenge the surcharge legally and demand return of amounts previously paid pursuant to this Agreement shall be reinstated as to either the County or the Township, as the case may be, which has taken such action. Nothing herein shall be deemed to constitute

Statement of Agreement

Laidlaw, the Township and the County agree as follows:

Article 1. SURCHARGE

a. Commencing with the October, 1990 payment covering the month of September, 1990, Laidlaw shall pay to the County a 3% surcharge on tipping fees charged on all solid waste disposed of in the Ottawa County Farms (OCF) landfill, which 3% includes the 1% tipping fee to be transferred by the County to the Township pursuant to the terms of the Plan Update. This payment constitutes payment of the surcharge imposed by the Plan Update. Upon payment by Laidlaw to the County of the 3% surcharge under this Agreement, the Township shall look solely to the County for receipt of the Township's share of the surcharge, provided, however, that if the Township shall impose its own surcharge pursuant to statute, or if Laidlaw negotiates a separate agreement with the Township regarding payment of a surcharge directly to the Township, the amount to be paid to the County as a tipping fee surcharge shall be reduced to 2% and no amount shall be transferred by the County to the Township under the Plan Update or this Agreement. The surcharge shall not be imposed on solid waste which is recycled or composted and which is not disposed in the OCF Landfill.

b. During the first twelve months after this Agreement is signed, Ottawa County will return to Laidlaw each month $10,000.00 from the amount paid as a surcharge pursuant to this Agreement, for a total payment of $120,000.00 over the twelve month period.

c. The surcharge is imposed on the actual tipping fee charged by Laidlaw to its customers for waste disposed of in the OCF landfill, except that the surcharge shall not be charged against fees, taxes, surcharges or other impositions by the local, state or federal government on solid waste disposed of at OCF, such as the 75 cent per ton surcharge imposed by the State of Michigan on solid waste pursuant to Act 9 of the Public Acts of 1990.

d. The surcharge shall be paid by Laidlaw on a monthly basis in arrears by the 15th of each month.

an average annual OCF Landfill disposal capacity of not more than 700,000 tons of solid waste, Including all waste permitted hereunder to be Imported and disposed of In the OCF Landfill from sources outside of the County.

d. No out of state waste shall be disposed of in the OCF landfill.

Article 6. TERM OF AGREEMENT

This Agreement shall be effective as September 1, 1990 and shall remain in effect so long as the OCF landfill accepts for disposal solid waste, except that provisions of this Agreement relating to maximum tonnage disposal levels at the OCF Landfill and relating to importation of out-of-county waste, subject to the last sentence of Article 2 hereof, shall expire on December 31, 1995. The parties shall begin discussions to renegotiate the terms of the Agreement relating to maximum levels for disposal of waste and importation of out-of-county waste for disposal at the OCF landfill not later than four years after the date of this Agreement.

Article 7. MISCELLANEOUS

This Agreement constitutes the entire agreement between Laidlaw, the County and the Township and no term, condition or agreement exists that has not been incorporated into this Agreement. This Agreement shall be binding upon Laidlaw, the Township, the County and their respective successors and assigns. This Agreement is not intended to, and shall not benefit any party other than the signatories hereto, and no other party shall have any right or claim hereunder.

APPENDIX A

For purposes of this Agreement "solid waste" is comprised of:

(1) "residential waste" which includes what is often referred to as domestic, municipal or household waste. It consists of that which is primarily collected from homes in a municipal or private collection program. Included are household-type wastes from seasonal residences and camping facilities;

(2) "commercial wastes" which emanate from a variety of sources. Included are wastes generated by businesses 'involved in wholesale and retail trade, finance, insurance, and government offices and institutions. Not included are hazardous or infectious wastes from health care facilities;

(3) "industrial wastes: which are those generated by businesses involved in manufacturing, transportation, communication and public utilities. Typical wastes include paper, wood, cardboard, various metals, packaging and office waste, and food waste from commissaries. Not included are special industrial wastes such as fly ash, foundry sand, oils, tars, sludge and slag; and

(4) "special wastes" which is a highly diversified classification and includes all solid wastes not included in the previous three categories. These wastes may include construction and demolition debris, foundry sand, sludge, street sweepings, fly ash, bottom ash, slag, agricultural waste and others. These wastes often require special handling and/or disposal methods.

In The Presence Of:

LAIDLAW WASTE SYSTEMS, INC.

By _____
Its District Landfill Manager

By _____
Its Vice President

Nancy Brouwer

COUNTY OF OTTAWA

By _____
Its Chairperson,
County Board of Commissioners

By _____
Its Clerk,
County Board of Commissioners

Mary Ann Smoes

TOWNSHIP OF POLKTON

By _____
Its Supervisor

AMENDMENT TO AGREEMENT DATED September 25, 1990

This Amendment to the Agreement dated September 25, 1990 is made among LAIDLAW WASTE SYSTEMS, INC. (Laidlaw), the COUNTY OF OTTAWA, a Michigan municipal corporation (County), and the TOWNSHIP OF POLKTON, a Michigan municipal corporation (Township).

Background

A. On September 25, 1990, Laidlaw, County and Township entered into an Agreement dealing with, among other things, restrictions on the importation of out-of-county solid waste into the Ottawa County Farms (OCF) landfill located in Polkton Township, Ottawa County, Michigan, owned by Laidlaw.

B. Article V of the Agreement entitled "Limits on Disposal of Waste at OCF landfill, Out-Of-County and Out-Of-State Waste" provided in part that Laidlaw would abide by restrictions contained in the County's 1989 Solid Waste Management Plan Update (Plan Update) on the counties from which the OCF landfill could accept solid waste. Article V further provided that Laidlaw would abide by restrictions in the Plan Update on the amount of solid waste which could be imported into the landfill from those counties.

C. Article V of the Agreement also provided that Laidlaw could seek permission from the County's Solid Waste Planning Committee (Committee) to dispose of wastes in the OCF landfill from counties not specifically named in the Plan Update or to exceed tonnage limitations on solid waste imported from counties identified in the Plan Update. Specifically, Article V, Paragraph (b), provided that Laidlaw could seek such approval from the Committee "in accordance with the procedures and standards set forth in Section V of the 1989 Plan Update."

D. The Plan Update, as approved by the County Board of Commissioners, contained procedures and standards pursuant to which the Committee was specifically authorized to approve or deny requests for disposal of out-of-county waste from counties not specifically named in the Plan Update, and further could approve disposal of solid wastes in amounts in excess of that specifically provided in the Plan Update. However, the Plan Update as approved by the County Board of Commissioners was not approved by the municipalities located within Ottawa County. Thus, pursuant to P.A. 641 of 1978 as amended, the County's Plan Update was written by the Director of the Michigan Department of Natural Resources (MDNR). The MDNR Director eliminated that portion of the Plan Update which provided procedures and standards for approving disposal of waste from counties not specifically named in the Plan Update. Laidlaw contests the validity of the action taken by the Director of the MDNR in this regard.

E. Because of the changes in the Plan Update as drafted by the Director of the MDNR, which eliminated the procedures by

which the Committee was specifically authorized to approve disposal in County facilities of waste from counties not specifically named in the Plan Update, the County has drafted a proposed Amendment (the Amendment) to the Plan Update to provide for disposal of special waste (as defined in the Amendment) at facilities in the County from several counties not currently named in the Plan Update.

F. The parties to the September 25, 1990 Agreement wish to amend that Agreement to reflect the changes in the Plan Update as made by the Amendment and to conform the language of the Agreement to the Plan Update as amended.

Statement of Agreement

Laidlaw, the Township and the County AGREE as follows:

1. Amendment to Article V. Article V of the Agreement dated September 25, 1990 is hereby amended and shall read in its entirety as follows:

Limits on Disposal of Waste at OCF Landfill, Out-Of-County and Out-Of-State Waste

A. OCF shall be used for disposal of waste from Ottawa County and those counties identified in the Amendment to the Ottawa County Solid Waste Management Plan Update of April, 1991 (Amendment), a copy of which is attached hereto as Appendix A, or other counties with which the County develops agreements in the future permitting the import of solid waste for disposal in the County. Beginning January 1, 1991 for the five year period ending December 31, 1995, Laidlaw agrees that it will not accept for disposal in the OCF landfill more than 3,500,000 tons of solid waste. Laidlaw further agrees that it shall not accept for disposal at the OCF landfill more than 770,000 tons of solid waste in any calendar year (January 1 - December 31). The 3,500,000 ton total is a cap on the amount of solid waste which can be disposed of in the OCF landfill during this five year period, and shall not be deemed to be a guarantee by the County or the Township of the amount of waste which will actually be available for disposal at the OCF landfill. Laidlaw further agrees to abide by the limitations on tonnage from each county named in the Amendment (Appendix A) for the disposal of commercial, residential and industrial wastes, and special wastes, as those terms are defined in Appendix A attached hereto and made a part hereof. Laidlaw will provide to the County on a semi-annual basis a report detailing the amount of waste accepted in the OCF landfill from each County during the preceding six month period. Solid waste which is

recycled or composted and which is not disposed of in the OCF landfill is not included in the above-referenced 3,500,000 ton figure or in the limitations on tonnage from each county named in the Plan Update.

B. Laidlaw represents and agrees that the OCF landfill shall provide disposal capacity for solid waste generated in Ottawa County until the year 2002 in the currently permitted OCF landfill space. Although Laidlaw believes that the OCF landfill has the capacity to accept annually more than 850,000 tons of solid waste for twelve consecutive years, the parties acknowledge that this representation is made on the basis of, and assumes, an average annual OCF landfill disposal capacity of not more than 700,000 tons of solid waste, including all waste permitted hereunder to be imported and disposed of in the OCF landfill from sources outside of the County.

C. No out-of-state waste shall be disposed of in the OCF landfill.

D. The County agrees that it will not further amend the current Plan Update to eliminate or delete counties identified in the Amendment from which solid waste may be accepted for disposal at OCF. However, nothing herein shall be deemed to limit the right of the County in future Plan Updates to delete from or add to the list of counties identified in the Amendment from which solid waste, including special wastes, may be accepted or to change the amount of waste to be accepted from other counties.

2. Other Terms Unaffected. The parties hereby agree that except for the Amendment to Article V as specifically set forth above, all other terms and conditions of the September 25, 1990 Agreement among the parties shall remain valid and effective and shall be deemed to be unaffected by this Amendment.

3. Effective Date of Amendment. This Amendment to the Agreement of September 25, 1990 shall be deemed effective as of the date the MDNR approves the Amendment to the Plan Update (Appendix A hereto).

LAIDLAW WASTE SYSTEMS, INC.

By Edward Hanenburg

Its General Manager

COUNTY OF OTTAWA

By Robert L Semple

Its Chairperson,
Board of Commissioners

And David Kenny

Its Clerk

TOWNSHIP OF POLKTON

By Arthur Lucas

Its Supervisor

AGREEMENT

An Agreement made and entered into on this 4th day of November, 1993, by and between POLKTON CHARTER TOWNSHIP, a michigan municipal corporation, hereinafter referred to as "Township" and LAIDLAW WASTE SYSTEMS, INC., a corporation, hereinafter referred to as "Laidlaw".

WHEREAS the Township, Laidlaw, and Ottawa County, entered into a contract, relating to various tipping fees as permitted under the County's Solid Waste Management Plan, adopted pursuant to Act 641 of the Public Acts of 1978, as amended.

WHEREAS this contract dated September 25, 1990 provided for payment of a surcharge of 3%, one third of which is to be returned to the Township, and for direct payment to the Township, if an agreement is entered into between Township and Laidlaw. Such provision is made in Article 1, SURCHARGE, and is set forth hereafter:

a. Commencing with the October, 1990 payment covering the month of September 1990, Laidlaw shall pay to the County a 3% surcharge on tipping fees charged on all solid waste disposed of in the Ottawa County Farms (OCF) landfill, which 3% includes the 1% tipping fee to be transferred by the County to the Township pursuant to the terms of the Plan Update. This payment constitutes payment of the surcharge imposed by the Plan Update. Upon payment by Laidlaw to the County of the 3% surcharge under thsi Agreement, the Township shall look solely to the County for receipt of the Township's share of the surcharge, provided, however, that if the Township shall impose its own surcharge pursuant to statute, or if Laidlaw negotiates a separate agreement with the Township regarding payment of a surcharge directly to the Township, the amount to be paid to the County as a tipping fee surcharge shall be reduced to 2% and no amount shall be transferred by the County to the Township under the Plan Update or this Agreement. The surcharge shall not be imposed on solid waste which is recycled or composted and which is not disposed in the OCF Landfill.

WHEREAS the Township and Laidlaw intends to contract for direct payment to the Township as authorized.

It is THEREFORE AGREED as follows:

1. Laidlaw shall pay a 1% surcharge on waste materials deposited in its Landfill on 68th Avenue in Polkton Township to the Township, and shall pay the same on or before the 15th day of each month.

2. All of the provisions for payment and conditions attached thereto as set forth in the contract between the Township, Laidlaw

and the County, dated September 25, 1990 except as changed hereby shall stand in full force and effect.

IN WITNESS WHEREOF the parties have hereunto signed this Agreement on the date above written.

IN PRESENCE OF:

Edward Hawkins

Carolyn

LAIDLAW WASTE SYSTEMS, INC

Its District Manager

Its

Sandra Dyke

Carolyn A. Gamble

TOWNSHIP OF POLKTON

Arthur Lucas
Its Supervisor

Mary Ann Lucas
Its Clerk

AGREEMENT

This Agreement is made this 31 day of August, 1998 between Allied Waste Industries, an Arizona Corporation, ("Allied") and the County of Ottawa, a Michigan municipal corporation ("the County"), with reference to the following facts and circumstances:

A. Ottawa County, a host county for the Ottawa County Farms Landfill, is interested in preserving sufficient long term disposal capacity for the solid waste generated within the County.

B. Allied, in 1994, applied for and the County subsequently issued a Letter of Consistency with its Solid Waste Management Plan Update - 1991 to approve a facility redesign for the Ottawa County Farms Landfill, a Type II Landfill located in Polkton Township, that increased the disposal capacity to exceed the facility design as approved by the County in 1989.

C. The County is interested in locating a Household Hazardous Waste (HHW) Collection Facility at the Ottawa County Farms Landfill.

D. The County and Allied are interested in extending the provisions set forth in the Agreement dated September 25, 1990 between the County and Allied, attached hereto as Exhibit "A", to provide disposal capacity guarantees for the solid waste generated in Ottawa County.

THERFORE THE PARTIES AGREE AS FOLLOWS:

1. **Disposal Capacity Reserve Guarantee:**

   Allied agrees that the Ottawa County Farms Landfill shall provide disposal capacity for Type II/III solid waste generated in Ottawa County for a period of 17 years after the date of this Agreement (through the year 2015).

2. **Limits on Annual Disposal of Waste:**

   Allied agrees to limit the volume of solid waste accepted at the Ottawa County Farms Landfill to average maximum of 750,000 tons annually. This annual limitation amount is not a guarantee by the County of the amount of waste that will actually be available for disposal at the Ottawa County Farms Landfill.

3. **Out of State Waste**: No out of state waste shall be disposed of in the Ottawa County Farms Landfill.

AGREEMENT

4. **Future Discussions Regarding Facility Operations**: To ensure that the solid waste management goals are implemented and to respond to the continuing change within the solid waste management industry, Ottawa County and Allied Waste Systems agree to meet as needed to discuss the operations of the Ottawa County Farms Landfill and the provisions contained in the 1990 Agreement and subsequent amendments concerning those operations.

5. **Household Hazardous Waste (HHW Collection Facility:** Allied agrees to host and operate an approved Household Hazardous Waste (HHW) collection facility at the Ottawa County Farms Landfill site for use by the residents of Ottawa County. The County will fund the initial set up costs for the HHW facility at Ottawa County Farms, at a cost of approximately $55,000. Primary funding for the HHW facility operations, including reasonable disposal costs, will be through existing collected surcharge fees provided for in the September 25, 1990 Agreement and/or user fees, pursuant to a program for household hazardous waste collection to be developed and coordinated by the Ottawa County Department of Public Health. Allied agrees to work with the Ottawa County Department of Public Health to coordinate the standards and hours of operation for the HHW collection facility and to operate the facility in accordance with all applicable standards therefore.

6. **Complete Agreement**: This agreement amends the September 25, 1990 Agreement on these issues between Allied and the County.

7. **Binding Effect:** This agreement shall be binding upon Allied and the County and their successors and assigns.

ALLIED WASTE INDUSTRIES, INC.

By: _____

Its: District Manager

COUNTY OF OTTAWA

By: Corneline VanderKam

Its: Chairman

By: _____

Its: Clerk

LETTER OF UNDERSTANDING

This is a letter of understanding between the Ottawa County Solid Waste Planning Committee ("OCSWPC") and **Allied Waste Systems**, which operates the Ottawa County Farms Landfill within Ottawa County ("Operator").

The Operator currently operates its landfill facility within Ottawa County between the hours of 5 AM and 5 PM Monday through Friday and the hours of 6 AM and 12 PM on Saturday. Many of the waste hauling trucks that deposit waste in the Operator's facility travel through or nearby the S Curve on US 131 in downtown Grand Rapids. Because that S Curve will be closed for reconstruction for approximately 18 months beginning in January, 2000, the Operator is anticipating that such transit could be significantly delayed, requiring that it consider extending its hours of operation.

In order to facilitate the possible delays resulting from the S Curve reconstruction, the Operator may elect to extend its hours to a 24 hour operation Monday through Saturday, excluding Sundays and the Holidays currently recognized by the Operator. The Operator agrees that the Extended Hours will only last during the time that the S Curve is closed. When the S Curve reopens, the Operator will return to its normal hours. Further, the Operator agrees to take reasonable efforts to minimize the impact of the Extended Hours on its neighbors. The Ottawa County Solid Waste Planning Committee reserves the right to review the impact from the extended operating hours.

OPERATOR

Dated: Dec 17, 1999

OCSWPC

Dated: Dec. 17, 1999

AGREEMENT

This Agreement dated April 12, 1991 is between Waste Management of Michigan, Inc., a Michigan corporation, formerly known as Michigan Waste Systems, Inc. ("Waste Management") and the County of Ottawa, a Michigan municipal corporation (the "County").

Background

A. By letter dated January 19, 1990 (the "Request"), William A. Marra of Waste Management requested that language be inserted in the 1989 Update of the Ottawa County Solid Waste Management Plan (the "Plan Update") approving the Woodside Recycling and Disposal Facility ("Woodside"), to be developed on property described on Exhibit A attached hereto as an approved Type II Landfill Site in Ottawa County.

B. The Request made commitments with respect to the Pine Valley landfill located in Robinson and Allendale Townships ("Pine Valley").

C. By resolution dated January 8, 1991, the Ottawa County Board of Commissioners resolved to support "the development of the Woodside Recycling and Disposal Facility ("Woodside") in Section 36 of Zeeland Township by Waste Management of Michigan, Inc. in accordance with the proposal contained in William A. Marra's letter of January 19, 1990 as a substitute for the proposed Pine Valley landfill."

D. Waste Management and the County have agreed that the changes set forth in Paragraph D.1 of Exhibit B attached hereto (the D.1 provisions are the "Changes") should be made to the draft of the Plan Update previously approved by the County and appear in the Plan Update now being prepared by the Michigan DNR to effectuate the development of Woodside as a substitute for the proposed Pine Valley landfill. The language included in Paragraphs D.2 and D.3 of Exhibit B are changes in the language of the Plan Update which the County is requesting that the Michigan DNR make and to which Waste Management has no objection. The County's agreement to include language in Exhibit B regarding siting of the Pine Valley landfill shall not constitute a waiver of its position that the September 5, 1990 Order of the Ingham County Circuit Court directing that the Pine Valley site be included in the Plan Update is improper or a waiver of its right to continue its appeal from that Order. Waste Management's agreement to include the language in Paragraph D.1 of Exhibit B shall not constitute a waiver of its position that any language in the Plan Update which may be

inconsistent with the Ingham County Circuit Court's September 5, 1990 Order or the previous Opinions or Orders of the Ingham County Circuit Court or the Michigan Court of Appeals is improper, and does not constitute the agreement of Waste Management that the September 5, 1990 Order has been fully complied with simply by adding such language.

E. Waste Management and the County now wish to work together to have the Changes made in the Plan Update by the Michigan DNR. This Agreement is made to memorialize and secure the commitments made in the Request and to set forth the parties' agreements and understandings regarding Woodside.

Statement of Agreement

Waste Management and the County agree as follows:

ARTICLE I

PRECONDITIONS

1.01 Precondition. Completion by Waste Management of 60 days of continuous commercial operations of Woodside as a Type II sanitary landfill is a condition precedent (the "Precondition") to Waste Management's obligations under Sections 2.02, 2.03, 2.04, 3.01, 4.01, Article V and Section 6.01 of this Agreement.

1.02 Cancellation Prior to Occurrence of Precondition. In the event that the Michigan Department of Natural Resources (the "MDNR") (1) does not approve the Plan Update on or before May 1, 1991, (2) issues a final Plan Update without including the Changes or similar language acceptable to Waste Management approving Woodside as a Type II landfill site, or includes other language which nullifies the effect of the Changes, (3) does not issue a construction permit for Woodside as proposed by Waste Management within 120 days after receipt of an administratively complete application, or (4) if Waste Management (i) is enjoined from operating Woodside for a period of 30 days or more by a court of competent jurisdiction, or (ii) litigation is commenced which is not dismissed within sixty (60) days of filing which in the reasonable business judgment of Waste Management could reasonably be expected to have the effect of preventing or delaying the construction or operation of Woodside for a period of sixty (60) days or more, then Waste Management may, by notice to the County, cancel its

obligations under this Agreement. If the MDNR issues a final Plan Update without including the Changes or similar language acceptable to the County approving Woodside as an alternative Type II landfill site to Pine Valley, the County may by written notice to Waste Management cancel this Agreement.

If Waste Management cancels this Agreement pursuant to this paragraph 1.02, it shall take no steps to assist any other person in constructing or developing Woodside as a Type II landfill site. If Waste Management or the County decide to cancel this Agreement pursuant to this paragraph, notice in writing shall be given of the cancellation to the other party within sixty (60) days after the event giving rise to the right of cancellation as described above, unless the parties by agreement agree to extend said sixty (60) day period. If either party cancels its obligations under this Agreement, all obligations of the other party under this Agreement are also cancelled.

Notwithstanding the foregoing, if after cancellation of this Agreement Waste Management nevertheless completes 60 days of continuous commercial operations of Woodside as a Type II sanitary landfill, the obligations of Waste Management and the County under this Agreement shall be reinstated in full.

1.03 Irrevocability. Upon satisfaction of the Precondition, the obligations of Waste Management and the County under this Agreement shall become irrevocable and Waste Management and the County's right to cancel under Section 1.02 above shall terminate.

1.04 Intent. It is the intent of the parties that Waste Management will operate Woodside as a sanitary landfill in Ottawa County as a substitute for the Pine Valley landfill, without waiver of the right of Waste Management to continue to seek licensing and operation of the Pine Valley site and the County's right to oppose said permitting and operation of Pine Valley if Woodside cannot be constructed and developed in accordance with the terms of this Agreement. Under no circumstances will Waste Management, its affiliates, successors or assigns operate both Woodside and Pine Valley as landfills in Ottawa County. However, nothing herein shall be deemed to preclude Waste Management from attempting to develop Pine Valley as a Type II landfill site in Ottawa County or the County's right to continue to oppose the construction and development of Pine Valley if Woodside cannot be developed in accordance with this Agreement.

ARTICLE II

PINE VALLEY COMMITMENTS

2.01 Pending Proceedings. Waste Management will enter into stipulations in the matters of Michigan Waste Systems, Inc. v. Michigan Department of Natural Resources, et al., Ingham County Circuit Court file number 83-51061-AA, Court of Appeals No. 133212 (the "Court of Appeals Case") and Robinson Township, et al. v. Michigan Waste Systems, Inc., Ottawa County Circuit Court file number 82-6339-CE (the "Ottawa County Case"), to suspend further proceedings in such matters, provided such suspension shall not prejudice the rights of any of the parties to such litigation and further provided all other parties will enter into such stipulations. If the Court of Appeals Case cannot be suspended without prejudice to the positions of either the County or Waste Management, or if the Court of Appeals refuses to allow suspension of the appeal, the parties shall pursue their rights in the Court of Appeals Case. Waste Management agrees to take no action to license, construct or develop Pine Valley for sanitary landfill purposes unless it cancels this Agreement as provided in Section 1.02 above, other than (i) any actions taken in connection with any litigation or administrative or agency proceedings related to the Pine Valley property and its use as a sanitary landfill, or (ii) any actions Waste Management determines are reasonably necessary to maintain or renew any existing operating license, permits or authorizations relating to the Pine Valley property and its use as a sanitary landfill. Notwithstanding the foregoing, Waste Management agrees that it will not seek relief from the injunction now pending in the Ottawa County Case and will not seek to begin actual construction or reconstruction of any cells at the Pine Valley facility unless this Agreement has been cancelled in accordance with Section 1.02 above. The County waives and agrees not to raise the above limitation on Waste Management's action as a defense in any pending action regarding the operation, licensing or renewal of licensing of Pine Valley.

The County reserves fully any rights it may have to continue to oppose actions taken by Waste Management to license, construct or develop Pine Valley as a sanitary landfill. Further, except as set forth above, nothing contained herein shall be deemed to constitute a waiver by the County of any defenses or positions which it may have to oppose licensing, construction or development of Pine Valley as a sanitary landfill.

2.02 No Development. Upon satisfaction of the Precondition, Waste Management shall discontinue all efforts to develop, operate or license Pine Valley and dismiss and release all claims for damages against the County or Robinson Township and stipulate to a permanent injunction in the Ottawa County Case prohibiting the use of the Pine Valley site for construction or operation of a landfill.

2.03 Deed Restrictions. Upon satisfaction of the Precondition, Waste Management shall place deed restrictions on the Pine Valley property prohibiting the use of the property as a site for solid waste disposal.

2.04 Park Purchase. Upon satisfaction of the Precondition, Waste Management shall grant to the State of Michigan the option to purchase the Pine Valley property, the legal description of which is on attached Exhibit C, for its fair market value for a period of 90 days. Upon the expiration of the option to the State of Michigan, Waste Management shall grant to the County the option to purchase the Pine Valley property for its fair market value for a period of 30 days. Fair market value shall be the value determined between Waste Management and the State of Michigan or the County. If Waste Management and the County are at any time unable to agree upon the fair market value of the Pine Valley property, it shall instead be determined by a board of three (3) appraisers, each of whom shall be an established commercial real estate M.A.I. appraiser or equivalent with not less than five (5) years' experience in commercial appraisal in the western Michigan area. One appraiser shall be appointed by Waste Management, one shall be appointed by the County, and the third shall be appointed by the two (2) appraisers so appointed, or in the case of the failure of the appraisers so appointed to agree upon such third appraiser within ten (10) days after their appointment, then said third appraiser shall be appointed by the then president of the Grand Haven Board of Realtors. The Board of Appraisers, upon their appointment, after having been duly sworn to perform their duties with impartiality and fidelity, shall proceed with all reasonable dispatch to determine the fair market value of the Pine Valley property; such determination shall be made by agreement of two (2) of the three (3) appraisers. The Board of Appraisers shall be subject to the following:

(a) No consideration shall be given to the value of the Pine Valley property as a landfill in determining the fair market value.

The Board of Appraisers shall determine the fair market value of the Pine Valley property within thirty (30) days after their appointment and shall provide written notice thereof to Waste Management and the County. Waste Management and the County shall each pay fifty percent (50%) of the total cost and expense incurred in connection with the Board of Appraisers.

ARTICLE III

MIEDEMA DISPUTE

3.01 Upon satisfaction of the Precondition, Waste Management shall exercise the provision of its Agreement with Ted and Gloria Miedema which requires Ted and Gloria Miedema to dismiss all claims it may have asserted against Ottawa County, the Ottawa County Road Commission, the Ottawa County Solid Waste Planning Committee and/or Planning Agency, and the Michigan Department of Natural Resources, if requested by Waste Management.

ARTICLE IV

SURCHARGE

4.01 Commencing on the date of commercial operations at Woodside by Waste Management, Waste Management shall pay a three percent (3%) surcharge on actual tipping fees on all solid waste disposed of in the Woodside landfill, which three percent includes the one percent tipping fee to be transferred by the County to Zeeland Township pursuant to the terms of the Plan Update as approved by the Ottawa County Board of Commissioners on September 25, 1990. Upon payment by Waste Management to the County of the three percent surcharge under this Agreement, Zeeland Township shall look solely to the County for receipt of its share of the surcharge; provided, however, that if Zeeland Township shall impose its own surcharge pursuant to statute, or if Waste Management negotiates a separate agreement with Zeeland Township regarding payment of the surcharge directly to Zeeland Township, the amount to be paid to the County as a tipping fee shall be reduced to two percent and no amount shall be transferred by the County to Zeeland Township under the Plan Update or this Agreement. Nothing herein shall prohibit Waste Management from entering into an agreement with Zeeland Township pursuant to which Waste Management agrees to pay an additional fee or

surcharge directly to Zeeland Township and which explicitly allows Zeeland Township to nevertheless receive the one percent tipping fee to be transferred by the County to Zeeland Township pursuant to the terms of the Plan Update as approved by the Ottawa County Board of Commissioners on September 25, 1990; provided, however, that under no circumstances shall the amount to be retained by the County as a tipping fee be reduced below two percent. The surcharge shall not be imposed on solid waste which is recycled or composted and which is not disposed of in the Woodside landfill.

The surcharge shall be imposed on the actual tipping fee charged by Waste Management to its customers for waste disposed of in the Woodside landfill, except that the surcharge shall not be charged against fees, taxes, surcharges or other impositions by the local, state or federal government on solid waste disposed of at Woodside, such as the $.75 per ton surcharge imposed by the State of Michigan on solid waste pursuant to Act 9 of the Public Acts of 1990. The surcharge shall be paid by Waste Management on a monthly basis in arrears by the 15th of each month.

Waste Management agrees to pay the surcharge hereunder in accordance with the terms of this Agreement and not to challenge the legality or constitutionality of the surcharge to be paid as a contractual matter under this Agreement, regardless of whether such surcharge is generally, or any surcharge imposed by the Plan Update specifically, may be challenged or may be declared illegal by a court of competent jurisdiction. The County agrees not to impose a higher surcharge on Waste Management even if a higher surcharge is authorized in a future plan update or otherwise by law. In the event of legislative action by the County Board of Commissioners to impose a higher surcharge on Waste Management, the obligations of Waste Management to pay the two percent portion of the tipping fee retained by the County pursuant to this Agreement or any other surcharge or fee under the Plan Update for the benefit of the County shall thereupon be null and void and without further force or effect. In the event of the occurrence of any legislative action as described above, Waste Management's right to challenge the surcharge legally and demand return of amounts previously paid pursuant to this Agreement shall be reinstated.

ARTICLE V

OUT-OF-COUNTY/OUT-OF-STATE WASTE

5.01 Woodside shall be used for the disposal of waste from Ottawa County and those counties identified in the Plan Update for Ottawa County adopted pursuant to Michigan Public Act 641 of the Public Acts of 1978 or any county with which the County develops agreements in the future permitting the import of solid waste for disposal in the County. For the period beginning with the commencement of commercial operations at Woodside and ending December 31, 1995 (the "Limitation Period") Waste Management agrees that it will not accept for disposal at Woodside the product of 500,000 tons times the number of years in the Limitation Period (the "Volume Limitation"), except if permitted to do so pursuant to Section 5.03 below. In computing the Volume Limitation, any partial years shall be prorated on a daily basis. The Volume Limitation is a cap on the amount of solid waste which can be disposed of in the Woodside landfill during the Limitation Period, and such shall not be deemed to be a guarantee by the County of the amount of waste which will actually be available for disposal at the Woodside landfill. The existence of a volume limitation in this Agreement shall not be deemed, used or construed to impose a volume limitation on Woodside after the Limitation Period, nor shall it be used to guarantee a minimum volume for Woodside after the Limitation Period.

5.02 Waste Management further agrees to abide by the limitations on tonnage from each county named in the Plan Update for disposal of commercial, residential and industrial waste, as those terms are defined in Exhibit D attached hereto and made a part hereof. Waste Management will provide the County on a semi-annual basis a report detailing the amount of waste accepted in Woodside from each county during the preceding six-month period. Solid waste which is recycled or composted and which is not disposed of in the Woodside landfill is not included in the above-referenced total capacity figure or in the limitation on tonnage from each county named in the Plan Update.

5.03 If Waste Management wishes to dispose of solid waste in the Woodside landfill in excess of the tonnage limits provided in Section 5.01 above, or if Waste Management wishes to import into the Woodside landfill waste from counties other than from the four counties identified in the Plan Update, Waste Management shall present its proposal for disposal of such county's or counties' solid waste to the Solid Waste

Planning Committee ("Committee") (or a subcommittee appointed by the Committee). The Committee or a subcommittee appointed thereby shall have the authority to approve or deny Waste Management's request pursuant to this subparagraph in accordance with the procedures and standards set forth in Section V of the Plan Update approved by the Ottawa County Board of Commissioners on September 25, 1990.

5.04 Waste Management represents and agrees that the Woodside landfill shall provide disposal capacity for solid waste generated in Ottawa County until 15 years after satisfying the Precondition in Section 1.01 of this Agreement in the event Waste Management is able to obtain the Consumers Power right-of-way and receives a permit to construct the landfill as proposed.

5.05 No out-of-state waste shall be disposed of at Woodside.

5.06 During the term of this Agreement Waste Management agrees not to challenge the legality or constitutionality of the provisions of the Plan Update regarding out-of-county and out-of-state waste.

5.07 In the event the County amends its September 1, 1990 Agreement with Laidlaw Waste Systems, Inc. prior to December 31, 1995 to provide for an increase in the importation limits on out-of-county waste, the County will also offer those same benefits to Waste Management.

ARTICLE VI

CONSTRUCTION STANDARDS

6.01 Applicable Law. Woodside shall be constructed in accordance with applicable federal and state laws, rules and regulations for Type II Sanitary Landfills.

6.02 Double Liner. Construction of Woodside shall include a double liner system consisting of a 60 mil synthetic liner and five feet of recompacted clay.

6.03 Leachate Collection. Construction of the disposal area will include a leachate collection system.

6.04 Monitoring Wells. Construction of Woodside shall include a minimum of eight monitoring wells to be tested at least quarterly.

6.05 Recycling Program. Waste Management agrees to establish a recycling and/or composting program at Woodside, within 12 months after commencement of commercial operations at Woodside. Waste Management will spend $150,000 within Ottawa County on recycling and/or composting programs, which programs shall be located at Woodside or be in addition to those programs existing as of the date of commencement of operations at Woodside. Waste Management will provide the County with the report showing generally how the funds have been used for this purpose.

6.06 Conflict. In the event applicable law, rule or regulation requires construction different from that required by Sections 6.02, 6.03 and 6.04, construction shall be in accordance with those standards which provide the greatest protection for the environment. Ottawa County's agreement to the above-stated minimum construction standards shall not be interpreted as the County's agreement to a construction standard providing less protection for the environment, should the MDNR impose a higher or more stringent standard for construction of Woodside in accordance with applicable law, rule or regulation. Waste Management agrees to provide to the County copies of all drafts of design drawings pertaining to construction at the Woodside site simultaneously when submitting them to the MDNR.

ARTICLE VII

FUTURE LANDFILLS

7.01 Waste Management shall not apply to the County or the MDNR to operate another general purpose Type II landfill in the County open to the general public for a period of ten (10) years from the date of this Agreement, unless all permitted air space in Woodside is utilized. Waste Management further agrees that it shall not apply to the County or the MDNR to operate another limited or general purpose Type II landfill or Type III landfill to be located in Zeeland Township for a period of ten (10) years from the date of this Agreement.

