

**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, 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, 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.

2. [New Section III.16.4.8]

8. As long as the waste will not compromise the safe operation of the landfill, an Ottawa County Landfill must accept non-biosolid municipal solid waste for which it is licensed and that is generated within Ottawa, if no other landfill in this Plan's Michigan county export authorization will accept such waste. A standing subcommittee of the Solid

Waste Planning Committee composed of at least one representative from each Landfill and one representative of each POTW serving Ottawa County shall meet at least annually to review issues related to the practical and economic disposition of Landfill Leachate and biosolids generated from within Ottawa County. If the subcommittee is unable to reach an acceptable voluntary solution to either the Landfill Leachate or biosolids disposal, any two representatives on the subcommittee may send written notice of an impasse on either type of disposal to the Chairperson of the Ottawa County Board of Commissioners and the latter will immediately convene the full Solid Waste Planning Committee to develop a solution to the problem.

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 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;

- 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]