

# HOUSE BILL No. 6396

September 24, 2002, Introduced by Reps. Ruth Johnson, Bishop, Cassis and Caul and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11502, 11504, 11506, 11507a, 11509, 11511, 11512, 11516, 11517, 11519, 11529, 11532, 11533, 11534, 11535, 11536, and 11538 (MCL 324.11502, 324.11504, 324.11506, 324.11507a, 324.11509, 324.11511, 324.11512, 324.11516, 324.11517, 324.11519, 324.11529, 324.11532, 324.11533, 324.11534, 324.11535, 324.11536, and 324.11538), sections 11502 and 11504 as amended and section 11507a as added by 1996 PA 359, section 11506 as amended by 1998 PA 466, and sections 11509, 11511, 11512, 11516, 11517, 11519, and 11529 as amended by 1996 PA 358, and by adding sections 11508a, 11511a, 11511b, 11511c, 11511d, 11531a, 11531b, 11534a, and 11551; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11502. (1) "Applicant" includes any person.

2           (2) "Ashes" means the residue from the burning of wood,  
3 coal, coke, refuse, wastewater sludge, or other combustible  
4 materials.

5           (3) "Bond" means a financial instrument executed on a form  
6 approved by the department, including a surety bond from a surety  
7 company authorized to transact business in this state, a certifi-  
8 cate of deposit, a cash bond, an irrevocable letter of credit,  
9 insurance, a trust fund, an escrow account, or a combination of  
10 any of these instruments in favor of the department. The owner  
11 or operator of a disposal area who is required to establish a  
12 bond under other state or federal statute may petition the  
13 department to allow such a bond to meet the requirements of this  
14 part. The department shall approve a bond established under  
15 other state or federal statute if the bond provides equivalent  
16 funds and access by the department as other financial instruments  
17 allowed by this subsection.

18           (4) "Certificate of deposit" means a negotiable certificate  
19 of deposit held by a bank or other financial institution regu-  
20 lated and examined by a state or federal agency, the value of  
21 which is fully insured by an agency of the United States  
22 government. A certificate of deposit used to fulfill the  
23 requirements of this part shall be in the sole name of the  
24 department with a maturity date of not less than 1 year and shall  
25 be renewed not less than 60 days before the maturity date. An  
26 applicant who uses a certificate of deposit as a bond shall

1 receive any accrued interest on that certificate of deposit upon  
2 release of the bond by the department.

3 (5) "Certified health department" means a city, county, or  
4 district department of health that is specifically delegated  
5 authority by the department to perform designated activities as  
6 prescribed by this part.

7 (6) "Coal or wood ash" means either or both of the  
8 following:

9 (a) The residue remaining after the ignition of coal or  
10 wood, or both, and may include noncombustible materials, other-  
11 wise referred to as bottom ash.

12 (b) The airborne residues from burning coal or wood, or  
13 both, that are finely divided particles entrained in flue gases  
14 arising from a combustion chamber, otherwise referred to as fly  
15 ash.

16 (7) "Collection center" means a tract of land, building,  
17 unit, or appurtenance or combination thereof that is used to col-  
18 lect junk motor vehicles and farm implements under section  
19 11530.

20 (8) "COMMERCIAL TYPE III LANDFILL" MEANS A TYPE III LANDFILL  
21 THAT ACCEPTS WASTE GENERATED BY PERSONS OTHER THAN THE OWNER OF  
22 THE LANDFILL.

23 (9) ~~-(8)-~~ "Consistency review" means evaluation of the  
24 administrative and technical components of an application for a  
25 permit, license, or for operating conditions in the course of  
26 inspection, for the purpose of determining consistency with the

1 requirements of this part, rules promulgated under this part, and  
2 approved plans and specifications.

3       (10) ~~(9)~~ "Corrective action" means the investigation,  
4 assessment, cleanup, removal, containment, isolation, treatment,  
5 or monitoring of constituents, as defined in a facility's  
6 approved hydrogeological monitoring plan, released into the envi-  
7 ronment from a disposal area, or the taking of other actions  
8 related to the release as may be necessary to prevent, minimize,  
9 or mitigate injury to the public health, safety, or welfare, the  
10 environment, or natural resources that is consistent with subti-  
11 tle D of the solid waste disposal act, title II of Public Law  
12 89-272, 42 U.S.C. 6941 and 6942 to 6949a or regulations promul-  
13 gated pursuant to that act.

14       Sec. 11504. (1) "Health officer" means a full-time adminis-  
15 trative officer of a certified city, county, or district depart-  
16 ment of health.

17       (2) "HOST COMMUNITY" MEANS EITHER OF THE FOLLOWING:

18       (A) FOR PURPOSES OF A HOST COMMUNITY AGREEMENT ENTERED INTO  
19 BEFORE THE EFFECTIVE DATE OF THE 2002 AMENDMENTS TO THIS SECTION,  
20 THE COUNTY OR MUNICIPALITY IN WHICH THE LANDFILL OR INCINERATOR  
21 IS LOCATED.

22       (B) SUBJECT TO SUBSECTION (3), FOR PURPOSES OF A HOST COMMU-  
23 NITY AGREEMENT ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THE  
24 2002 AMENDMENTS TO THIS SECTION, 1 OF THE FOLLOWING:

25       (i) THE CITY OR VILLAGE IN WHICH A MUNICIPAL SOLID WASTE  
26 LANDFILL OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS  
27 PROPOSED TO BE LOCATED IF THAT CITY OR VILLAGE HAS ADOPTED A

1 ZONING ORDINANCE PURSUANT TO THE CITY AND VILLAGE ZONING ACT,  
2 1921 PA 207, MCL 125.581 TO 125.600, FOR DEVELOPMENTS OTHER THAN  
3 THOSE REGULATED BY THIS PART.

4 (ii) THE TOWNSHIP IN WHICH A MUNICIPAL SOLID WASTE LANDFILL  
5 OR COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PROPOSED TO BE  
6 LOCATED IF THAT TOWNSHIP HAS ADOPTED A ZONING ORDINANCE PURSUANT  
7 TO THE TOWNSHIP ZONING ACT, 1943 PA 184, MCL 125.271 TO 125.310,  
8 AND THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL TYPE III  
9 LANDFILL OR INCINERATOR IS NOT PROPOSED TO BE LOCATED IN A VIL-  
10 LAGE THAT HAS ADOPTED A ZONING ORDINANCE PURSUANT TO THE CITY AND  
11 VILLAGE ZONING ACT, 1921 PA 207, MCL 125.581 TO 125.600, FOR  
12 DEVELOPMENTS OTHER THAN THOSE REGULATED BY THIS PART.