ARTICLE VIII

COUNTY COOPERATION

8.01 The County agrees:

(1) to support and cooperate with Waste Management in its efforts (i) to secure and maintain any and all state or federal licenses, permits and approvals for the Woodside site, including the issuance of all necessary construction permits and operating licenses by the MDNR for that site, and (ii) to relocate the Consumers Power Company right-of-way to the east and north edges of the property described on Exhibit A to allow construction of a rectangular landfill;

(2) in the event that the Changes are included in the Plan Update and the validity of including the Changes is challenged in a court of competent jurisdiction, the County shall consider intervention in such lawsuit if not named as a defendant for the purpose of defending the validity of the Changes;

(3) with respect to matters within its legal control, the County Board of Commissioners shall not take future legislative action to subject Woodside to more rigorous operating standards than other general purpose Type II landfills operating in Ottawa County, it being expressly understood, however, that operating standards do not include matters relating to out-of-county waste restrictions as covered in Article V above; and

(4) after issuance of the Plan Update, including the Changes, the County, if requested by Waste Management, shall within fifteen (15) days of that request issue a Letter of Consistency in the form of Exhibit E regarding the Woodside site.

ARTICLE IX

MISCELLANEOUS

9.01 Interpretation. The reference to Woodside contained in the Changes shall include all property described on Exhibit A and no other property. The disposal area boundary approved by the Changes, however, shall be substantially as shown on attached Exhibit F; provided, however, that under no circumstances shall the actual disposal area for the Woodside site be larger in area than that shown on Exhibit F. Waste Management agrees that the height of the landfill will not exceed 150 feet above the existing grade on Adams Street [694

feet above sea level (NGV datum)] on the north side of the property described on Exhibit A. Including Woodside in the Plan Update shall not imply an approval of an expansion of the disposal area boundary beyond that shown on Exhibit F. Nothing herein shall be deemed to prohibit Waste Management from negotiating an Agreement with Zeeland Township to further limit the height of the landfill, or to negotiate restrictions on landfill slope.

9.02 Complete Agreement. This Agreement constitutes the entire agreement between Waste Management and the County and no term, condition or agreement exists that has not been incorporated into this Agreement.

9.03 Binding Effect. This Agreement shall be binding upon Waste Management and the County and their successors and assigns. Robinson Township shall be deemed to be a third party beneficiary of this Agreement.

9.04 Term of Agreement. If commercial operations are commenced at Woodside, this Agreement shall remain in effect so long as Woodside accepts solid waste for disposal, except the provisions of this Agreement relating to maximum tonnage disposal levels at Woodside and relating to the importation of out-of-county waste shall expire on December 31, 1995. Assuming that the Precondition is met, Waste Management's commitments regarding the Pine Valley site as set forth in Paragraphs 2.02 and 2.03 above shall survive even after Woodside closes.

In the Presence of:

WASTE MANAGEMENT OF MICHIGAN, INC.

By: _____

Its: President

COUNTY OF OTTAWA

By: _____

Its: Chairman

By: _____

Its: Clerk

EXHIBIT A

The North 1254.0 feet of the West 2200.0 feet of the Southwest 1/4 of Section 36, and the West 2200.0 feet of the Northwest 1/4 of said Section, Town 5 North, Range 14 West, Zeeland Township, Ottawa County, Michigan. Subject to highway right-of-way for Adams Street over the most Northerly 33 feet thereof, and for 56th Avenue over the most Westerly 33 feet thereof.

EXHIBIT B

OTTAWA COUNTY SOLID WASTE MANAGEMENT PLAN
SUGGESTED LANGUAGE CHANGES

1. Changes to replace language on Page V-8, line 7 through V-15, line 25:

D. **SITE REQUIREMENTS**

1. Identification of specific sites for the remainder of the 20-year planning period.

The following sites have been identified as sufficient to meet the solid waste disposal needs of Ottawa County for the remainder of the 20-year Planning period (Appendix E contains agreements made between the County of Ottawa and certain landfill developers and operators):

Existing Operating Facilities:

Discussion of Ottawa County Farms, Fenske and J. H. Campbell remain as is.

Proposed Facilities Previously Receiving Letters of Consistency:

Discussion of Holland BPW and Recycle America sites remain as is.

Facilities Included Pursuant to Court Order and Act 641:

The Pine Valley Landfill: The Pine Valley landfill is included as a site for development of a Type II landfill pursuant to the September 5, 1990 Order of the Ingham County Circuit Court in Michigan Waste Systems, Inc. v Michigan Department of Natural Resources, et al., Case No. 83-51061-AA.

Woodside Acres Landfill: Pursuant to the authority of the Director as set forth in Section 28(b) of Act 641 and the March 22, 1991 Order of the Ingham County Circuit Court authorizing the DNR Director to consider an alterative site to the Pine Valley landfill, the Woodside Acres landfill described below and located in Zeeland Township is included as a site for development of a Type II landfill by Waste Management of Michigan only as an alternative to the Pine Valley landfill pursuant to the Agreement between Ottawa County and Waste Management of Michigan, Inc. and only so long as the Agreement remains in effect and is not cancelled. The Woodside Acres site is included as an alternative to the Pine Valley site with

the support of the Ottawa County Board of Commissioners as stated in their January 8, 1991 resolution and the support of the Ottawa County Solid Waste Planning Committee which drafted the Plan Update and included the site as an alternative to Pine Valley in the Plan adopted and submitted to the Board of Commissioners.

LEGAL DESCRIPTION OF WOODSIDE ACRES:

> The North 1254.0 feet of the West 2200.0 feet of the Southwest 1/4 of Section 36, and the West 2200.0 feet of the Northwest 1/4 of said Section, Town 5 North, Range 14 West, Zeeland Township, Ottawa County, Michigan. Subject to highway right-of-way for Adams Street over the most Northerly 33 feet thereof, and for 56th Avenue over the most Westerly 33 feet thereof.

Since the development of either one of these facilities will provide sufficient capacity for the solid waste disposal needs of Ottawa County for the 20-year planning period, Waste Management may only develop one of the facilities subject to the terms of the Agreement executed between Ottawa County and Waste Management and included as a reference in Appendix E.

Any provision of the Plan which is inconsistent with this Section D.1 is revoked to the extent of the inconsistency, but the rest of the Plan shall remain in effect.

2. Changes beginning on Page V-25:

OTTAWA COUNTY SOLID WASTE FACILITIES SITING CRITERIA

Proposed Type II Landfills

According to Act 641, "Type II" landfills refer to an on-land disposal facility designed and operated to accommodate general types of solid waste, including, but not limited to, garbage and rubbish, but excluding hazardous waste.

According to rules promulgated under Act 641, a county solid waste management plan must either identify specific sites for the remainder of the 20-year planning period, or include specific criteria that guarantee the siting of necessary solid waste disposal facilities.

Since the solid waste disposal areas identified in Section D.1 provide sufficient capacity for the 20-year planning period, no criteria will be included in this Plan Update and no new Type II facilities or expansions to those

facilities identified earlier will be considered during the remainder of the five year planning period.

If the identified facilities fail to remain in service for the five-year planning period and contingency mechanisms cannot meet the disposal needs of the County, the Solid Waste Planning Committee will develop criteria for emergency siting of a facility through the facility review process. The need for specific criteria will also be addressed in future Plan Updates as required by Act 641 and its rules.

Proposed Type III Landfills

According to Act 641, "Type III" landfills means on-land disposal facilities designed and operated to accommodate large volumes of certain solid waste having minimal potential for groundwater contamination.

1. Criteria 1 through 11 remain as is listed.

3. Page V-37, line 21:

d. Local Solid Waste facility review process

In addition to the permitting and licensing requirements for solid waste facilities defined and regulated under Act 641, any applications for facilities not already included in the Plan or expansions to any of the facilities which are included in the Plan will be subject to the local facility review process. This review process will be undertaken prior to the submittal of the construction permit application to the MDNR.

Act 641 requires that all counties prepare solid waste management plans that will comply with the requirements of the Act; that is, to protect public health and the environment from improper solid waste management. Ottawa County has established a local solid waste facility review process . . . .

EXHIBIT C

Parcel 1: The East 80 feet of the North 449.25 feet, of the Southwest 1/4, also the South 45 feet of the North 449.25 feet of the West 1/2 of the Southeast 1/4, Section 1 Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-300-011.

Parcel 2: The Northeast 1/4 of the Northeast 1/4 of the Southwest 1/4, except the East 80 feet of the North 449.25 feet, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-300-014.

Parcel 3: The North 404.25 feet of the West 1/2 of the Southeast 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-400-001.

Parcel 4: The Southeast 1/4, except the North 449.25 feet of the West 1/2 of the Southeast 1/4, and except the West 1/2 of the Southwest 1/4 of the Southeast 1/4, and except the Southeast 1/4 of the Southwest 1/4 of the Southeast 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-400-004.

Parcel 5: The South 1/2 of the Northeast 1/4, Section 12, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-12-200-002.

Parcel 6: The North 1/2 of the Northeast 1/4, except the North 1/2 of the Northwest 1/4 of the Northeast 1/4, Section 12, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-12-200-004.

Parcel 7: The East 1/2 of the Northeast 1/4 of the Southeast 1/4, Section 12, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-12-400-018.

Parcel 8: All of that part of the Southwest 1/4 lying South of the Grand River, Section 6, Town 7 North, Range 14 West. Allendale Township, Ottawa County, Michigan. Permanent property number: 70-09-06-300-001.

Parcel 9: The Northwest 1/4, Section 7, Town 7 North, Range 14 West, Allendale Township, Ottawa County, Michigan. Permanent property number: 70-09-07-100-006.

Parcel 10: The Southwest fractional 1/4, except commencing at the Southwest corner of Section 7 then East 435.6 feet, then North 300 feet, then West 435.6 feet, thence South 300 feet to beginning. Allendale Township, Ottawa County, Michigan. Permanent property number: 70-09-07-300-001. Section 7, Town 7 North, Range 14 West.

Parcel 11: The East 1/2 of Section 7 lying South of the Grand River, Section 7, Town 7 North, Range 14 West. Except that part lying Southerly of the Bass River. Allendale Township, Ottawa County, Michigan. Permanent property number: 70-09-07-400-005.

Parcel 12: All of Government Lot 4 North and West of the Bass River, in the Southwest 1/4 of Section 8, Town 7 North, Range 14 West. Allendale Township, Ottawa County, Michigan. Permanent property number: 70-09-08-300-001.

Parcel 13: The Northwest 1/4 of the Southwest 1/4, except commencing 20 feet West of the Northeast corner, then West to the Northwest corner, then South 336 feet, then East to a point South of the point of beginning, then North 336 feet to the point of beginning, Section 1, Town 7 North, Range 15 West, consisting of 30 acres. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-300-004.

Parcel 14: The West 1/2 of the Northeast 1/4 of the Southwest 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-300-013.

Parcel 15: The Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-300-015.

Parcel 16: The South 1/2 of the Southwest 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-300-006.

Parcel 17: The West 1/2 of the Southwest 1/4 of the Southeast 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-400-005.

Parcel 18: The Southeast 1/4 of the Southwest 1/4 of the Southeast 1/4, Section 1, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-01-400-006.

Parcel 19: The North 1/2 of the Northwest 1/4 of the Northeast 1/4, Section 12, Town 7 North, Range 15 West. Robinson Township, Ottawa County, Michigan. Permanent property number: 70-08-12-200-003.

EXHIBIT D

For purposes of this Agreement "solid waste" is comprised of:

(1) "residential waste" which includes what is often referred to as domestic, municipal or household waste. It consists of that which is primarily collected from homes in a municipal or private collection program. Included are household-type wastes from seasonal residences and camping facilities;

(2) "commercial wastes" which emanate from a variety of sources. Included are wastes generated by businesses involved in wholesale and retail trade, finance, insurance, and government offices and institutions. Not included are hazardous or infectious wastes from health care facilities;

(3) "industrial wastes" which are those generated by businesses involved in manufacturing, transportation, communication and public utilities. Typical wastes include paper, wood, cardboard, various metals, packaging and office waste, and food waste from commissaries. Not included are special industrial wastes such as fly ash, foundry sand, oils, tars, sludge and slag; and

(4) "special waste" which is a highly diversified classification and includes all solid wastes not included in the previous three categories. These wastes may include construction and demolition debris, foundry sand, sludge, street sweepings, fly ash, bottom ash, slag, agricultural waste and others. These wastes often require special handling and/or disposal methods.

EXHIBIT E

Mr. David F. Hales, Director
Michigan Department of Natural Resources
Executive Department
7th Floor, Mason Building
Box 30028
Lansing, MI 48909

Dear Director Hales:

Pursuant to the issuance of the 1989 Ottawa County Solid Waste Management Plan Update which included the Woodside Acres Landfill as a substitute for the Pine Valley Landfill located in Robinson Township, the Woodside Acres facility as described below is consistent with the Plan Update.

LEGAL DESCRIPTION OF WOODSIDE ACRES:

The North 1254.0 feet of the West 2200.0 feet of the Southwest 1/4 of Section 36, and the West 2200.0 feet of the Northwest 1/4 of said Section, Town 5 North, Range 14 West, Zeeland Township, Ottawa County, Michigan. Subject to highway right-of-way for Adams Street over the most Northerly 33 feet thereof, and for 56th Avenue over the most Westerly 33 feet thereof.

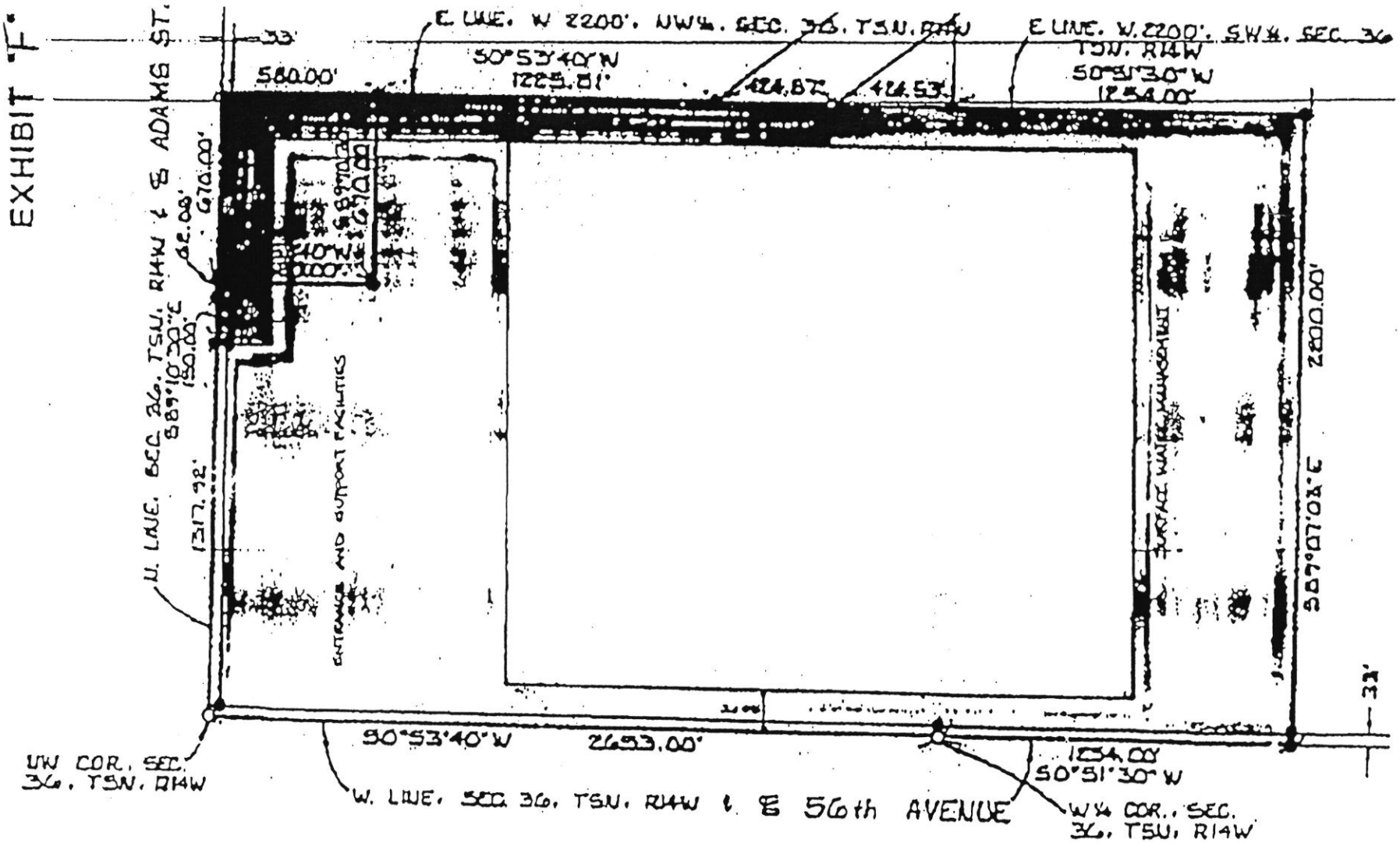
This letter of consistency is issued pursuant to the Agreement between Ottawa County and Waste Management of Michigan, Inc. whereby Ottawa County agrees to the development of Woodside as an alternative to the Pine Valley Landfill for a landfill with no less than a 150 foot setback from the property lines and final elevation of no greater than 150 feet above the existing grade of Adams Street.

Thank you for your attention in this matter. If you have any questions concerning this letter, do not hesitate to contact me.

Sincerely,

Mary Swanson
Ottawa County Solid Waste Management
Designated Planning Agent

EXHIBIT "F"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424.87
424.53
S0°51'30"W
1254.00'
670.00'
62.00'
S89°10'30"E
150.00'
1317.92'
W. LINE. SEC. 36. T5N. R14W & S ADAMS ST.
ENTRANCE AND SUPPORT FACILITIES
SURFACE WATER MANAGEMENT
2800.00'
S87°07'08"E
33'
S0°53'40"W
2693.00'
1254.00
S0°51'30"W
UW COR. SEC. 36. T5N. R14W
W. LINE. SEC. 36. T5N. R14W & S 56th AVENUE
W¼ COR. SEC. 36. T5N. R14W

AMENDMENT TO AGREEMENT DATED April 12, 1991

This Amendment to the Agreement dated April 12, 1991 is made between WASTE MANAGEMENT OF MICHIGAN, INC., a Michigan corporation, formerly known as Michigan Waste Systems, Inc. (Waste Management) and the COUNTY OF OTTAWA, a Michigan municipal corporation (County).

Background

A. On April 12, 1991, Waste Management and the County entered into an Agreement dealing with, among other things, restrictions on the importation of out-of-county solid waste into the proposed Woodside Recycling and Disposal Facility, now known as the Autumn Hills Recycling and Disposal Facility (Autumn Hills), to be built and located in Zeeland Township, Ottawa County, Michigan, owned by Waste Management.

B. Article V of the Agreement entitled "Out-Of-County/ Out-Of-State Waste" provided in part that Waste Management would abide by restrictions contained in the County's 1989 Solid Waste Management Plan Update (Plan Update) on the counties from which Autumn Hills could accept solid waste. Article V further provided that Waste Management would abide by restrictions in the Plan Update on the amount of solid waste which could be imported into the landfill from those counties.

C. Article V of the Agreement also provided that Waste Management could seek permission from the County's Solid Waste Planning Committee (Committee) to dispose of wastes from counties not specifically named in the Plan Update or to exceed tonnage limitations on solid waste imported from counties identified in the Plan Update. Specifically, Article V, 5.03, provided that Waste Management could seek such approval from the Committee "in accordance with the procedures and standards set forth in Section V of the Plan Update, approved by the Ottawa County Board of Commissioners on September 25, 1990."

D. The Plan Update, as approved by the County Board of Commissioners, contained procedures and standards pursuant to which the Committee was specifically authorized to approve or deny requests for disposal of out-of-county waste from counties not specifically named in the Plan Update, and further could approve disposal of solid wastes in amounts in excess of that specifically provided in the Plan Update. However, the Plan Update as approved by the County Board of Commissioners was not approved by the municipalities located within Ottawa County. Thus, pursuant to P.A. 641 of 1978 as amended, the County's Plan Update was written by the Director of the Michigan Department of Natural Resources (MDNR). The MDNR Director eliminated that portion of the Plan Update which provided procedures and standards for approving disposal of waste from counties not specifically named in the Plan Update.

E. Because of the changes in the Plan Update as drafted by the Director of the MDNR, which eliminated the procedures by which the Committee was specifically authorized to approve disposal in County facilities of waste from counties not specifically named in the Plan Update, the County has drafted a proposed Amendment (the Amendment) to the Plan Update to provide for disposal of special waste (as defined in the Amendment) at facilities in the County from several counties not currently named in the Plan Update.

F. The parties to the April 12, 1991 Agreement wish to amend that Agreement to reflect the changes in the Plan Update as made by the Amendment and to conform the language of the Agreement to the Plan Update as amended.

Statement of Agreement

Waste Management and the County AGREE as follows:

1. Amendment to Article V. Article V of the Agreement dated April 12, 1991 is hereby amended and shall read in its entirety as follows:

ARTICLE V

OUT-OF-COUNTY/OUT-OF-STATE WASTE

5.01 Autumn Hills shall be used for the disposal of waste from Ottawa County and those counties identified in the Plan Amendment to the Ottawa County Solid Waste Management Plan Update of April, 1991 (Amendment), a copy of which is attached hereto as Appendix A, or any county with which the County develops agreements in the future permitting the import of solid waste for disposal in the County. For the period beginning with the commencement of commercial operations at Autumn Hills and ending December 31, 1995 (the "Limitation Period") Waste Management agrees that it will not accept for disposal at Autumn Hills the product of 500,000 tons times the number of years in the Limitation Period (the "Volume Limitation"). In computing the Volume Limitation, any partial years shall be prorated on a daily basis. The Volume Limitation is a cap on the amount of solid waste which can be disposed of in the Autumn Hills landfill during the Limitation Period, and such shall not be deemed to be a guarantee by the County of the amount of waste which will actually be available for disposal at the Autumn Hills landfill. The existence of a volume limitation in this Agreement shall not be deemed, used or construed to impose a volume limitation on Autumn Hills after the Limitation Period, nor shall it be used to guarantee a

minimum volume for Autumn Hills after the Limitation Period.

5.02 Waste Management further agrees to abide by the limitations on tonnage from each county named in the Amendment for disposal of commercial, residential and industrial wastes and special wastes, as those terms are defined in Appendix A attached hereto and made a part hereof. Waste Management will provide the County on a semi-annual basis a report detailing the amount of waste accepted in Autumn Hills from each county during the preceding six-month period. Solid waste which is recycled or composted and which is not disposed of in the Autumn Hills landfill is not included in the above-referenced total capacity figure or in the limitation on tonnage from each county named in the Plan Update.

5.03 Waste Management represents and agrees that the Autumn Hills landfill shall provide disposal capacity for solid waste generated in Ottawa County until 15 years after satisfying the Precondition in Section 1.01 of the Agreement dated April 12, 1991 in the event Waste Management is able to obtain the Consumers Power right-of-way and receives a permit to construct the landfill as proposed.

5.04 No out-of-state waste shall be disposed of at Autumn Hills.

5.05 During the term of this Agreement, Waste Management agrees not to challenge the legality or constitutionality of the provisions of the Plan Update regarding out-of-county and out-of-state waste.

5.06 In the event the County amends it September 1, 1990 Agreement with Laidlaw Waste systems, Inc. prior to December 31, 1995 to provide for an increase in the importation limits on out-of-county waste, the County will also offer those same benefits to Waste Management.

5.07 The County agrees that it will not further amend the current Plan Update to eliminate or delete counties identified in the Amendment from which solid waste can be accepted at Autumn Hills. However, nothing herein shall be deemed to limit the right of the County in future Plan Updates to delete from or add to the list of counties identified in the Amendment from which solid waste, including special waste, can be accepted or to change the amount of waste to be accepted from other counties.

2. Other Terms Unaffected. The parties hereby agree that except for the Amendment to Article V as specifically set forth above, all other terms and conditions of the April 12, 1991 Agreement between the parties shall remain valid and effective and shall be deemed to be unaffected by this Amendment.

3. Effective Date of Amendment. This Amendment to the Agreement of April 12, 1991 shall be deemed effective as of the date the MDNR approves the Amendment to the Plan Update (Appendix A hereto).

WASTE MANAGEMENT OF MICHIGAN, INC.

By _____

Its PRESIDENT

COUNTY OF OTTAWA

By Robert L Semple

Its Chairperson,
Board of Commissioners

And _____

Its Clerk

AGREEMENT

This Agreement is made this 31st day of July, 1998 between Waste Management of Michigan, Inc., a Michigan Corporation, ("Waste Management") and the County of Ottawa, a Michigan municipal corporation ("the County"), with reference to the following facts and circumstances:

A. Ottawa County, a host county for the Autumn Hills Recycling and Disposal Facility, is interested in preserving sufficient long term disposal capacity for the solid waste generated within the County.

B. Waste Management, in 1996, applied for and the County subsequently issued a Letter of Consistency with its Solid Waste Management Plan Update - 1991 to approve a facility redesign for the Autumn Hills RDF located in Zeeland Township, that increased the disposal capacity to exceed the original facility design as approved by the County in 1991.

C. The County and Waste Management are interested in extending the provisions set forth in the Agreement dated April 12, 1991 between the County and Waste Management, attached hereto as Exhibit "A", to provide disposal capacity guarantees for the solid waste generated in Ottawa County.

THERFORE THE PARTIES AGREE AS FOLLOWS:

1. **Disposal Capacity Reserve Guarantee:**
Waste Management represents and agrees that the Autumn Hills RDF shall provide disposal capacity for Type II/III solid waste generated in Ottawa County for a period of 17 years after the date of this Agreement (through the year 2015).

2. **Limits on Annual Disposal of Waste:**
Waste Management agrees to limit the volume of solid waste accepted at the Autumn Hills RDF to an average maximum of 750,000 tons annually. This annual limitation amount is not a guarantee by the County of the amount of waste that will actually be available for disposal at the Autumn Hills Recycling and Disposal Facility.

3. **Out of State Waste**: No out of state waste shall be disposed of in the Autumn Hills RDF.

4. **Future Discussions Regarding Facility Operations**: To ensure that the solid waste management goals are implemented and to respond to the

AGREEMENT

continuing change within the solid waste management industry, Ottawa County and Waste Management agree to meet as needed to discuss the operations of the Autumn Hills Recycling and Disposal Facility and the provisions contained in the 1991 Agreement and subsequent amendments concerning those operations.

5. **Complete Agreement**: This agreement amends the April 12, 1991 Agreement on these issues between Waste Management and the County.

6. **Binding Effect:** This agreement shall be binding upon Waste Management and the County and their successors and assigns.

WASTE MANAGEMENT OF MICHIGAN, INC.

By: Randy Dozeman

Its: Site Mgr.

COUNTY OF OTTAWA

By: Cornelius Vander Kam

Its: Chairman

By: David R. Krueger

Its: Clerk

LETTER OF UNDERSTANDING

This is a letter of understanding between the Ottawa County Solid Waste Planning Committee ("OCSWPC") and **Waste Management**, which operates the Autumn Hill RDF within Ottawa County ("Operator").

The Operator currently operates its landfill facility within Ottawa County between the hours of 6:30 AM and 5 PM Monday through Friday and 6:30 AM to 11:30 AM on Saturday. Many of the waste hauling trucks that deposit waste in the Operator's facility travel through or nearby the S Curve on US 131 in downtown Grand Rapids. Because that S Curve will be closed for reconstruction for approximately 18 months beginning in January, 2000, the Operator is anticipating that such transit could be significantly delayed, requiring that it consider extending its hours of operation subject to Zeeland Township approval.

In order to facilitate the possible delays resulting from the S Curve reconstruction, the Operator may elect to extend its hours to a 24 hour operation Monday through Saturday, excluding Sundays and Holidays currently recognized by the Operator. The Operator agrees that the Extended Hours will only last during the time that the S Curve is closed. When the S Curve reopens, the Operator will return to its normal hours. Further, the Operator agrees to take reasonable efforts to minimize the impact of the Extended Hours on its neighbors. The Ottawa County Solid Waste Planning Committee reserves the right to review the impact from the extended operating hours.

OPERATOR

Dated: Dec. 17, 1999 WASTE MANAGEMENT.

OCSWPC

Dated: Dec 17, 1999 Arthur Lucas

PROPOSED AMENDMENT TO the 2000 OTTAWA COUNTY SOLID WASTE PLAN
As updated in 2015

This Amendment supersedes, supplants, and replaces any provision in a previously approved Solid Waste Management Plan or Update:

1. [Common Amendment to the ends of Section III.6.3 (Autumn Hills) and Section III.6.5 (Ottawa Farms)]

Autumn Hills

Pursuant to the authority of MCL 324.11538(1)(i) and MCL 324.11538(2) and in order to preserve estimated landfill capacity and protect infrastructure and community interests surrounding this landfill facility, this landfill shall not accept more than 1,500,000 annual tons, provided that it can certify that it has 30 years capacity even if the cap is met that year. If it cannot make that certification, the cap is 1,200,000. Consistent with R 299.4112, if there is a federal or state disaster declaration, the landfill may petition the Solid Waste Coordinator to approve the emergency disposal of disaster-related material. If approved, such tons will be separately listed in the landfill's quarterly disposal receipts but shall not count against any tonnage caps in this plan. Furthermore, such authorization must be in writing, may not be more than one-hundred and eighty (180) days in duration, or longer if required by the federal or state disaster declaration, and must clearly specify the type and quantity of waste. This capacity cap replaces any inconsistent provision in any agreement between Ottawa County and the landfill.

Ottawa Farms

Pursuant to the authority of MCL 324.11538(1)(i) and MCL 324.11538(2) and in order to preserve estimated landfill capacity and protect infrastructure and community interests surrounding this landfill facility, this landfill shall not accept more than 1,500,000 annual tons, provided that it can certify that it has 30 years capacity even if the cap is met that year. If it cannot make that certification, the cap is 1,200,000. Consistent with R 299.4112, if there is a federal or state disaster declaration, the landfill may petition the Solid Waste Coordinator to approve the emergency disposal of disaster-related material. If approved, such tons will be separately listed in the landfill's quarterly disposal receipts but shall not count against any tonnage caps in this plan. Furthermore, such authorization must be in writing, may not be more than one-hundred and eighty (180) days in duration, or longer if required by the federal or state disaster declaration, and must clearly specify the type and quantity of waste. This capacity cap replaces any inconsistent provision in any agreement between Ottawa County and the landfill.

3. [New Section III.21]

III. 21 County Materials Fees

Part 115 ("Act") authorizes "municipalities" (cities, villages, or townships) that host landfills to charge the landfill operator an impact fee (MCL 324.11532). The Act as interpreted by the courts also allows Michigan counties to assess fees on waste deposited in landfills ("County Materials Fee") to fund the costs of the County's implementation of its solid waste management or materials management plan, including recycling, waste diversion, facility development, plan development and administration, and the County's costs of managing historical landfills ("Plan Expenses.) See *County of Saginaw v John Sexton Corp of Michigan*, 232 Mich App 202, 211 (1998). This County Materials Fee is to be distinguished from the host governmental impact fee because it is set by the County and because it has a different purpose; namely, to defray the costs of Plan Expenses and materials handling throughout the County. The County determines that a County Materials Fee can most efficiently be assessed on solid waste haulers as they deposit solid waste in the two landfills located in the County and collected from the haulers and remitted to the County by the landfill operators. Such assessments will encourage recycling and waste diversion and assist the County in addressing its costs in paying for the long-term costs associated with solid waste disposal in the past and recycling and waste diversion to protect landfill capacity.

- This Plan hereby assesses a County Materials Fee not to exceed two dollars ($2) on each ton or pro-rata portion thereof deposited in a landfill within Ottawa County as determined by the tonnages reported to the Department of the Environment Great Lakes and Energy ("EGLE");

- The County Materials Fee will be assessed to all waste haulers depositing solid waste at the two County landfills by the landfill operator and shall be outside any commercial tipping fees or other charges by the landfill operator for the waste deposit;

- Each landfill operator shall separately denote on its invoice to the hauler, the County Materials Fee charges and its own tipping fee, and any local governmental host impact fee charges.

- The landfill operator's financial obligation to remit the Materials Handling Fee is limited to charging, billing, collecting with its billing, and remitting such Fees actually collected. Within fifteen (15) days of the end of each calendar quarter, each landfill operator shall remit to the County Treasurer, all Materials Handling Fees collected from haulers in the quarter then-ending. If a hauler fails to pay the Materials Handling Fee and the landfill operator's own tipping fees, the landfill will seek to collect the Materials Handling Fee with its own collection efforts to obtain its tipping fee. Of all sums collected on the joint bill, it will remit the same percentage of the Materials Handling Fee as it collects on its tipping fee. If a hauler refuses or fails to pay only the Materials Handling Fee as invoiced by the landfill,

the landfill will timely forward information on the refusal or failure to the County, and the County will assume responsibility for collecting the fee from the hauler.

- In the first quarter of each calendar year, the Ottawa County Department of Public Health shall determine the County Materials fees received and Plan Expenses incurred within the previous calendar year and present a report including such sums as well as projected trends in County Materials Fee revenues and the needs for Plan Expenses and present that report to the landfills and any other waste facilities in the County and the Ottawa County Board of Commissioners.

- Except for extraordinary circumstances, the Ottawa County Board of Commissioners shall set the County Materials Fee, not to exceed two dollars ($2) on each ton or pro-rata portion thereof, once every three (3) years based on an analysis of the recycling, plan administration, and historical landfill management costs to be reasonably incurred by Ottawa County in the ensuing three (3) year period;

- The County Board of Commissioners Board holds the discretion to either approve a flat fee throughout the three (3) year period or to set a graduated fee based on inflation or other changes expected during that period, not to exceed two dollars ($2) on each ton or pro-rata portion thereof;

- The County Board of Commissioners shall not change the County Materials Fee without the following:

    - consulting with the landfill operators at least sixty (60) days prior to the implementation of any change;
    - correlating the fee and resulting revenues to actual County plan operation, recycling, waste reduction, and/or legacy landfill costs during the period that the fee is to be in effect;
    - advising the landfill operators and waste haulers within at least sixty (60) days advance notice so that they may provide comments and counsel to the Board;
    - consideration of private sector alternatives and grant funding before consideration of funding the activity through the use of this fee; and
    - seeking coordination agreements with the counties of waste origin if not Ottawa County so that double assessment is avoided or at least minimized.

- Through the attached Ordinance, the County may enforce the collection of the Materials Fee and all other aspects of the Solid Waste Management Plan as amended and approved by EGLE;

- The County Materials Fee set through this Section, shall be the only impact, surcharge, or tipping fee charged by Ottawa County at the two County landfills or other solid waste management facilities located within Ottawa County. All previous

fees to be paid to the County by agreement with a Landfill are no longer required of any landfill when this Update is approved and implemented.

- The County Materials Fee is not intended to interfere with or preclude the host impact fee charged by a municipality, as authorized by the Act, nor are any provisions in this Amendment designed to adversely impact any provisions in any contract between a Landfill and its host municipalities.

4. [Substitution at the bottom of Section III.19]

Ottawa County Code 200.1 Solid Waste Management Ordinance, a copy of which is provided in Attachment D-1 [Replacing reference to Ottawa County ordinance No. 93.1]

THIRD AMENDMENT

This Third Amendment ("Third Amendment") is effective as of _____, 2023 by and between **Waste Management of Michigan, Inc.**, a Michigan corporation ("WM"), and the **County of Ottawa**, a Michigan municipal corporation ("County"). WM and County may be collectively referred to herein as the "Parties."

A. On April 12, 1991, WM and County entered into an agreement (the "Agreement"), as subsequently amended on April 17, 1997 (the "First Amendment") and July 31, 1998 (the "Second Amendment"), which among other things, resolved various disputes between the Parties and memorialized the understandings of the Parties related to the operation of the Autumn Hills Recycling and Disposal Facility (the "Landfill").

B. Under Article IV of the Agreement, WM pays County a two percent (2%) surcharge on solid waste disposed of in the Landfill, as set forth in the Agreement.