13 (iii) THE COUNTY IN WHICH A MUNICIPAL SOLID WASTE LANDFILL  
14 OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PROPOSED TO  
15 BE LOCATED IF THE MUNICIPAL SOLID WASTE LANDFILL, COMMERCIAL  
16 TYPE III LANDFILL, OR INCINERATOR IS NOT PROPOSED TO BE LOCATED  
17 IN A MUNICIPALITY DESCRIBED IN SUBDIVISION (A) OR (B).

18 (3) FOR PURPOSES OF SUBSECTION (2), IF A MUNICIPAL SOLID  
19 WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR  
20 IS LOCATED IN MORE THAN 1 MUNICIPALITY OR COUNTY, "HOST  
21 COMMUNITY" MEANS ALL SUCH MUNICIPALITIES OR COUNTIES ACTING AS 1  
22 ENTITY THROUGH AN INTERLOCAL AGREEMENT UNDER THE URBAN COOPERA-  
23 TION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, OR  
24 A CONTRACT UNDER 1967 (EX SESS) PA 8, MCL 124.531 TO 124.536, FOR  
25 THE EXERCISE OF THE POWERS AND PERFORMANCE OF THE DUTIES UNDER  
26 THIS PART WITH EACH OTHER SUCH COUNTY OR MUNICIPALITY.

1           (4) "HOST COMMUNITY AGREEMENT" MEANS A WRITTEN, LEGALLY  
2 ENFORCEABLE DOCUMENT OR DOCUMENTS EXECUTED BY AUTHORIZED  
3 OFFICIALS OF THE HOST COMMUNITY THAT GOVERNS ANY OPERATION OF A  
4 LANDFILL OR INCINERATOR OR THE LOCATION OF A LANDFILL OR INCINER-  
5 ATOR, OR BOTH.

6           (5) ~~-(2)-~~ "Inert material" means a substance that will not  
7 decompose, dissolve, or in any other way form a contaminated  
8 leachate upon contact with water, or other liquids determined by  
9 the department as likely to be found at the disposal area, perco-  
10 lating through the substance.

11           (6) ~~-(3)-~~ "Insurance" means insurance that conforms to the  
12 requirements of 40 C.F.R. 258.74(d) provided by an insurer who  
13 has a certificate of authority from the Michigan commissioner of  
14 insurance to sell this line of coverage. An applicant for an  
15 operating license shall submit evidence of the required coverage  
16 by submitting both of the following to the department:

17           (a) A certificate of insurance that uses wording approved by  
18 the department.

19           (b) A certified true and complete copy of the insurance  
20 policy.

21           (7) ~~-(4)-~~ "Landfill" means a disposal area that is a sani-  
22 tary landfill.

23           (8) ~~-(5)-~~ "Letter of credit" means an irrevocable letter of  
24 credit that complies with 40 C.F.R. 258.74(c).

25           (9) ~~-(6)-~~ "Medical waste" means that term as it is defined  
26 in part 138 of the public health code, ~~Act No. 378 of the Public~~

1 ~~Acts of 1978, being sections 333.13801 to 333.13831 of the~~  
2 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.13801 TO 333.13831.

3 (10) ~~(7)~~ "Municipal solid waste incinerator" means an  
4 incinerator that is owned or operated by any person, and meets  
5 all of the following requirements:

6 (a) The incinerator receives solid waste from off site and  
7 burns only household waste from single and multiple dwellings,  
8 hotels, motels, and other residential sources, or this household  
9 waste together with solid waste from commercial, institutional,  
10 municipal, county, or industrial sources that, if disposed of,  
11 would not be required to be placed in a disposal facility  
12 licensed under part 111.

13 (b) The incinerator has established contractual requirements  
14 or other notification or inspection procedures sufficient to  
15 assure that the incinerator receives and burns only waste  
16 referred to in subdivision (a).

17 (c) The incinerator meets the requirements of this part and  
18 the rules promulgated under this part.

19 (d) The incinerator is not an industrial furnace as defined  
20 in 40 C.F.R. 260.10.

21 (e) The incinerator is not an incinerator that receives and  
22 burns only medical waste or only waste produced at 1 or more  
23 hospitals.

24 (11) ~~(8)~~ "Municipal solid waste incinerator ash" means the  
25 substances remaining after combustion in a municipal solid waste  
26 incinerator.

1           (12) "MUNICIPAL SOLID WASTE LANDFILL" OR "TYPE II LANDFILL"  
 2 MEANS A LANDFILL WHICH RECEIVES HOUSEHOLD WASTE, MUNICIPAL SOLID  
 3 WASTE INCINERATOR ASH, OR SEWAGE SLUDGE AND WHICH IS NOT A LAND  
 4 APPLICATION UNIT, SURFACE IMPOUNDMENT, INJECTION WELL, OR WASTE  
 5 PILE. A MUNICIPAL SOLID WASTE LANDFILL MAY ALSO RECEIVE OTHER  
 6 TYPES OF SOLID WASTE, SUCH AS COMMERCIAL WASTE, NONHAZARDOUS  
 7 SLUDGE, CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE, AND  
 8 INDUSTRIAL WASTE. A MUNICIPAL SOLID WASTE LANDFILL MAY BE PUB-  
 9 LICLY OR PRIVATELY OWNED.

10           (13) ~~(9)~~ "Perpetual care fund" means a perpetual care fund  
 11 provided for in section 11525.

12           ~~(10) "Trust fund" means a trust fund held by a trustee~~  
 13 ~~which has the authority to act as a trustee and whose trust oper-~~  
 14 ~~ations are regulated and examined by a federal or state agency.~~  
 15 ~~A trust fund shall comply with section 11523b.~~

16           Sec. 11506. (1) "Solid waste" means garbage, rubbish,  
 17 ashes, incinerator ash, incinerator residue, street cleanings,  
 18 municipal and industrial sludges, solid commercial and solid  
 19 industrial waste, and animal waste other than organic waste gen-  
 20 erated in the production of livestock and poultry. Solid waste  
 21 does not include the following:

22           (a) Human body waste.

23           (b) Medical waste as it is defined in part 138 of the public  
 24 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~  
 25 ~~tions 333.13801 to 333.13831 of the Michigan Compiled Laws, 1978~~  
 26 PA 368, MCL 333.13801 TO 333.13831, and regulated under part 138



1 of ~~Act No. 368 of the Public Acts of 1978~~ THE PUBLIC HEALTH  
2 CODE, 1978 PA 368, MCL 333.13801 TO 333.13831, and part 55.

3 (c) Organic waste generated in the production of livestock  
4 and poultry.

5 (d) Liquid waste.

6 (e) Ferrous or nonferrous scrap directed to a scrap metal  
7 processor or to a reuser of ferrous or nonferrous products.

8 (f) Slag or slag products directed to a slag processor or to  
9 a reuser of slag or slag products.