C. WM and County wish to amend the Agreement, as amended, in this Third Amendment.

WHEREFORE, in consideration of the foregoing recitals and the mutual promises and consideration contained herein, the adequacy of which the Parties acknowledge, WM and County agree as follows:

1. **Disposal Capacity Reserve Guarantee.** WM agrees that the Landfill shall provide disposal capacity for Type II/III solid waste generated in Ottawa County until 2040; provided however, that WM shall not be required to accept any such Type II/III solid waste that may impact compliance with WM's permits or that does not comply with WM's then applicable waste acceptance policies.

2. **Limitations on Annual Disposal of Waste.** WM agrees to limit the volume of solid waste accepted at the Landfill to 1,500,000 tons annually, on a calendar year basis. This annual limitation amount is not a guarantee by the County of the amount of waste that will actually be available for disposal at the Landfill.

3. **Surcharge.** The third paragraph of Section 4.01 of Article IV of the Agreement (starting with "Waste Management agrees to pay the surcharge hereunder in accordance . . . . .") shall remain in the Agreement, but the first two paragraphs of Section 4.01 of Article IV shall be deleted and be replaced with the following paragraph:

> Commencing on _____, 2023, WM shall pay the County a surcharge of $0.65 per ton of solid waste disposed of at the landfill; provided however, that WM shall not be required to pay the surcharge on alternative daily covers approved by EGLE or on solid waste that is used by Landfill as a "Beneficial use" or is a "Beneficial use by-product" as those terms are defined in Section 11502 of Part 115, MCL 324.11502. The surcharge shall be paid by WM on a monthly basis in arrears by the 15th of each month. WM shall also provide the County with a tonnage report along with the surcharge payment.

4. **Limited Out-of-State Waste Acceptance.** Subject to the volume limitation stated in Paragraph 2 hereof, WM may accept out-of-state waste at the Landfill if the waste is used as an alternative daily cover or a mix agent for solidification or stabilization processes.

5. **Miscellaneous.**

a. The Agreement, as amended, shall be binding upon the Parties and their respective heirs, successors, and assigns.

b. Other than as expressly amended herein, the Agreement, as amended by the First Amendment and the Second Amendment, shall remain in full force and effect.

c. This Third Amendment may be executed in counterparts. An executed facsimile or copy of this Third Amendment shall be effective as an original.

IN WITNESS WHEREOF, the undersigned have signed this Third Amendment as of the effective date set forth above.

COUNTY OF OTTAWA,
a Michigan municipal corporation

_____

By:
Its:

WASTE MANAGEMENT OF MICHIGAN, INC.,
a Michigan corporation

_____

By:
Its:

SOLID WASTE ORDINANCE
of
OTTAWA COUNTY

Article 1--AUTHORITY

Michigan counties have been delegated the right to issue ordinances enforcing policy decisions made by county commissioners on topics over which they have jurisdiction. See MCL 46.11 et seq. In addition, Part 115 of Michigan's Solid Waste Management Act, MCL §324.11501 *et seq.*, ("Part 115") as amended, authorizes the county board of commissioners to approve a county solid waste management plan ("Plan") which addresses local planning and regulation of waste disposal equipment, facilities, and services. Part 115 also requires that the Plan contain enforcement and financing mechanisms as well as provisions regulating the import and export of generated waste for disposal purposes.

Article 2--PURPOSE

The purpose of this Solid Waste Ordinance is to fulfill the above-described responsibilities of the Ottawa County Board of Commissioners ("Board") under Part 115.

The Board finds that the regulation of the export, import, and deposit of solid waste is necessary to protect the health, safety, and well-being of the citizens of Ottawa County. Specifically, the Board finds that solid waste disposal import and export regulation helps to identify the origin of solid waste, which is important to assure that hazardous materials are not improperly introduced into the solid waste disposal stream. In addition, a solid waste disposal cap protects the planning life of the County's solid waste infrastructure, as well as the demands placed on the neighborhood and local traffic infrastructure by truck traffic, litter, odors, noise, dust, and other potential nuisances.

The Boardfinds that the regulation of waste flow and disposal and hauler regulation as contained herein are necessary for the County to meet the Plan's goals of reducing waste generation and requiring the legal handling of waste.

The Board also finds that the solid waste user fees assessed in the Plan and this Ordinance are necessary to ensure the effective regulation and reduction of solid waste as required by Part 115 and the Plan.

Article 3--DEFINITIONS

In addition to the adoption of the terms and abbreviations included in Part 115 and the Plan which are incorporated by reference, the following terms shall have the meanings

described in this Section, unless the context specifically indicates a different meaning:

3.1 **Board**. The Ottawa County Board of Commissioners.

3.2 **County Materials Fee.** The fee charged at each landfill to solid waste disposal haulers to fund the activities of Plan.

3.3 **Disposal Cap.** The total amount of intracounty, intercounty, interstate, and international waste deposited in a local landfill per year.

3.4 **Ordinance**. Solid Waste Ordinance of Ottawa County.

3.5 **Plan**. The Ottawa County Solid Waste Management Plan and its updates or amendments are prepared under the requirements of Part 115.

3.6 **Scavenger Activity**. Unauthorized removal, intercepting, and/or appropriating recycled materials from recycling receptacles of a landfill facility.

3.7 **SWC**. Solid Waste Coordinator and his/her designee.

3.8 **Responsible Party**. A generator, hauler or disposal operator, except that a generator or hauler is not a responsible party if he can verify through receipt or billing document that he contracted with a licensed hauler or disposal operator and had no actual knowledge of nor participated in the illegal transportation or disposal.

Article 4--ADMINISTRATION AND ENFORCEMENT

4.1 **Administration**. The Board and the SWC in accordance with Part 115 and the Plan shall administer the provisions of this Ordinance.

The Board shall designate a SWC, which unless otherwise appointed by the Board, shall be the Environmental Health Supervisor (Environmental Sustainability) in the Ottawa County Public Health Department, to act as its officer to effect the proper and consistent administration and enforcement of this Ordinance. The SWC may seek, through the offices of the County Sheriff and Prosecutor, criminal action against any alleged violator of this Ordinance, and/or through the County's civil counsel, a civil injunctive or damage action.

The SWC shall have the primary responsibility for the administration and enforcement of this Ordinance; and may recommend to the Board, for its approval, rules, and guidelines to assist the Board and SWC in administering and

enforcing this Ordinance.

4.2 **Duties of the Board**:

4.2.1 Appoint the SWC.

4.2.2 Approve inter-county agreements consistent with the Plan.

4.2.3 Employ staff to implement the Plan.

4.2.4 Annually review and approve the operating budget for the implementation of the Plan.

4.3 **Duties of the SWC**:

4.3.1 Provide staff support to the Board.

4.4.2 Complete the activities necessary to implement, administer and enforce the Plan and this Ordinance including:

a - Annually evaluate the progress in accomplishing the County goal of reducing the waste stream, and publish an annual report of progress toward the goal;

b - Develop a database that accurately reflects volumes of waste being hauled into landfills;

c – Evaluate revenues from the County Materials Fee and costs of implementing the Plan and make recommendations to the Board for changes in the Fee.

d – Evaluate each Landfill's compliance with the Disposal Cap.

e - Work with local units of government, service organizations, and private haulers to expand recycling collection points in the County;

f - Develop and recommend for Board approval County policies for recycled product procurement;

g - Develop and implement public information efforts aimed at individuals, students, industries, institutions, commercial establishments, and other units of government;

h. - Inspect and monitor solid waste transportation and disposal facilities within Ottawa County for compliance with Part 115, the Plan,and this Ordinance. The Ottawa County Sheriff's Department is authorized upon the request of the SWC to work with the SWC on Ordinance enforcement activities.

i - Issue appearance tickets or appearance summons to alleged violators of this Ordinance.

4.4.3 Provide staff support to the Part 115 Solid Waste Review Committee.

4.4.4 Preparation and administration of an annual budget.

4.5 ENFORCEMENT

The SWC, under the direction of the Board, shall enforce the provisions of the Plan, and this Ordinance and may request assistance from the Sheriff's Department and Prosecutor.

4.5.1 The SWC and/or Sheriff shall regularly monitor and inspect, including solid waste transportation facilities and equipment for purposes of compliance with this Ordinance. The SWC and Sheriff are authorized to enter any landfill operation in Ottawa County during business hours to inspect records kept under this Ordinance or to inspect the facility for compliance with the Plan and this Ordinance. The SWC and Sheriff shall also have the authority to stop any vehicle, for a reasonable period of time, for purposes of inspection for compliance with the Plan and this Ordinance.

4.5.2 **Appearance Ticket**: If the SWC and/or Sheriff determines that there is probable cause that this Ordinance has been violated, the Sheriff is authorized to issue and serve an Appearance Ticket upon a person or entity violating the Plan or this Ordinance. The Appearance Ticket shall direct the recipient to appear in Ottawa County District Court on a specified date to respond to the alleged violation.

4.5.3 **Civil and Criminal Penalties:** Enforcement may be accomplished by civil action and/or criminal prosecution, along

with any other remedies provided by law. Civil penalties shall include, but are not limited to, those authorized in Part 115 and/or authorized in the Public Health Code. Any responsible party shall be guilty of a misdemeanor if proven to have violated the provisions of this Ordinance and may, upon conviction, be punished by imprisonment in the County jail for not more than ninety (90) days, or by a fine of not more than five hundred ($500) and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court. The imposition of any sentence shall not exempt the Responsible Party from compliance with the requirements of the Plan nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation. Continued violation of this Ordinance has hereby declared a nuisance per se.

4.5.4 In deciding confidentiality and public disclosure issues regarding reports of suspected violations of this Ordinance, the SWC and Board shall be governed by Sec. 13(1)(b) of 1976 PA 442, as amended, being MCL §15.243(1)(b).

4.5.6 For purposes of this Ordinance, "Sheriff" includes any of his or her authorized and sworn deputies.

Article 5--WASTE DISPOSAL RESTRICTIONS

5.1 No Type I waste (hazardous waste) shall be landfilled, buried or otherwise disposed of in Ottawa County. This prohibition shall not be interpreted as precluding the treatment of hazardous waste in accordance with acceptable industry standards and applicable laws, regulations, and/or permits.

5.2 Except for Type II and Type III solid waste generated from a location out of state or from within Ottawa, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Clare, Eaton, Gratiot, Ionia, Isabella, Kalamazoo, Kent, Lake, Mason, Mecosta, Muskegon, Montcalm, Newaygo, Oceana, Osceola, St. Joseph, and Van Buren Counties, no solid waste of any type shall be landfilled, buried or otherwise disposed of in Ottawa County. A responsible party shall ensure that all solid waste is disposed of in licensed facilities according to state law and regulations, the Plan and this Ordinance.

5.3 Yard waste is banned from landfill disposal and burning in accordance with state law.

5.4 **Disposal Cap**: Pursuant to the authority of MCL 324.11538(1)(i) and MCL 324.11538(2) and in order to preserve estimated landfill capacity and protect infrastructure and community interests surrounding the two landfill facilities in the County, neither landfill shall accept more than the aggregate annual tons of Type II and Type III waste as identified in the Ottawa County Solid Waste Management Plan, including any updates, except pursuant to and limited to the Plan's exceptions.

5.5 Scavenger activity of source-separated materials from recycling receptacles or facilities is prohibited.

5.6 No person who generates solid waste within Ottawa County may offer any remuneration or consideration to any other person to haul away his solid waste unless the hauler is licensed in one or more municipalities in Ottawa County.

5.7 No responsible party shall export, haul or dispose of solid waste generated within Ottawa County to a disposal facility that is not identified in the Plan as eligible for such export, transport, or disposal.

5.8 Transportation, disposal, or handling of solid waste in any manner other than that which is authorized under Part 115, the Plan, or this Ordinance is prohibited.

Any person who violates one of the above prohibitions shall be subject to the civil and criminal provisions of Art. 4.5.3.

Article 6--PROGRAM DEVELOPMENT AND IMPLEMENTATION.

6.1 Each Ottawa County landfill owner or operator must record all solid waste volumes deposited at the landfill in tons along with the county in which the waste was generated, the name of the hauler, and the date of disposal. Any person who knowingly falsifies or who participates in or encourages the falsification of this information shall be subject to the criminal and civil penalties contained in Art. 4.5.3.

6.2 All landfills and other solid waste disposal facilities shall send a quarterly report to the SWC summarizing the amount and type of solid waste handled during the reporting period at the same time it submits its reports to the State Department of Environment Great Lakes and Energy ("EGLE). The disposal reports sent to EGLE must be copied to the SWC. The quarterly report shall present the data according to the template form attached hereto as Exhibit A. The quarterly report shall be completed and filed with the SWC or designee not later than 5 p.m. on the last day of thequarter following the quarter that is the subject of the report.

Article 7—COUNTY MATERIALS FEE AND FINANCIAL PROVISIONS

7.1 County Materials Fee Provisions - The cost of implementation, administration, and enforcement of the Plan and this Ordinance will be financed from the fees and fines provided for under this Ordinance. The County Materials Fee imposed by this ordinance shall be in lieu of any contractual fees or surcharges imposed upon landfills prior to the effective date of this County Materials Fee Provision and payment of any such fees by landfills to the County pursuant to such agreements is hereby waived. The fee schedule shall be established periodically as provided in the Plan.

7.1.1 A County Materials Fee set by the Board will be payable by the landfill owner or operator for all waste disposed of in landfills located in Ottawa County;

7.1.2 All County Materials Fees will be collected through a quarterly payment program and deposited in a segregated fund to be used exclusively for purposes of funding implementation of the Plan, the legacy costs of landfills in the County,and this Ordinance

7.1.3 The County Materials Fees shall not exceed the $2 amount specified in the Plan. The County Materials Fee shall be adequate to provide for the costs necessary to implement and administer this Ordinance and other provisions of the Plan.

7.1.4 The County Materials Fee shall be paid to and received by the County Treasurer in full by 5 p.m. on the last day of the first month of the quarter succeeding the quarter of collection, with a notice of the fee and payment to be simultaneously provided to the SWC.

7.2 The SWC may inspect, upon reasonable notice, the relevant records of a landfill operator or waste hauler to monitor compliance with the user fee provisions of this Ordinance.

Article 8--SEVERABILITY CLAUSE

The Ordinance and the various articles, sections, and clauses thereof, are hereby declared to be severable. In any part, sentence, paragraph, section, clause, or work is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, such invalidity shall not affect the remaining portions of applications of this Ordinance which

can be given effect without the invalid portion or application, provided such remaining portions are not determined by the Court to be inoperable.

ORDINANCE ADOPTED: **_____,** __, 2023

ORDINANCE EFFECTIVE: **_____,** ___, 2023

_____ _____

Joe Moss, Chairperson,
Ottawa County Board of Commissioners

Justin F. Roebuck, Ottawa County Clerk

miOttawa Department of
Public Health

Adeline Hambley, MBA.
Health Officer

Gwen Unzicker, M.D.
Medical Director

Solid Waste Planning Committee Subcommittee Proposal

Subcommittee Members: Kari Bliss and Dan Broersma
Assisting Subcommittee Members: Kim Wolters and Pat Staskiewicz

Re: Proposed recommendation to SWPC for consideration regarding Proposed Draft Amendment or moving towards contract amendments

Solid Waste Planning Committee:

A subcommittee of the Solid Waste Planning Committee (SWPC) consisting of Dan Broersma and Kari Bliss meet on April 3rd to discuss suggestions for the SWPC to consider before voting to send the amendment to BOC and/or suggestions to Ottawa County Administrative staff should contractual agreements proceed instead. This subcommittee also had Kim Wolters and Pat Staskiewicz present to aid the program-related questions and to assist in information collection should it be required.

The Subcommittee recommends that Ottawa County and the SWPC keep these items in mind in consideration in discussions regarding the proposed draft amendment and/or agreements.

1. Clearly define:
    a. Legacy cost versus current sustainability efforts
    b. Mandatory/required efforts versus chosen efforts
    c. Requirements of CERCLA (Superfund) verse Part 115
2. Consider additional stabilizing funding sources (existing funding isn't stable)
    a. Tonnage and % income leave for consistent variation of funding
    b. Part 115 is designed to reduce landfilling
    c. This may need to be done soon to assist with the current funding pressures
    d. EGLE may require large cost items on SW Landfill
3. Leave Landfill caps with suggested increases
    a. Allow for the increase but keeps in mind the capacity and the future of the landfill
4. Ensure point source staff oversight
5. Find a method to clearly define the two programs on a fund-base level
    a. 2 program together causes confusion
    b. unsure how to do this or how it could look
    c. This may have to be done with future Part 115 requirements
6. Keep in mind future implications Part 115 may have
7. Remove all items relating to accepting non-biosolids (Section 2)
    a. No longer seen as needed
8. Ensure funding will cover both program cost needs
    a. This may or could be a mix and/or single source funding
9. Yearly/Biyearly increase to assist with inflation cost
10. Expiration date to agreements
11. See if WM/Republic has other methods to assist in the offsetting program cost

12251 James Street • Holland, MI 49424-9661 • (616) 393-5645 • Fax (616) 393-5643

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 115
SOLID WASTE MANAGEMENT

SUBPART 1
GENERAL AND DEFINITIONS

324.11501 Meanings of words and phrases.

Sec. 11501. For purposes of this part, the words and phrases defined in sections 11502 to 11506 have the meanings ascribed to them in those sections.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99903 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11502 Definitions; A to C.

Sec. 11502. (1) "Agreement" means a written contract.

(2) "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) "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, 2026, at least 90% of single-family dwellings in urban areas as identified by the most recent federal decennial census and, by January 1, 2028, 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*) One or more recyclable materials, as determined by the county's material management plan, that are typically collected through curbside recycling programs, are collected at least twice per month.

(*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.

(*iv*) The curbside recycling is provided by the municipality or the resident has access to curbside recycling by the resident's chosen hauler.

(b) By January 1, 2032, 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) "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) "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) "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 GAAMPS.

(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 MAC.

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

(10) "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.

(e) As alternate daily cover at a licensed landfill in compliance with an operational plan approved pursuant to R 299.4429 of the MAC.

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

(12) "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) "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 a solid, semisolid, or liquid that has been treated to meet the requirements of R 323.2414 of the MAC. Biosolids include, but are 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) "Bond" means a financial instrument guaranteeing performance, including a surety bond from a surety company authorized to transact business 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.

(16) "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.

(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.

(b) Is a nonhazardous industrial waste landfill described in section 11525(4)(a), (b), or (c).

(18) "Cement kiln dust" means particulate matter collected in air emission control devices serving Portland cement kilns.

(19) "Certificate of deposit" means a certificate of deposit that meets all of the following requirements:

(a) Is negotiable.

(b) Is held by a bank or other financial institution regulated and examined by a state or federal agency.

(c) Is fully insured by an agency of the United States government.

(d) Is in the sole name of the department.

(e) Has a maturity date of not less than 1 year.

(f) Is renewed not later than 60 days before the maturity date.

(20) "Certified health department" means a city, county, or district department of health certified under section 11507a.

(21) "Chemical recycling" means a manufacturing process for the conversion of source separated post-use polymers into basic raw materials, feedstocks, chemicals, and other products through processes that include pyrolysis (catalytic and noncatalytic), gasification, depolymerization, hydrogenation, solvolysis, and other similar chemical technologies. The recycled products produced include, but are not limited to, monomers, oligomers, plastics, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and adhesives. For the purposes of part 115, chemical recycling does not include incineration of plastics, waste-to-energy processes, or activities performed at a facility excluded from the definition of materials management facility by section 11504(25). Products sold as fuel are not recycled products. For purposes of part 115, chemical recycling is not solid waste management, solid waste processing, waste diversion, resource recovery, municipal solid waste incineration or combustion, the conversion of waste to energy, or identification, separation, or sorting of recyclable materials through mechanical processes.

(22) "Chemical recycling facility" means a manufacturing facility that receives, stores, and, using chemical recycling, converts post-use polymers. A chemical recycling facility is a manufacturing facility subject to applicable requirements of this act and rules promulgated under this act concerning air, water, waste, and land use or any other applicable regulation. A chemical recycling facility is not a solid waste processing plant, solid waste transfer facility, waste diversion center, resource recovery facility, or municipal solid waste incinerator.

(23) "Class 1 compostable material" means any of the following:

(a) Yard waste.

(b) Wood.

(c) Food waste.

(d) Paper products.

(e) Manure or animal bedding.
(f) Anaerobic digester digestate that does not contain free liquids.
(g) Compostable products.
(h) Dead animals unless infectious or managed under 1982 PA 239, MCL 287.651 to 287.683.
(i) Spent grain from breweries.
(j) Paunch.
(k) Food processing residuals.
(*l*) Aquatic plants.
(m) Any other material, including, but not limited to, fat, oil, or grease, that the department classifies as class 1 compostable material under section 11562 or that is approved as part of a large composting facility operations plan.
(n) A mixture of any of these materials.
(24) "Class 1 composting facility" means a composting facility where only class 1 compostable material is composted.
(25) "Class 2 compostable material" means mixed municipal solid waste, biosolids, state or federal controlled substances, and all other compostable material that is not listed or approved as a class 1 compostable material.
(26) "Class 2 composting facility" means a composting facility where class 2 compostable material or a combination of class 2 compostable material and class 1 compostable material is composted.
(27) "Coal ash", subject to subsection (28), 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.
(28) 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 C618-12A, "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 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 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 beneficial use 2.
(29) "Coal ash impoundment" means a natural topographic depression, man-made excavation, or diked area 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 December 28, 2018, and that does not have a permit pursuant to part 31, is considered an open dump beginning December 28, 2020 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. Coal ash impoundment includes an existing coal ash impoundment.
(30) "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.
(31) "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.
(32) "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.
(33) "Commercial waste", subject to subsection (34), means solid waste generated by nonmanufacturing activities, including, but not limited to, solid waste from any of the following:
(a) Stores.
(b) Offices.
(c) Restaurants.
(d) Warehouses.
(e) Multifamily dwellings.
(f) Hotels and motels.
(g) Bunkhouses.
(h) Ranger stations.

(i) Crew quarters.
(j) Campgrounds.
(k) Picnic grounds.
(*l*) Day use recreation areas.
(m) Hospitals.
(n) Schools.
(34) Commercial waste does not include household waste, hazardous waste, or industrial waste.
(35) "Compost additive" means any of the following materials if added to finished compost to improve the quality of the finished compost:
(a) Products designed to enhance finished compost.
(b) Sugar beet limes.
(c) Wood ash.
(d) Drywall.
(e) Synthetic gypsum.
(f) Other materials approved by the department.
(36) "Compostable material" means organic material that can be converted to finished compost. Compostable material comprises class 1 compostable material and class 2 compostable material.
(37) "Compostable products" means utensils, food service containers, and other packaging and products that are certified by the Biodegradable Products Institute or an equivalent, recognized, third-party, independent verification body, as meeting either of the following requirements:
(a) ASTM D6400, "Standard Specification for Labeling of Plastics Designed to Be Aerobically Composted in Municipal or Industrial Facilities", by ASTM International.
(b) ASTM D6868, "Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to Be Aerobically Composted in Municipal or Industrial Facilities", 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) "Composting facility" means a facility where composting occurs. However, composting facility does not include a site where only composting described in section 11555(1)(a), (b), or (e) occurs.
(40) "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 part 115 and approved plans and specifications.
(41) "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 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) "County approval agency" or "CAA" means the county board of commissioners, the municipalities in the county, or the regional planning agency, whichever submits a notice of intent to prepare a materials management plan under section 11571.
(43) "County board of commissioners" means the county board of commissioners or the elected county executive, as appropriate.
(44) "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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2004, Act 35, Imd. Eff. Mar. 19,

2004;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 243, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11503 Definitions; D to G.

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 environment, Great Lakes, and energy.

(3) "Depolymerization" means a manufacturing process in which post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, or coatings.

(4) "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 county approval agency identifies the regional planning agency as the DPA.

(5) "Director" means the director of the department.

(6) "Discharge" includes, but is not limited to, 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 environment, natural resources, or the public health, safety, or welfare.

(7) "Disposal area", subject to section 11555(6), means 1 or more of the following that accepts solid waste at a location as defined by the boundary identified in its construction permit, in engineering plans approved by the department, or in a notification or registration:

(a) A solid waste processing and transfer facility.

(b) A municipal solid waste incinerator.

(c) A landfill.

(d) A coal ash impoundment.

(e) Any other solid waste handling or disposal facility utilized in the disposal of solid waste, as determined by the department.

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

(9) "Enforceable mechanism" means a legal method that authorizes this state, a county, a municipality, or another person to take action to guarantee compliance with a materials management plan. Enforceable mechanisms include agreements, laws, ordinances, rules, and regulations.

(10) "EPA" means the United States Environmental Protection Agency.

(11) "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.

(12) "Existing coal ash impoundment" means a coal ash impoundment that received coal ash before December 28, 2018, and that, as of that date, 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 MAC 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 by December 28, 2020.

(13) "Existing coal ash landfill" means a coal ash landfill to which either of the following applies:

(a) The landfill received coal ash both before and after October 19, 2015.

(b) Construction of the landfill commenced before October 19, 2015, and the landfill received coal ash on or after October 19, 2015. For the purposes of this subdivision, construction of a landfill commenced before October 19, 2015 if both of the following requirements were met before that date:

(*i*) The owner or operator obtained the federal, state, and local approvals or permits necessary to begin physical construction.

(*ii*) A continuous, on-site physical construction program began.

(14) "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.

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

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

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

(18) "Fats, oils, or greases" means organic polar compounds that meet all of the following requirements:

(a) Contain multiple carbon chain triglyceride molecules.

(b) Are derived from animal or plant sources.

(c) Are generated at food manufacturing and food service establishments.

(d) Are generated by-products from food preparation activities.

(19) "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.

(20) "Financial test" means a corporate or local government financial test or guarantee approved 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.

(21) "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.

(b) Is used or sold for use as a soil amendment, fertilizer, topsoil blend, growing medium amendment, or other similar use.

(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 de minimis amount of viable weed seeds.

(22) "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.

(23) "Food processing residuals" means any of the following:

(a) Residuals of fruits, vegetables, aquatic plants, or field crops, including such residuals generated by a brewery or distillery.

(b) Otherwise unusable parts of fruits, vegetables, aquatic plants, or field crops from the processing thereof.

(c) Otherwise unusable food products that do not meet size, quality, or other product specifications and that

were intended for human or animal consumption.

(24) "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 for human or animal food if the accumulation is or is intended to be discarded. Food waste does not include fats, oils, or greases.

(25) "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.

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

(27) "Functional stability" means the stage at which a landfill does not pose a significant risk to the environment, natural resources, or the public health, safety, or welfare at a point of exposure, in the absence of active control systems.

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

(29) "Gasification" means a manufacturing process in which post-use polymers are heated in an oxygen-controlled atmosphere and converted to syngas (carbon monoxide (CO) and hydrogen (H2)) and the syngas is converted into valuable raw materials or intermediate or final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, coatings, and plastic and chemical feedstocks.

(30) "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 public health, safety, or welfare and will not have more than minimal short-term adverse impacts on the environment or natural resources.

(b) Includes requirements for a site plan, an operations plan, a facility final closure plan, and financial assurance.

(31) "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).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 1998, Act 466, Imd. Eff. Jan. 4, 1999;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 85, Imd. Eff. May 15, 2020;—Am. 2022, Act 243, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11504 Definitions; H to P.

Sec. 11504. (1) "Hauler" means a person who owns or operates a managed materials transporting unit.

(2) "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.

(3) "Household waste" means solid waste that is generated from single-family dwellings. Household waste does not include commercial waste, industrial waste, hazardous waste, or construction and demolition waste.

(4) "Hydrogenation" means the chemical reaction between molecular hydrogen and an element or compound, ordinarily in the presence of a catalyst.

(5) "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.

(6) "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.

(7) "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 any of the following 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 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, "Toxicity Characteristic Leaching Procedure", EPA method 1312, "Synthetic Precipitation Leaching Procedure", 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 section 20101 or background concentration as defined in 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 or concrete from driveways, roadways, or parking lots is not material contamination. Material covered in whole or in part with paint that contains more than 0.5% lead 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.

(8) "Innovative technology 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.

(9) "Insurance" means insurance that conforms to the requirements of 40 CFR 258.74(d) and is provided by an insurer 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.

(10) "Landfill" means a type II landfill or type III landfill.

(11) "Landfill care fund" means a landfill care fund required by section 11525d(2).

(12) "Landfill care fund bond" means a surety bond, an irrevocable letter of credit, or a combination of these instruments in favor of the department used to establish a landfill care fund.

(13) "Large", in reference to a 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.

(b) The site does not qualify as a small or medium composting facility.

(14) "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 department or a certified health department before January 11, 1979.

(b) A coal ash landfill, if either of the following applies:

(*i*) The expansion is beyond the limit established in a construction permit issued after December 28, 2018.

(*ii*) The expansion is made after October 19, 2015, and is a horizontal expansion of the outermost boundary, as defined by a construction certification or operating license, of an existing coal ash landfill.

(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.

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

(16) "License" means an operating license.

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

(18) "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.

(19) "Low-hazard industrial waste" means industrial material that has a low potential for groundwater contamination when managed in compliance with part 115. All of the following materials are low-hazard industrial wastes:

(a) Coal ash and 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, and 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.

(20) "Low-hazard-potential coal ash impoundment" means a coal ash impoundment that is a diked surface impoundment, the failure or mis-operation 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.

(21) "MAC" means the Michigan Administrative Code.

(22) "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 scrap processor as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, or by a reuser of these metals.

(23) "Managed materials transporting unit" means a container, which may be an integral part of a truck or other piece of equipment, used for the transportation of managed materials.

(24) "Materials management facility" or, unless the context implies a different meaning, "facility" means any of the following, subject to subsection (25):

(a) A disposal area.

(b) A materials utilization facility.

(c) A waste diversion center.

(25) 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.

(26) "Materials management goals" means goals identified in the MMP pursuant to section 11578(1)(a).

(27) "Materials management plan" or "MMP" means a plan required under section 11571.

(28) "Materials recovery facility", subject to subsection (29), means a facility that meets both of the following requirements:

(a) Receives primarily source separated material and sorts, bales, or processes the source separated material for reuse, recycling, or utilization as a raw material or new product.

(b) On an annual basis, does not receive an amount of solid waste equal to or more than 15% of the total weight of material received by the facility unless the materials recovery facility is making reasonable effort and has an education program to reduce the amount of solid waste. Material disposed of as a result of recycling market fluctuations is not included in the 15% calculation.

(29) Materials recovery facility does not include any of the following:

(a) A retail, commercial, or industrial establishment that bales for off-site shipment managed material that it generates.

(b) A retail establishment that collects returnable beverage containers under 1976 IL 1, MCL 445.571 to 445.576.

(c) A beverage distributor, or its agent, that manages returnable beverage containers under 1976 IL 1, MCL 445.571 to 445.576.

(d) A facility or area used for reuse, recycling, or storage of recyclable materials solely generated by an industrial facility.

(e) A facility that is an end user or secondary processor and that uses as fuel or otherwise, processes, or stores material generated by industrial facilities.

(f) A facility that primarily manages material that was previously sorted or processed.

(g) An anaerobic digester.

(30) "Materials utilization" means recycling, composting, or converting material into energy rather than disposing of the material.

(31) "Materials utilization facility" means a facility that is any of the following:

(a) A materials recovery facility.

(b) A composting facility.

(c) An anaerobic digester, except at a manufacturing facility that generates its own feedstock.

(d) An innovative technology facility.

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

(33) "Medium", in reference to a composting facility, means a composting facility to which all of the following apply:

(a) The site at any time contains more than 500 cubic yards of compostable material.

(b) The site does not qualify as a small composting facility.

(c) The site does not at any time contain more than 10,000 cubic yards of compostable material.

(d) The site does not at any time contain more than 10% by volume of class 1 compostable material other than yard waste.

(e) 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.

(34) "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.

(35) "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.

(36) "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 waste from single-family and multifamily dwellings, hotels, motels, and other residential sources, or such 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 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.

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

(38) "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.

(39) "New coal ash impoundment" means a coal ash impoundment that first receives coal ash after December 28, 2018.

(40) "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 a landfill or coal ash impoundment, 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 was 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.

(41) "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.

(42) "Operate" includes, but is not limited to, conducting, managing, and maintaining.

(43) "Part 115" means this part and rules promulgated under this part.

(44) "Perpetual care fund" means a trust fund, escrow account, or perpetual care fund bond required by section 11525(2).

(45) "Perpetual care fund bond" means a surety bond, an irrevocable letter of credit, or a combination of these instruments in favor of the department used to establish a perpetual care fund.

(46) "Planning area" means the geographic area to which a materials management plan applies.

(47) "Planning committee" means a committee appointed under section 11572.

(48) "Post-use polymer" means a plastic to which all of the following apply:

(a) It has been source separated.

(b) It has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste.

(c) It is not mixed with solid waste or hazardous waste on-site or during conversion at a chemical recycling facility.

(d) It is converted at a chemical recycling facility or, subject to applicable speculative accumulation time frames, stored at a chemical recycling facility before conversion.

(49) "Preexisting unit" means a landfill unit that is or was licensed under part 115 but has not received waste after October 9, 1993.

(50) "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, 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.

(51) "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).

(52) "Pyrolysis" means a manufacturing process in which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and then are cooled, condensed, and converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, and plastic and chemical feedstocks that have economic utility as raw materials and products.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 85, Imd. Eff. May 15, 2020;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11505 Definitions; R, S.

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) "Recyclable materials" means glass, metal, plastics, paper products, wood, rubber, textiles, food waste, yard clippings, and other materials that may be recycled or composted.

(3) "Recycling" means any process 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 intermediate or new products.

(4) "Regional planning agency" means the regional solid waste planning agency designated by the governor pursuant to section 4006 of subtitle D of the solid waste disposal act, 42 USC 6946.

(5) "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) "Response activity" means an activity that is necessary to protect the environment, natural resources, or the public health, safety, or welfare, 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) "Rubbish" means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard waste, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the environment, natural resources, or the public health, safety, or welfare.

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

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

(13) "Slag" means the nonmetallic product resulting from melting or smelting operations for iron or steel.

(14) "Small", in reference to a 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 5% or more by volume of class 1 compostable material other than yard waste.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11506 Definitions; S to Y.

Sec. 11506. (1) "Solid waste" means 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) Manure or animal bedding generated in the production of livestock and poultry, if managed in compliance with the appropriate GAAMPS.

(d) Liquid waste.

(e) Scrap metal, as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, directed to a scrap processor as defined in that section or to a reuser of scrap metal.

(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 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 before bleaching.

(*v*) Aquatic plants.

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

(j) Source separated materials.

(k) 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 considered to act as a bonding agent, the coal ash must have at least 10% available lime.

(*iv*) As a road base or construction fill that is placed at least 4 feet above the seasonal groundwater table and covered with asphalt, concrete, or other material approved by the department.

(*l*) Inert material.

(m) Soil that is washed or otherwise removed from sugar beets, has not more than 55% moisture content, and is registered as a soil conditioner under part 85. Any testing required to become registered under part 85 is the responsibility of the generator.

(n) Soil that is relocated under section 20120c.

(o) Diverted waste that is managed through a waste diversion center.

(p) Beneficial use by-products.

(q) Coal bottom ash, if substantially free of fly ash or economizer ash, when used as cold weather road abrasive.

(r) Stamp sands when used as cold weather road abrasive in the Upper Peninsula by any of the following:

(*i*) A public road agency.

(*ii*) Any other person pursuant to a plan approved by a public road agency.

(s) Any material that is reclaimed or reused in the process that generated it.

(t) Any secondary material that, as specified in or determined pursuant to 40 CFR part 241, is not a solid waste when combusted.

(u) Post-use polymers.

(v) Other wastes regulated by statute.

(2) "Solid waste management fund" means the solid waste management fund created in section 11550.

(3) "Solid waste processing and transfer facility" means a tract of land, a building or unit and any

appurtenances of a building or unit, a container, or any combination of these that is used or intended for use in the handling, storage, transfer, or processing of solid waste, and is not located at the site of generation or the site of disposal of the solid waste.

(4) "Solvolysis" means a manufacturing process in which post-use polymers are purified with the aid of solvents, while heated at low temperatures or pressurized, or both, to make useful products while allowing additives and contaminants to be removed. The products of solvolysis include, but are not limited to, monomers, intermediates, and valuable chemicals and raw materials. Solvolysis includes, but is not limited to, the following:

(a) Hydrolysis.

(b) Aminolysis.

(c) Ammonolysis.

(d) Methanolysis.

(e) Glycolysis.

(5) "Source reduction" means any practice that reduces or eliminates the generation of waste at the source.

(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, food waste, electronics, latex paint, yard waste, or any other material approved by the department that is used for conversion into raw materials or intermediate or new products. For the purposes of this subdivision, raw materials or intermediate 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 plant, 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 meet both of the following requirements:

(*i*) Do not contain asbestos, rolled roofing, wood, nails, or tar paper.

(*ii*) Are used as described in any of the following:

(A) As a component in hot mix asphalt, warm mix asphalt, or cold patch asphalt.

(B) To fuel an industrial boiler, kiln, power plant, or furnace, subject to part 55.

(C) Mixed with recycled asphalt pavement at a maximum of 1 to 1 ratio by volume to produce a base that is covered by concrete or asphalt paving.

(D) 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 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) 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 in a manner consistent with GAAMPS.

(o) Yard waste, class 1 compostable material, and class 2 compostable material that are delivered to an

anaerobic digester authorized by the department under part 115 to receive the material.

(p) Recyclable materials.

(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.

(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.

(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.

(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 MAC.

(11) "Type II landfill" means a landfill that receives household waste or municipal solid waste incinerator ash, or both, and that may also receive other types of solid waste, such as any of the following:

(a) Construction and demolition waste.

(b) Sewage sludge.

(c) Commercial waste.

(d) Nonhazardous sludge.

(e) Hazardous waste from conditionally exempt small quantity generators.

(f) Industrial waste.

(12) "Type III landfill" means a landfill that is not a type II landfill or hazardous waste landfill. Type III landfill includes all of the following:

(a) A construction and demolition waste landfill.

(b) An industrial waste landfill.

(c) A low hazard industrial waste landfill.

(d) A surface impoundment authorized as an industrial waste landfill.

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

(f) A coal ash landfill.

(g) Any coal ash impoundment, including, but not limited to, the following:

(*i*) An existing coal ash impoundment that is closed as a landfill pursuant to R 299.4309 of the MAC.

(*ii*) An existing coal ash impoundment where coal ash will remain after closure and that will be closed as a landfill pursuant to R 299.4309 of the MAC.

(13) "Vermiculture" means the controlled and managed process by which live worms degrade organic materials into worm castings or worm humus.

(14) "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.

(15) "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.

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

(17) "Yard 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 waste does not include stumps, agricultural wastes, animal waste, roots, sewage sludge, Christmas trees or wreaths, food waste, or screened finished compost made from yard waste.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1995, Act 65, Imd. Eff. May 31, 1995;—Am. 1996, Act 392, Imd. Eff. Oct. 3, 1996;—Am. 1998, Act 466, Imd. Eff. Jan. 4, 1999;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2010, Act 345, Imd. Eff. Dec. 21, 2010;—Am. 2012, Act 446, Imd. Eff. Dec. 27, 2012;—Am. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 615, Eff. Mar. 28, 2019;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11507 Recycling and reuse of materials; optimizing recycling opportunities; policies, practices, and benchmark recycling standards; development of methods for disposal of

solid waste; construction and administration of Part 115; disposal, storage, or transportation of solid waste; compliance with Part 115.

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 environment, natural resources, and the public health, safety, and welfare. This state should develop policies, practices, and goals 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 through the benchmark recycling standards a 45% municipal solid waste recycling rate and, as an interim step, by 2029, a 30% municipal solid waste recycling rate.

(3) 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) Part 115 shall be construed and administered to encourage and facilitate all persons to engage in source separation of material from solid waste, and other environmentally sound measures to prevent materials from entering the waste stream or 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) 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11507a Solid waste management program; certification; grounds for rescission of certification.

Sec. 11507a. 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.

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2004, Act 39, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11508 Operation of materials management facility; requirements; registration application.

Sec. 11508. (1) 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) Subject to subsection (2)(a) to (c), the facility is consistent with the MMP. This subdivision does not apply to a disposal area described in section 11509(1)(b) or 11513(1).

(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(9), approved an MMP for the planning area where the facility is located or proposed to be located and the facility is consistent with the MMP, as determined under section 11585. However, all of the

following apply:

(a) Before an MMP is initially approved by the department under section 11575(9), the department may issue a construction permit for a solid waste processing and transfer facility or an approval under a general permit or a registration for a materials utilization facility if 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 issuance.

(b) Proposed landfill expansions shall follow the siting process of the existing solid waste management plan until an MMP for the planning area is approved by the department.

(c) Before an MMP for the planning area has been approved by the department, materials utilization facilities that are required to provide a notification or registration to the department under part 115 may be sited under local zoning ordinances.

(3) A notification or application under part 115 for a construction permit, operating license, approval under a general permit, or registration required to operate a materials management facility; a notice of intent to prepare a materials management plan; a bond; a risk pooling financial mechanism; evidence of financial assurance; a request for the reduction of the amount of a financial assurance mechanism; an agreement governing the operation of a perpetual care fund trust fund or escrow account; an application for a grant or loan; or a report or other information required to be submitted to the department under part 115 shall meet all of the following requirements:

(a) Be on a form and in a medium provided or 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 244, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 2

DISPOSAL AREAS

324.11509 Construction permit for establishment of disposal area; application; engineering plan; construction permit application fees; resubmission of application with additional information and fee; modification or renewal of permit; single permit multiple types of disposal areas; disposition of fees; approval of new type II landfill; restrictions; "contiguous" defined.

Sec. 11509. (1) 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(1) or (2).

(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. A person proposing the establishment of a disposal area shall submit the application for a construction permit to the appropriate local health officer. However, if the disposal area is located in a county or city that does not have a certified health department, the application shall be submitted directly to the department. An application for a construction permit shall be accompanied by engineering plans.

(3) An application for a construction permit for a landfill shall be accompanied by an application fee in the following amount:

(a) For a new landfill, the following:

(*i*) For a type II landfill, $3,000.00.

(*ii*) Except as provided in subparagraph (*iii*), for an industrial waste landfill, $2,000.00.

(*iii*) For a type III landfill limited to low hazard industrial waste, $1,500.00.

(b) For a lateral expansion of a landfill, the following:

(*i*) For a type II landfill, $2,000.00.

(*ii*) Except as provided in subparagraph (*iii*), for an industrial waste landfill, $1,500.00.

(*iii*) For a type III landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, $1,000.00.

(c) For a vertical expansion of an existing landfill, the following:

(*i*) For a type II landfill, $1,500.00.

(*ii*) Except as provided in subparagraph (*iii*), for an industrial waste landfill, $1,000.00.

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

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

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

(4) An application for a construction permit for a disposal area that is not a landfill shall be accompanied by an application fee in the following amount:

(a) For a new disposal area for municipal solid waste, or a combination of municipal solid waste and waste listed in subdivision (b), $2,000.00.

(b) For a new disposal area for industrial waste, or construction and demolition waste, $1,000.00.

(c) For the expansion of an existing disposal area for any type of waste, $500.00.

(5) If an application is returned to the applicant as administratively incomplete, 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, an applicant for a construction permit, within 1 year after the permit denial or application withdrawal, may resubmit the application, together with the additional information as needed to address the reasons for denial or withdrawal, without paying an additional application fee.

(6) Subject to section 11510(2)(d), an application for a modification to a construction permit or for renewal of a construction permit that has expired shall be accompanied by a fee of $500.00.

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

(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 county board of commissioners and the department determines that the landfill or incinerator is needed for the planning area. The county board of commissioners' request shall include a demonstration that materials utilization options have been exhausted. The department's determination of need shall be based on public 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11510 Advisory analysis of proposed disposal area; duties of department upon receipt of construction permit application.

Sec. 11510. (1) Before submitting a construction permit application under section 11509 for a new disposal area, a person shall request a local health officer or the department to provide an advisory analysis of the proposed disposal area. Beginning 15 days after the request, and notwithstanding an analysis result, the person 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 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 notice shall contain all of the following:

(*i*) A map indicating the location of the proposed disposal area.

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

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

(c) Indicate in the notices under subdivisions (a) and (b) that the department will hold a public hearing in the area of the proposed disposal area if a written request is submitted by the applicant, 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 department shall hold the public hearing 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 proposed disposal area, including the site, plans, and application, to determine if they comply with part 115. The review shall be conducted by persons qualified in hydrogeology and, if the disposal area is a landfill, landfill engineering. The department shall not issue a construction permit unless the persons conducting the review acknowledge that the application package complies with the requirements of part 115. The construction permit may contain a stipulation specifically applicable to the site and operation. 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, is required. The upgrading of a disposal area type required by the department to comply with 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 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, not more than 60 days after receiving notification from the department, the Michigan aeronautics commission informs the department 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.

(3) 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 the landfill.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 1998, Act 397, Imd. Eff. Dec. 17, 1998;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11511 Construction permit; approval or denial of issuance; expiration; renewal; fee.

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 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 $500.00 and submission of any additional relevant information the department may require.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 215, Imd. Eff. Nov. 10, 2011;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11511a Coal ash landfill, coal ash impoundment, or lateral expansion of landfill or impoundment; standard and location requirements; construction permit; detection monitoring program.

Sec. 11511a. (1) A new coal ash landfill, a new coal ash impoundment, or a new lateral expansion of a coal ash landfill or coal ash impoundment shall comply with the requirements of R 299.4304, R 299.4305, and R 299.4307 to R 299.4317 of the MAC, except that the minimum design standard for a new coal ash landfill, a new coal ash impoundment, or a new lateral expansion of a coal ash landfill or coal ash impoundment pursuant to R 299.4307(4) of the MAC is solely R 299.4307(4)(b) of the MAC and not R 299.4307(4)(a), (c), or (d) of the MAC.

(2) A new coal ash landfill, a new coal ash impoundment, or a new lateral expansion of a coal ash landfill or coal ash impoundment shall comply with the location requirements of R 299.4411 to R 299.4413 and R 299.4415 to R 299.4418 of the MAC, except that a new coal ash landfill or coal ash impoundment or a new lateral expansion of a coal ash landfill or coal ash impoundment shall maintain a permanent minimum clearance from the bottom of the primary liner of not less than 5 feet to the natural groundwater level.

(3) The department shall not issue a construction permit for a new coal ash landfill or new coal ash impoundment or a new lateral expansion of a coal ash landfill or coal ash impoundment unless all of the following apply:

(a) The landfill, impoundment, or expansion, respectively, complies with subsections (1) and (2), as applicable.

(b) The landfill, impoundment, or expansion, respectively, complies with R 299.4306 of the MAC.

(c) The owner or operator has provided to the department a detection monitoring program in a hydrogeological monitoring plan that complies with R 299.4440 to R 299.4445 and R 299.4905 to R 299.4908 of the MAC, as applicable. However, R 299.4440(3) and R 299.4440(6) of the MAC do not apply to coal ash impoundments or coal ash landfills. The waiver described in R 299.4440(2) of the MAC is not available to coal ash impoundments or coal ash landfills. Groundwater sampling related to coal ash impoundments or coal ash landfills shall not be field filtered. The constituents monitored in the detection monitoring program shall include all of the following:

(*i*) Boron.

(*ii*) Calcium.

(*iii*) Chloride.

(*iv*) Fluoride.

(*v*) Iron.

(*vi*) pH.

(*vii*) Sulfate.

(*viii*) Total dissolved solids.

(d) The landfill, impoundment, or expansion, respectively, complies with 1 of the following, if applicable:

(*i*) Section 11519b(2) and (4).

(*ii*) A schedule, approved by the department, of remedial measures, including a sequence of actions or operations, that leads to compliance with part 115 within a reasonable time period but not later than December 28, 2020.

(4) The constituents listed in this section shall be analyzed by methods identified in "Standard Methods for the Examination of Water and Wastewater, 20th Edition," (jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation) or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), and V (2015) or by other methods approved by the director or his or her designee.

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: Former MCL 324.11511a, which pertained to permit to construct, modify, or expand landfill, was repealed by Act 38 of 2004, Eff. Jan 1, 2006.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11511b RDDP; research, development, and demonstration project.

Sec. 11511b. (1) A person may submit to the department a project abstract for an RDDP. If, based on the project abstract, the 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 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 the environment, natural resources, and the public health, safety, and welfare. The design shall be at least as protective of the environment, natural resources, and the public health, safety, and welfare as other designs that are required under part 115.

(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 liquids. If an RDDP is intended to accelerate or enhance biostabilization of solid waste, the construction permit application shall include, in addition to the information required under 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 liquids are evenly distributed and that side slope breakout of liquids is prevented.

(b) Ensure that daily cover practices or disposal of low permeability solid wastes does 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 active gas collection and control system. The system shall be of adequate size for the anticipated methane production rates and to control odors. The system 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 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 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 department determines is necessary to accomplish the purposes of part 115.

(c) If the department fails to make a final decision within 90 days 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 department determines that the overall goals of an RDDP, including, but not limited to, protection of the environment, natural resources, and the public health, safety, and welfare, are not being achieved, the 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 before postclosure. The parameters, such as moisture content, stability, gas production, and settlement, to attain this condition shall be specified in the permit. The landfill care fund shall be maintained for the period after final closure of the landfill as specified under section 11523(1)(a).

(11) The 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 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.

History: Add. 2005, Act 236, Imd. Eff. Nov. 22, 2005;—Am. 2011, Act 215, Imd. Eff. Nov. 10, 2011;—Am. 2016, Act 437, Eff. Apr. 4, 2017;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512 Disposal of solid waste at licensed disposal area; license required to conduct, manage, maintain, or operate disposal area; application; contents; fee; certification; resubmitting application; additional information or corrections; operation of incinerator without operating license; additional fees; operation of coal ash landfill and coal ash impoundment; application; fees; public notice and meeting; hydrogeologic monitoring program; annual report.

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 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) Except as otherwise provided in this section, a person shall not conduct, manage, maintain, or operate a disposal area except as authorized by an operating license issued by the department pursuant to part 13. 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 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 part 115 to operate more than 1 type of disposal area at the same facility may apply for a single license.

(4) An applicant for a license for a type II or type III landfill shall submit evidence of financial assurance that meets the requirements of section 11523a, the maximum waste slope in the active portion, an estimate of remaining permitted capacity, and documentation of the amount of waste received at the disposal area during the previous license period or expected to be received, whichever is greater.

(5) An application for a license for a disposal area other than an existing coal ash impoundment 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. An applicant for a license for an existing coal ash impoundment shall submit with the application documentation in the applicant's possession or control regarding the construction of the impoundment. If construction of a portion of a landfill is not complete, the owner or operator shall submit additional construction certification of that portion of the landfill under section 11516(3).

(6) 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) 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) 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, subject to subsection (9):

(a) Landfills receiving less than 100 tons per day, $500.00.

(b) Landfills receiving 100 tons per day or more, but less than 250 tons per day, $1,500.00.

(c) Landfills receiving 250 tons per day or more, but less than 500 tons per day, $4,000.00.

(d) Landfills receiving 500 tons per day or more, but less than 1,000 tons per day, $6,500.00.

(e) Landfills receiving 1,000 tons per day or more, but less than 1,500 tons per day, $12,500.00.

(f) Landfills receiving 1,500 tons per day or more, but less than 3,000 tons per day, $22,500.00.

(g) Landfills receiving more than 3,000 tons per day, $33,000.00.

(9) 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 than the amount of waste on which the application fee was based, a supplemental fee equal to the difference shall be submitted with the next license application.

(b) If a landfill accepts less than the amount of waste on which the application fee was based, the department shall credit the applicant an amount equal to the difference with the next license application.

(c) 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.

(10) The operating license application for a type III landfill shall be accompanied by a fee of $5,000.00.

(11) An application for an operating license for a coal ash landfill shall be accompanied by a fee of $13,000.00. By 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 by the next business day.

(12) 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) The department shall deposit the fees collected under subsections (11) and (12) in the coal ash care fund created in section 11550.

(14) 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) The notices under subsection (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) A public meeting referred to in subsection (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) 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) The operating license application for a solid waste processing and transfer facility that manages more than 200 cubic yards at any time, or other disposal area that is not a landfill or surface impoundment shall be accompanied by a fee of $1,000.00.

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

(20) 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 approved hydrogeologic monitoring program and the owner or operator has provided the department with the monitoring results. The department shall use this information in conjunction with other information required by part 115 to determine a course of action regarding licensing of the facility consistent with section 4005 of subtitle D of the solid waste disposal act, 42 USC 6945, and with part 115. In deciding a course of action, the department shall consider, at a minimum, the environment, natural resources, the public health, safety, and welfare, and other public or private alternatives. If a landfill or coal ash impoundment violates part 115, the department may do any of the following:

(a) Revoke the landfill's or coal ash impoundment's license.

(b) If the disposal area is a coal ash impoundment that has not been previously licensed under this part, deny a license.

(c) Issue a timetable or schedule of corrective action, including a sequence of actions or operations, that leads to compliance with part 115 within a reasonable time period but not more than 1 year.

(22) A type II landfill does not require a separate solid waste processing and transfer facility permit or license to solidify industrial waste sludges on-site if that activity meets all of the following requirements:

(a) Occurs in containers or tanks as specified in part 121.

(b) Complies with part 55.

(c) Is approved by the department as part of the facility's operations plan.

(23) An existing industrial waste landfill may accept any of the following:

(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.

(25) The owner or operator of a licensed processing and transfer facility, within 45 days after the end of each state fiscal year, shall submit to the department on a form and in a medium provided by the department, a report on the amount of materials managed at the facility during that state fiscal year.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512a Issuance of license for coal ash landfill or a coal ash impoundment; requirements.

Sec. 11512a. (1) The department shall not issue a license to a coal ash landfill or a coal ash impoundment unless the applicant has provided to the department both of the following:

(a) An approved hydrogeological monitoring program that does both of the following:

(*i*) Complies with R 299.4440 to R 299.4445, if applicable, and R 299.4905 to R 299.4908 of the part 115 rules.

(*ii*) Includes a detection monitoring program that meets the requirements of section 11511a(3).

(b) All reports and other information required under 40 CFR 257.90 for the preceding 5 years, as applicable. Based on this information, the department shall determine whether any additional licensing requirements are necessary for the coal ash landfill or coal ash impoundment. Any report or other information available on the applicant's website or already submitted to the department is not required to be provided with the application.

(2) The department shall not issue a license to a coal ash landfill unless the applicant has provided to the department a run-on and run-off control system plan that complies with 40 CFR 257.81(c)(1) and was prepared and certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised every 5 years in compliance with 40 CFR 257.81(c)(4).

(3) The department shall not issue a license to a coal ash impoundment unless the applicant has provided to the department an inflow design flood control system plan that complies with 40 CFR 257.82(c)(1) and was prepared and certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised every 5 years in compliance with 40 CFR 257.82(c)(4).

(4) The department shall not issue a license to a coal ash landfill or a coal ash impoundment unless that landfill or impoundment complies with section 11511a(3) and, if applicable, section 11519b(4) or a schedule, approved by the department, of remedial measures, including a sequence of actions or operations, that leads to compliance with this part within a reasonable time period but not more than 2 years after the effective date of the amendatory act that added this subsection.

(5) The department shall not issue a license for a coal ash impoundment that is not a low-hazard-potential coal ash impoundment unless the applicant has provided to the department an emergency action plan that complies with 40 CFR 257.74(a)(3) and was prepared and certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules.

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512b Active gas collection and control system; prevention of the migration of explosive gases; system requirements; compliance with gas migration monitoring plan; alternative gas venting.

Sec. 11512b. (1) A landfill that accepts waste with the potential to generate gas must be designed to prevent the migration of explosive gases generated by the waste.

(2) A landfill that accepts municipal solid waste must be designed with an active gas collection and control system. Except as otherwise provided for in this section or approved by the department, the active gas collection and control system shall include all of the following features:

(a) Vertical gas extraction wells that meet all of the following requirements:

(*i*) Are installed throughout the landfill with a maximum radius of influence of 150 feet per well and lesser radii for wells located near the perimeter of the landfill. The radii of influence of adjacent wells shall overlap. Alternate well spacings may be used for portions of a site or the entire site if approved by the department after a site-specific demonstration.

(*ii*) Have target depths of at least 75% of the waste depth at the well location. However, the wells should not extend closer than 10 feet above the leachate collection system.

(*iii*) Are constructed of pipe that meets all of the following requirements:

(A) Is at least 6 inches in diameter.

(B) Is manufactured from polyvinylchloride, high-density polyethylene, chlorinated polyvinyl chloride, or an alternate material approved by the department.

(C) Is designed to convey projected amounts of gas; withstand installation, static, and settlement forces; and withstand planned overburden and traffic loads.

(D) When constructed, is slotted or otherwise perforated and is screened in the lower 2/3 to 3/4 of its

length in the borehole. The department may approve alternative perforated screened length requirements based on waste thickness or other factors.

(*iv*) Has boreholes that meet all of the following requirements:

(A) Are 36 inches in diameter. The department may approve alternate diameter boreholes as part of a design prepared by a licensed professional engineer and approved by the department.

(B) Are backfilled around the perforated pipe with 3/4- to 3- inch washed stone or an alternate material if approved by the department after a site-specific demonstration.

(C) The top 10 feet are sealed in a manner approved by the department.

(b) Horizontal gas extraction wells that are properly sloped to drain accumulated liquids and designed to withstand expected overburden pressures.

(c) A flow control valve and sampling access port on each gas extraction well.

(d) A gas header system that meets all of the following requirements:

(*i*) The entire gas header system is designed with a loop to allow alternative flow paths for the gas as soon as practicable during both the interim and final development phases of construction.

(*ii*) The slope on the header pipe over the waste mass is at least 2% wherever possible. The slope outside of the waste mass shall allow efficient removal of condensate and prevents sags.

(*iii*) The header and lateral pipes meet both of the following requirements:

(A) Are manufactured from polyethylene or another material approved by the department.

(B) Are designed to convey projected amounts of gas and liquids; withstand installation, static, and settlement forces; and withstand planned overburden and traffic loads.

(e) A blower, header, and laterals designed so that a vacuum of at least 10 inches of water column is available at the well located furthest from the blower. An available header vacuum of less than 10 inches of water column at the well located furthest from the blower complies with this subdivision if the owner or operator of the landfill demonstrates to the department that the available vacuum is adequate to meet performance criteria.

(f) A drip leg or equivalent installed immediately before the blower to separate condensate from gas while preserving the suction at the wells when under maximum operating vacuum.

(g) An approved secondary containment method for condensate and liquid transfer piping if the piping is located outside of the limits of the waste and installed after the effective date of the amendatory act that added this section.

(h) The ability to collect and manage all condensate, measure volumes of liquid removed from the gas extraction wells, and collect samples of landfill gas.

(i) A control device to which collected landfill gas is routed that meets all of the following requirements:

(*i*) Operates at all times gas is routed to it.

(*ii*) Is designed and operated to meet the requirements of part 55 or the new source performance standards under 40 CFR part 60.

(*iii*) Operates backup blower or control equipment required under subdivision (j).

(j) Available backup equipment to effectively control landfill gas emissions during an equipment breakdown.

(k) The active gas collection and control system shall not be inoperable or unable to maintain a vacuum required by subdivision (e) for more than 5 consecutive days.

(3) A landfill that has a potential to generate gas shall have and comply with a gas migration monitoring plan. The plan shall include at least 1 gas monitoring probe on each side of the landfill. The plan shall be based on all of the following factors:

(a) Soil conditions.

(b) Hydrogeologic conditions surrounding the landfill.

(c) Hydraulic conditions surrounding the landfill.

(d) The location of landfill structures and property boundaries.

(4) A landfill that accepts industrial waste or other nonmunicipal solid waste with the potential to generate gas and that does not utilize an active gas collection and control system shall be designed with a system that allows gas venting from the entire landfill surface. The owner or operator of the landfill shall perform an analysis to determine the spacing needed between gas venting trenches for an effective system. The system shall be designed with a continuous layer, which may be utilized as part of the infiltration layer that protects the final cover liner from the waste and minimizes the effect of settlement. The continuous layer shall meet all of the following requirements:

(a) Be located below the capping layer.

(b) Allow surficial venting from the waste final surface.

(c) Consist of at least 1 foot of granular soil with hydraulic conductivity of at least 1.0x10-3 cm/sec and a

series of flexible, perforated pipes connected to a series of outlets or an alternative design approved by the department as providing equivalent performance.

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512d Installation of monitoring port; sampling of gas extractions for effectiveness; surface monitoring design plan; submission and retention of records.

Sec. 11512d. (1) The owner or operator of a landfill with an active gas collection and control system or a venting system shall install monitoring ports and conduct monitoring as specified by the department to determine the effectiveness of the system.

(2) The owner or operator of a landfill with an active gas collection and control system shall sample each gas extraction well for nitrogen or oxygen and for methane, pressure, temperature, liquid level, and, if existing wellheads allow flow measurement, flow. The owner or operator shall monitor gas flow to the control device, methane content at the control device, and other parameters as specified in an approved monitoring plan.

(3) The owner or operator of a landfill shall sample each gas extraction well monthly for the parameters, other than liquid level, listed in subsection (2). Except as provided in this subsection, the liquid level in each well shall be monitored at least semi-annually. If for 2 consecutive monitoring events the liquid level in a well exceeds 50% but does not exceed 75% of the screened interval length, the owner or operator shall submit to the department for review a liquids removal evaluation and corrective action report for the well, unless the well has a functional, operated liquid pump. If the liquid level in a well exceeds 75% of the screened interval length during a monitoring event, then the liquid level monitoring frequency for that well shall be increased to quarterly. If the liquid level in a well exceeds 75% of the screened interval length for 2 consecutive monitoring events, the owner or operator of the landfill shall install a liquids pump, unless the department approves an alternative corrective action plan. If the liquid level in a well did not exceed 50% for the immediately preceding 2 consecutive monitoring events, the owner or operator may petition the department for a decreased monitoring frequency. However, decreased monitoring shall be conducted at least annually. For the purposes of the petition, the 2 consecutive monitoring events may include monitoring conducted before the effective date of the amendatory act that added this section.

(4) The owner or operator of a landfill required to have an active landfill gas collection and control system shall operate the system so that the methane concentration is 500 parts per million or less above background at the surface of the landfill.

(5) Not later than 180 days after initial waste receipt in a portion of a landfill, the owner or operator of the landfill shall commence surface monitoring for methane at all of the following locations:

(a) Where visual observations, such as of distressed vegetation or cracks or seeps in the cover, indicate elevated concentrations of landfill gas.

(b) At each penetration of daily, interim, or final landfill cover.

(c) Around the perimeter of the active gas collection and control system.

(d) Along a pattern that traverses the landfill at no more than 30-meter intervals, unless the owner or operator establishes an alternative traversing pattern that is approved by the department after a site-specific demonstration.

(6) The owner or operator of a landfill shall conduct monitoring under subsection (5) in compliance with a surface monitoring design plan approved by the department that includes a topographical map showing the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals under subsection (5)(d). The department may approve a surface monitoring design plan that excludes steep slopes or other dangerous areas from the surface monitoring.

(7) The owner or operator of a landfill shall do all of the following:

(a) Submit gas monitoring results to the department upon request.

(b) Prepare field records of all monitoring activities under this section in sufficient detail to document whether the sampling plan has been complied with.

(c) Retain the field records required under subdivision (b) in an operating record at the landfill or in an alternative location approved by the department until the end of the long-term care period for the landfill.

(d) Make the field records available for department inspection on request.

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

324.11512f Type II landfill; revised engineering plans; compliance requirements; report.

Sec. 11512f. (1) The owner or operator of a type II landfill shall submit to the department revised engineering plans and reports required by this section in compliance with the following schedule:

(a) If, on the effective date of the amendatory act that added this section, the landfill has an active gas collection and control system and is subject to monthly wellhead monitoring pursuant to the new source performance standards under 40 CFR part 60, the owner or operator shall submit revised engineering plans that incorporate the approved new source performance standard plans within 90 days after the effective date of the amendatory act that added this section. The revised plans need not require upgrading of the initial active gas collection and control system in previously constructed areas unless it is necessary to correct surface emissions of methane at concentrations exceeding 500 parts per million above background that cannot be corrected within 1 quarterly monitoring period by following the procedures of 40 CFR 60.765(c)(4)(i) to (iv), to correct a nuisance odor violation, or to maintain vacuum requirements at the wellhead located farthest from the blower. The design requirements of section 11512b(2) apply to lateral extensions, lateral expansions, and all new units at the facility.

(b) If, on the effective date of the amendatory act that added this section, the landfill has an active gas collection and control system and is not subject to monthly wellhead monitoring pursuant to the new source performance standards under 40 CFR part 60, the owner or operator shall submit revised plans within 1 year after the effective date of the amendatory act that added this section. The revised plans need not require upgrading of the initial system in previously constructed areas unless it is necessary to correct surface emissions exceeding 500 parts per million of methane above background that cannot be corrected within 1 quarterly monitoring period by following the procedures of 40 CFR 60.765(c)(4)(i) to (iv), to correct a nuisance odor violation, or to maintain vacuum requirements at the well located furthest from the blower. The design requirements of section 11512b(2) apply to lateral extensions and all new units at the landfill.

(c) If, on the effective date of the amendatory act that added this section, the landfill does not have an active gas collection and control system, the owner or operator shall submit revised plans for an active gas collection and control system within 1 year after detecting surface methane emissions at concentrations exceeding 500 parts per million above background that cannot be corrected within 1 quarterly monitoring period by following the procedures of 40 CFR 60.765(c)(4)(i) to (iv) or within 1 year after the department documents a nuisance odor violation, unless an extension of the deadline is approved by the department. The revised plans need not include upgrading of the initial system in all previously constructed areas. The revised plans shall address the areas causing the surface emissions exceedance or nuisance odor violation plus all future lateral extensions at the landfill. The design requirements of section 11512b(2) apply to the proposed active gas collection and control system. Construction of the system shall be completed within 180 days after the department approves the revised engineering plans, unless an extension is approved by the department.

(d) If the landfill is a new unit or lateral expansion, the owner or operator must submit engineering plans and reports for an active gas collection and control system before the department issues a solid waste disposal area construction permit.

(2) The design plans and engineering reports for a type II landfill required by part 115 shall be sufficient to demonstrate compliance with 40 CFR 60.759. The engineering reports shall include a monitoring plan that is sufficient to demonstrate compliance with section 11512d. The department shall incorporate the design plans and engineering reports into the landfill's solid waste disposal area construction permit and solid waste disposal area operating license.

(3) Within 45 days after the end of each state fiscal year, the owner or operator of a type II landfill shall update engineering plans to show the as-built location of all active gas collection and control system components, unless no changes have been made. The update shall include plan views and details for any changes proposed but not previously approved. The plan views shall include proposed wells and collection headers to collect landfill gas from the landfill in future final stages as well as as-built locations for all components above grade and currently functioning below grade.

(4) The owner or operator of a type II landfill shall submit plans to the department before beginning an active gas collection and control system expansion project. Repairs, changes, or installations are not considered to be an expansion project if they are minor and necessary for proper maintenance of the existing active gas collection and control system. The plans shall identify gas extraction well locations, include a schedule of extraction well depths, and identify gas well pump locations, compressed air and pump force main locations, header and lateral vacuum pipe locations, condensate drip leg and sump locations, and any other relevant infrastructure, as well as construction details for these items. If, during construction, conditions require that any of the approved or proposed extraction well locations deviate more than 50 feet from the

proposed location or more than 25% from the proposed depth, the owner or operator shall submit to the department 1 of the following:

(a) A statement from a licensed professional engineer that the gas wells installed will provide adequate control of landfill gas emissions and meet the intent of the design.

(b) A schedule for installing additional gas collectors to meet the design requirements included with the approved engineering plans.

(5) Within 180 days after completion of construction of portions of the active gas collection and control system, the owner or operator shall submit to the department a documentation report by a construction quality assurance officer or other department-approved designee of the landfill owner or operator that the construction complies with part 115 and the engineering plans approved by the department. All of the following information shall accompany the documentation report:

(a) A daily activity log, containing all of the information required by R 299.4921(3) of the MAC.

(b) Landfill gas well logs that include all of the following:

(*i*) Observations of the depth, composition, degree of decay, temperature, and moisture content of the waste.

(*ii*) Details of the construction of the well including borehole size and depth, pipe size and type, perforated length, aggregates utilized, soils utilized, and the location and types of seals utilized.

(c) An as-built engineering plan view of the active gas collection and control system with the location of existing wells and headers and the location of newly installed wells, headers, and other active gas collection and control system infrastructure.

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11512h Schedule for operating and monitoring an active gas collection and control system; surface emission scans.

Sec. 11512h. (1) The owner or operator of a type II landfill shall begin operating and monitoring an active gas collection and control system in compliance with the following schedule:

(a) If the landfill is described in section 11512f(1)(a), within 90 days after the date of approval of the revised engineering plans.

(b) If the landfill is described in section 11512f(1)(b), within 1 year after the effective date of the amendatory act that added this section.

(2) The owner or operator of a type II landfill without an active gas collection and control system shall begin surface emission scans within 1 year after the effective date of the amendatory act that added this section.

(3) The owner or operator of a type II landfill shall install an active gas collection and control system in compliance with the following schedule:

(a) If the landfill is a new unit, a lateral expansion, or a lateral extension and if the approved design plan includes an active gas collection and control system, the initial active gas collection and control system must be installed before waste is accepted. An initial active gas collection and control system may include horizontal collectors installed directly above the leachate collection system or vacuum applied to the leachate collection risers, or both. The initial active gas collection and control system shall be operated upon detection of landfill gas pressure in a landfill cell, as determined by any of the following:

(*i*) Surface emission scans detecting methane at concentrations exceeding 500 parts per million above background that cannot be corrected within 1 quarterly period by following the procedures of 40 CFR 60.765(c)(4)(i) to (iv).

(*ii*) Positive pressure in leachate collection riser pipes.

(*iii*) Nuisance odors.

(*iv*) Visual evidence of gas emissions, such as stressed vegetation or gas bubbling through the cover.

(b) If, on the effective date of the amendatory act that added this section, the landfill has an active gas collection and control system and is not subject to monthly wellhead monitoring, gas extraction wells at locations as shown in the approved engineering plans shall be installed as soon as practicable, but not later than 180 days after engineering plan approval, unless an extension is approved by the department.

(c) If the landfill does not have an active gas collection and control system, gas extraction wells at locations as shown in the approved engineering plans shall be installed as soon as practicable, but not later than 180 days after engineering plan approval, unless an extension is approved by the department.

(4) After waste placement and operation of the initial collection devices, if a location is identified to have methane emissions at concentrations exceeding 500 parts per million above background, the owner or operator of the landfill shall comply with 40 CFR 60.765(c)(4)(i) to (iv). If a location is identified to have methane emissions at concentrations exceeding 500 parts per million above background 3 times within a quarterly monitoring period, the owner or operator shall, within 120 days, install additional extraction devices in compliance with the approved engineering plans. The department may approve an alternative remedy or deadline.

History: Add. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11513 Operation of solid waste processing and transfer facility; notification and reporting requirements; registration application; applicability to existing operations.

Sec. 11513. (1) Subject to subsection (4), unless the person has notified the department, a person shall not operate a solid waste processing and transfer facility that does not at any time have on-site more than 50 cubic yards of solid waste and that is not designed to accept waste from vehicles with mechanical compaction devices. 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 managed at the facility during the preceding state fiscal year.