10 (g) Sludges and ashes managed as recycled, or nondetrimental  
11 materials appropriate for agricultural or silvicultural use pur-  
12 suant to a plan approved by the department. A by-product from  
13 the processing of or a residual from fruits, vegetables, sugar  
14 beets, or field crops; wood ashes resulting solely from a source  
15 that burns only wood that is untreated and inert; lime from kraft  
16 pulping processes generated prior to bleaching; or aquatic plants  
17 may be applied on farmland for an agricultural or silvicultural  
18 purpose, or used as animal feed, as appropriate, and such an  
19 application or use does not require a plan described in this sub-  
20 division or a permit or license under this part. In addition,  
21 source separated materials approved by the department for land  
22 application for agricultural and silvicultural purposes and com-  
23 post produced from those materials may be applied to the land for  
24 agricultural and silvicultural purposes and such an application  
25 does not require a plan described in this subdivision or permit  
26 or license under this part. Land application authorized under  
27 this subdivision for an agricultural or silvicultural purpose, or

1 use as animal feed, as provided for in this subdivision shall  
2 occur in a manner that prevents losses from runoff and leaching,  
3 and if applied to land, the land application shall be at an agro-  
4 nomic rate consistent with generally accepted agricultural and  
5 management practices under the MICHIGAN right to farm act, ~~Act~~  
6 ~~No. 93 of the Public Acts of 1981, being sections 286.471 to~~  
7 ~~286.474 of the Michigan Compiled Laws~~ 1981 PA 93, MCL 286.471 TO  
8 286.474.

9 (h) Materials approved for emergency disposal by the  
10 department.

11 (i) Source separated materials.

12 (j) Site separated material.

13 (k) Fly ash or any other ash produced from the combustion of  
14 coal, when used in the following instances:

15 (i) With a maximum of 6% of unburned carbon as a component  
16 of concrete, grout, mortar, or casting molds.

17 (ii) With a maximum of 12% unburned carbon passing  
18 M.D.O.T. test method MTM 101 when used as a raw material in  
19 asphalt for road construction.

20 (iii) As aggregate, road, or building material which in  
21 ultimate use will be stabilized or bonded by cement, limes, or  
22 asphalt.

23 (iv) As a road base or construction fill that is covered  
24 with asphalt, concrete, or other material approved by the depart-  
25 ment and which is placed at least 4 feet above the seasonal  
26 groundwater table.

1 (v) As the sole material in a depository designed to  
2 reclaim, develop, or otherwise enhance land, subject to the  
3 approval of the department. In evaluating the site, the depart-  
4 ment shall consider the physical and chemical properties of the  
5 ash including leachability, and the engineering of the deposito-  
6 ry, including, but not limited to, the compaction, control of  
7 surface water and groundwater that may threaten to infiltrate the  
8 site, and evidence that the depository is designed to prevent  
9 water percolation through the material.

10 (l) Other wastes regulated by statute.

11 (2) "Solid waste hauler" means a person who owns or operates  
12 a solid waste transporting unit.

13 (3) "Solid waste processing plant" means a tract of land,  
14 building, unit, or appurtenance of a building or unit or a combi-  
15 nation of land, buildings, and units that is used or intended for  
16 use for the processing of solid waste or the separation of mate-  
17 rial for salvage or disposal, or both, but does not include a  
18 plant engaged primarily in the acquisition, processing, and ship-  
19 ment of ferrous or nonferrous metal scrap, or a plant engaged  
20 primarily in the acquisition, processing, and shipment of slag or  
21 slag products.

22 (4) "Solid waste transporting unit" means a container that  
23 may be an integral part of a truck or other piece of equipment  
24 used for the transportation of solid waste.

25 (5) "Solid waste transfer facility" means a tract of land, a  
26 building and any appurtenances, or a container, or any  
27 combination of land, buildings, or containers that is used or

1 intended for use in the rehandling or storage of solid waste  
2 incidental to the transportation of the solid waste, but is not  
3 located at the site of generation or the site of disposal of the  
4 solid waste.

5 (6) "Source separated material" means glass, metal, wood,  
6 paper products, plastics, rubber, textiles, garbage, yard clip-  
7 pings, or any other material approved by the department that is  
8 separated at the source of generation for the purpose of conver-  
9 sion into raw materials or new products.

10 (7) "TRUST FUND" MEANS A TRUST FUND HELD BY A TRUSTEE WHICH  
11 HAS THE AUTHORITY TO ACT AS A TRUSTEE AND WHOSE TRUST OPERATIONS  
12 ARE REGULATED AND EXAMINED BY A FEDERAL OR STATE AGENCY. A TRUST  
13 FUND SHALL COMPLY WITH SECTION 11523B.

14 (8) "TYPE III LANDFILL" MEANS A LANDFILL THAT IS NOT A  
15 MUNICIPAL SOLID WASTE LANDFILL OR HAZARDOUS WASTE LANDFILL AND  
16 INCLUDES BOTH OF THE FOLLOWING:

17 (A) CONSTRUCTION AND DEMOLITION WASTE LANDFILLS.

18 (B) INDUSTRIAL WASTE LANDFILLS.

19 (9) ~~(7)~~ "Yard clippings" means leaves, grass clippings,  
20 vegetable or other garden debris, shrubbery, or brush or tree  
21 trimmings, less than 4 feet in length and 2 inches in diameter,  
22 that can be converted to compost humus. Yard clippings do not  
23 include stumps, agricultural wastes, animal waste, roots, sewage  
24 sludge, or garbage.

25 Sec. 11507a. (1) The owner or operator of a landfill shall  
26 annually submit a report to the state and the county and  
27 municipality in which the landfill is located that contains

1 information on the amount of solid waste received by the landfill  
2 during the year itemized, to the extent possible, by county,  
3 state, or country of origin.

4 ~~(2) By September 1, 1996, the department shall develop and~~  
5 ~~submit to the legislature a plan to gather data on the amount of~~  
6 ~~recyclable materials recovered in the state itemized, to the~~  
7 ~~extent possible, by county, state, or country of origin.~~

8 (2) BY SEPTEMBER 1, 2003, THE DEPARTMENT SHALL SUBMIT TO THE  
9 LEGISLATURE A REPORT THAT CATEGORIZES THE AMOUNT OF SOLID WASTE  
10 RECEIVED BY LANDFILLS IN THE STATE ITEMIZED BY STATE OR COUNTRY  
11 OF ORIGIN AND CALCULATES THE PERCENTAGE OF SOLID WASTE THAT IS  
12 DISPOSED OF ON THE BASIS OF IN-STATE AND OUT-OF-STATE GENERATION.