(2) Subject to subsection (4), unless the person has registered the facility with the department, a person shall not operate a solid waste processing and transfer facility that at any time has on-site more than 50 cubic yards and does not at any time have on-site more than 200 cubic yards of solid waste and that is not designed to accept waste from vehicles with mechanical compaction devices. The term of a registration is 5 years. The person shall submit an application to renew a registration at least 90 days before the expiration of the current registration. An application for registration under this subsection shall contain the name and mailing address of the applicant, the location of the proposed or existing solid waste processing and transfer facility, and other information required by part 115. The application shall be accompanied by a fee of $750.00. In addition, within 45 days after the end of each state fiscal year, the person shall submit to the department a report on the amount of materials managed at the facility during that state fiscal year.

(3) An application for registration submitted under subsection (2) shall be accompanied by an operations plan and site map. The department shall review operations and the operations plan for existing solid waste disposal areas to ensure compliance with operating requirements. If the department determines that an existing solid waste disposal area is noncompliant, the department may issue a schedule of remedial measures that will lead to compliance within a reasonable period of time not to exceed 1 year from the determination of deficiency.

(4) For a disposal area in operation before the effective date of the amendatory act that added this subsection, both of the following apply:

(a) Except as provided in subdivision (b), the disposal area shall follow its existing licensing renewal schedule.

(b) For a disposal area described in subsection (1) or (2), the operator shall submit to the department the notification or application for registration required under those subsections within 1 year after the effective date of the amendatory act that added this subsection.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11514 Materials prohibited from disposal in landfill; disposal of yard clippings; notice of prohibitions; report.

Sec. 11514. (1) A person shall not knowingly deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, knowingly 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 333.13832.

(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 waste, unless it meets the requirements of section 11555(1)(j).

(2) A person shall not deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, 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 MAC.

(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) 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 allow disposal in the incinerator of, more than a de minimis amount of yard waste, unless the requirements of section 11555(1)(j) are met.

(4) The department shall post, and a hauler that disposes of solid waste in a municipal solid waste incinerator shall provide its customers with, notice of the prohibitions of 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 (1) or (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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 34, Imd. Eff. Mar. 29, 2004;—Am. 2005, Act 243, Imd. Eff. Nov. 22, 2005;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2008, Act 394, Imd. Eff. Dec. 29, 2008;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11514b Disposal of certain technologically enhanced naturally occurring radioactive material (TENORM) in type II landfill prohibited; annual report; disposal requirements; TENORM defined.

Sec. 11514b. (1) A person shall not deliver to a type II landfill in this state for disposal and the owner or operator of a type II landfill shall not permit disposal in the landfill of technologically enhanced naturally occurring radioactive material with any of the following:

(a) A concentration of radium-226 more than 50 picocuries per gram.

(b) A concentration of radium-228 more than 50 picocuries per gram.

(c) A concentration of lead-210 more than 260 picocuries per gram.

(2) The owner or operator of a type II landfill shall not permit a delivery of TENORM for disposal at the landfill unless the generator has provided the following information in writing to the owner or operator of the landfill:

(a) The concentrations of radium-226, radium-228, lead-210, and any other radionuclide identified using gamma spectroscopy, or an equivalent analytical method, in the TENORM based on techniques for representative sampling and waste characterization approved by the department.

(b) An estimate of the total mass of the TENORM.

(c) An estimate of the total radium-226 activity, the total radium-228 activity, and the total lead-210 activity of the TENORM.

(d) The proposed date of delivery.

(3) The department may test TENORM proposed to be delivered to a landfill.

(4) Within 45 days after the end of each state fiscal year, the owner or operator of a type II landfill shall submit to the department an annual report that summarizes the information obtained under subsection (2) for all TENORM disposed at the landfill during the previous state fiscal year.

(5) The owner or operator of a type II landfill that disposes of TENORM with a concentration of radium-226 more than 25 picocuries per gram, a concentration of radium-228 more than 25 picocuries per gram, or a concentration of lead-210 more than 25 picocuries per gram shall do all of the following:

(a) Ensure that all TENORM is deposited at least 10 feet below the bottom of the future landfill cap.

(b) Maintain records of the location and elevation of TENORM disposed of at the landfill.

(c) Conduct a monitoring program that complies with all of the following:

(*i*) Radiological monitoring of site workers and at the landfill property boundary are conducted as specified in the license.

(*ii*) Radium-226, radium-228, and lead-210 are included among the parameters analyzed in leachate and groundwater at the frequency specified in the license.

(*iii*) Results of all monitoring required under this subsection are included in the environmental monitoring reports required under rules promulgated under this part and the facility operating license.

(6) As used in this section, "technologically enhanced naturally occurring radioactive material" or "TENORM" means naturally occurring radioactive material whose radionuclide concentrations have been increased as a result of human practices. TENORM does not include any of the following:

(a) Source material, as defined in section 11 of the atomic energy act of 1954, 42 USC 2014, and its progeny in equilibrium.

(b) Material with concentrations of radium-226, radium-228, and lead-210 each less than 5 picocuries per gram.

History: Add. 2018, Act 688, Eff. Mar. 28, 2019;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11515 Inspection of site; compliance with part 115 as condition of eligibility for permit, license, or registration; written inspection report; authorized representative defined.

Sec. 11515. (1) 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.

(2) Upon receipt of an application for a permit, license, approval under a general permit, or registration under part 115, the department or an authorized representative of the department shall inspect the materials management facility, property, site, or proposed operation to determine eligibility for the permit, license, approval under a general permit, or registration. Before issuing a permit, license, approval under a general permit, or registration, the department shall file a written inspection report.

(3) If the department or an authorized representative of the department is refused entry or access under subsection (1) or (2), the attorney general, on behalf of this state, may do either of the following:

(a) Petition the court of appropriate jurisdiction for a warrant authorizing entry or access to property, information or records or authorizing sampling, testing, or monitoring pursuant to this section.

(b) Commence a civil action to compel compliance with a request for entry or access to property, information, or records or to sample, test, or monitor pursuant to this section.

(4) The department or an authorized representative may receive and initiate complaints of an alleged violation of part 115 and take action with respect to the complaint as provided in part 115.

(5) As used in this section, "authorized representative" means any of the following:

(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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11516 Final decision on license application; expiration and renewal of operating license; issuance of license as authority to accept waste for disposal; final exterior landfill slope requirements.

Sec. 11516. (1) Before making a final decision on an operating license application under section 111512, the department shall review the application for consistency with the requirements of part 115. 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 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 if the licensee is in compliance with part 115.

(3) 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 by the time the license application is submitted, 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 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 of the reasons why the construction or certification is not consistent with part 115 or the approved plans.

(4) The final exterior landfill slopes approved by the department, including the slope of the top of waste beneath the final cover, shall not be steeper than 25% except where necessary for either of the following:

(a) To install berms for erosion control.

(b) To vertically transition the side slope back to permitted final waste grades upslope from an area that has received final cover and has settled below permitted grades. The department may approve the transition slope if it does not exceed 33% and the owner or operator demonstrates, through revised engineering plans and analyses, that the steeper slope will not result in increased erosion or reduced stability in either the interim or final cover conditions. The landfill owner or operator shall provide enhanced soil erosion protection to the top surface of the transition slope to ensure interim and long-term erosion control and stability equivalent to a 25% side slope.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: In subsection (1), the reference to “section 111512” evidently should be to “section 11512”.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11517 Approval of closure certification and postclosure plan; modification of postclosure care period; release from postclosure care; duties of owner or operator.

Sec. 11517. (1) 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. 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.

(b) Maintaining and operating the leachate collection system, if any. The department may waive the

requirements of this subdivision if the owner or operator demonstrates that leachate no longer poses a threat to the environment, natural resources, or the public health, safety, or welfare.

(c) Monitoring the groundwater and maintaining the groundwater monitoring system, if any.

(d) Maintaining and operating the gas monitoring and collection system, if any.

(2) The department, by written notification to the landfill owner or operator, shall shorten the postclosure care period specified under subsection (1) if the landfill owner or operator submits to the department, and the department approves, a petition certified by a licensed professional engineer and a qualified groundwater scientist that demonstrates all of the following:

(a) The landfill's closure certification was approved by the department under section 11523a.

(b) The owner or operator has complied with postclosure care maintenance and monitoring requirements for at least 15 years.

(c) The landfill has achieved functional stability, including, but not limited to, meeting all of the following requirements:

(*i*) There has been no release from the landfill into groundwater or surface water requiring ongoing corrective action.

(*ii*) There is no ongoing subsidence or significant past subsidence of waste in the unit that may result in ponding or erosion that would significantly increase infiltration through or cause damage to the final cover.

(*iii*) The landfill does not produce more than minimal amounts of combustible gases.

(*iv*) Combustible gases from the landfill have not been detected at or beyond the landfill's property boundary or in facility structures.

(*v*) The landfill does not produce nuisance odors requiring control.

(*vi*) Leachate and gas collection and control system condensate generation has ceased, leachate and condensate quality meets criteria for acceptable surface water or groundwater discharge, or leachate and condensate can be discharged through existing leachate and condensate handling facilities, such as sewers connected to a publicly owned treatment works.

(*vii*) The final exterior landfill slopes are as approved by the department under section 11516(4).

(d) Any other conditions necessary, as determined by the department, to protect the environment, natural resources, or the public health, safety, or welfare are met.

(3) The department shall extend the postclosure care period specified in subsection (1) for a landfill unit if any of the following apply:

(a) The owner or operator did not close the landfill unit as required by part 115.

(b) The final cover of the landfill unit has not been maintained and has significant ponding, erosion, or detrimental vegetation present.

(c) Groundwater monitoring has not been conducted in compliance with the approved monitoring plan or groundwater affected by the landfill unit exceeds criteria established under part 201.

(d) There is ongoing differential settlement of waste, as evidenced by significant ponding of water on the landfill cover.

(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 or quality 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 unauthorized 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 environment, natural resources, and the public health, safety, and welfare.

(b) Comply with any land use or resource use restrictions established for the landfill unit.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11518 Landfill and coal ash impoundment; instrument imposing restrictive covenant on land; filing; contents of covenant; authorization; exemption; construction of part 115.

Sec. 11518. (1) When a landfill cell is first licensed, an instrument that imposes a restrictive covenant upon

the land involved shall be executed by all of the owners of the land and the department. If the land 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 for record in the office of the register of deeds of the county, or counties, in which the land is located. The covenant shall state that the land described in the covenant 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 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. The department may grant an exemption from this section 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) Part 115 does not prohibit the department from conveying, leasing, or permitting the use of state land for a 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 first 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 land and the department. If the land 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 for record in the office of the register of deeds of the county, or counties, the land is located. The covenant shall state that the land described in the covenant 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. 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519 Specifying reasons for denial of permit, operating license, or registration; cease and desist order; grounds for order revoking, suspending, or restricting permit, license, or registration; contested case hearing; violation or inconsistency; summary suspension of permit or license; judicial review.

Sec. 11519. (1) The department shall specify, in writing, the reasons for denial of an application for a permit, an operating license, an approval under a general permit, or a registration, including the sections of part 115 that may be violated by granting the application and the manner in which the violation may occur.

(2) 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 compliance with part 115 or may enter a consent agreement specifying a schedule of closure or remedial action under part 115.

(b) The department may issue a final order revoking, suspending, or restricting the permit, 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, 1969 PA 306, MCL 24.201 to 24.328.

(c) The department may issue an order summarily suspending the permit, license, approval under a general permit, or registration or a notification, if the department determines that the violation or inconsistency constitutes an emergency or poses an imminent risk of injury to the environment, natural resources, or the public health, safety, or welfare. 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 owner or operator, whichever is later, and remains effective during the proceedings. The proceedings shall be commenced within 7 days 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519a Duties of owner or operator of a coal ash impoundment or a coal ash landfill; compliance with federal regulations; assessment.

Sec. 11519a. (1) The owner or operator of an existing coal ash impoundment or a coal ash impoundment licensed under this part shall do all of the following:

(a) Comply with R 299.4311 of the part 115 rules.

(b) Ensure that the impoundment is not in violation of part 31 or part 55 and does not create a nuisance.

(c) Comply with the requirements of 40 CFR 257.83, as applicable. The inspection report required by 40 CFR 257.83(b)(2) shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules.

(d) Comply with the requirements of 40 CFR 257.74(a)(2). The hazard potential classification assessment reports shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This assessment shall be revised every 5 years pursuant to 40 CFR 257.74(f)(2).

(e) Maintain in the operating record a history of construction that complies with 40 CFR 257.74(c)(1)(*i*) to (*xi*).

(f) Comply with 40 CFR 257.74(d). The periodic structural stability assessment reports shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This assessment shall be revised every 5 years pursuant to 40 CFR 257.74(f)(2).

(g) Comply with 40 CFR 257.74(e). The periodic safety factor assessment reports shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This assessment shall be revised every 5 years pursuant to 40 CFR 257.74(f)(2).

(h) Implement the detection monitoring program required in sections 11511a(3) and 11512a(1)(a).

(i) Comply with requirements of 40 CFR 257.82, as applicable. The inflow design flood control plan shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised at least every 5 years pursuant to 40 CFR 257.82(c)(4).

(2) The owner or operator of an existing coal ash landfill or coal ash impoundment or a coal ash landfill or impoundment licensed under this part shall do all of the following:

(a) Maintain a fugitive dust control plan that complies with 40 CFR 257.80(b) and is certified by a registered professional engineer pursuant to R 299.4910(9) of the part 115 rules. An annual fugitive dust control report shall be prepared and completed in compliance with 40 CFR 257.80(c).

(b) Maintain an up-to-date operating record in compliance with 40 CFR 257.105.

(c) Maintain an up-to-date publicly accessible internet site in compliance with 40 CFR 257.107.

(3) The owner or operator of an existing coal ash landfill or a coal ash landfill licensed under this part shall comply with both of the following:

(a) The requirements of 40 CFR 257.84, as applicable. The inspection report required by 40 CFR 257.84(b)(2) shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules.

(b) The requirements of 40 CFR 257.81, as applicable. The run-on and run-off control system plan shall be certified by a professional engineer pursuant to R 299.4910(9) of the part 115 rules. This plan shall be revised every 5 years pursuant to 40 CFR 257.81(c)(4).

(4) Within 1 year after the effective date of the amendatory act that added this subsection, the owner or operator of an existing coal ash landfill or existing coal ash impoundment shall assess whether the landfill or impoundment is located in an unstable area as defined in R 299.4409 of the part 115 rules. If the owner or operator determines that the landfill, the impoundment, or a unit thereof is located in an unstable area, the owner or operator shall cease placing coal ash into the landfill, impoundment, or unit and proceed to close the landfill, impoundment, or unit in compliance with this part and the rules promulgated under this part.

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519b Placement of coal ash and associated liquids; assessment monitoring program; response action plan; closure of facility.

Sec. 11519b. (1) Placement of coal ash and associated liquids into an existing coal ash impoundment or

coal ash impoundment licensed under this part is permitted and shall be conducted consistent with section 11519a and this section.

(2) If the detection monitoring required in sections 11511a(3), 11512a(1), and 11519a(1)(h) confirms a statistically significant increase over background for 1 or more of the constituents listed in section 11511a(3), the owner and operator of a coal ash landfill or coal ash impoundment shall comply with R 299.4440 and 299.4441 of the MAC, including, as applicable, conducting assessment monitoring and preparation of a response action plan in compliance with R 299.4442 of the MAC. The constituents to be monitored in the assessment monitoring program shall include those listed in section 11511a(3) and all of the following:

(a) Antimony.

(b) Arsenic.

(c) Barium.

(d) Beryllium.

(e) Cadmium.

(f) Chromium.

(g) Cobalt.

(h) Copper.

(i) Lead.

(j) Lithium.

(k) Nickel.

(*l*) Mercury.

(m) Molybdenum.

(n) Selenium.

(o) Silver.

(p) Thallium.

(q) Vanadium.

(r) Zinc.

(s) Radium 226 and 228 combined.

(3) The constituents listed in this section shall be analyzed by methods identified in "Standard Methods for the Examination of Water and Wastewater, 20th edition", (jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation) or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), and V (2015) or by other methods approved by the director or his or her designee.

(4) If the owner or operator of a coal ash landfill or coal ash impoundment is obligated to prepare a response action plan, the owner or operator shall comply with R 299.4442 to R 299.4445 of the MAC, as applicable.

(5) The owner or operator of a coal ash landfill shall place landfill cover materials that are described in R 299.4304 of the MAC, over the entire surface of each portion of the final lift not more than 6 months after the final placement of coal ash within the landfill or landfill unit.

(6) The owner or operator of a coal ash impoundment shall begin to implement closure as described in R 299.4309(7) of the MAC not more than 6 months after the final placement of coal ash within the impoundment and shall diligently pursue the closure. The closure shall be completed in compliance with 40 CFR 257.102(f)(1) and (2).

(7) A coal ash impoundment or coal ash landfill may be closed as a type III landfill pursuant to the applicable rules or by removal of the coal ash from the coal ash impoundment or coal ash landfill as described in part 115.

(8) If a coal ash impoundment is closed by December 28, 2020, and the department accepts the certification of the closure, the owner is not required to provide financial assurance under section 11523 or pay into a perpetual care fund under section 11525.

(9) Closure by removal of coal ash under subsection (7) is complete when either of the following requirements are met:

(a) The owner or operator certifies compliance with the requirements of 40 CFR 257.102(c).

(b) The owner or operator certifies that testing confirms that constituent concentrations remaining in the coal ash impoundment or landfill unit and any concentrations of soil or groundwater affected by releases therefrom do not exceed the lesser of the applicable standards adopted by the department pursuant to section 20120a or the groundwater protection standards established pursuant to 40 CFR 257.95(h) and the department accepts the certification, or, if the constituent concentrations do exceed those standards, the department has approved a remedy consistent with R 299.4444 and R 299.4445 of the MAC.

(10) Upon completion of the closure by removal under subsection (9), all of the following apply:

(a) The financial assurance under section 11523 and perpetual care fund under section 11525 shall be terminated.

(b) The owner or operator is not required to provide financial assurance or contribute to a perpetual care fund.

(c) Any claim to the assurance or fund by the department is terminated and released. The termination and release do not impair the department's authority to require, whether upon completion of closure under subsection (9)(b) or subsequently, financial assurance for corrective action as provided under this act.

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11519c Groundwater contamination in unlined coal ash impound; owner or operator duties; "unlined coal ash impoundment" defined.

Sec. 11519c. (1) If assessment monitoring of an unlined coal ash impoundment confirms the presence of groundwater contamination in excess of maximum contaminant levels in effect as provided in section 6 of the safe drinking water act, 1976 PA 399, MCL 325.1006, or a groundwater protection standard established under 40 CFR 257.95(h), the owner or operator of the coal ash impoundment shall do all of the following:

(a) Notify the department of the confirmation within 14 days.

(b) Cease acceptance of coal ash at the impoundment within 180 days after the confirmation.

(c) Begin to implement closure as described in R 299.4309(7) of the part 115 rules not more than 180 days after such confirmation and diligently pursue the closure. The closure shall be completed in compliance with 40 CFR 257.102(c), with 40 CFR 257.102(f)(1) and (2), or with 40 CFR 257.103.

(d) Prepare a response action plan in compliance with R 299.4442 of the part 115 rules and submit the response action plan to the department for review and approval. Upon receipt of department approval, the owner or operator shall implement and diligently pursue the response action plan and shall comply with R 299.4443 to 299.4445 of the part 115 rules.

(2) For purposes of this section, "unlined coal ash impoundment" means a coal ash impoundment without a liner as described in 40 CFR 257.70(b) or another construction or system in place that is determined by the department to be as protective as a liner as described in 40 CFR 257.70(b).

History: Add. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11520 Disposition of fees; special fund; disposition of solid waste on private property.

Sec. 11520. (1) Fees collected by a health officer under this part shall be deposited with the city or county treasurer. The treasurer shall deposit the fees in a special fund designated for use in implementing this part. If an ordinance or charter provision prohibits such a special fund, the fees shall be deposited and used in compliance with the ordinance or charter provision.

(2) Part 115 does not prohibit an individual from disposing of solid waste from the individual's own household upon the individual's own land if the disposal does not create a nuisance or hazard to health. Solid waste accumulated as a part of an improvement or the planting of privately owned farmland may be disposed of on the property if the method used is not injurious to human life or property and does not create a nuisance.

SUBPART 3 WASTE DIVERSION CENTERS

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11521 Repealed. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to the management of yard clippings.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 3
WASTE DIVERSION CENTERS

324.11521b Operator of waste diversion center; duties; requirements; rejection of diverted waste.

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

(a) On an annual basis, not receive an amount of solid waste equal to or greater than 15%, by weight, of the diverted waste received by the facility.

(b) Ensure that personnel operating the waste diversion center are knowledgeable about the safe management of the types of diverted waste that are accepted at the waste diversion center.

(c) Manage the diverted waste in a manner that prevents the release of any diverted waste or component of diverted waste to the environment.

(d) Not store diverted waste overnight at the waste diversion center except in a secure location and with containment that is adequate to prevent any release of diverted waste.

(e) Within 1 year after diverted waste is collected by the waste diversion center, transfer that diverted waste to another waste diversion center, a recycling facility, or a disposal facility that meets the requirement of section 11508(1)(a), for processing, recycling, or disposal.

(f) Not process diverted waste except to the extent necessary for the safe and efficient transportation of the diverted waste.

(g) Record the types and quantities of diverted waste collected, the period of storage, and where the diverted 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) Allow access to the waste diversion center only when a responsible individual is on duty.

(i) As appropriate for the type of diverted waste, protect the area where the diverted waste is accumulated from weather, fire, physical damage, and vandals.

(j) Keep the waste diversion center clean and free of litter and operate in a manner that does not create a nuisance or hazard to the environment, natural resources, or the public health, safety, or welfare.

(k) If the primary function of an entity is to serve as a waste diversion center, 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) The operator of a waste diversion center may reject any diverted waste.

History: Add. 2014, Act 24, Imd. Eff. Mar. 4, 2014;—Am. 2022, Act 245, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11522 Repealed. 2022, Act 245, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to open burning of grass clippings, leaves, or household waste.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 4
FINANCIAL ASSURANCE

324.11523 Financial assurance; bond requirements; interest; termination; noncompliance with closure and postclosure monitoring and maintenance requirements; expiration or cancellation notice; effect of bankruptcy action; alternate financial assurance; risk pooling financial mechanism.

Sec. 11523. (1) The department shall not issue a license to operate a disposal area until the applicant has

filed, as a part of the application for a license, evidence of the following financial assurance, as applicable:

(a) 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 $2,000,000.00. Each bond shall provide assurance for the maintenance of the landfill site or a portion thereof for a period of 30 years beginning when the department approved a closure certification as described in section 11523a(5)(b) for the landfill or 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. 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 and was certified as closed before April 9, 1997.

(*iii*) A type III landfill that stopped receiving waste before the effective date of the amendatory act that added this subparagraph.

(*iv*) A type III landfill that received waste on or after the effective date of the amendatory act that added this subparagraph. However, beginning 2 years after the effective date of the amendatory act that added this subparagraph, upon the issuance of a new license for such a landfill, the landfill is not subject to this subdivision but is subject to subdivision (b).

(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 a bond 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. A license application for a type II landfill that is subject to this subdivision shall demonstrate financial assurance in 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 on or after the date 2 years after the effective date of the amendatory act that added subsection (2).

(c) Financial assurance for an existing coal ash impoundment shall be 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 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. For applications for a license to operate submitted to the department after December 28, 2020, an applicant that demonstrates that it meets the requirements of R 299.9709 of the MAC 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 shall be a bond in the amount of $20,000.00. The financial assurance shall be maintained in effect for 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 the following financial assurance, 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. The bond shall be maintained in effect until the facility has ceased accepting material, all managed material has been removed from the site, and the facility's closure certification has been approved by the department as described in section 11525b(4)(a).

(b) Financial assurance established for a composting facility with a general permit shall be a bond in the amount of $20,000.00. The financial assurance shall be maintained in effect until the facility has ceased accepting compostable materials, any finished or partially finished compost has been removed from the site, and the facility's closure certification has been approved by the department as described in section 11525b(4)(a).

(c) An innovative technology 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 close the facility, including the cost to dispose of any remaining waste material, or otherwise contain and control any remaining waste residues. The department shall approve, approve with modifications, or disapprove the closure cost estimate in writing. The financial assurance shall be a bond in the amount of the approved closure cost estimate. The bond shall be maintained in effect until the facility has ceased accepting material, all managed material has been removed from the site, and the facility's closure certification has been approved by the department as described in section 11525b(4)(a).

(3) An owner or operator of a materials management facility who elects to post cash as a bond shall accrue interest on that bond quarterly at the annual rate of 6%, except that the interest rate payable to an owner or operator shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. Interest shall be paid to the owner or operator upon release of the bond by the department. Any interest greater than 6% shall be deposited in the state treasury to the credit of the general fund. An owner or operator who uses a certificate of deposit as a bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department.

(4) An owner or operator of a disposal area that is not a landfill may, beginning 2 years after closure of the disposal area, request that the department terminate the bond required under this section. 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 has been certified by a licensed professional engineer and approved by the department.

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

(6) The terms of a surety bond, irrevocable letter of credit, insurance policy, or perpetual care fund bond shall require the issuing institution to notify both the department and the owner or operator at least 120 days before the expiration date or 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, both 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 fund or escrow account unless the department agrees to the expiration or cancellation of the perpetual care fund bond.

(7) 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 successor statute.

(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) Before closure of a landfill, if money is disbursed from the perpetual care fund, the department may require a corresponding increase in the amount of a required bond if necessary to meet the requirements of this section.

(11) If an owner or operator of a disposal area fulfills the financial assurance requirements of 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 suspended or revoked, the owner or operator shall, within 60 days after receiving notice of that event, establish alternate financial assurance under part 115.

(12) Owners or operators may demonstrate all or a portion of required financial assurance for 2 or more materials management facilities that are not landfills with a risk pooling financial mechanism approved by the department that meets all of the following requirements:

(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.

(13) The department shall access and use funds under a mechanism approved under subsection (12) subject to the provisions for bonds under subsection (9).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11523a Operation of landfill subject to MCL 324.11523(1)(b).

Sec. 11523a. (1) The department shall not issue a license to operate a landfill that is subject to section 11523(1)(b) unless the applicant demonstrates that the combination of the landfill care fund 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 not more than 70% of the closure, postclosure, and corrective action cost estimate. For applications for a license to operate submitted on or after the date 2 years after the effective date of the amendatory act that added subsection (3)(c), 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 MAC.

(2) An applicant may demonstrate compliance with this section by submitting to the department evidence that the applicant has financial assurance for any existing unit or new unit in an amount equal to or 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 2018 dollars, adjusted for inflation and partial closures, if any, as specified in subsections (4) and (5):

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

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

(*iii*) A supplemental cost of $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 $9,000.00 per acre, to construct a passive gas collection system in the final cover or a supplemental cost of $15,000.00 per acre for an active gas collection and control 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(3):

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

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

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

(*iv*) An active gas collection and control system maintenance cost of $900.00 per acre per year for active gas collection and control systems subject to the requirements of standards of performance for new stationary sources, 40 CFR part 60.

(*v*) An active gas collection and control 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*) A groundwater monitoring cost of $2,000.00 per monitoring well per year.

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

(c) 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 compliance with part 115.

(3) Instead of using some or all of the standardized costs specified in subsection (2), an applicant may use 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 comply with the following, as applicable:

(a) For closure, be based on the cost to close the largest area of the landfill 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 compliance with the approved closure plan. The closure cost estimate shall not incorporate any salvage value 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 at any given time to conduct postclosure maintenance and monitoring in compliance with the approved postclosure plan for the next 30 years of the postclosure period, or for the remainder of the postclosure period if the remainder is less than 30 years. However, the applicant shall submit to the department an estimate of the postclosure maintenance and monitoring cost for the entire postclosure period.

(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. 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 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 approved by the department. The owner or operator shall document the adjustment on a form consistent with part 115 as provided or approved 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. 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 submit with the request a certification under the seal of a licensed professional engineer 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 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 compliance with the approved closure plan for the landfill. Within 60 days of receiving a certification under this 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 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 the department has determined that closure certification has not been conducted in compliance with part 115 or an approved closure plan.

(c) Postclosure maintenance and monitoring. A landfill owner or operator may request a reduction in the postclosure cost estimate and corresponding financial assurance for 1 year or more of postclosure maintenance and monitoring if final closure of a landfill unit has been completed and the landfill has been monitored and maintained in compliance with the approved postclosure plan. Within 60 days after receiving a cost estimate reduction request, the department shall grant written approval or issue a written denial stating the reason for denial. If the department grants the request, the owner or operator may reduce the postclosure cost estimate to reflect the number of years remaining in the postclosure period. The department shall deny the request if the owner or operator has not performed the specific tasks consistent with 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 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.

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11523b Trust fund or escrow account.

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.

(2) 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 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 taxes owed by the trust fund or escrow account, without permission of the department.

(3) 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 the month immediately preceding the submittal of the report.

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

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11524 Repealed. 2013, Act 250, Imd. Eff. Dec. 26, 2013.

Compiler's note: The repealed section pertained to request for reduction in amount of financial assurance.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525 Perpetual care fund; applicability.

Sec. 11525. (1) This section does not apply to a landfill unless the landfill is 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 fund, an escrow account, or a perpetual care fund bond and may be used to demonstrate financial assurance for a landfill or coal ash impoundment.

(3) Except as otherwise provided in this section, the owner or operator of a landfill shall increase the amount of the perpetual care fund 75 cents for each ton or portion of a ton of solid waste, other than materials

described in subsection (4), that is disposed of in the landfill until the fund reaches the maximum required fund amount. As of July 1, 2018, the maximum required fund amount for a landfill or coal ash impoundment is $2,257,000.00. The department shall annually adjust this amount for inflation by multiplying the amount by an inflation factor derived from the most recent United States Department of the Interior, Bureau of Reclamation 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 approved 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) The owner or operator of a landfill or coal ash impoundment shall increase the amount of the perpetual care fund 7.5 cents for each ton or portion of a ton of the following that are disposed of after December 28, 2018 until the fund reaches the maximum required fund amount under subsection (3):

(a) Coal ash, wood ash, cement kiln dust, or a combination thereof that is disposed of in the landfill or coal ash impoundment if the disposal area is used only for the disposal of these materials or these materials are permanently segregated in the disposal area.

(b) Wastewater treatment sludge or sediments from wood pulp or paper producing industries that is disposed of in a landfill if the landfill is used only for the disposal of these materials or these materials are permanently segregated in the landfill.

(c) Foundry sand or other material that is approved by the department for use as daily cover at a landfill if it is an operating landfill, foundry sand that is disposed of in a landfill if the landfill is used only for the disposal of foundry sand, or foundry sand that is permanently segregated in a landfill.

(5) 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 (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 portion of a ton of these materials that are disposed of in the landfill.

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

(7) 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) The custodian of a perpetual care fund trust fund 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 fund or escrow account reaches the maximum required fund amount, the custodian of the perpetual care fund trust fund or escrow account shall credit any interest and earnings of the perpetual care fund trust fund or escrow account to the perpetual care fund trust fund or escrow account. After the perpetual care fund trust fund or escrow account reaches the maximum required fund amount, any interest and earnings shall be distributed as directed by the owner or operator. The custodian may be compensated from the fund for reasonable fees and costs incurred in discharging the custodian's responsibilities. The custodian of a perpetual care fund trust fund or escrow account shall make an accounting to the department within 30 days following the close of each state fiscal year.

(9) 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 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. The owner or operator of a landfill or coal ash impoundment may request disbursement of funds from a perpetual care fund 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 section 11523(1)(a) or (c), as applicable.

(10) If the owner or operator of a landfill or coal ash impoundment fails to conduct closure, postclosure monitoring and maintenance, or corrective action as necessary to protect the environment, natural resources, or the public health, safety, or welfare, or fails to request the disbursement of money from a perpetual care fund when necessary to protect the environment, natural resources, or the public health, safety, or welfare, 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 or for payment of the fee or surcharge, as necessary. The department may also draw on a perpetual care fund for administrative costs associated with actions taken under this subsection.

(11) 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 an agreement between the owner and the operator provides otherwise.

(12) 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) This section does not relieve an owner or operator of a landfill or coal ash impoundment of any liability that the owner or operator may have under part 115 or as otherwise provided by law.

(14) 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.

(15) A perpetual care fund that is established as a trust fund 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 department shall authorize the custodian of the trust fund or escrow account to disburse the money in the trust fund or escrow account to the owner of the landfill or coal ash impoundment unless an agreement between the owner and operator specifies otherwise.

(16) An owner or operator of a landfill or coal ash impoundment that uses a perpetual care fund bond to satisfy the requirements of this section shall also establish a standby trust fund 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 fund or escrow account in compliance with instructions from the department. The standby trust fund or escrow account must meet the requirements for a trust fund or escrow account established as a perpetual care fund under subsection (2), except that until the standby trust fund or escrow account is funded pursuant to the requirements of this subsection, the following are not required:

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

(b) Annual accountings as required in subsection (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 fund or escrow account.

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

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 1996, Act 506, Imd. Eff. Jan. 9, 1997;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525a Owner or operator of landfill or coal ash impoundment; surcharge; payment of surcharge; deposit.

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

(a) Except as provided in subdivision (b), for a landfill or coal ash impoundment that is not a captive facility, 36 cents for each ton or portion of a ton of solid waste or municipal solid waste incinerator ash that is disposed of in the landfill or coal ash impoundment before October 1, 2023.

(b) For a landfill or coal ash impoundment that is not a captive facility, 12 cents per ton or portion of a ton of foundry sand, slag from metal melting, baghouse dust, furnace refractory brick, pulp and paper mill material, paper mill ash, wood ash, coal bottom ash, mixed wood ash, fly ash, flue gas desulfurization sludge, contaminated soil, cement kiln dust, lime kiln dust, and other industrial waste that weighs at least 1 ton per cubic yard, as determined by the generator.

(c) For a type III landfill or coal ash impoundment that is a captive facility and annually receives the following amount of waste, the following annual corresponding surcharge for each state fiscal year, based on the amount of waste received during that fiscal year:

(*i*) 100,000 or more tons of waste, $3,000.00.

(*ii*) 75,000 or more but less than 100,000 tons of waste, $2,500.00.

(*iii*) 50,000 or more but less than 75,000 tons of waste, $2,000.00.

(*iv*) 25,000 or more but less than 50,000 tons of waste, $1,000.00.

(*v*) Less than 25,000 tons of waste, $500.00.

(2) 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) for waste received during that quarter of the state fiscal year. 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) for waste received during that state fiscal year.

(3) If the owner or operator of a landfill or coal ash impoundment is required to pay the surcharge under subsection (1), the owner or operator shall pass through and collect the surcharge from any person that generated the solid waste or arranged for its delivery to the hauler or solid waste processing and transfer facility, notwithstanding the provisions of any agreement to the contrary or the absence of any 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.

History: Add. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2007, Act 75, Imd. Eff. Sept. 30, 2007;—Am. 2011, Act 149, Imd. Eff. Sept. 21, 2011;—Am. 2013, Act 72, Imd. Eff. June 25, 2013;—Am. 2015, Act 82, Eff. Oct. 1, 2015;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2019, Act 77, Imd. Eff. Sept. 30, 2019;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525b Continuous financial assurance coverage required; request for termination of financial assurance requirements.

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 as provided in 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) If the owner or operator of a landfill or coal ash impoundment has completed postclosure maintenance and monitoring in compliance with part 115 and the approved postclosure plan, the owner or operator may request that financial assurance required by sections 11523 and 11523a be terminated. The person requesting termination of financial assurance shall submit to the department a statement that the landfill or coal ash impoundment has been monitored and maintained in 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 11512(21). Within 60 days 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 the owner or operator is no longer required to maintain financial assurance, return or release all financial assurance mechanisms, and, if the perpetual care fund was established as a trust fund or escrow account, notify the custodian of the perpetual care fund to disburse money from the fund as provided in section 11525(11).

(b) Disapprove the statement and provide the owner or operator with a detailed written explanation of the reasons why the department has determined that postclosure maintenance and monitoring and corrective action, if any, have not been conducted in compliance with part 115 or the approved postclosure plan.