13 SEC. 11508A. (1) AN ORDINANCE, LAW, RULE, REGULATION,  
14 POLICY, SOLID WASTE MANAGEMENT PLAN, OR PRACTICE OF A MUNICIPALITY,  
15 COUNTY, OR OTHER LOCAL UNIT OF GOVERNMENT THAT PROHIBITS OR  
16 REGULATES THE LOCATION, DEVELOPMENT, OR OPERATION OF A SOLID  
17 WASTE DISPOSAL AREA CONFLICTS WITH THIS PART AND IS NOT  
18 ENFORCEABLE.

19 (2) SUBSECTION (1) DOES NOT APPLY TO ANY OF THE FOLLOWING:

20 (A) THE CONDITIONS OF SITING APPLICABLE TO A MUNICIPAL SOLID  
21 WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL UNDER SECTION  
22 11511B(1)(B).

23 (B) THE DISPOSAL AREA SITING CRITERIA APPLICABLE TO A MUNICIPAL  
24 SOLID WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL UNDER  
25 SECTION 11511B(1)(C).

26 (C) HOST COMMUNITY AGREEMENTS.

1           Sec. 11509. (1) Except as otherwise provided in section  
2 11529, a person otherwise allowed under this part to own or  
3 operate a solid waste disposal area shall not establish a dis-  
4 posal area without a construction permit from the department,  
5 ~~contrary to an approved solid waste management plan,~~ or con-  
6 trary to a permit, license, or final order issued pursuant to  
7 this part. IF THE DISPOSAL AREA IS A MUNICIPAL SOLID WASTE LAND-  
8 FILL OR A COMMERCIAL TYPE III LANDFILL, OR AN INCINERATOR, THE  
9 DEPARTMENT SHALL NOT ISSUE A CONSTRUCTION PERMIT FOR THAT LAND-  
10 FILL OR INCINERATOR UNLESS THE APPLICANT IS IN COMPLIANCE WITH  
11 SECTIONS 11511A, 11511B, AND 11511C. A person proposing the  
12 establishment of a disposal area shall apply for a construction  
13 permit to the department through the health officer on a form  
14 provided by the department. If the disposal area is located in a  
15 county or city that does not have a certified health department,  
16 the application shall be made directly to the department.

17           (2) The application for a construction permit shall contain  
18 the name and residence of the applicant, the location of the pro-  
19 posed disposal area, the INITIAL design capacity of the disposal  
20 area, A COPY OF THE HOST COMMUNITY AGREEMENT, IF APPLICABLE, and  
21 other information specified by rule. A person may apply to con-  
22 struct more than 1 type of disposal area at the same facility  
23 under a single permit. The application shall be accompanied by  
24 an engineering plan and a construction permit application fee. A  
25 construction ~~application~~ permit APPLICATION for a landfill  
26 shall be accompanied by a fee in an amount that is the sum of all  
27 of the applicable fees in this subsection:

1 (a) For a new sanitary landfill, a fee equal to the  
2 following amount:

3 (i) For a municipal solid waste landfill, \$1,500.00.

4 (ii) For an industrial waste landfill, \$1,000.00.

5 (iii) For a type III landfill limited to low hazard indus-  
6 trial waste, \$750.00.

7 (b) For a lateral expansion of a sanitary landfill, a fee  
8 equal to the following amount:

9 (i) For a municipal solid waste landfill, \$1,000.00.

10 (ii) For an industrial waste landfill, \$750.00.

11 (iii) For a type III landfill limited to low hazard indus-  
12 trial waste, construction and demolition waste, or other nonin-  
13 dustrial waste, \$500.00.

14 (c) For a vertical expansion of an existing sanitary land-  
15 fill, a fee equal to the following amount:

16 (i) For a municipal solid waste landfill, \$750.00.

17 (ii) For an industrial waste landfill, \$500.00.

18 (iii) For an industrial waste landfill limited to low hazard  
19 industrial waste, construction and demolition waste, or other  
20 nonindustrial waste, \$250.00.

21 (3) The application for a construction permit for a solid  
22 waste transfer facility, a solid waste processing plant, other  
23 disposal area, or a combination of these, shall be accompanied by  
24 a fee in the following amount:

25 (a) For a new facility for municipal solid waste, or a com-  
26 bination of municipal solid waste and waste listed in subdivision

27 (b), \$1,000.00.

1 (b) For a new facility for industrial waste, or construction  
2 and demolition waste, \$500.00.

3 (c) For the expansion of an existing facility for any type  
4 of waste, \$250.00.

5 (4) If an application is returned to the applicant as admin-  
6 istratively incomplete, the department shall refund the entire  
7 fee. If a permit is denied or an application is withdrawn, the  
8 department shall refund 1/2 the ~~amounts specified in subsection~~  
9 ~~(3)~~ FEE to the applicant. An applicant for a construction  
10 permit, within 12 months after a permit denial or withdrawal, may  
11 resubmit the application and the refunded portion of the fee,  
12 together with the additional information as needed to address the  
13 reasons for denial, without being required to pay an additional  
14 application fee.

15 (5) An application for a modification to a construction  
16 permit or for renewal of a construction permit which has expired  
17 shall be accompanied by a fee of \$250.00. Increases in final  
18 elevations that do not result in an increase in design capacity  
19 or a change in the solid waste boundary shall be considered a  
20 modification and not a vertical expansion.

21 (6) A person who applies to permit more than 1 type of dis-  
22 posal area at the same facility shall pay a fee equal to the sum  
23 of the applicable fees listed in this section.

24 (7) The department shall deposit permit application fees  
25 collected under this section in the solid waste staff account of  
26 the solid waste management fund established in section 11550.



1           Sec. 11511. (1) The department shall make a final decision  
2 as to whether to issue a construction permit within 120 days  
3 after the department receives an administratively complete  
4 application. The decision of the department and the reasons for  
5 the decision shall be in writing with specific reference to this  
6 part or rules promulgated under this part for any substantiation  
7 of denial of the permit application and shall be sent by  
8 first-class mail to the clerk of the municipality in which the  
9 disposal area is proposed to be located and to the applicant  
10 within 10 days after the final decision is made. If the depart-  
11 ment fails to make a final decision within 120 days, the permit  
12 shall be considered issued.

13           (2) A construction permit shall expire 1 year after the date  
14 of issuance, unless development under the construction permit is  
15 initiated within that year. A construction permit that has  
16 expired may be renewed upon payment of a permit renewal fee and  
17 submission of any additional information the department may  
18 require.

19           ~~(3) Except as otherwise provided in this subsection, the~~  
20 ~~department shall not issue a construction permit for a disposal~~  
21 ~~area within a planning area unless a solid waste management plan~~  
22 ~~for that planning area has been approved pursuant to sections~~  
23 ~~11536 and 11537 and unless the disposal area complies with and is~~  
24 ~~consistent with the approved solid waste management plan. The~~  
25 ~~department may issue a construction permit for a disposal area~~  
26 ~~designed to receive ashes produced in connection with the~~  
27 ~~combustion of fossil fuels for electrical power generation in the~~

1 ~~absence of an approved county solid waste management plan, upon~~  
2 ~~receipt of a letter of approval from whichever county or coun-~~  
3 ~~ties, group of municipalities, or regional planning agency has~~  
4 ~~prepared or is preparing the county solid waste management plan~~  
5 ~~for that planning area under section 11533 and from the munici-~~  
6 ~~pality in which the disposal area is to be located.~~

7       SEC. 11511A. (1) EXCEPT AS PROVIDED IN SECTION 11511C, THE  
8 DEPARTMENT SHALL NOT ISSUE A CONSTRUCTION PERMIT UNDER THIS PART  
9 FOR A NEW MUNICIPAL SOLID WASTE LANDFILL OR A NEW COMMERCIAL TYPE  
10 III LANDFILL OR A NEW INCINERATOR UNLESS THE PERSON PROPOSING TO  
11 CONSTRUCT THE LANDFILL OR INCINERATOR HAS ENTERED INTO A HOST  
12 COMMUNITY AGREEMENT WITH THE HOST COMMUNITY AND THE HOST COMMU-  
13 NITY AGREEMENT IS APPROVED PURSUANT TO SUBSECTION (3).

14       (2) WHEN A HOST COMMUNITY IS NEGOTIATING A HOST COMMUNITY  
15 AGREEMENT, THE HOST COMMUNITY SHALL TAKE THE SOLID WASTE MANAGE-  
16 MENT PLAN FOR THAT JURISDICTION INTO CONSIDERATION.

17       (3) IF A HOST COMMUNITY ENTERS INTO A HOST COMMUNITY AGREE-  
18 MENT PURSUANT TO THIS SECTION, THE HOST COMMUNITY SHALL FORWARD A  
19 COPY OF THE HOST COMMUNITY AGREEMENT TO THE COUNTY BOARD OF COM-  
20 MISSIONERS OF THE COUNTY IN WHICH THE HOST COMMUNITY IS LOCATED.  
21 WITHIN 90 DAYS OF RECEIPT OF THE HOST COMMUNITY AGREEMENT, THE  
22 COUNTY BOARD OF COMMISSIONERS SHALL VOTE TO APPROVE OR DISAPPROVE  
23 THE HOST COMMUNITY AGREEMENT. UNLESS A MAJORITY OF THE MEMBERS  
24 OF THE COUNTY BOARD OF COMMISSIONERS DISAPPROVE THE HOST COMMU-  
25 NITY AGREEMENT WITHIN THE 90-DAY TIME PERIOD, IT IS APPROVED. IF  
26 THE COUNTY BOARD OF COMMISSIONERS DISAPPROVES THE HOST COMMUNITY  
27 AGREEMENT, THE BOARD SHALL SUBMIT ITS OBJECTIONS TO THE HOST

1 COMMUNITY WITHIN 30 DAYS FOLLOWING ITS DISAPPROVAL OF THE HOST  
2 COMMUNITY AGREEMENT. UPON RECEIPT OF THE BOARD'S OBJECTIONS, THE  
3 MUNICIPALITY MAY ATTEMPT TO NEGOTIATE WITH THE PERSON PROPOSING  
4 TO CONSTRUCT THE LANDFILL OR INCINERATOR TO ADDRESS THOSE OBJEC-  
5 TIONS WITHIN THE HOST COMMUNITY AGREEMENT. THE MUNICIPALITY  
6 SHALL EITHER RESUBMIT A MODIFIED HOST COMMUNITY AGREEMENT FOR  
7 REVIEW BY THE COUNTY BOARD OF COMMISSIONERS OR NOTIFY THE BOARD  
8 THAT IT INTENDS TO PURSUE THE PREVIOUSLY SUBMITTED HOST COMMUNITY  
9 AGREEMENT. UNLESS WITHIN 90 DAYS AFTER SUBMITTAL OF THE MODIFIED  
10 HOST COMMUNITY AGREEMENT OR THE NOTIFICATION THAT IT INTENDS TO  
11 PURSUE THE PREVIOUSLY SUBMITTED HOST COMMUNITY AGREEMENT, THE  
12 LEGISLATIVE BODIES OF 2/3 OF THE MUNICIPALITIES WITHIN THE COUNTY  
13 ADOPT RESOLUTIONS OBJECTING TO THE HOST COMMUNITY AGREEMENT, THE  
14 HOST COMMUNITY AGREEMENT IS APPROVED.

15 (4) AS USED IN THIS SECTION:

16 (A) "NEW INCINERATOR" MEANS AN INCINERATOR THAT ON THE  
17 EFFECTIVE DATE OF THIS SECTION DOES NOT HAVE A PERMIT UNDER PART  
18 55 AND WILL ACCEPT MUNICIPAL SOLID WASTE.

19 (B) "NEW MUNICIPAL SOLID WASTE LANDFILL OR NEW COMMERCIAL  
20 TYPE III LANDFILL" MEANS A LANDFILL THAT IS NOT CONTIGUOUS TO THE  
21 ACREAGE SITED, IDENTIFIED, RECOGNIZED IN, OR OTHERWISE CONSISTENT  
22 WITH A SOLID WASTE MANAGEMENT PLAN IN EFFECT IMMEDIATELY BEFORE  
23 THE EFFECTIVE DATE OF THIS SECTION FOR A MUNICIPAL SOLID WASTE  
24 LANDFILL OR A COMMERCIAL TYPE III LANDFILL.

25 SEC. 11511B. (1) EACH MUNICIPAL SOLID WASTE LANDFILL AND  
26 COMMERCIAL TYPE III LANDFILL IN THE STATE THAT IS LICENSED UNDER

1 THIS PART ON THE EFFECTIVE DATE OF THIS SECTION MAY CONTINUE TO  
2 OPERATE WITHIN ITS SITED ACREAGE, SUBJECT TO THE FOLLOWING:

3 (A) IF, BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
4 OR OPERATOR OF A MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL  
5 TYPE III LANDFILL ENTERED INTO A HOST COMMUNITY AGREEMENT WITH  
6 THE MUNICIPALITY OR COUNTY IN WHICH THE LANDFILL IS LOCATED, THE  
7 LANDFILL SHALL OPERATE SUBJECT TO THAT HOST COMMUNITY AGREEMENT.  
8 NOTHING IN THIS PART VOIDS, MODIFIES, OR OTHERWISE INTERFERES  
9 WITH A HOST COMMUNITY AGREEMENT ENTERED INTO BEFORE THE EFFECTIVE  
10 DATE OF THIS SECTION AND WHICH HAS NOT EXPIRED.