(4) The owner or operator of a materials utilization facility required to provide financial assurance under section 11523(2) may request that the financial assurance be terminated. The person requesting termination of financial assurance shall submit to the department a statement that the facility has been maintained in compliance with part 115 and that all managed material has been removed from the facility. Within 60 days after receiving a statement under this subsection, the department shall perform a consistency review of the statement and do 1 of the following:

(a) Approve the statement, notify the owner or operator that the owner or operator is no longer required to maintain financial assurance, and return or release all financial assurance mechanisms.

(b) Disapprove the statement and provide the owner or operator with a detailed written explanation of the reasons why the department has determined that all managed material has not been removed from the facility or that the facility has not been maintained in compliance with part 115.

History: Add. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525d Landfill care fund; applicability; liability under part 115; cause of action.

Sec. 11525d. (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 fund, 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 the owner's or operator's discretion.

(4) The custodian of a landfill care fund trust fund 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. Any interest and earnings on the fund shall be distributed as directed by the owner or operator of the landfill. The custodian may be compensated from the fund for reasonable fees and costs incurred for the custodian's responsibilities as custodian. The custodian of a landfill care fund trust fund or escrow account shall make an accounting to the department within 30 days following the close of each state fiscal year.

(5) The custodian of a landfill care fund trust fund or escrow account shall not disburse any funds to the owner or operator of a landfill for the purposes of the landfill care fund and the issuer or holder of a landfill care fund bond shall not reduce the amount of the bond except upon the prior written approval of the department. However, the custodian shall ensure the filing of all required tax returns for which the landfill care fund is liable and shall disburse funds to pay taxes owed by the landfill care fund, without permission of the department. The owner or operator of the landfill shall provide notice of requests for disbursement from a landfill care fund trust fund or escrow account or reduction of a landfill care fund bond and the department's denials and approvals to the custodian of the landfill care fund trust fund or escrow account or the issuer or holder of the landfill care fund bond. Requests for disbursement from a landfill care fund trust fund or escrow account or a reduction of a landfill care fund bond shall be submitted not more frequently than semiannually. The owner or operator of a landfill may request disbursement of funds from a landfill care fund trust fund or escrow account or a reduction of a landfill care fund bond. The department shall approve the request if the total amount of financial assurance maintained meets the requirements of section 11523a.

(6) If the owner or operator of a landfill fails to conduct closure, postclosure monitoring and maintenance, or corrective action as necessary to protect the environment, natural resources, or public health, safety, or welfare, or fails to request the disbursement of money from a landfill care fund when necessary to protect the environment, natural resources, or the public health, safety, or welfare, or fails to pay the surcharge required under section 11525a, the department may draw on the landfill 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 landfill care fund for administrative costs associated with actions taken under this subsection.

(7) Upon approval by the department of a request to terminate financial assurance for a landfill under section 11525b, any money in the landfill care fund for that landfill shall be disbursed by the custodian to the owner of the landfill unless an agreement between the owner and the operator of the landfill provides otherwise.

(8) The owner of a landfill shall provide notice to the custodian of the landfill care fund for that landfill if there is a change of ownership of the landfill. The custodian shall maintain records of ownership of a landfill during the period of existence of the landfill care fund.

(9) This section does not relieve an owner or operator of a landfill of any liability the owner or operator may have under part 115 or as otherwise provided by law.

(10) This section does not create a cause of action at law or in equity against a custodian of a landfill 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 landfill care fund.

(11) A perpetual care fund and any other bond that is utilized by a landfill to demonstrate financial assurance under part 115 and that is in existence on the effective date of the amendatory act that added this section is considered a landfill care fund under this section for purposes of demonstrating compliance with section 11523a until the issuance of a new license for the landfill on or after the date 2 years after the effective date of the amendatory act that added this section. A landfill owner or operator may replace a perpetual care fund or a bond with a landfill care fund that complies with this section at any time without a license

modification and without the issuance of a new license. Upon such replacement, the department shall authorize the custodian of a perpetual care fund trust fund or escrow account to disburse the money in the trust fund or escrow account to the owner of the landfill unless an agreement between the owner and operator of the landfill specifies otherwise.

(12) An owner or operator of a landfill that uses a landfill care fund bond to satisfy the requirements of this section shall also establish a standby trust fund or escrow account. All payments made under the terms of the landfill care fund bond shall be deposited by the custodian directly into the standby trust fund or escrow account in compliance with instructions from the department. The standby trust fund or escrow account shall meet the requirements for a trust fund or escrow account established as a landfill care fund under subsection (2), except that, until the standby trust fund or escrow account is funded pursuant to the requirements of this subsection, annual accountings of the standby trust fund or escrow account are not required.

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

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

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

History: Add. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11525f Establishment and approval of other bonds.

Sec. 11525f. If the owner or operator of a materials management facility is required to establish a bond under another state statute or a federal statute, the owner or operator may request the department to approve that bond as meeting the requirements of part 115. The department shall so approve the bond if the bond provides equivalent funds and access by the department as other financial instruments under part 115.

History: Add. 2022, Act 246, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 5
MISCELLANEOUS

324.11526 Inspection of managed materials transporting unit; determination; administration; inspections.

Sec. 11526. (1) The department, a local health officer, or a law enforcement officer of competent jurisdiction may inspect a managed materials transporting unit that is being used to transport managed materials along a public road to determine any of the following:

(a) If the managed materials transporting unit is designed, maintained, and operated in a manner to prevent littering.

(b) If the owner or operator of the managed materials transporting unit is performing in compliance with part 115.

(2) To protect the environment, natural resources, and the public health, safety, and welfare from items and substances being illegally disposed of in landfills in this state, the department shall do all of the following:

(a) Ensure that each materials management facility is in full compliance with part 115.

(b) Provide for the inspection, for compliance with part 115, of each licensed disposal area at least 4 times annually and each materials utilization facility that is approved under a general permit or registered under part 115 at least once annually. Each inspection shall be conducted by the department or a health officer. The department or the health officer shall do both of the following:

(*i*) Prepare a written inspection report.

(*ii*) Submit a copy of the inspection report to the municipality in which the licensed disposal area is located if the municipality arranges with the department or the health officer to pay the cost of duplicating and mailing the reports.

(c) Ensure that all persons disposing of solid waste are doing so in compliance with part 115.

(3) The department and the department of state police may conduct random inspections of waste being transported to a materials management facility in this state. Inspections under this subsection may be conducted during transportation or at 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 43, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526a Solid waste generated out of state; acceptance by owner or operator of landfill prohibited; exceptions; disposal capacity.

Sec. 11526a. (1) 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 conditions 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 part 115.

(b) The solid waste was received through a 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 any other provision of part 115, if there is sufficient disposal capacity for a planning area's disposal needs in or within 130 miles of the planning area, the department is not required to issue a construction permit for a new landfill or municipal solid waste incinerator in the planning area.

History: Add. 2004, Act 40, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526b Compliance with MCL 324.11526b required; notice requirements; compilation of list; documentation.

Sec. 11526b. (1) Not later than October 1, 2004, the department shall do all of the following:

(a) Notify each state, the country of Canada, and each province in Canada that landfills in this state will not accept for disposal solid waste that does not comply with section 11526a.

(b) Compile a list of countries, states, provinces, and local jurisdictions that prohibit from disposal in a landfill the items prohibited from disposal in a landfill located in this state or that prevent from disposal in a landfill the items prohibited from disposal in a landfill located in this state through enforceable solid waste disposal requirements that are comparable to this part.

(c) Prepare and provide to each landfill in the state a copy of a list of the countries, states, provinces, and local jurisdictions compiled under subdivision (b).

(2) The department shall include a country, state, province, or local jurisdiction on the list described in subsection (1) if the country, state, province, or local jurisdiction, or another person, provides the department with documentation that the country, state, province, or local jurisdiction prohibits from disposal in a landfill the items prohibited from disposal in a landfill located in this state or that it prevents from disposal in a landfill the items prohibited from disposal in a landfill located in this state through enforceable solid waste disposal requirements that are comparable to this part. Such documentation shall include all pertinent statutes, administrative regulations, and ordinances.

History: Add. 2004, Act 37, Imd. Eff. Mar. 29, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526c Order restricting or prohibiting solid waste transportation or disposal in this state.

Sec. 11526c. (1) The director may issue an order restricting or prohibiting the transportation or disposal in this state of solid waste originating within or outside of this state if both of the following apply:

(a) The director, after consultation with appropriate officials, has determined that the transportation or disposal of the solid waste poses a substantial threat to the public health or safety or to the environment.

(b) The director determines that the restriction or prohibition on the transportation or disposal of the solid waste is necessary to minimize or eliminate the substantial threat to public health or safety or to the environment.

(2) At least 30 days before the director issues an order under subsection (1), the department shall post the

proposed order and its effective date on its website with information on how a member of the public can comment on the proposed order and shall provide a copy of the proposed order to the members of the standing committees of the senate and house of representatives that consider legislation pertaining to public health or the environment. Before issuing the order, the director shall consider comments received on the proposed order. The department shall post the final order on its website beginning not later than the final order's effective date. This subsection does not apply in an emergency situation described in subsection (3).

(3) In an emergency situation posing an imminent and substantial threat to public health or safety or to the environment, the director, before issuing an order under subsection (1), shall provide a copy of the proposed order to the members of the standing committees of the senate and house of representatives that consider legislation pertaining to public health or the environment and publicize the proposed order in any manner appropriate to help ensure that interested parties are provided notice of the proposed order and its effective date. The department shall post the final order on its website as soon as practicable.

(4) An order issued pursuant to this section shall expire 60 days after it takes effect, unless the order provides for an earlier expiration date.

(5) Subsections (2) and (3) do not apply to the reissuance of an order if the reissued order takes effect upon the expiration of the identical order it replaces. However, the department shall post the reissued order on its website beginning not later than the reissued order's effective date.

(6) A person may seek judicial review of an order issued under this section as provided in section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(7) The director shall rescind an order issued under this section when the director determines that the threat upon which the order was based no longer exists.

History: Add. 2004, Act 36, Imd. Eff. Mar. 29, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11526e Disposal of municipal solid waste generated outside of United States; applicability of subsections (1) and (2).

Sec. 11526e. (1) Subject to subsection (3), a person shall not deliver for disposal, in a landfill or incinerator in this state, municipal solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of the United States.

(2) Subject to subsection (3), the owner or operator of a landfill or incinerator in this state shall not accept for disposal municipal solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of the United States.

(3) Subsections (1) and (2) apply notwithstanding any other provision of this part. However, subsections (1) and (2) do not apply unless congress enacts legislation under clause 3 of section 8 of article I of the constitution of the United States authorizing such prohibitions. Subsections (1) and (2) do not apply until 90 days after the effective date of such federal legislation or 90 days after the effective date of the amendatory act that added this section, whichever is later.

History: Add. 2006, Act 57, Imd. Eff. Mar. 13, 2006.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11527 Delivery of waste to licensed disposal area or solid waste processing and transfer facility; hauler recycling services.

Sec. 11527. (1) A hauler transporting solid waste over a public road in this state shall deliver all solid 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 part 115.

(2) A hauler operating within a county with a materials management plan prepared by the department shall provide recycling services that meet the requirements of the benchmark recycling standard for single-family residences for which it provides solid waste hauling services within that county.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11527a Website listing materials prohibited from disposal; notice to customers.

Sec. 11527a. (1) The department shall post on its website a list of materials prohibited from disposal in a landfill under section 11514 and appropriate disposal options for those materials.

(2) A solid waste hauler that disposes of solid waste in a landfill shall annually notify each of its customers of each of the following:

(a) The materials that are prohibited from disposal in a landfill under section 11514.

(b) The appropriate disposal options for those materials as described on the department's website.

(c) The department's website address where the disposal options are described.

History: Add. 2004, Act 42, Imd. Eff. Mar. 29, 2004.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11528 Managed materials transporting unit; watertight; construction, maintenance, and operation; ordering unit out of service.

Sec. 11528. (1) A managed materials transporting unit used for 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. A managed materials transporting unit shall be designed and operated to prevent littering or any other nuisance.

(2) The department, a local health officer, or a law enforcement officer may order a managed materials transporting unit out of service if the unit does not comply with the requirements of part 115. Continued use of a managed materials transporting unit ordered out of service is a violation of this part.

(3) A hauler that is responsible for a vehicle that contributes to a violation of part 115 is rebuttably presumed to have committed the violation.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11529 Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to permit and license exemptions for certain solid waste transfer facilities.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11530 Collection center for junk motor vehicles and farm implements; competitive bidding; bonds; “collect” defined.

Sec. 11530. (1) A municipality or county may establish and operate a collection center for junk motor vehicles and farm implements.

(2) A municipality or county may collect junk motor vehicles and farm implements and dispose of them through its collection center through the process of competitive bidding.

(3) A municipality or county may issue bonds as necessary pursuant to Act No. 342 of the Public Acts of 1969, being sections 141.151 to 141.153 of the Michigan Compiled Laws, to finance the cost of constructing or operating facilities to collect junk motor vehicles or farm implements. The bonds shall be general obligation bonds and shall be backed by the full faith and credit of the municipality or county.

(4) As used in this section, "collect" means to obtain a vehicle pursuant to section 252 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.252 of the Michigan Compiled Laws, or to obtain a vehicle or farm implement and its title pursuant to a transfer from the owner.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11531 Solid waste removal; frequency; disposal; ordinance.

Sec. 11531. (1) A municipality or county shall ensure that all solid waste is removed from the site of generation frequently enough to protect the environment, natural resources, and the public health, safety, and welfare and is delivered to 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 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 does not validate or invalidate an ordinance adopted on or after February 8, 1988 as an acceptable means of compliance with subsection (1).

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11532 Impact fees; agreement; collection, payment, and disposition; reduction; use of revenue; trust fund; board of trustees; membership and terms; expenditures from trust fund.

Sec. 11532. (1) Except as provided in subsection (2), a municipality may impose an impact fee of not more than 30 cents per 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 shall be imposed only by the township pursuant to an agreement with the village. An impact fee shall be assessed uniformly on all wastes accepted for disposal.

(2) A municipality may enter into an agreement with the owner or operator of a landfill to establish a higher impact fee than that provided for in subsection (1).

(3) 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, special use permit conditions, court settlement agreement conditions, and trusts.

(4) Unless a trust fund is established by a municipality pursuant to subsection (5), the revenue collected by a municipality pursuant to subsection (1) shall be deposited in its general fund. 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.

(5) 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.

(b) A resident of the municipality appointed by the governing body of the municipality.

(c) An individual approved by the owners or operators of the landfills within the municipality and appointed by the governing body of the municipality.

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

(7) Subject to subsection (8), money in 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.

(8) Revenue collected pursuant to this section shall not be used to bring or support a lawsuit or other legal action against a landfill owner or operator that is collecting an impact fee under subsection (3) unless the owner or operator of the landfill has instituted a lawsuit or other legal action against the municipality.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11533 Promulgation of rules for implementation of part 115.

Sec. 11533. The department may promulgate rules to implement this part. The rules may include, but are not limited to, standards for any of the following:

(a) Hydrogeologic investigations.

(b) Monitoring.
(c) Liner materials.
(d) Leachate collection and treatment, if applicable.
(e) Groundwater separation distances.
(f) Environmental assessments.
(g) Gas control.
(h) Soil erosion.
(i) Sedimentation control.
(j) Groundwater and surface water quality.
(k) Noise.
(*l*) Air pollution odors.
(m) The use of floodplains and wetlands.
(n) Managed materials transporting units.
(o) Grants.
(p) Materials management planning.
(q) Closure and postclosure.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 44, Imd. Eff. Mar. 29, 2004;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11534-324.11538 Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed sections pertained to municipal planning committees and agencies and the approval of county management plans and the promulgation of rules.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 6
INCINERATORS AND OPEN BURNING

324.11539 Open burning of yard waste or leaves; prohibition; effect of local ordinance and part 55; open burning of household waste, materials; application of subpart 7; violations and penalties; open burning of certain storage bins; disposal of unserviceable flag.

Sec. 11539. (1) The open burning of yard waste or leaves is prohibited in any municipality having a population of 7,500 or more, unless specifically authorized by local ordinance. Within 30 days after adoption of such an ordinance, the clerk of the municipality shall notify the department of its adoption.

(2) Subsection (1) does not permit a county or municipality to authorize open burning of yard waste or leaves by an ordinance that is prohibited under part 55 or rules promulgated under part 55.

(3) A person shall not conduct open burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials.

(4) Subpart 7 does not apply to an individual who violates subsection (3) by open burning of waste from that individual's household. The individual is responsible for a state civil infraction and is subject to the following:

(a) For a first offense within a 3-year period, a warning by the judge or magistrate.
(b) For a second offense within a 3-year period, a civil fine of not more than $75.00.
(c) For a third offense within a 3-year period, a civil fine of not more than $150.00.
(d) For a fourth or subsequent offense within a 3-year period, a civil fine of not more than $300.00.

(5) Notwithstanding section 5512, the department shall not promulgate or enforce a rule that extends the prohibition under subsection (3) to materials not listed in subsection (3).

(6) Part 115, part 55, or rules promulgated under part 55 do not prohibit a person from conducting open burning of wooden fruit or vegetable storage bins constructed from untreated lumber if all of the following requirements are met:

(a) The burning is conducted for disease or pest control.
(b) The burning is not conducted at any of the following locations:
(*i*) Within a priority I area as listed in table 33 or a priority II area as listed in table 34 of R 336.1331 of the MAC.
(*ii*) In a city or village.

(*iii*) Within 1,400 feet outside the boundary of a city or village.

(7) Subsections (5) and (6) do not authorize open burning that is prohibited by a local ordinance.

(8) A congressionally chartered patriotic organization that disposes of an unserviceable flag of the United States by burning that flag is not subject to regulation or sanction for violating state law or a local ordinance pertaining to open burning.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

Administrative rules: R 299.4101 et seq. of the Michigan Administrative Code.

324.11539a Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed section pertained to an update report of solid waste management plans to the legislature.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11540 Incinerator operator or owner; compliance with permit and license requirements of subpart 2.

Sec. 11540. (1) 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, as authorized by subsection (1), does not comply with the construction permit and operating license requirements of subpart 2 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

Administrative rules: R 299.4101 et seq. of the Michigan Administrative Code.

324.11540a Repealed. 2010, Act 345, Eff. Mar. 1, 2011.

Compiler's note: The repealed section pertained to promulgation of rules affecting inert material before March 1, 2011.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11541 Municipal solid waste incinerator; materials management plan; implementation schedule.

Sec. 11541. (1) Within 9 months after the completion of construction of a municipal solid waste incinerator, the owner or operator 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 plan shall include an implementation schedule. Within 30 days after receiving the plan, the department shall approve or disapprove the plan and notify the owner or operator in writing. In reviewing the plan, the department shall consider the current materials management plan for the planning area where the incinerator is located and available markets, disposal alternatives, and collection practices for the managed materials. If the department disapproves a plan, the notice shall specify the reasons for disapproval. If the department disapproves the plan, the owner or operator shall, within 30 days after receipt of the department's disapproval, submit a revised plan that addresses all of the reasons for disapproval specified by the department. The department shall approve or disapprove the revised plan within 30 days after receiving the revised plan and notify the owner or operator in writing. If the department disapproves the 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. 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11542 Municipal solid waste incinerator ash; disposal.

Sec. 11542. (1) Except as provided in subsection (5) and except for municipal solid waste incinerator ash that is described and used as provided in section 11506(6)(h), municipal solid waste incinerator ash shall be disposed of in 1 of the following:

(a) A landfill that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A synthetic liner at least 60 mils thick.

(C) A compacted clay liner of 5 feet or more with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second.

(D) A leak detection and leachate collection system.

(E) A compacted clay liner at least 3 feet thick with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second or a synthetic liner at least 40 mils thick.

(b) A landfill that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A composite liner, as defined in R 299.4102 of the part 115 rules.

(C) A leak detection and leachate collection system.

(D) A second composite liner.

(*iv*) If contaminants that may threaten the public health, safety, or welfare, or the environment are found in the leachate collection system described in subparagraph (*iii*)(C), the owner or operator of the landfill shall determine the source and nature of the contaminants and make repairs, to the extent practicable, that will prevent the contaminants from entering the leachate collection system. If the department determines that the source of the contaminants is caused by a design failure of the landfill, the department, notwithstanding an approved construction permit or operating license, may require landfill cells at that landfill that will be used for the disposal of municipal solid waste incinerator ash, which are under construction or will be constructed in the future at the landfill, to be constructed in conformance with improved design standards approved by the department. However, this subparagraph does not require the removal of liners or leak detection and leachate collection systems that are already in place in a landfill cell under construction.

(c) A landfill that is a monitorable unit, as defined in R 299.4104 of the part 115 rules, and that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A synthetic liner at least 60 mils thick.

(C) Immediately below the synthetic liner, either 2 feet of compacted clay with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second or a bentonite geocomposite liner, as specified in R 299.4914 of the part 115 rules.

(D) At least 10 feet of either natural or compacted clay with a maximum hydraulic conductivity of 1×10^{-7}

centimeters per second, or equivalent.

(d) A landfill with a design approved by the department that will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the design requirements of subdivisions (a) to (c).

(e) A type II landfill, as described in R 299.4105 of the part 115 rules if both of the following conditions apply:

(*i*) The ash was generated by a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit.

(*ii*) The ash from any individual municipal solid waste incinerator is disposed of pursuant to this subdivision for a period not to exceed 60 days.

(2) Except as provided in subsection (3), a landfill that is constructed pursuant to the design described in subsection (1) shall be capped following its closure by all of the following in descending order:

(a) Six inches of top soil with a vegetative cover.

(b) Two feet of soil to protect against animal burrowing, temperature, erosion, and rooted vegetation.

(c) An infiltration collection system.

(d) A synthetic liner at least 30 mils thick.

(e) Two feet of compacted clay with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second.

(3) A landfill that receives municipal solid waste incinerator ash under this section may be capped with a design approved by the department that will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the design requirements of subsection (2).

(4) If leachate is collected from a landfill under this section, the leachate shall be monitored and tested in accordance with this part and the rules promulgated under this part.

(5) As an alternative to disposal described in subsection (1), the owner or operator of a municipal solid waste incinerator may process municipal solid waste incinerator ash through mechanical or chemical methods, or both, to substantially diminish the toxicity of the ash or its constituents or limit the leachability of the ash or its constituents to minimize threats to human health and the environment, if processing is performed on the site of the municipal solid waste incinerator or at the site of a landfill described in subsection (1), if the process has been approved by the department as provided by rule, and if the ash is tested after processing in accordance with a protocol approved by the department as provided by rule. The department shall approve the process and testing protocol under this subsection only if the process and testing protocol will protect human health and the environment. In making this determination, the department shall consider all potential pathways of human and environmental exposure, including both short-term and long-term, to constituents of the ash that may be released during the reuse or recycling of the ash. The department shall consider requiring methods to determine the leaching, total chemical analysis, respirability, and toxicity of reused or recycled ash. A leaching procedure shall include testing under both acidic and native conditions. If municipal solid waste incinerator ash is processed in accordance with the requirements of this subsection and the processed ash satisfies the testing protocol approved by the department as provided by rule, the ash may be disposed of in a municipal solid waste landfill, as defined by R 299.4104 of the part 115 rules, licensed under this part or may be used in any manner approved by the department. If municipal solid waste incinerator ash is processed as provided in this subsection, but does not comply with the testing protocol approved by the department as provided by rule, the ash shall be disposed of in accordance with subsection (1).

(6) The disposal of municipal solid waste incinerator ash within a landfill that is in compliance with subsection (1) does not constitute a new proposal for which a new construction permit is required under section 11509, if a construction permit has previously been issued under section 11509 for the landfill and the owner or operator of the landfill submits 6 copies of an operating license amendment application to the department for approval pursuant to part 13. The operating license amendment application shall include revised plans and specifications for all facility modifications including a leachate disposal plan, an erosion control plan, and a dust control plan which shall be part of the operating license amendment. The dust control plan shall contain sufficient detail to ensure that dust emissions are controlled by available control technologies that reduce dust emissions by a reasonably achievable amount to the extent necessary to protect human health and the environment. The dust control plan shall provide for the ash to be wet during all times that the ash is exposed to the atmosphere at the landfill or otherwise to be covered by daily cover material; for dust emissions to be controlled during dumping, grading, loading, and bulk transporting of the ash at the landfill; and for dust emissions from access roads within the landfill to be controlled. With the exception of a landfill that is in existence on June 12, 1989 that the department determines is otherwise in compliance with this section, the owner or operator of the landfill shall obtain the operating license amendment prior to initiating construction. Prior to operation, the owner or operator of a landfill shall submit to the department

certification from a licensed professional engineer that the landfill has been constructed in accordance with the approved plan and specifications. When the copies are submitted to the department, the owner or operator of the landfill shall send a copy of the operating license amendment application to the municipality where the landfill is located. At least 30 days prior to making a final decision on the operating license amendment, the department shall hold at least 1 public meeting in the vicinity of the landfill to receive public comments. Prior to a public meeting, the department shall publish notice of the meeting in a newspaper serving the local area.

(7) The owner or operator of a municipal solid waste incinerator or a disposal area that receives municipal solid waste incinerator ash shall allow the department access to the facility for the purpose of supervising the collection of samples or obtaining samples of ash to test or to monitor air quality at the facility.

(8) As used in subsection (1), "landfill" means a landfill or a specific portion of a landfill.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11543 Municipal solid waste incinerator ash; transportation.

Sec. 11543. (1) If municipal solid waste incinerator ash is transported, it shall be transported in compliance with section 720 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.720 of the Michigan Compiled Laws.

(2) If municipal solid waste incinerator ash is transported by rail, it shall be transported in covered, leakproof railroad cars.

(3) The outside of all vehicles and accessory equipment used to transport municipal solid waste incinerator ash shall be kept free of the ash.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11544 List of laboratories capable of performing test provided for in MCL 324.11542; compilation; publication; definitive testing; fraudulent or careless testing.

Sec. 11544. (1) The department shall compile a list of approved laboratories that are capable of performing the test provided for in section 11542.

(2) The department shall publish the list compiled under subsection (1) on or before July 1, 1989, and shall after that date make the list available to any person upon request.

(3) Except as provided in subsection (4), a test conducted by an approved laboratory from the list compiled under subsection (1) is definitive for purposes of this part.

(4) If the department has reason to believe that test results provided by an approved laboratory are fraudulent or that a test was carelessly performed, the department may conduct its own test or may have an additional test performed at the department's expense.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11545 Incineration of used oil prohibited; “oil” defined.

Sec. 11545. Beginning June 21, 1993, a municipal solid waste incinerator shall not incinerate used oil. As used in this section, used oil has the meaning ascribed to this term in part 167.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 7
ENFORCEMENT

324.11546 Action for appropriate relief; penalties for violation or noncompliance; restoration;

return; civil action.

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 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 part 115.

(2) In addition to any other relief provided by this section, the court may impose on any person who violates part 115 a civil fine as follows:

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

(b) For a second or subsequent violation, 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 part 115 to restore, or to pay to 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 this state the costs of surveillance and enforcement incurred by 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 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) Part 115 does not preclude any person from commencing a civil action based on facts that may constitute a violation of part 115.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2004, Act 41, Imd. Eff. Mar. 29, 2004;—Am. 2006, Act 56, Imd. Eff. Mar. 13, 2006;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11547, 324.11548 Repealed. 2022, Act 247, Eff. Mar. 29, 2023.

Compiler's note: The repealed sections pertained to the establishment of a grant program to provide financial assistance to the county or regional planning agencies and the legislative intent regarding private sector participation.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11549 Violation as misdemeanor; violation as felony; penalty; separate offenses.

Sec. 11549. (1) A person who violates 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.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 2006, Act 58, Imd. Eff. Mar. 13, 2006;—Am. 2022, Act 247, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 8
FUNDS AND GRANTS

324.11550 Solid waste management fund; creation; deposit of money into fund; establishment of solid waste staff account and perpetual care account; expenditures; grants and loans for recycling programs; report; coal ash care fund; creation; deposit of money; expenditures.

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.

(4) Subject to subsection (5), money shall be expended from the solid waste staff account, upon appropriation, only for the following purposes:

(a) Preparing generally applicable guidance regarding the 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 under part 115, including the cost of public notice and public hearings.

(c) Providing an advisory analysis under section 11510(1).

(d) General administrative costs of running the permit, license, registration, and notification program under part 115, including permit, license, registration, and notification tracking and data entry.

(e) Inspection of materials management facilities and open dumps.

(f) Implementing and enforcing the conditions of any permit, license, approval under a general permit, registration, or order under part 115.

(g) Groundwater monitoring audits at disposal areas that are or have been licensed under this part 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 materials management facilities, if required under part 115.

(i) Review of certifications of closure under part 115.

(j) Postclosure maintenance and monitoring inspections and review under part 115.

(k) Review of bonds and financial assurance documentation at materials management facilities, if required under 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 following activities at 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) To conduct postclosure maintenance and monitoring if the owner or operator is no longer required to do so.

(b) To conduct closure, postclosure maintenance and monitoring, and necessary corrective action if the owner or operator has failed to do so. Money shall be expended from the account only after funds from any other financial assurance mechanisms held by the owner or operator have been expended and the department has made reasonable efforts to obtain funding from other sources.

(6) Subject to appropriations, the department shall provide grants for the following purposes:

(a) The recycling markets program established under subsection (7).

(b) The local recycling innovation program established under subsection (8).

(c) The recycling access and voluntary participation program established under subsection (9).

(7) The department shall establish a recycling markets program. The program shall provide grants or loans for acquiring equipment or technology, for research and development, or for associated activities to provide for new or increased use of recycled materials or to support the development of recycling markets. Local units of government and nonprofit and for-profit entities are eligible for funding under the program. The funding is not limited to entities in counties with approved materials management plans. In addition to any other reporting requirements established by the department, grant recipients under the program shall provide information on the materials managed.

(8) The department shall establish a local recycling innovation program. The program shall provide grants or loans for developing local recycling infrastructure, for recycling education campaigns for residents and businesses, technology, or other activities that result in increasing recycling access, quality, or participation, for reducing waste, or for sustainable materials management. Local units of government and nonprofit and for-profit entities are eligible for funding under the program. The funding is not limited to entities in counties with approved materials management plans. In addition to any other reporting requirements established by the department, grant recipients under the program shall provide the department information on the materials managed.

(9) The department shall establish a recycling access and voluntary participation program. The program

shall provide grants or loans to assist local units of government in implementing best materials utilization practices or identifying ways to innovate and to collaborate with other local units and the private sector. To be eligible for a grant, a local unit of government must be a county that meets, or a municipality located within a county that meets, both of the following requirements:

(a) Has a materials management plan.

(b) Has documented progress toward meeting or has met its benchmark recycling standards and ultimately the municipal solid waste recycling rate goal under section 11507.

(10) The department shall publish and make available to grant and loan applicants criteria upon which the grants and loans will be made.

(11) 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. This report shall include, at a minimum, all of the following as they apply to the department:

(a) The number of full-time equated positions performing solid waste management authorization, compliance, and 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 and the number of inspections conducted at materials utilization facilities as required by section 11526.

(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 the corrective actions 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 amount of revenue in the coal ash care fund at the end of the fiscal year.

(12) 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) 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.

History: Add. 1996, Act 358, Eff. Oct. 1, 1996;—Am. 2003, Act 153, Eff. Oct. 1, 2003;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 201, Imd. Eff. Oct. 15, 2020;—Am. 2022, Act 248, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 9

BENEFICIAL USE BY-PRODUCTS

324.11551 Beneficial use by-product; qualification; requirements; analysis of representative sample by initial generator; determination; storage and use; beneficial uses 1 and 2 at and along roadways; registration or licensure under MCL 290.531 to 290.538; submission of information; open dumping; notice to prospective transferee.

Sec. 11551. (1) Except for a material that the department approves as a beneficial use by-product under section 11553(3) or (4), to qualify as a beneficial use by-product, a material or the use of the material, as applicable, shall meet all of the following requirements:

(a) The material is not a part 111 hazardous waste or mixed with a hazardous waste.

(b) The material is not stored at the site of generation or use for more than 3 years, or the amount that is transferred off site for use during a 3-year period equals at least 75% by weight or volume of the amount of that material stored on site for beneficial use at the beginning of the 3-year period.

(c) The material is stored in a manner that maintains its usefulness, controls wind dispersal, and prevents loss of the material beyond the storage area.

(d) The material is stored in a manner that does not cause groundwater to no longer be fit for 1 or more protected uses, does not cause a violation of a part 31 surface water quality standard, and otherwise does not violate part 31.

(e) The material is transported in a manner that prevents accidental leakage, spillage, or wind dispersal.

(f) The use of the material is for a legitimate beneficial purpose other than a means to discard the material and the material is used according to generally accepted engineering, industrial, or commercial standards for that use.

(g) For beneficial use 2, the material, if specified below, meets the following environmental standards using, at the option of the generator of the by-product, EPA method 1311, 1312, or ASTM test method 3987:

Constituent-maximum leachate mg/l	Coal ash or wood ash	Pulp and paper mill ash, mixed wood ash	Foundry sand	Cement kiln dust, lime kiln dust	Water softening limes, dewatered grinding sludge	Stamp sand	Spent media from sand blasting
Arsenic – 0.2	X	X	X	X	X		
Boron – 10	X						
Cadmium – 0.1	X	X		X	X		
Chromium – 2.0	X						X
Lead – 0.08	X	X	X	X	X		

Mercury – 0.04	X	X		X	X		
Copper – 20		X			X	X	
Nickel – 2.0		X	X		X		X
Selenium – 1.0	X				X		
Thallium – 0.04	X			X			
Zinc – 48	X	X			X		

(h) For beneficial use 3, the material or use of the material, as applicable, meets all of the following requirements:

(*i*) The material is coal bottom ash, wood ash, pulp and paper mill material, pulp and paper mill ash, mixed wood ash, foundry sand from ferrous or aluminum foundries, cement kiln dust, lime kiln dust, lime water softening residuals, flue gas desulfurization gypsum, soil washed or otherwise removed from sugar beets, or dewatered concrete grinding slurry from public transportation agency road projects.

(*ii*) The amount of any constituent listed below applied to an area of land over any period of time does not exceed the following:

CONSTITUENT	CUMULATIVE LOAD POUNDS PER ACRE
Arsenic	37
Cadmium	35
Copper	1,335
Lead	267
Mercury	15
Nickel	374
Selenium	89
Zinc	2,492

(*iii*) If the department of agriculture and rural development determines, based on peer-reviewed scientific literature, that any other constituent is subject to a cumulative loading requirement, the amount of that constituent applied to an area of land over any period of time does not exceed that cumulative loading requirement. The cumulative load for that constituent shall be calculated as follows: constituent concentration (mg/kg dry weight) x conversion factor of 0.002 (concentration to pounds per dry ton) x the material application rate in dry tons per acre.

(i) For beneficial use 5, the material is foundry sand from ferrous or aluminum foundries and representative sampling of the foundry sand using either a totals analysis, a leachate analysis (using EPA method 1311, EPA method 1312, ASTM method 3987, or other leaching protocol approved by the department), or any combination of the 2 types of analyses demonstrates that none of the following maximum concentrations are exceeded:

CONSTITUENT	TOTALS ANALYSIS MG/KG	LEACHATE ANALYSIS MG/L
Antimony	4.3	0.006
Cobalt	0.8	0.04
Copper	5,800	1
Iron	23,185	2.0
Lead	700	0.004
Manganese	1,299	0.86
Molybdenum	5	0.073
Nickel	100	0.1
Thallium	2.3	0.002
Vanadium	72	0.0045
Zinc	2,400	2.4

Benzene	0.1	0.005
Formaldehyde	26	1.3
Phenol	88	4.4
Trichloroethylene	0.1	0.005

(2) The determination whether a material meets the requirements of subsection (1)(a) or (g) shall be based on the analysis of a representative sample of the material by the initial generator. The initial generator shall maintain records of the test results for not less than 10 years after the date the material was sent off site and make the records available to the department upon request. The generator shall resample and analyze the material when raw materials or processes change in a way that could reasonably be expected to materially affect analysis results.