11 (B) IF, BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
12 OR OPERATOR OF THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL  
13 TYPE III LANDFILL ENTERED INTO A HOST COMMUNITY AGREEMENT WITH  
14 THE MUNICIPALITY OR COUNTY IN WHICH THE DISPOSAL AREA IS LOCATED  
15 BUT THE HOST COMMUNITY AGREEMENT HAS EXPIRED, THE LANDFILL SHALL  
16 OPERATE SUBJECT TO ANY CONDITIONS OF SITING. HOWEVER, IF THE  
17 OWNER OR OPERATOR OF THE MUNICIPAL SOLID WASTE LANDFILL OR COM-  
18 Mercial TYPE III LANDFILL ENTERS INTO A NEW HOST COMMUNITY AGREE-  
19 MENT WITH EITHER THE MUNICIPALITY OR COUNTY IN WHICH THE DISPOSAL  
20 AREA IS LOCATED REGARDING OPERATIONS AT THAT LANDFILL, THE LAND-  
21 FILL SHALL OPERATE UNDER THE TERMS OF THAT NEW HOST COMMUNITY  
22 AGREEMENT.

23 (C) IF, BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER  
24 OR OPERATOR OF THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL  
25 TYPE III LANDFILL HAS NOT ENTERED INTO A HOST COMMUNITY AGREEMENT  
26 WITH THE MUNICIPALITY OR COUNTY IN WHICH THE DISPOSAL AREA IS

1 LOCATED, THE LANDFILL SHALL CONTINUE TO OPERATE SUBJECT TO  
2 CRITERIA THAT MEET ALL OF THE FOLLOWING REQUIREMENTS:

3 (i) THE CRITERIA ARE CONTAINED IN A SOLID WASTE MANAGEMENT  
4 PLAN IN EFFECT AT THE TIME OF THE INITIAL SITING OF THE LANDFILL  
5 OR IN EFFECT IMMEDIATELY BEFORE THE EFFECTIVE DATE OF THIS SEC-  
6 TION, WHICHEVER ARE LESS RESTRICTIVE.

7 (ii) THE CRITERIA WERE SUBJECT TO THE ENFORCEABLE MECHANISM  
8 ASSOCIATED WITH THAT SOLID WASTE MANAGEMENT PLAN.

9 (iii) THE CRITERIA RELATE TO THE DEVELOPMENT OR OPERATION OF  
10 THE LANDFILL, EXCLUDING CRITERIA RELATING TO THE FLOW OF SOLID  
11 WASTE.

12 (2) NOT MORE THAN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS  
13 SECTION, THE OWNER OF EACH MUNICIPAL SOLID WASTE LANDFILL OR COM-  
14 Mercial TYPE III LANDFILL SHALL SUBMIT A STATEMENT DESCRIBING ALL  
15 CONTIGUOUS PROPERTY OWNED BY THE OWNER OF THE LANDFILL OR A SUB-  
16 SIDIARY, PARENT, OR AN AFFILIATE OF THE OWNER. THE OWNER OF THE  
17 LANDFILL SHALL SUBMIT THE STATEMENT TO EACH COUNTY AND MUNICIPAL-  
18 ITY IN WHICH EITHER THE LANDFILL OR CONTIGUOUS PROPERTY IS  
19 LOCATED. THE STATEMENT SHALL DESCRIBE THE PROPERTY BY PARCEL OR  
20 LOT NUMBER OR METES AND BOUNDS DESCRIPTION, AND IDENTIFY THE  
21 OWNER OR OWNERS OF RECORD.

22 (3) A MUNICIPAL SOLID WASTE LANDFILL OR A COMMERCIAL  
23 TYPE III LANDFILL SHALL NOT EXPAND BEYOND ITS SITED ACREAGE ONTO  
24 CONTIGUOUS PROPERTY UNLESS THE EXPANSION COMPLIES WITH THIS PART  
25 AND THE RULES PROMULGATED UNDER THIS PART INCLUDING REQUIREMENTS  
26 OF OBTAINING NECESSARY CONSTRUCTION PERMITS AND OPERATING  
27 LICENSES, AND EITHER OF THE FOLLOWING APPLIES:

1 (A) A HOST COMMUNITY AGREEMENT COVERING THE EXPANSION IS  
2 REACHED BETWEEN THE HOST COMMUNITY AND THE OWNER OR OPERATOR OF  
3 THE MUNICIPAL SOLID WASTE LANDFILL OR THE COMMERCIAL TYPE III  
4 LANDFILL.

5 (B) PERMITTED CAPACITY OF THE REGION DESCRIBED IN  
6 SECTION 11511C IN WHICH THE EXPANSION IS LOCATED IS LESS THAN 9  
7 YEARS.

8 (4) IF THE CONDITION OF SUBSECTION(3)(B) IS MET AND IF THE  
9 OWNER OR OPERATOR OF A MUNICIPAL SOLID WASTE LANDFILL OR A COM-  
10 Mercial TYPE III LANDFILL IS UNABLE TO REACH AN AGREEMENT WITH  
11 THE HOST COMMUNITY REGARDING A HOST COMMUNITY AGREEMENT WITHIN 90  
12 DAYS AFTER A SUBMITTAL OF AN INITIAL OFFER, THE OWNER OR OPERATOR  
13 MAY SUBMIT A WRITTEN REQUEST TO INITIATE ARBITRATION UNDER THIS  
14 SECTION TO THE HOST COMMUNITY.

15 (5) AN ARBITRATION PANEL CONVENED TO DETERMINE THE TERMS OF  
16 A HOST COMMUNITY AGREEMENT PURSUANT TO SUBSECTION (4) SHALL CON-  
17 SIST OF 3 ARBITRATORS. ONE ARBITRATOR SHALL BE SELECTED BY THE  
18 HOST COMMUNITY. ONE ARBITRATOR SHALL BE SELECTED BY THE OWNER OR  
19 OPERATOR OF THE LANDFILL. ONE ARBITRATOR SHALL BE JOINTLY  
20 SELECTED BY THE OWNER OR OPERATOR OF THE LANDFILL AND THE HOST  
21 COMMUNITY. IF THE OWNER OR OPERATOR FAILS TO NOTIFY THE HOST  
22 COMMUNITY OF THE OWNER'S OR OPERATOR'S SELECTION OF AN ARBITRATOR  
23 WITHIN 30 DAYS AFTER SUBMITTING A WRITTEN REQUEST TO INITIATE  
24 ARBITRATION TO THE HOST COMMUNITY, THE DIRECTOR SHALL SELECT AN  
25 ARBITRATOR FOR THE OWNER OR OPERATOR FROM A LIST OF ARBITRATORS  
26 PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION. IF THE HOST  
27 COMMUNITY FAILS TO NOTIFY THE OWNER OR OPERATOR OF THE HOST

1 COMMUNITY'S SELECTION OF AN ARBITRATOR WITHIN 30 DAYS AFTER  
2 RECEIVING THE WRITTEN REQUEST TO INITIATE ARBITRATION, THE DIREC-  
3 TOR SHALL SELECT AN ARBITRATOR FOR THE HOST COMMUNITY FROM A LIST  
4 OF ARBITRATORS PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.  
5 IF THE PARTIES ARE UNABLE TO AGREE TO JOINTLY SELECT THE THIRD  
6 ARBITRATOR, THE DIRECTOR SHALL SELECT AN ARBITRATOR FROM A LIST  
7 OF ARBITRATORS PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.