(3) Except as otherwise provided in this act, storage and use of beneficial use by-products shall comply with all other applicable provisions of this act.

(4) The storage of a material for beneficial use 3 that complies with regulation no. 641, commercial fertilizer bulk storage, R 285.641.1 to R 285.641.18 of the Michigan administrative code, shall be considered to comply with the storage requirements of this part.

(5) A person that actively manages and reuses a beneficial use by-product that has already been used in compliance with this part may rely on analytical data from the prior use.

(6) All of the following apply to beneficial uses 1 and 2 at and along roadways:

(a) Routine repair and replacement of roadways constructed using beneficial use materials does not constitute generation of beneficial use by-products triggering the requirements of this section if the beneficial use by-products remain or are reused at the same roadway and are used in a manner that meets the definition of beneficial use 1 or beneficial use 2, as appropriate. If the beneficial use by-products will be reused at some place other than the same roadway, then the requirements applicable to generators of beneficial use by-products must be met, except as follows:

(*i*) As set forth in subsection (5).

(*ii*) The requirements of section 11552 apply only if the category of beneficial use will change.

(b) For beneficial use 2, the requirement that beneficial use materials be covered by concrete, asphalt, or 6 inches of gravel applies at the time of placement and use. The development of potholes, shoulder erosion, or similar deterioration does not result in a violation of this part.

(c) If road materials containing beneficial use by-products are ground, reheated, or melted for reuse, the requirements of part 55 must be met.

(d) This part does not prohibit the state transportation department from seeking additional data or information for road building materials or from requiring that road building materials meet state transportation department specifications and standards.

(7) For beneficial use 3, the material that is offered for sale or use shall be annually registered or licensed under part 85 or 1955 PA 162, MCL 290.531 to 290.538. In addition to the information required under part 85 or 1955 PA 162, MCL 290.531 to 290.538, the following information shall be submitted to the department of agriculture and rural development with the license or registration application:

(a) Directions for use to ensure that the material is applied at an agronomic rate that has been reviewed by a certified crop advisor.

(b) A laboratory analysis report that contains all of the following:

(*i*) Sampling results that demonstrate that the material does not pose harm to human health or the environment. One method by which this demonstration can be made is by sampling results that comply with both of the following:

(A) The levels established pursuant to the association of American plant food control officials' statement of uniform interpretation and policy #25, as follows:

(I) A fertilizer with a phosphorus or micronutrient guarantee shall apply the policy in its entirety.

(II) A fertilizer with only a nitrogen, potassium, or secondary nutrient guarantee shall use the micronutrients column in the policy and apply a multiplier of 1 to determine the maximum allowable concentration of each metal.

(III) A soil conditioner or liming material shall use the micronutrients column in the policy and apply a multiplier of 1 to determine the maximum allowable concentration of each metal.

(B) The part 201 generic residential soil direct contact cleanup criteria for volatile organic compounds (as determined by U.S. EPA method 8260), semivolatile organic compounds (as determined by U.S. EPA method

8270c), and dioxins (as determined by U.S. EPA method 1613b). Results for dioxins shall be reported on a dry weight basis, and total dioxin equivalence shall be calculated and reported utilizing the U.S. EPA toxic equivalency factors (U.S. EPA/100/R10/005).

(*ii*) For a fertilizer, all of the following used by a certified crop advisor to determine an agronomic rate consistent with generally accepted agricultural and management practices:

(A) A demonstration that the material contains the minimum percentage of each plant nutrient guaranteed or claimed to be present.

(B) The percentage of dry solids, nitrogen, ammonium nitrogen, nitrate nitrogen, phosphorus, and potassium in the material.

(C) The levels of calcium, magnesium, acidity or basicity measured by pH, sulfur, chromium, copper, silver, chlorine, and boron.

(*iii*) For a soil conditioner or a liming material, all of the following used by a certified crop advisor to determine an agronomic rate consistent with generally accepted agricultural and management practices:

(A) The percentage of dry solids in the material.

(B) The levels of calcium, magnesium, acidity or basicity measured by pH, sulfur, chromium, copper, silver, chlorine, and boron.

(*iv*) For a soil conditioner, scientifically acceptable data that give reasonable assurance that the material will improve the physical nature of the soil by altering the soil structure by making soil nutrients more available or otherwise enhancing the soil media resulting in beneficial crop response or other plant growth.

(*v*) For a liming material, scientifically acceptable data demonstrating that the material will correct soil acidity.

(8) When a material is licensed or registered as described in subsection (7), the laboratory analysis report and the scientifically acceptable data submitted with a prior application may be resubmitted for a subsequent application unless the raw materials or processes used to generate the material change in a way that could reasonably be expected to materially affect the laboratory analysis report or scientifically acceptable data.

(9) This part does not authorize open dumping prohibited by the solid waste disposal act, 42 USC 6901 to 6992k.

(10) If an owner of property has knowledge that a material has been used on the property for beneficial use 2, before transferring the property, the owner shall provide notice to a prospective transferee that the material was used for beneficial use 2, including the date and location of the use, if known. If a contractor, consultant, or agent of an owner of property uses a material on the property for beneficial use 2, the contractor, consultant, or agent shall provide notice to the owner that the material was used for beneficial use 2, including the date and location of the use.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11551a Beneficial use by-product not required.

Sec. 11551a. This part does not require the use of any beneficial use by-product, including, but not limited to, the uses and beneficial use by-products identified in sections 11502 to 11506, by any governmental entity or any other person.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11552 Notice; report; confidentiality.

Sec. 11552. (1) Written notice shall be submitted to the department before a beneficial use by-product is used for beneficial use 2 as construction fill at a particular site for the first time, if the amount used will exceed 5,000 cubic yards. The generator of the beneficial use by-product shall submit the notice unless the generator transfers material to a broker, in which case the broker shall submit the notice.

(2) By October 30 of each year, any generator or broker of more than 1,000 cubic yards of material used as beneficial use by-products for beneficial use 1, 2, or 4 in the immediately preceding period of October 1 to September 30 or any person that uses or reuses more than 1,000 cubic yards of a source separated material in that period shall submit a report to the department containing all of the following information, as applicable:

(a) The business name, address, telephone number, and name of a contact person for the generator, broker,

or other person.

(b) The types and approximate amounts of beneficial use by-products generated, brokered, and stored during that period.

(c) The approximate amount of beneficial use by-products shipped off site during that period and the uses and conditions of use.

(d) The amount of source separated materials used or reused.

(3) A generator or broker may designate the information required in the report under subsection (2)(b) and (c) as confidential business information. If the scope of a request for public records under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, includes information designated by the generator or broker as confidential, the department shall promptly notify the generator or broker of the request, including the date the request was received by the department and, pursuant to that section, shall issue a notice extending for 10 business days the period during which the department shall respond to the request. The department shall grant the request for the information unless, within 12 business days after the date the request was received by the department, the generator or broker demonstrates to the satisfaction of the department that the information designated as confidential should not be disclosed because the information constitutes a trade secret or secret process or is production or commercial information the disclosure of which would jeopardize the competitive position of the generator or broker. If there is a dispute over the release of information between the generator or broker and the person requesting the information, the director shall grant or deny the request. The department shall notify the generator or broker of a decision to grant the request at least 2 days before the release of the requested information.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11553 Promoting and fostering use of wastes and by-products for recycling or beneficial purposes; approval of material, use, or material and use; request; approval or denial by department; determination made prior to September 16, 2014; applicability to material used under part 115.

Sec. 11553. (1) Consistent with the requirements of 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 part 115, to approve a material, a use, or a material and use as a source separated material; a beneficial use by-product for beneficial use 1, 2, 4, or 5; an inert material; a low-hazard industrial waste; nondetrimental material managed for agricultural or silvicultural use; or another material, use, or material and use that can be approved under part 115. Among other things, a person may request the department to approve a use that does not meet the definition of beneficial use 2 under section 11502(8)(a) because the property is not nonresidential property or under section 11502(8)(a), (b), or (c) because the material exceeds 4 feet in thickness. A request under this subsection shall be in writing and contain a description of the material including the process generating it; results of analyses of representative samples of the material for any hazardous substances that the person has knowledge or reason to believe could be present in the material, based on its source, its composition, or the process that generated it; and, if applicable, a description of the proposed use. The analysis and sampling of the material under this subsection shall be consistent with the methods identified in "Standard Methods for the Examination of Water and Wastewater, 20th Edition," (jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation) or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), AND V (2015); 1 or more peer-reviewed standards developed by a national or international organization, such as ASTM International; or 1 or more standards or methods approved by the department or the EPA. The department shall approve or deny the request in writing within 150 days after the request is received, unless the parties agree to an extension. If the department determines that the request does not include sufficient information, the department shall, not more than 60 days after receipt of the request, notify the requester. The notice shall specify the additional information that is required. The 150-day period is tolled until the requestor submits the information specified in the notice. If the department approves a request under this subsection, the approval shall include the following statement: "This approval does not require any use of any beneficial use by-product by a governmental entity or any other person." The department may impose conditions and other requirements consistent with the purposes of part 115 on a material, a use, or a material and use approved

under this section that are reasonably necessary for the use. If a request is approved with conditions or other requirements, the approval shall specifically state the conditions or other requirements. If the request is denied, the denial shall, to the extent practical, state with specificity all of the reasons for denial. If the department fails to approve or deny the request within the 150-day period, the request is considered approved. A person requesting approval under this subsection may seek review of any final department decision pursuant to section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(3) The department shall approve a material for a specified use as a beneficial use by-product if all of the following 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*) Any hazardous substances in the material do not pose a direct contact health hazard to humans.

(*ii*) The material does not leach, decompose, or dissolve to form a leachate that exceeds either of the following:

(A) Part 201 generic residential groundwater drinking water criteria.

(B) 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 environment, natural resources, and the public health, safety, and welfare. In making the determination, the department shall consider the potential for exposure and risk to the environment, natural resources, and the public health, safety, and welfare 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) Substances in the material do not pose a direct contact health hazard to humans.

(c) The material does not leach, decompose, or dissolve in water or other liquids likely to be found at the area of placement, disposal, or use to form a leachate that exceeds either of the following:

(*i*) Part 201 generic residential groundwater drinking water criteria.

(*ii*) 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 environment, natural resources, and the public health, safety, and welfare. In making the determination, the department shall consider the potential for exposure and risk to the environment, natural resources, and the public health, safety, and welfare 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, "Toxicity Characteristic Leaching Procedure", EPA method 1312, "Synthetic Precipitation Leaching Procedure", 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 land, or will be used to produce products that are applied to or placed on land, the material must qualify as an inert material or beneficial use by-product.

(9) Any written determination by the department made 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 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 part 115 control. The amendments made to this part by 2014 PA 178 do not rescind, invalidate, limit, or modify any such prior determination in any way.

(10) Notwithstanding any other provision of part 115, a person in possession of material that is designated or approved for beneficial use or as inert material or in possession of material from an industrial facility that is designated or approved as source separated material is not subject to regulation as a materials management facility if the person manages and uses the material as provided in part 115 for that material.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2022, Act 248, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11554 Administration and enforcement of part 115.

Sec. 11554. The department of agriculture and rural development, and not the department of environment, Great Lakes, and energy, shall administer and enforce part 115 in connection with any material that is licensed or registered under part 85 or 1955 PA 162, MCL 290.531 to 290.538.

History: Add. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2022, Act 248, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 10
MATERIALS UTILIZATION FACILITIES

324.11555 Management of compostable materials; temporary accumulation of yard waste; composting on a farm; composting facility; location requirements; list of composting 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 class 1 composting facility where the quantity of compostable material does not at any time 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), if applicable.

(e) Composted on a farm as described by subsection (3).

(f) Composted at a medium composting facility registered under section 11568(3), if applicable.

(g) Composted at any of the following that has received approval under a general permit under section 11568(3), if applicable:

(*i*) A large composting facility.

(*ii*) A small or medium class 1 composting facility that meets the requirements of subsection (4) and where the total volume of class 1 compostable material other than yard waste exceeds 10% of the total volume of compostable material on-site, unless otherwise approved by the department.

(*iii*) A class 2 composting facility.

(h) Decomposed in a controlled manner using a closed container to create and maintain anaerobic conditions if in compliance with part 55 and otherwise approved by the department under part 115.

(i) Composted by a type II landfill if the following requirements are met:

(*i*) The landfill reports annually the number of cubic yards of compost managed.

(*ii*) The composting and use meet the following requirements:

(A) Take place on property described in the landfill construction permit.

(B) Are described in and consistent with the landfill operations plans.

(C) Are otherwise in compliance with this act.

(*iii*) Yard waste or unfinished compost is not used as daily cover.

(j) Disposed of in a landfill or an incinerator. This subdivision applies to yard waste only if all of the following requirements, as applicable, are met:

(*i*) The yard waste is any of the following:

(A) Diseased or infested.

(B) Plants that are prohibited species or restricted species, as defined in part 413, and that were collected through an eradication or control program.

(C) A state or federal controlled substance.

(D) Contaminated, with hazardous material as determined by the department.

(*ii*) The yard waste includes no more than a de minimis amount of yard waste other than that described in subparagraph (*i*).

(*iii*) For yard waste described in subparagraph (*i*)(A), (B), or (C), if the yard waste is composted, use of the compost may contribute to the spread of the disease or infestation or of viable invasive plant or controlled substance seeds or other propagules.

(2) A person may temporarily accumulate yard waste under subsection (1)(b) at a site not designed for composting if all of the following requirements are met:

(a) The accumulation does not create a nuisance or result in a violation of this act.

(b) The yard waste is not mixed with other compostable material.

(c) No more than 1,000 cubic yards are placed on-site unless a greater volume is approved by the department.

(d) Yard waste placed on-site on or after April 1 but before December 1 is moved to another location and managed as provided in subsection (1) within 30 days after being placed on-site. The department may approve a longer time period based on a demonstration that additional time is necessary.

(e) Yard waste placed on-site on or after December 1 but before the next April 1 is moved to another location and managed as provided in subsection (1) by the next April 1 after the yard waste is placed on-site.

(f) The owner or operator of the site maintains and makes available to the department records necessary to demonstrate that the requirements of this subsection are met.

(g) The owner or operator of the site annually notifies the department that it is a temporary yard waste accumulation site.

(3) A person may compost class 1 compostable material on a farm under subsection (1)(e) if all of the following requirements are met:

(a) All the compost is used on the farm.

(b) The composting does not result in a violation of this act and is done in compliance with GAAMPS.

(c) Any of the following apply:

(*i*) Only class 1 compostable material that is generated on the farm and does not contain paper products, dead animals, or compostable products is composted.

(*ii*) There is not more than 5,000 cubic yards of class 1 compostable material on the farm at any time.

(*iii*) All of the following requirements are met:

(A) The farm operation accepts class 1 compostable material only to assist in management of waste material generated by the farm operation or to supply the nutrient needs of the farm as determined by a certified crop advisor, Michigan agriculture environmental assurance program technician, comprehensive nutrient management plan writer, licensed professional engineer, or staff of the department of agriculture and rural development who administer the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(B) The farm operation does not accept compostable material generated at a location other than the farm for monetary or other valuable consideration.

(C) The owner or operator of the farm registers with the department of agriculture and rural development and certifies that the farm operation meets and will continue to meet the requirements of sub-subparagraphs (A) and (B).

(4) The owner or operator of a composting facility that is subject to a requirement for notification, registration, or approval under a general permit under section 11568(3) shall meet the following requirements, as applicable:

(a) Composting and management of the site occurs in a manner that meets all of the following requirements:

(*i*) Does not result in an accumulation of compostable material for a period of over 3 state fiscal years unless the site has the capacity to compost the compostable material and the owner or operator of the site 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% 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.

(*ii*) Results in finished compost with not more than 1%, by weight, of foreign matter that will remain on a 4-millimeter screen.

(*iii*) 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, debags the yard waste by the end of each business day.

(*iv*) Prevents the pooling of water by maintaining proper slopes and grades.

(*v*) Operates in compliance with parts 31 and 55.

(*vi*) Does not attract or harbor rodents or other vectors.

(b) The owner or operator maintains, and makes available to the department, all of the following records:

(*i*) 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 1 each year.

(*ii*) 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.

(c) If the site is a small composting facility, the site is operated in compliance with the following location conditions:

(*i*) If the site was in operation on December 1, 2007, the management or storage of compost, compostable material, and residuals does not expand from its location on that date to an area that is within the following distance from any of the following features:

(A) 50 feet from a property line.

(B) 200 feet from a residence.

(C) 100 feet from a body of surface water, including a lake, stream, or wetland.

(*ii*) If the site begins operation after December 1, 2007, the management and storage of compost, compostable material, and residuals occur at least the following distance from each of the following features:

(A) 50 feet from a property line.

(B) 200 feet from a residence.

(C) 100 feet from a body of surface water, including a lake, stream, or wetland.

(D) 2,000 feet from a type I or type IIa water supply well.

(E) 800 feet from a type IIb or type III water supply well.

(F) 500 feet from a church or other house of worship, hospital, nursing home, licensed day care center, or school, other than a home school.

(G) 4 feet above groundwater.

(5) A local unit of government may impose location requirements that are more restrictive than those in subsection (4)(c)(*i*) and (*ii*). However, the local requirements shall not be so restrictive that a facility that meets the requirements of the siting process in the materials management plan cannot be established.

(6) A site at which compostable material is managed in compliance with this section, other than a site described in subsection (1)(i) or (j), is not a disposal area.

(7) The department shall maintain and post on its website a list of composting facilities for which notification has been given, which are registered, or which are approved under a general permit under section 11568(3). Except as provided in section 11514, a hauler shall not deliver yard waste to a site that is not on the list. A contract between a local unit of government and a hauler for curbside pick-up of yard waste or collection of yard waste from a drop-off location shall require the delivery of the yard waste to a site on the list.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11556 Class 1 and 2 compostable materials; composting of dead animals.

Sec. 11556. (1) A person who composts class 1 compostable material shall do so at 1 of the following:

(a) A composting facility as described in section 11555(1)(c).

(b) A small or medium class 1 composting facility that meets the requirements of section 11555(4) and where the total volume of class 1 compostable material other than yard waste is equally distributed and does not exceed 5% for a small composting facility, or 10% for a medium composting facility, of the total volume of compostable material on-site or a greater percentage if approved by the department.

(c) A composting facility described in section 11555(1)(g).

(2) Class 1 compostable material is considered to be source separated for conversion into compost if the class 1 compostable material is composted at a site that is described in and meets the requirements of section 11555(4) or section 11557(2).

(3) Composting of class 2 compostable material shall be done at a class 2 composting facility. Class 2 compostable material is considered to be source separated for conversion into compost if the class 2 compostable material is composted at a class 2 composting facility.

(4) Composting of dead animals using bulking agents as defined in section 3 of 1982 PA 239, MCL 287.653, is subject to part 115 if the composting occurs at any of the following:

(a) A farm that maintains more than 5,000 cubic yards of bulking agents from a source other than the farm.

(b) A slaughtering facility that, for composting purposes, maintains on-site more than 5,000 cubic yards of bulking agents as defined in section 3 of 1982 PA 239, MCL 287.653.

(c) A facility that manages dead animals from more than 1 farm or slaughtering facility.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11557 Location of composting facilities; notification requirements near airport.

Sec. 11557. (1) The location at a medium or large composting facility, or a class 1 or class 2 composting facility, where class 1 and class 2 compostable material, finished compost, and residuals were managed and stored on the effective date of the amendatory act that added this section shall not be expanded to an area that is within the following distance from any of the following features:

(a) 100 feet from a property line.

(b) 300 feet from a residence.

(c) 200 feet from a body of surface water, including a lake, stream, or wetland.

(2) If a medium or large composting facility or a class 1 or 2 composting facility begins operation after the effective date of the amendatory act that added this section, the management and storage of class 1 and class 2 compostable material, compost, and residuals shall not occur in a wetland or floodplain, or in an area that is within the following distance from any of the following features:

(a) 100 feet from a property line.

(b) 300 feet from a residence.

(c) 200 feet from a body of surface water, including a lake, stream, or wetland.

(d) 2,000 feet from a type I or type IIa water supply well.

(e) 800 feet from a type IIb or type III water supply well.

(f) 4 feet above groundwater.

(g) 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.

(3) Not later than 90 days after the establishment of a new class 1 or class 2 composting facility or the expansion of the location at a class 1 or class 2 composting facility where compostable material, finished compost, and residuals were managed and stored on the effective date of the amendatory act that added this section, the owner or operator of the composting facility shall, if the composting facility is located within 5 miles of the end of an airport runway that is used by turbojet or piston type aircraft, notify in writing the affected airport and the Federal Aviation Administration.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11558 Large class 1 composting facilities; owner or operator responsibilities; separation

of class 2 compostable materials.

Sec. 11558. (1) The owner or operator of a large class 1 composting facility shall submit to the department the following items:

(a) A site map.

(b) An operations plan.

(c) An odor management plan.

(d) A training plan.

(e) A fire prevention plan.

(f) A facility closure plan.

(2) The owner or operator of a large class 1 composting facility shall ensure that all of the following requirements are met:

(a) Finished compost is tested in compliance with section 11564.

(b) The compostable material is not stored in a manner constituting speculative accumulation. The owner or operator of the large composting facility shall maintain and make available to the department records to demonstrate compliance with this requirement.

(c) Composting does not result in standing water or attract or harbor rodents or other vectors.

(d) Unless approved by the department, the composting operations do not result in more than the following volume on any acre:

(*i*) 5,000 cubic yards of compostable material, finished compost, compost additives, or screening rejects or any combination thereof.

(*ii*) 10,000 cubic yards of compostable material if the site is using forced air static pile composting.

(e) The composting facility complies with wellhead protection programs.

(3) 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.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11560 Annual report.

Sec. 11560. The owner or operator of a composting facility that is required to notify or register under part 115 or that is approved under a general permit shall, within 45 days after the end of each state fiscal year, report to the department all of the following information for that fiscal year:

(a) The amount of compostable material brought to the site, by county of origin.

(b) The amount of finished compost removed from the site.

(c) The amount of unfinished compostable material removed from the site.

(d) The volume of residuals removed from the site.

(e) The total amount of compostable material, compost, and residuals on-site at the end of the fiscal year.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11561 Characterization of finished compost; use of compost; approval by department.

Sec. 11561. (1) A person shall not use compost produced from class 2 compostable material unless the department approves the class 2 compostable material as appropriate for the use under part 115.

(2) A person shall not compost solid waste unless the person has filed a petition under R 299.4118a of the MAC and obtained approval from the department. To characterize the finished compost, the petitioner shall include all of the following information in the petition, in addition to the information required in R 299.4118a of the MAC:

(a) The type of waste and its potential for creating a nuisance or environmental contamination.

(b) The time required for compost to reach maturity, as determined by a reduction of organic matter content during composting. Organic matter content shall be determined by measuring the volatile residues content using a method that is approved by the department or EPA method 160.4, contained in "Methods for Chemical Analysis of Water and Waste", EPA-600, Revision 8, July 2014, Update V.

(c) The foreign matter content of finished compost. The foreign matter content shall be determined as follows:

(*i*) A weighed sample of the finished compost is sifted through a 4.0-millimeter screen.

(*ii*) The foreign matter remaining on the screen is separated and weighed.

(*iii*) The weight of the separated foreign matter is divided by the weight of the finished compost.

(*iv*) The quotient under subparagraph (*iii*) is multiplied by 100.

(d) Particle size, as determined by sieve analysis.

(3) The department shall approve a material for use as compostable material if the person who proposes the use demonstrates all of the following:

(a) The material has or will be converted to compost under controlled conditions at a class 2 composting facility.

(b) The material will not be a source of environmental contamination or cause a nuisance.

(c) The end user will be given written instructions on the proper use of the finished compost.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11562 Petition for classification; pilot composting project; testing parameters.

Sec. 11562. (1) A person may petition the department to do any of the following:

(a) Classify a solid waste, a class 2 compostable material, or a combination of class 1 compostable material and class 2 compostable material, as a class 1 compostable material.

(b) Classify compost produced from solid waste, class 2 compostable material, or a combination of class 1 compostable material and class 2 compostable material, as general use compost.

(2) A petition under subsection (1) shall meet the requirements of R 299.4118a of the MAC. If authorized by the department in writing, a person may conduct a pilot composting project to support a petition under subsection (1).

(3) In granting a petition under subsection (1), the department shall specify which parameters listed in section 11565 shall be tested under subsection (4). The department's decision shall be based on both of the following:

(a) The difference between the concentration of a given parameter in the compost and the criteria for that parameter described in section 11553(5)(c)(*i*).

(b) The variability of the results among the samples.

(4) If a material is classified as a class 1 compostable material by the department based on the petition under subsection (1), the operator shall test compost produced from the class 1 compostable material when both of the following apply:

(a) There is a significant change in the process that generated the compost.

(b) The change has the potential to alter the classification of the finished compost as general use compost under section 11553(5).

(5) If any finished compost produced from class 2 compostable material that has been classified as a general use compost fails to meet the requirements for a general use compost under section 11553(5), both of the following apply:

(a) The finished compost is reclassified as a restricted use compost.

(b) The owner or operator of the composting facility shall notify the department within 10 business days after receipt of information that the finished compost no longer meets the requirements to be classified as general use compost, and shall do 1 of the following with the finished compost:

(*i*) Dispose of the remaining finished compost at a properly licensed landfill.

(*ii*) Stockpile the finished compost on-site until the generator re-petitions the department and the department reclassifies the compost as provided in this section.

(*iii*) Use the finished compost for a specified use if approved for that specified use under section 11553(4).

(6) If finished compost produced by a composing facility is restricted use compost, the owner or operator of the composting facility shall do the following, as applicable:

(a) Retest the finished compost annually, or biennially if the department has determined that the test results demonstrate insignificant variability over a 2-year period, using the procedures specified in R 299.4118a of the MAC. The owner or operator shall submit the test results to the department. The department shall specify a more frequent schedule for testing if the characteristics of the material vary significantly.

(b) If the owner or operator of the composting facility receives information that test results show a significant increase in any parameter or a significant decrease in pH from previous test results, notify the department within 10 business days and do any of the following with the finished compost:

(*i*) Dispose of the finished compost at a properly licensed landfill.

(*ii*) Stockpile the finished compost on-site until the generator re-petitions the department and the department reclassifies the compost under this section.

(*iii*) Use the finished compost for a use specified by the department under section 11553(3).

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Compiler's note: In subsection (6), the reference to "composing facility" evidently should read "composting facility."

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11563 Sale of general use compost; labeling requirements; management of restricted use compost.

Sec. 11563. (1) General use compost offered for sale shall be accompanied by a label, in the case of bagged compost, or an information sheet in the case of bulk sales. The label or information sheet shall contain all of the following information:

(a) The name and generator of the compost.

(b) The feedstock and bulking agents used to produce the compost.

(c) Use instructions, including application rates and any restrictions on use.

(d) If the compost is marketed as a fertilizer, micronutrient, or soil conditioner, the label shall list the applicable parameters under section 11565 and comply with the requirements of part 85, if applicable.

(e) If the compost is marketed as a liming material, the label shall list the applicable parameters under section 11565 and shall include a statement indicating that the generator of the compost is in compliance with the applicable requirements of 1955 PA 162, MCL 290.531 to 290.538. The label shall specify the generator's liming license number.

(f) A statement indicating how the user of the compost can obtain the results of all testing, including test parameters and concentration levels.

(2) Restricted use compost shall be managed as provided in any of the following:

(a) Disposed of at a properly licensed landfill.

(b) Stockpiled on-site until the generator petitions the department under section 11562 and the department reclassifies the compost as provided in that section.

(c) Used for a use specified by the department under section 11553(3).

(d) If offered for sale, accompanied by a label, in the case of bagged compost, or an information sheet in the case of bulk sales. The label or information sheet shall contain both of the following:

(*i*) The information required by subsection (1).

(*ii*) A statement that the compost has been approved for use by this state and further indicating how the user of the compost may obtain the results of all testing including test parameters, concentration levels, and the applicable standards.

(3) The department may impose conditions for use of restricted use compost to ensure the protection of the environment, natural resources, or the public health, safety, or welfare.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11564 Testing of finished compost; compliance.

Sec. 11564. (1) The following sites shall test their finished compost in compliance with the US Composting Council's Seal of Testing Assurance, unless the department has approved an alternate procedure:

(a) Class 1 composting facilities that produce over 2,000 cubic yards of finished compost per year. The finished compost shall be analyzed for the parameters listed in section 11565.

(b) Class 2 composting facilities. The finished compost shall be analyzed for the parameters listed in section 11565 and, if the compost is produced from class 2 compostable material, other parameters identified in the facility's general permit.

(2) All sites not listed in subsection (1) shall test at least 1 sample of finished compost per 4,000 cubic yards or 2,000 tons per year for the parameters listed in section 11565, unless the department has approved an alternate procedure.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11565 General use parameters for compost.

Sec. 11565. All of the following are general use parameters for compost:

(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.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11567 Creation of soil-like product; blending requirements; gypsum drywall.

Sec. 11567. (1) A person may blend low-hazard industrial waste or compost additives with general use compost or compost produced from yard waste to create a soil-like product if all of the following conditions are met, as applicable:

(a) The blending occurs at a class 1 or class 2 composting facility.

(b) The mixture meets the requirements of section 11553(5) or other requirements approved by the department.

(c) If the blending is with general use compost, the blending occurs within 30 days after the low-hazard industrial waste or compost additives are collected at the class 1 or class 2 composting facility.

(2) Gypsum drywall may be added to finished compost if the gypsum drywall constitutes less than 50% of the compost by weight and is less than 1/4 inch in diameter.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11568 Materials utilization facility; reporting and compliance requirements; anaerobic digester; application; approval; fees.

Sec. 11568. (1) The operator of a materials utilization facility shall comply with all of the following:

(a) The operator shall 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.

(b) The operator shall comply with this act, including parts 31 and 55, and not create a facility as defined in section 20101.

(c) Unless exempted, the operator shall record the types and quantities in tons, or cubic yards for composting facilities, of material collected, the period of storage, the planning area of origin of the material, and where the material is transferred, processed, recycled, or disposed. The operator shall report to the department this information for each state fiscal year within 45 days after the end of the state fiscal year.

(d) On an annual basis, the weight of solid waste residuals shall be less than 15% of the total weight of material received unless the requirements of subdivision (b) of the definition of materials recovery facility in section 11504 are met.

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

(f) The operator shall limit access to the facility to a time when a responsible individual is on duty.

(g) The operator shall not store material overnight at the facility except in a secure location and with adequate containment to prevent any release of material.

(h) Within 1 year after material is collected by the facility, the material shall be transported from the facility for use in production of ultimate end use products or disposal. This subdivision does not apply to a composting facility.

(i) The material shall be protected, as appropriate for the type of material, from weather, fire, physical damage, and vandalism.

(j) Operations shall not attract or harbor rodents or other vectors.

(k) If salvaging is permitted, salvaged material shall be removed from the site at the end of each business day or salvaging shall be confined to a storage area that is approved by the department.

(*l*) Handling and processing equipment that is of adequate size, quantity, and operating condition shall be available as needed 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.

(m) Solid waste shall not be burned at the facility.

(2) The operator of a materials recovery facility, including an electronic waste processor not required to report under part 173, shall comply with both of the following:

(a) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate a materials recovery facility that sorts, bales, or processes more than 100 tons of material per year and does not have more than 100 tons of managed material on-site at any time unless the owner or operator has registered the materials recovery facility with the department. The application for registration shall be accompanied by a fee of $750.00. The term of the registration is 5 years.

(b) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate a materials recovery facility that has more than 100 tons of managed material on-site at any time unless the owner or operator has obtained approval of the materials recovery facility under a general permit, subject to subsections (6) to (9).

(3) The operator of a composting facility shall comply with all of the following:

(a) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate a small class 1 composting facility unless the owner or operator has notified the department. 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 compostable material managed at the facility during the state fiscal year.

(b) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate a medium class 1 composting facility unless the owner or operator has registered with the department. The application for registration shall be accompanied by a fee of $750.00. The term of the registration is 5 years.

(c) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate a class 2 composting facility or a large class 1 composting facility unless approved by the department under a general permit, subject to subsections (6) to (9).

(4) The operator of an anaerobic digester shall comply with all of the following:

(a) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate an anaerobic digester if the anaerobic digester manages source separated material generated on-site and if not more than 20% of the material managed is generated off-site unless the owner or operator has notified the department. 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 material managed at the anaerobic digester during the state fiscal year.

(b) Beginning 1 year after the effective date of the amendatory act that added this section, a person shall not operate an anaerobic digester if the anaerobic digester manages source separated material generated

on-site and if more than 20% of the material managed is generated off-site unless the owner or operator has registered the anaerobic digester with the department. The application for registration shall be accompanied by a fee of $750.00. The term of the registration is 5 years.

(c) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate an anaerobic digester that manages only source separated material, manures, bedding, or crop residuals that are generated off-site unless approved by the department under a general permit, subject to subsections (6) to (9).

(d) Liquid digestate that is generated by the anaerobic digester shall be managed by 1 or more of the following:

(*i*) On-site treatment and discharge by a facility that is permitted under part 31 or is otherwise approved by the department.

(*ii*) Discharge, by sewer or pipeline, to an off-site publicly owned treatment works or other facility that is permitted under part 31 or is otherwise approved by the department.

(*iii*) Discharge, by pumping and hauling, to an off-site publicly owned treatment works or other facility that is permitted under part 31 or is otherwise approved by the department.

(*iv*) Covered storage, as approved by the department, on-site for not less than 180 days followed by land application under R 299.4111 of the MAC.

(5) Beginning 2 years after the effective date of the amendatory act that added this section, a person shall not operate an innovative technology facility unless approved by the department under a general permit, subject to subsections (6) to (9).

(6) If the owner or operator of a materials utilization facility in operation on the effective date of the amendatory act that added this section is required to obtain approval under a general permit and submits a complete application for approval by the deadline for obtaining approval, the owner or operator is considered to be in compliance with the approval requirement pending the department's approval or denial of the application.

(7) An application for approval under a general permit under this section shall be accompanied by a fee of $1,000.00. The department shall approve or deny the application within 90 days after receiving a complete application. If the application is denied, within 6 months after the denial, the applicant may resubmit the application together with additional information or corrections necessary to address the reason for denial, without paying an additional application fee.

(8) The term of approval under a general permit under this section is 5 years, except that the term of approval under an innovative technology general permit is 2 years.

(9) An approval under a general permit under this section may be renewed upon the submittal of a timely and sufficient application. To be considered timely and sufficient for purposes of section 91 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.291, an application for renewal of a general permit approval shall meet both of the following requirements:

(a) Contain the information as required by the applicable general permit application.

(b) Be received by the department not later than 90 days before the expiration of the preceding authorization.

(10) Fees collected under this subpart shall be deposited in the perpetual care account established under section 11550.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11569 Materials utilization facilities; site map and operations plan; final closure plan; notification requirements.

Sec. 11569. (1) With a registration or an application for approval under a general permit required under section 11568, the owner or operator of a materials utilization facility shall submit a site map and operations plan for the materials utilization facility. With an application for approval under a general permit, the owner or operator shall submit a final closure plan. Pending registration or authorization under a general permit of a materials utilization facility in operation on the effective date of the amendatory act that added this section, the department shall review the operating requirements for the facility. If the department determines upon review that the operating requirements do not comply with part 115, the department shall issue a schedule of remedial measures that will lead to compliance within a reasonable period of time not to exceed 1 year from the determination of noncompliance.

(2) If an increase in the volume or change in the type of material managed by a materials utilization facility triggers a requirement for notification, registration, or approval under a general permit, the owner or operator of the facility shall submit the notification, complete application for registration, or complete application for approval under a general permit within 90 days.

History: Add. 2022, Act 249, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

SUBPART 11
MATERIALS MANAGEMENT PLANS

324.11571 Approved materials management plan (MMP); county approval; notification of intent; requirements; time period; county approval agency (CAA); duties; electronic mail.