8 (6) THE ARBITRATION PANEL SHALL BE CONVENED WITHIN 60 DAYS  
9 AFTER RECEIPT OF THE REQUEST BY THE HOST COMMUNITY TO INITIATE  
10 ARBITRATION. WITHIN 7 DAYS AFTER CONVENING, THE ARBITRATION  
11 PANEL SHALL DO 1 OF THE FOLLOWING:

12 (A) ORDER THE PARTIES TO CONTINUE NEGOTIATING FOR A PERIOD  
13 NOT TO EXCEED 30 DAYS AFTER THE DATE OF THE ORDER IF, IN THE  
14 JUDGMENT OF THE PANEL, ARBITRATION CAN BE AVOIDED BY THE NEGOTIA-  
15 TION OF ANY REMAINING ISSUES. IF THE PANEL ORDERS THE PARTIES TO  
16 CONTINUE NEGOTIATIONS, THE REQUEST TO INITIATE ARBITRATION MAY BE  
17 RESUBMITTED UPON EXPIRATION OF THE NEGOTIATION PERIOD.

18 (B) ORDER THE PARTIES TO SUBMIT THEIR RESPECTIVE FINAL  
19 OFFERS TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE ORDER.  
20 IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER WITHIN 7 DAYS  
21 AFTER THE DATE OF THE ORDER, THE ARBITRATION PANEL SHALL ISSUE A  
22 SUBSEQUENT ORDER TO THE HOST COMMUNITY TO SUBMIT ITS FINAL OFFER  
23 TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE SUBSEQUENT  
24 ORDER. IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER  
25 WITHIN 7 DAYS AFTER THE DATE OF THE SECOND ORDER, THE OWNER'S OR  
26 OPERATOR'S FINAL OFFER SHALL BE CONSIDERED THE APPROVED HOST  
27 COMMUNITY AGREEMENT. IF THE LANDFILL OWNER OR OPERATOR FAILS TO

1 SUBMIT A FINAL OFFER WITHIN 7 DAYS AFTER THE DATE OF THE INITIAL  
2 ORDER TO THE LANDFILL OWNER OR OPERATOR UNDER THIS SUBDIVISION,  
3 THE PROPOSAL SHALL BE CONSIDERED ABANDONED.

4 (7) A FINAL OFFER SHALL CONTAIN THE LANDFILL OWNER'S OR  
5 OPERATOR'S OR THE HOST COMMUNITY'S FINAL TERMS AND CONDITIONS  
6 RELATING TO THE LANDFILL AND ANY INFORMATION OR ARGUMENTS IN SUP-  
7 PORT OF THE PROPOSALS. ADDITIONAL SUPPORTING INFORMATION MAY BE  
8 SUBMITTED AT ANY TIME. A FINAL OFFER MAY NOT INCLUDE ANY OF THE  
9 FOLLOWING:

10 (A) RESTRICTIONS ON THE INTRASTATE FLOW OF SOLID WASTE.

11 (B) TECHNICAL REQUIREMENTS RELATING TO THE DESIGN, CONSTRUC-  
12 TION, OR OPERATION OF THE LANDFILL WHICH ARE MORE RESTRICTIVE  
13 THAN THE PROVISIONS IN THIS PART OR THE RULES PROMULGATED UNDER  
14 THIS PART.

15 (C) TERMS AFFECTING ANY PORTION OF THE LANDFILL OR OTHER  
16 FACILITY WHICH IS NOT LOCATED ON THE CONTIGUOUS PROPERTY.

17 (8) NEGOTIATIONS BETWEEN THE PARTIES MAY CONTINUE DURING THE  
18 ARBITRATION PROCESS. IF AN ISSUE SUBJECT TO NEGOTIATION IS  
19 RESOLVED TO THE SATISFACTION OF BOTH PARTIES, IT SHALL BE INCOR-  
20 PORATED INTO A WRITTEN AGREEMENT BETWEEN BOTH PARTIES AND THE  
21 FINAL OFFER OF EACH PARTY SHALL BE AMENDED CONSISTENT WITH SUCH  
22 AGREEMENT.

23 (9) SUBJECT TO SUBSECTION (8), AFTER THE FINAL OFFERS ARE  
24 SUBMITTED TO THE ARBITRATION PANEL, NEITHER PARTY MAY AMEND ITS  
25 FINAL OFFER, EXCEPT WITH THE WRITTEN PERMISSION OF THE OTHER  
26 PARTY.



1           (10) WITHIN 60 DAYS AFTER THE LAST DAY FOR SUBMITTING A  
2 FINAL OFFER UNDER THIS SECTION, THE ARBITRATION PANEL SHALL ISSUE  
3 AN ARBITRATION AWARD WITH APPROVAL OF A MINIMUM OF 2 PANEL  
4 MEMBERS. THE ARBITRATION AWARD SHALL ADOPT, WITHOUT MODIFICA-  
5 TION, THE FINAL OFFER OF EITHER THE OWNER OR OPERATOR OF THE  
6 LANDFILL OR THE HOST COMMUNITY, EXCEPT THAT THE ARBITRATION AWARD  
7 SHALL DELETE THOSE ITEMS THAT ARE NOT SUBJECT TO ARBITRATION  
8 UNDER THIS SECTION. A COPY OF THE ARBITRATION AWARD SHALL BE  
9 SERVED ON BOTH PARTIES. THE ARBITRATION PANEL MAY, AT ITS DIS-  
10 CRETION, MEET WITH 1 OR BOTH PARTIES PRIOR TO ISSUING AN ARBITRA-  
11 TION AWARD.

12           (11) IF THE LANDFILL OWNER OR OPERATOR CONSTRUCTS AND OPER-  
13 ATES THE FACILITY THAT IS THE SUBJECT OF AN ARBITRATION AWARD  
14 UNDER THIS SECTION, THE ARBITRATION AWARD SHALL BE CONSIDERED AN  
15 APPROVED HOST COMMUNITY AGREEMENT AND SHALL BE BINDING ON THE  
16 LANDFILL OWNER OR OPERATOR, THE HOST COMMUNITY, AND THE  
17 DEPARTMENT.