Sec. 11571. (1) The department shall ensure that each county has an approved materials management plan. The approved solid waste management plan in effect on the effective date of the amendatory act that added this section remains in effect until a materials management plan has been approved for the planning area under this subpart. 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 sections 11534 to 11537a immediately before the effective date of the amendatory act that added this section.

(2) The planning area of a single MMP may include 2 or more counties if the county boards of commissioners of those counties agree to the joint exercise of the powers and performance of the duties under this subpart of the county boards of commissioners and of the county approval agencies. In addition, if the department is responsible for preparing the MMP for 2 or more counties under section 11575, the department may include those counties in the planning area of a single MMP and may exercise its powers and perform its duties under this subpart for those counties jointly.

(3) Multicounty MMPs are subject to the same procedure for approval as single-county MMPs, and each county board of commissioners shall take formal action on a multicounty MMP as appropriate. A multicounty MMP shall include a process to ensure that the requirements of section 11578 are met.

(4) All of the municipalities of a county shall be included in the planning area of a single MMP. However, a municipality located in 2 counties that are not in the same planning area may request that the entire municipality be included in the planning area for 1 of those counties and excluded from the planning area of the other county. A municipality that is adjacent to a county boundary may request that it be included in the planning area of the MMP for the adjacent county. A request under this subsection shall be submitted to and is subject to the approval of the county board of commissioners of each of the affected counties.

(5) Within 180 days after the effective date of the amendatory act that added this section, the department shall, in writing, request the county board of commissioners of each county to submit to the department a notice of intent to prepare an MMP. Within 180 days after the request is delivered, the county board of commissioners shall submit the notice of intent. If the county board of commissioners declines to prepare an MMP, all of the following apply:

(a) The county board of commissioners shall notify the municipalities in the county and the regional planning agency for the county of its decision.

(b) All the municipalities in the county, acting jointly, or the regional planning agency may, within the remaining balance of the 180-day time period applicable to the county board of commissioners, submit to the department a notice of intent to prepare an MMP.

(c) Upon request of the municipalities or regional planning agency, the department may extend the deadline under subdivision (b) to allow the municipalities and regional planning agency an opportunity to determine which will submit the notice of intent.

(6) If a notice of intent is not submitted to the department by the applicable deadline under subsection (5), the department may prepare an MMP for the county, subject to section 11575(11).

(7) A notice of intent under subsection (5) shall meet the following requirements, as applicable:

(a) State that the county board of commissioners, all the municipalities in the county, acting jointly, or the regional planning agency for the county, whichever submits the notice of intent, will prepare an MMP and will be the county approval agency.

(b) For a county with a population of less than 250,000, be accompanied by both of the following:

(*i*) Documentation that the county approval agency consulted with each adjacent county regarding the option of preparing a multicounty MMP pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,

MCL 124.501 to 124.512.

(*ii*) Documentation of the outcome of the consultations, including a copy of any interlocal agreement identifying the process for creating a multicounty MMP.

(c) For a county with a population of 250,000 or more, be accompanied by both of the following:

(*i*) Documentation that the county approval agency submitted to the county board of commissioners of each adjacent county a request to respond within 30 days indicating the adjacent county's interest in the option of preparing a multicounty MMP pursuant to the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(*ii*) Documentation of the outcome of the request, including a copy of any interlocal agreement identifying the process for creating a multicounty MMP.

(8) The submittal of a notice of intent under subsection (5) commences the running of a 3-year deadline for municipal approval of the MMP and submission of the MMP to the department under section 11575.

(9) Not more than 30 days after the submission of a notice of intent to the department under subsection (5), the CAA shall do all of the following:

(a) Submit a copy of the notice of intent to the legislative body of each municipality located within the planning area.

(b) Publish the notice of intent in a newspaper or by electronic media having major circulation or viewership in the planning area.

(c) Request publication of the notice of intent on websites of local units of government in the planning area and other multimedia outlets as appropriate.

(10) The CAA shall also do all of the following:

(a) Within 120 days after submitting the notice of intent, designate a planning agency and an individual within the DPA who shall serve as the DPA's contact person for the purposes of this subpart.

(b) Appoint a planning committee under section 11572.

(c) Oversee the creation and implementation of the DPA's work program under section 11587(4).

(d) Upon request of the department, submit a report on progress in the preparation of the MMP.

(11) All submittals and notices under this section and sections 11572 to 11576 shall be in writing. A written notice may be given by electronic mail if the recipient has indicated that the recipient will receive notice by electronic mail and has specified the electronic mail address to which the notice is to be sent.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11572 Planning committee; membership; terms.

Sec. 11572. (1) Within 180 days after the CAA submits a notice of intent to the department under section 11571, the CAA shall appoint a planning committee. The planning committee is a permanent body. Initial planning committee members shall be appointed for 5-year terms. Their immediate successors shall be appointed for 2-, 3-, 4-, or 5-year terms such that, as nearly as possible, the same number are appointed for each term length. Subsequently, members shall be appointed for terms of 5 years. A member may be reappointed.

(2) If a vacancy occurs on the planning committee, the CAA shall make an appointment for the unexpired term in the same manner as the original appointment. The CAA may remove a member of the planning committee for incompetence, dereliction of duty, or malfeasance, misfeasance, or nonfeasance in office.

(3) The first meeting of the planning committee shall be called by the designated planning agency. At the first meeting, the planning committee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. A majority of the members of the planning committee constitute a quorum for the transaction of business at a meeting of the planning committee. For the purposes of determining the quorum, the number of members of the planning committee is the number as established under subsection (4), excluding any unfilled vacancies created in the past 90 days. The affirmative vote of a majority of the number of members of the planning committee as established under subsection (4) is required for official action of the planning committee. A planning committee shall adopt procedures for the conduct of its business.

(4) A planning committee shall consist of the following members:

(a) A representative of a solid waste disposal facility operator that provides service in the planning area.

(b) A representative of a hauler that provides service in the planning area.

(c) A representative of a materials recovery facility operator that provides service in the planning area.

(d) A representative of a composting facility or anaerobic digester operator that provides service in the planning area.

(e) A representative of a waste diversion, reuse, or reduction facility operator that provides service in the planning area.

(f) A representative of an environmental interest group that has members residing in the planning area.

(g) An elected official of the county.

(h) An elected official of a township in the planning area.

(i) An elected official of a city or village in the planning area.

(j) A representative of a business that generates a managed material in the planning area.

(k) A representative of the regional planning agency whose territory includes the planning area.

(*l*) Any additional members appointed under subsections (5) or (6) or section 11578(3), as applicable.

(5) The CAA may appoint to the planning committee as an additional regular member 1 representative that does business in or resides in an adjacent municipality outside the planning area.

(6) CAAs preparing a multicounty MMP under section 11571 shall appoint a single planning committee. For each county, both of the following additional members may be appointed to the planning committee:

(a) An elected official of the county or a municipality in the planning area.

(b) A representative from a business that generates managed materials within the planning area.

(7) If the CAA has difficulty finding qualified individuals to serve on the planning committee, the department may approve a reduction in the number of members of the planning committee. However, at a minimum, the planning committee shall include all of the following members:

(a) A representative of the solid waste disposal industry that provides service in the planning area.

(b) A representative of a materials utilization facility that provides service in the planning area.

(c) Two individuals, each of whom is either a member of an environmental interest group who resides in the planning area or a representative of the regional planning agency.

(d) An elected official of the county.

(e) An elected official of a township in the planning area.

(f) An elected official of a city or village in the planning area.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11573 Planning committee; responsibilities.

Sec. 11573. In addition to its other responsibilities under part 115, the planning committee shall do all of the following:

(a) Direct the DPA in the preparation of the MMP.

(b) Review and approve the DPA's work program under section 11587(4).

(c) Identify relevant local materials management policies and priorities.

(d) Ensure coordination in the preparation of the MMP.

(e) Advise counties and municipalities with respect to the MMP.

(f) Ensure that the DPA is fulfilling the requirements of part 115 as to both the content of the MMP and public participation. The planning committee shall notify the DPA of any deficiencies. If the deficiencies are not addressed by the DPA to the planning committee's satisfaction, the planning committee shall notify the CAA. If the deficiencies are not addressed by the CAA to the planning committee's satisfaction, the planning committee shall notify the department. The department shall address the deficiencies and may prepare the MMP under section 11575(11).

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11574 Designated planning agency (DPA); responsibilities; copies; revisions; formal action.

Sec. 11574. (1) In addition to its other responsibilities under part 115, a DPA shall do all of the following:

(a) Serve as the primary government resource in the planning area for information about the MMP and the MMP development process.

(b) Under the direction of the planning committee, prepare an MMP.

(c) During the preparation of an MMP, solicit the advice of and consult with all of the following:

(*i*) Periodically, the municipalities, appropriate organizations, and the private sector, including materials management facility operators, in the planning area.

(*ii*) The appropriate county or regional planning agency.

(*iii*) Counties adjacent to the planning area and municipalities in those counties.

(d) Not less than 10 days before each public meeting at which the DPA will discuss the MMP, give notice of the meeting to the chief elected official of each municipality within the planning area and any other person within the planning area that requests notice. The notice shall indicate as precisely as possible the subject matter being discussed.

(e) Obtain written approval of the MMP from the planning committee.

(f) Submit a copy of the MMP as approved by the planning committee to all of the following with a notice specifying the end of the public comment period under subdivision (h):

(*i*) The department.

(*ii*) The legislative body of each municipality within the planning area.

(*iii*) The legislative body of each county or municipality adjacent to the planning area that has requested the opportunity to review the MMP.

(*iv*) The regional planning agency for each county included in the planning area.

(g) Publish a notice in a newspaper or by electronic media having major circulation or viewership in the planning area. The notice shall indicate a location where copies of the proposed MMP are available for public inspection or copying at cost, specify the end of the public comment period under subdivision (h), and solicit public comment. Notice posted in electronic media shall remain posted until the end of the public comment period.

(h) Receive public comments on the MMP for not less than 60 days after the publication of the notice under subdivision (g).

(i) During the public comment period under subdivision (h), conduct a public hearing on the MMP. Not less than 30 days before the hearing, the planning committee shall publish a notice of the hearing in a newspaper or by electronic media having major circulation or viewership in the planning area. Notice posted in electronic media shall remain posted until the end of the public hearing. The notice shall indicate a location where copies of the proposed MMP are available for public inspection or copying at cost and shall indicate the time and place of the public hearing. The same notice may be used to satisfy the requirements of this subdivision and subdivision (g). The planning committee shall submit to the department proof of publication of notice under this subdivision and subdivision (g).

(j) Submit to the planning committee a summary of the comments received during the public comment period.

(2) The DPA, or the department if the department prepares an MMP, shall use a standard format in preparing the MMP. The department shall prepare the standard format and provide a copy of the standard format to each DPA that the department knows will prepare an MMP. The department shall provide the standard format to any other person upon request.

(3) The planning committee shall consider the comment summary received from the DPA under subsection (1)(j) and may direct the DPA to revise the MMP. The DPA shall revise the MMP as directed by the planning committee. Not more than 30 days after the end of the public comment period, the DPA shall submit the proposed MMP, as revised, if applicable, to the planning committee.

(4) Not more than 30 days after the MMP is submitted to the planning committee under subsection (3), the planning committee shall take formal action on the MMP and, if the planning committee approves the MMP in compliance with section 11572(3), the DPA shall submit the MMP to the CAA.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11575 Approval or rejection of materials management plan; deadline and extension; implementation of final plan.

Sec. 11575. (1) Not more than 60 days after the MMP is submitted to the CAA under section 11574(4), the CAA shall approve or reject the MMP and notify the planning committee. A notice that the CAA rejects the MMP shall state the specific reasons for the rejection.

(2) Not more than 30 days after notice of the rejection of the MMP is sent under subsection (1), the planning committee may revise the MMP and submit the revised MMP to the CAA. After a revised MMP is

timely submitted to the CAA under this subsection or the 30-day period expires and a revised MMP is not submitted, the CAA shall approve or reject the revised MMP or original MMP, respectively, and notify the planning committee.

(3) If the CAA rejects the MMP under subsection (2), the CAA shall prepare and approve an MMP, subject to the continued running of the 3-year period under section 11571(8).

(4) Not more than 10 business days after the CAA approves an MMP under subsection (1), (2), or (3), the DPA shall submit a copy of the MMP to the legislative body of each municipality located within the planning area.

(5) Not more than 120 days after the MMP is submitted to the legislative body of a municipality, the legislative body may approve or reject the MMP. The legislative body shall notify the DPA of an approval or rejection.

(6) Within 30 days after the deadline for municipal notification to the DPA under subsection (5), the DPA shall notify the department which municipalities timely approved the MMP, which timely rejected the MMP, and which did not timely notify the DPA of approval or rejection. The notice shall be accompanied by a copy of the MMP. If the MMP is not approved by at least 2/3 of the municipalities that timely notify the DPA of their approval or rejection under subsection (5), then the department shall proceed under subsection (7) or (9). If the MMP is approved by at least 2/3 of the municipalities that timely notify the DPA of their approval or rejection under subsection (5), then subsection (9) applies.

(7) The department may approve an extension of a deadline under subsections (2) to (6) if the extension is requested by the entity subject to the deadline within a reasonable time after the issues giving rise to the need for an extension arise.

(8) If the MMP is neither approved nor rejected by a deadline established in this subpart, subject to any extension under subsection (7), the MMP is considered automatically approved at that step in the approval process, and the approval process shall continue at the next step. This subsection does not apply to failure of an individual municipality to approve or disapprove the MMP under subsection (5).

(9) Within 180 days after the MMP is submitted to the department under subsection (6), the department shall approve or reject the MMP. The department shall approve the MMP if the MMP complies with part 115. If the department approves the MMP, the MMP is final. If the department rejects the MMP, subsection (11) applies.

(10) Before approving or rejecting an MMP under subsection (9), the department may return the MMP to the CAA with a written request for modifications necessary for approval under subsection (9) or to clarify the MMP. If the department returns the MMP for modifications, the running of the 180-day period under subsection (9) is tolled for 90 days or until the CAA responds to the department's request, whichever occurs first. If the CAA does not approve the modifications requested by the department, subsection (11) applies.

(11) Subject to subsection (9), if a CAA does not prepare an MMP or the MMP does not timely obtain an approval required by part 115, the department may prepare and approve an MMP for the county. An MMP prepared and approved by the department is final. Once the MMP is final, the county shall implement the MMP.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11576 Amending a materials management plan; procedures; permissible changes without amendment.

Sec. 11576. (1) Amendments to an MMP shall be made only as provided in subsection (2), (3), or (4).

(2) The department shall initiate the adoption of 1 or more amendments to MMPs if the department determines that the guidance provided by legislation, by this state's solid waste policy, or by reports and initiatives of the department has significantly changed the required contents of MMPs. The procedure for adopting an amendment to the MMP under this subsection is the same as the procedure for adoption of an initial MMP.

(3) The CAA may initiate 1 or more amendments to an MMP by filing a notice of intent with the department. Except as provided in subsection (4), the procedure for adopting an amendment to the MMP under this subsection is the same as the procedure for adoption of an initial MMP except as follows:

(a) The county submits a notice of intent on its own initiative rather than in response to a request from the department under section 11571.

(b) If the CAA rejects a revised amendment under section 11575(2), the amendment process terminates.

(c) Section 11575(11) does not apply. Instead, if any required approval is not timely granted, the amendment process terminates and the amendments are not adopted.

(4) If, after a notice of intent is filed under subsection (3), the department determines that the amendment will increase materials utilization or the recovery of managed material and complies with part 115, the department may authorize the CAA to amend the MMP. To amend the MMP, the CAA shall do all of the following:

(a) Submit a copy of the amendment to all of the following with a notice specifying the end of the public comment period under subdivision (c):

(*i*) The department.

(*ii*) The legislative body of each municipality within the planning area.

(*iii*) The legislative body of each county or municipality adjacent to the planning area that requested the opportunity to review the MMP under section 11574(1)(f).

(*iv*) The regional planning agency for each county included in the planning area.

(b) Publish a notice in a newspaper or by electronic media having major circulation or viewership in the planning area. The notice shall indicate a location where copies of the amendment are available for public inspection or copying at cost, specify the end of the public comment period under subdivision (c), and solicit public comment. Notice posted in electronic media shall remain posted until the end of the public comment period.

(c) Receive public comments on the amendment for not less than 30 days after the publication of the notice under subdivision (b).

(d) If timely requested, conduct a public meeting on the amendment during the public comment period under subdivision (c). Not less than 15 days before the public meeting, the planning committee shall publish a notice of the meeting in a newspaper or by electronic media having major circulation or viewership in the planning area. Notice posted in electronic media shall remain posted until the end of the public meeting. The notice shall indicate a location where copies of the proposed amendment are available for public inspection or copying at cost and shall indicate the time and place of the public meeting. The same notice may be used to satisfy the requirements of this subdivision and subdivision (b). The planning committee shall submit to the department proof of notice publication under this subdivision and subdivision (b).

(e) Prepare and consider a summary of the comments received during the public comment period. The CAA may revise the amendment in response to the public comments.

(f) Submit the amendment to the department in writing. The department shall provide the CAA with written approval of the submitted amendment.

(5) A county shall keep its MMP current. The following changes do not require an amendment if made in a supplement to the MMP provided for by the department under section 11574(2) for the purpose of changes not requiring an amendment:

(a) Transportation infrastructure.

(b) Population density.

(c) Materials management facility inventory.

(d) Local ordinances, to the extent that the ordinances regulate noise, litter, odor, dust, and other site nuisances at a materials management facility, in addition to landscaping, screening, other ancillary construction details, and hours of operation at a materials utilization facility; do not regulate the development or other operational aspects of a materials management facility or the location of a disposal area; and are not more stringent than the requirements of part 115.

(6) Changes made without amendment under subsection (5) shall be incorporated in the next amendment made under subsection (2) or (3).

(7) By every fifth anniversary date of the approval of the initial MMP, the CAA shall do both of the following:

(a) Obtain from the planning committee an MMP review. The CAA shall timely direct the planning committee to prepare and submit the review. The purpose of the review is to ensure that the MMP complies with part 115 and to evaluate the progress that has been made in meeting the MMP's materials management goals, including the benchmark recycling standards.

(b) After considering the MMP review under subdivision (a), submit to the department 1 of the following, as appropriate:

(*i*) A notice of intent to prepare an MMP amendment.

(*ii*) A statement indicating that an amendment is not needed to advance the materials management goals.

(8) The department may review an MMP periodically and determine if any amendments are necessary to comply with part 115. If the department determines that an amendment to a specific MMP is necessary, all of the following apply:

(a) The department, after notice and opportunity for a public hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, may withdraw approval of the MMP or the noncompliant portion of the MMP.

(b) The department shall establish a schedule for compliance with part 115.

(c) If the planning area does not amend its MMP within the schedule established under subdivision (b), the department shall amend the MMP to address the deficiencies.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11577 Materials management plan goals.

Sec. 11577. The goals of an MMP are all of the following:

(a) To prevent adverse effects on the environment, natural resources, or the public health, safety, or welfare resulting from improper collection, processing, recovery, or disposal of managed materials, including protection of surface water and groundwater, air, and land.

(b) To ensure managed materials are sustainably managed to achieve benefits to the economy, communities, and the environment.

(c) To ensure that all managed material generated in the planning area is collected and recovered, processed, or disposed at materials management facilities that comply with state statutes and rules or managed appropriately at out-of-state facilities.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11578 Materials management plan requirements.

Sec. 11578. (1) An MMP shall meet all of the following requirements:

(a) Include measurable, objective, and specific goals for the planning area for solid waste diversion from disposal areas, including, but not limited to, the municipal solid waste recycling rate goal under section 11507, the benchmark recycling standards, and the material utilization and reduction activities identified by the MMP.

(b) Include an implementation strategy for the county to demonstrate progress toward or meet the materials management goals by the time of the 5-year MMP review under section 11576(7). The implementation strategy shall include, but is not limited to, all of the following:

(*i*) How progress will be made to reduce the amount of organic material being disposed of, through food waste reduction, composting, and anaerobic digestion.

(*ii*) How progress will be made to reduce the amount of recyclable materials being disposed of, through increased recycling, including expanding convenient access and recycling at single and multifamily dwellings, businesses, and institutions.

(*iii*) A process whereby each of a planning area's materials utilization facilities are evaluated based on information contained in reports submitted to the department on an annual basis.

(*iv*) A description of the resources needed for meeting the materials management goals and how the development of necessary materials utilization facilities and activities will be promoted.

(*v*) A description of how the benchmark recycling standards will be met.

(*vi*) A timetable for implementation.

(c) Identify by type and tonnage all managed material generated in the planning area, to determine the planning area's managed material capacity need and all managed material that is included in the planning area's materials management goals. Amounts of material may be estimated using a formula provided by the department.

(d) Require that a proposed materials management facility meet the requirements of part 115 and be consistent with the materials management goals.

(e) To the extent practicable, identify and evaluate current and planned materials management infrastructure and systems that contribute or will contribute to meeting the goal under section 11577(c) and other options to meet that goal.

(f) Include an inventory of the names and addresses of all of the following, subject to subdivision (g):

(*i*) Existing disposal areas.

(*ii*) Materials utilization facilities that meet both of the following requirements:

(A) Are in operation on the effective date of the amendatory act that added this section.

(B) On the effective date of the amendatory act that added this section, comply with part 115 or, within 1 year after that date, are in the process of becoming compliant.

(*iii*) Waste diversion centers for which notification has been given to the department under section 11521b.

(g) Include a materials management facility in the inventory under subdivision (f) only if the owner or operator of the facility has submitted to the county a written acknowledgment indicating that the owner or operator is aware of the proposed inclusion of the facility in the MMP relative to the materials capacity needs identified in subdivision (c) and that the facility has the indicated capacity to manage the materials identified under subdivision (h). The MMP shall include a statement that the owner or operator of each facility listed in the MMP has submitted such an acknowledgment to the county. If the submitted acknowledgments do not document sufficient capacity for disposal or utilization of the identified managed materials to reach the MMP's materials management capacity requirements, including the materials management goals, the MMP shall identify specific strategies, including a schedule and approach to develop and fund capacity.

(h) Describe the facilities inventoried pursuant to subdivision (f), including a summary of the deficiencies, if any, of the facilities in meeting current materials management needs. The description shall, at a minimum, include all of the following information:

(*i*) The facility latitude and longitude.

(*ii*) The estimated facility acreage.

(*iii*) A description of the materials managed.

(*iv*) The processes for handling materials at the facility.

(*v*) The total authorized capacity of the facility.

(i) Ensure that the materials management facilities that are identified as necessary to be sited can be developed in compliance with state law pertaining to protection of the public health and the environment, considering the available land in the planning area and the technical feasibility of, and economic costs associated with, the facilities.

(j) Include an enforceable mechanism to meet the goal of section 11577(c) and otherwise implement the MMP, and identify the party responsible to ensure compliance with part 115. The MMP may contain a mechanism for the county and municipalities in the planning area to assist the department and the department of state police in conducting the inspection program established in section 11526(2) and (3). This subdivision does not preclude the private sector's participation in providing materials management services consistent with the MMP for the planning area.

(k) Calculate the municipal solid waste recycling rate for the planning area.

(*l*) Describe the materials management transportation infrastructure.

(m) Include current and projected population densities and identify population centers and centers of managed material generation in the planning area, using a formula provided by the department, to demonstrate that the capacity required for managed material is met.

(n) Describe the mechanisms by which municipalities in the planning area will ensure convenient recycling access, such as 1 or more of the following:

(*i*) Assignment of the responsibility to the county or an authority.

(*ii*) A franchise agreement.

(*iii*) An intergovernmental agreement.

(*iv*) Municipal service.

(*v*) Licensing under an ordinance.

(*vi*) A public-private partnership.

(o) Specify a recommended minimum level of recycling service that incorporates the access requirements of the benchmark recycling standards. The county or a municipality within the planning area may, through an appropriate enforceable mechanism, require haulers operating in its jurisdiction to provide the recommended level or a different minimum level of recycling service.

(p) Identify the DPA and the entity or entities responsible for each of the following and document the appropriateness of the DPA and other identified entities to carry out their respective responsibilities:

(*i*) Implementing the access requirements of the benchmark recycling standards.

(*ii*) Identifying the materials utilization framework and the achievement of the materials management goals.

(*iii*) Otherwise monitoring, implementing, and enforcing the MMP and providing any required reports to the department.

(*iv*) Administering the funding mechanisms identified in section 11581 that will be used to implement the MMP.

(*v*) Ensuring compliance with part 115.

This state may serve as a responsible party under this subdivision on behalf of a municipality if the municipality is under a financial consent order or in receivership.

(q) With respect to education and outreach for residents and businesses in the planning area, do both of the following:

(*i*) Provide a strategic plan that identifies roles, responsibilities, funding sources, and methods for persons providing the education and outreach services.

(*ii*) Describe the county or regional role in providing continuing recycling education. The recycling education shall include, but is not limited to, providing a recycling guide, in hard copy at select public locations and electronically on a cell phone-friendly website. The recycling guide shall do all of the following:

(A) Identify recycling locations.

(B) Identify recyclable materials.

(C) Explain how to prepare recyclable materials for collection.

(D) Describe other best practices.

(E) Include a listed telephone number for additional information.

(r) Include a siting process under section 11579 and 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.

(s) Take into consideration the MMPs of counties adjacent to the planning area as they relate to the planning area's needs.

(t) Document all opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector in the preparation of the MMP.

(2) An MMP may include management plans for debris from environmental damage, for debris from disasters, or for other materials, such as construction or demolition waste, not otherwise required to be covered by an MMP. A management plan for debris from disasters in an MMP may include recommendations for incorporation of disaster debris management plans into municipal, county, or regional emergency management plans.

(3) If a solid waste landfill is proposed to be developed in the planning area within 2 miles of a municipality that is located adjacent to the planning area, or if a solid waste processing and transfer facility or materials utilization facility is proposed to be developed in the planning area within 1 mile of such a municipality, both of the following apply:

(a) The CAA shall notify the legislative body of the adjacent municipality of the proposed development in writing. The notice shall include a copy of this subsection.

(b) The planning committee shall provide the adjacent municipality an opportunity to comment on the proposed development.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11579 Materials management plan; siting process; exception.

Sec. 11579. (1) An MMP shall include a siting process with a set of minimum criteria for the purposes of section 11585(3).

(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 MMP as being generated in the planning area.

(3) 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.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11580 Preparation of materials management plan by the department; requirements.

Sec. 11580. (1) In addition to the other requirements of part 115, if the county board of commissioners, municipalities, and regional planning agency do not timely submit a notice of intent to prepare an MMP and the department prepares an MMP as authorized under section 11571, the MMP prepared by the department

shall comply with all of the following:

(a) Automatically find all materials utilization facilities or solid waste processing and transfer facilities that are exempt from permit and license requirements, that comply with local zoning requirements, and that are identified in the MMP to be consistent with the MMP.

(b) Not allow approval of additional solid waste landfill disposal capacity unless the county board of commissioners has made the demonstration required under section 11509(9).

(c) Require all haulers serving the planning area to provide recycling access consistent with the access requirements of the benchmark recycling standards.

(2) If the department prepares an MMP, the MMP need not contain a requirement for a proposed materials management facility to meet additional siting criteria or obtain host community approval under section 11585(3)(c).

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11581 Implementation of materials management plan; funding mechanisms.

Sec. 11581. (1) In addition to the materials management planning grants under section 11587, a municipality or county may fund the implementation of an MMP through any of the following methods, if applicable and to the extent authorized by the mechanism:

(a) A millage under 1917 PA 298, MCL 123.261.

(b) A municipal utility service fee.

(c) Special assessments under 1957 PA 185, MCL 123.731 to 123.786; 1954 PA 188, MCL 41.721 to 41.738; or the township and village public improvement and public service act, 1923 PA 116, MCL 41.411 to 41.419.

(d) A service provider franchise agreement.

(e) Hauler licensing fees.

(f) A voter-approved millage.

(g) A general fund appropriation.

(h) Supplemental fees for service.

(i) A surcharge under section 8a of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.508a.

(j) A landfill surcharge.

(k) A flow control fee structure.

(*l*) Any other lawful mechanism.

(2) Appropriate uses for funding described in subsection (1) may include, but are not limited to, the following:

(a) Recycling programs.

(b) Organic materials management.

(c) Education and outreach regarding recycling and materials utilization.

(d) Relevant market development.

(e) Materials reduction and reuse initiatives.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11582 County approval agency; certification of materials management goals; eligibility for assistance.

Sec. 11582. (1) The CAA shall certify to the department the CAA's progress toward meeting all components of its materials management goals. The first certification shall be submitted by the first June 30 that is more than 2 years after the department's approval of the initial MMP or MMP amendment. Subsequent certifications shall be submitted by June 30 every 2 years after the first certification.

(2) If a county does not make progress toward meeting its benchmark recycling standards and ultimately the municipal solid waste recycling rate goal under section 11507, the county is ineligible for assistance from the recycling access and voluntary participation program under section 11550(9) until both of the following requirements are met:

(a) The county adopts an ordinance or other enforceable mechanism to ensure that any solid waste hauler providing curbside solid waste hauling service also offers curbside recycling service to dwellings of 4 or fewer units in the planning area.

(b) Any remaining deficiencies in a county's progress toward meeting its materials management goals are addressed.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11583 Enforceability of certain local and state laws.

Sec. 11583. An ordinance, law, rule, regulation, policy, or practice of a municipality, county, or governmental authority created by statute is not enforceable if any of the following apply:

(a) It conflicts with part 115.

(b) 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.

(c) It violates section 207 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3207, with respect to a materials management facility.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11584 Flow of solid waste or managed material; control requirements; departmental duties; database.

Sec. 11584. (1) A county, municipality, authority, or regional planning agency that owns or operates a materials management facility may adopt requirements controlling the flow of solid waste or managed material to the materials management facility, to the extent allowed by the interstate commerce clause, clause 3 of section 8 of article I of the Constitution of the United States.

(2) The county board of commissioners may ensure that the necessary materials management authorizations or fees or any other regulatory ordinances or agreements needed to achieve the materials management goals are in effect.

(3) The department shall do all of the following:

(a) Maintain a database for materials management facilities to report to the department information, as determined by the department, required under part 115.

(b) Provide materials management facilities with instructions necessary to add information to the database.

(c) Provide CAAs access to information in the database.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11585 Disposal area or materials utilization facility; consistency with materials management plan; captive type III landfill; independent evaluation; coal ash.

Sec. 11585. (1) If a disposal area that does not require a license or permit under part 115 or a materials utilization facility is proposed to be located in a local unit of government that has a zoning ordinance, the disposal area or materials utilization facility is consistent with the MMP if it complies with the zoning ordinance and the owner or operator of the proposed disposal area or materials utilization facility presents documentation to the department and the CAA from the local unit of government exercising zoning authority demonstrating that the disposal area complies with local zoning.

(2) A disposal area or materials utilization facility is automatically consistent with the MMP if the specific facility or type of facility is identified in the MMP as being automatically consistent.

(3) A materials management facility that is not automatically consistent with the MMP is considered consistent if, as determined by the CAA or other entity specified by the MMP and by the department, all of the following requirements are met:

(a) The MMP authorizes that type of materials management facility to be sited by following the siting procedure and meeting the minimum siting criteria included in the MMP under section 11579, or the facility

is a captive type III landfill and both of the following apply:

(*i*) The landfill accepts only waste generated by the owner or operator of the landfill.

(*ii*) The landfill met local land use requirements when initially sited.

(b) The materials management facility follows the siting procedure and meets minimum siting criteria in the MMP.

(c) The materials management facility meets either of the following requirements:

(*i*) Has host community approval.

(*ii*) Meets any supplemental siting criteria in the MMP for materials management facilities that do not have host community approval.

(4) The CAA or other entity specified by the MMP shall promptly notify the owner or operator of the materials management facility in writing of its determination under subsection (3) whether the materials management facility is consistent with the MMP.

(5) The department shall determine whether a materials management facility is consistent with the MMP through an independent evaluation as part of the review process for an application for a registration, for approval under a general permit, or for a construction permit or operating license. The applicant for a permit for a materials management facility shall include in the application documentation of the facility's consistency with the MMP.

(6) A landfill, other than a captive type III landfill, or a municipal solid waste incinerator need not be sited if the CAA demonstrates to the department through its materials management plan that the planning area has at least 66 months of available solid waste disposal capacity.

(7) A captive facility that is an existing coal ash landfill or existing coal ash impoundment is considered consistent with and included in the MMP if the disposal area continues to accept waste generated only by the owner of the disposal area and meets either or both of the following requirements:

(a) Was issued a construction permit and licensed for operation under this part.

(b) Met local land use law requirements when initially sited or constructed.

(8) A coal ash impoundment permitted, licensed, or otherwise in existence on the date of approval of the solid waste management plan for the planning area where the coal ash impoundment is located shall be considered to be consistent with the plan and included in the plan.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11586 State solid waste management plan.

Sec. 11586. (1) The state solid waste management plan consists of the state solid waste plan and all MMPs approved by the department.

(2) The department shall consult and assist in the preparation and implementation of MMPs.

(3) The department may undertake or contract for studies or reports necessary or useful in the preparation of the state solid waste management plan.

(4) The department shall promote policies that encourage resource recovery and establishment of materials utilization facilities.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act

324.11587 Materials management planning grant program.

Sec. 11587. (1) Subject to appropriations, a materials management planning grant program is established to provide grants, to be known as materials management planning grants, to county boards of commissioners for the use of CAAs. If a county board of commissioners is not the CAA, the county board of commissioners shall make awarded grant money available to the CAA within 60 days after receipt. The department may promulgate rules for the implementation of the grant program. Grant funds shall be awarded pursuant to a grant agreement. If the department prepares the MMP, grant funds appropriated for local planning may be used by the department for MMP preparation.

(2) Grants shall be used for administrative costs for preparing, implementing, and maintaining an MMP, including, but not limited to, the following:

(a) Development of a work program as described in subsection (4)(b) and R 299.4704 and R 299.4705 of

the MAC, including a prior work program.

(b) Developing an initial MMP and amending the MMP.

(c) Ensuring public participation.

(d) Determining whether new materials management facilities are consistent with the MMP.

(e) Collecting and submitting data for the database utilized by the department for materials management facility reporting purposes, and evaluating data in the database for the planning area.

(f) Recycling education and outreach.

(g) Recycling and materials utilization programs.

(h) Preparation of required reports to the department.

(i) MMP implementation.

(j) Efforts to obtain support for the MMP and planning process from local units of government.

(3) Materials management planning grants shall cover 100% of eligible costs up to the authorized maximum amount as specified by rule.

(4) Materials management planning grants shall be awarded annually. To be eligible for grants in the first 3 years of the grant program, the CAA must do both of the following:

(a) Submit a notice of intent to prepare an MMP under section 11571.

(b) Within 180 days after submitting the notice of intent to prepare an MMP, submit to and obtain department approval of a work program for preparing the MMP. The work program shall be prepared by the DPA and reviewed and approved by the planning committee. The work program shall describe the activities for developing and implementing the MMP and associated costs to be covered by the county and the grant.

(5) In each of the first 3 years of the grant program, the amount of a grant shall equal the sum of the following:

(a) $60,000.00 for each county in the planning area.

(b) An additional $10,000.00 for each county in the planning area if the planning area includes more than 1 county.

(c) Fifty cents for each resident of the planning area, up to 600,000 residents.

(6) To be eligible for grants in the fourth and subsequent years of the grant program, the county must have an approved work program under subsection (4) or an approved MMP. In the fourth and subsequent years of the grant program, the amount of a grant to the CAA shall equal the sum of the following, as applicable:

(a) $60,000.00 for each county in the planning area.

(b) An additional $10,000.00 for each county in the planning area if the planning area includes more than 1 county and the CAAs were responsible for preparing the MMP.

(7) A grantee under this section shall keep records, subject to audit, documenting use of the grant for MMP development and implementation.

(8) For the purpose of determining the number of counties in a planning area under this section, the inclusion or exclusion of a municipality under section 11571(4) shall not be considered.

History: Add. 2022, Act 250, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act