18           (12) AS USED IN THIS SECTION:

19           (A) "CONTIGUOUS PROPERTY" MEANS THE SAME OR GEOGRAPHICALLY  
20 CONTIGUOUS PROPERTY OWNED ON OR BEFORE JANUARY 1, 2002 BY THE  
21 SAME PERSON, ITS SUBSIDIARIES, PARENT CORPORATION, OR AFFILIATES  
22 THAT MAY BE DIVIDED BY A PUBLIC OR PRIVATE RIGHT-OF-WAY.  
23 PROPERTY OWNED BY SUCH PERSONS AND CONNECTED BY A RIGHT-OF-WAY  
24 WHICH SUCH PERSONS CONTROL AND TO WHICH THE PUBLIC DOES NOT HAVE  
25 ACCESS IS ALSO CONTIGUOUS PROPERTY.

26           (B) "FLOW CONTROL" MEANS ANY REQUIREMENT DIRECTING THE  
27 LOCATION IN WHICH SOLID WASTE OR RECYCLABLE MATERIALS MAY BE

1 DISPOSED, PROCESSED, OR TRANSFERRED OR SHALL NOT BE DISPOSED,  
2 PROCESSED, OR TRANSFERRED.

3 (C) "SITED ACREAGE" MEANS THE AREA FOR LANDFILL DEVELOPMENT  
4 IDENTIFIED, RECOGNIZED IN, OR OTHERWISE CONSISTENT WITH A SOLID  
5 WASTE MANAGEMENT PLAN THAT WAS IN EFFECT IMMEDIATELY BEFORE THE  
6 EFFECTIVE DATE OF THIS SECTION.

7 SEC. 11511C. (1) NOTWITHSTANDING SECTION 11511A, THE  
8 DEPARTMENT MAY ISSUE A CONSTRUCTION PERMIT FOR A MUNICIPAL SOLID  
9 WASTE LANDFILL IF THE CONDITIONS OF THIS SECTION ARE MET.

10 (2) THE DEPARTMENT SHALL ANNUALLY PUBLISH NOTICE OF THE  
11 EXISTING PERMITTED CAPACITY OF THE MUNICIPAL SOLID WASTE LAND-  
12 FILLS IN EACH REGION OF THE STATE AS DESCRIBED IN SUBSECTION  
13 (11).

14 (3) IF THE PERMITTED CAPACITY WITHIN ANY OF THESE REGIONS IS  
15 LESS THAN 9 YEARS, A PERSON WHO IS INTERESTED IN SITING A MUNICI-  
16 PAL SOLID WASTE LANDFILL WITHIN THAT REGION SHALL, NOT MORE THAN  
17 30 DAYS AFTER THE PUBLICATION OF THE NOTICE UNDER SUBSECTION (2),  
18 NOTIFY THE DEPARTMENT. A PERSON SHALL ONLY NOTIFY THE DEPARTMENT  
19 OF HIS OR HER INTEREST IN SITING A MUNICIPAL SOLID WASTE LANDFILL  
20 WITHIN THAT REGION IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

21 (A) THE PERSON HAS BEEN ACTIVELY NEGOTIATING THE TERMS AND  
22 CONDITIONS OF SITING OF THE MUNICIPAL SOLID WASTE LANDFILL WITH  
23 THE HOST COMMUNITY IN WHICH THE MUNICIPAL SOLID WASTE LANDFILL IS  
24 PROPOSED TO BE LOCATED DURING THE 6-MONTH PERIOD IMMEDIATELY  
25 PRIOR TO JANUARY 1 OF THAT YEAR AND THE HOST COMMUNITY HAS NOT  
26 FINALLY REJECTED THE PROPOSAL AND TERMINATED NEGOTIATIONS.

1           (B) THE PERSON OWNS OR HOLDS AN OPTION TO PURCHASE OR LEASE  
2 THE LAND IN WHICH THE MUNICIPAL SOLID WASTE LANDFILL IS PROPOSED  
3 TO BE LOCATED.

4           (C) THE PROPOSED SITE OF THE MUNICIPAL SOLID WASTE LANDFILL  
5 WILL, AT THE TIME OF APPLICATION FOR A CONSTRUCTION PERMIT, MEET  
6 THE SITING AND CONSTRUCTION CRITERIA CONTAINED IN RULES PROMUL-  
7 GATED UNDER THIS PART.

8           (4) ONE YEAR AFTER BEING NOTIFIED UNDER SUBSECTION (3), THE  
9 DEPARTMENT SHALL CONVENE AN ARBITRATION PANEL AND FORWARD TO THE  
10 ARBITRATION PANEL ALL NOTIFICATIONS RECEIVED PURSUANT TO SUBSEC-  
11 TION (2) THAT SATISFY THE CONDITIONS OF SUBSECTION (3). THE  
12 ARBITRATION PANEL SHALL CONSIST OF 3 ARBITRATORS. ONE ARBITRATOR  
13 SHALL BE SELECTED BY THE DEPARTMENT AND REPRESENT LOCAL UNITS OF  
14 GOVERNMENT. ONE ARBITRATOR SHALL BE SELECTED BY THE DEPARTMENT  
15 AND REPRESENT LANDFILL OWNERS. ONE ARBITRATOR MAY BE SELECTED  
16 JOINTLY BY THE OTHER 2 ARBITRATORS. IF THE ARBITRATORS ARE  
17 UNABLE TO AGREE TO JOINTLY SELECT THE THIRD ARBITRATOR, THE  
18 DIRECTOR SHALL MAKE THIS SELECTION FROM A LIST OF ARBITRATORS  
19 PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION. THE ARBITRA-  
20 TION PANEL SHALL UTILIZE PROCEDURES RECOMMENDED BY THE AMERICAN  
21 ARBITRATION ASSOCIATION.

22           (5) UPON RECEIPT OF THE NOTIFICATIONS FROM THE DEPARTMENT  
23 UNDER SUBSECTION (4), THE ARBITRATION PANEL SHALL CONVENE TO  
24 DETERMINE WHETHER 1 OR MORE OF THE MUNICIPAL SOLID WASTE LAND-  
25 FILLS SHOULD BE SITED AND THE TERMS OF A HOST COMMUNITY AGREEMENT  
26 BETWEEN THE PERSON PROPOSING TO SITE THE LANDFILL AND THE HOST  
27 COMMUNITY. IN MAKING ITS DETERMINATION, THE ARBITRATION PANEL

1 SHALL CONSIDER THE CAPACITY NEEDS OF THE REGION AND STATE AND THE  
2 OVERALL ENVIRONMENTAL PROTECTION AFFORDED BY THE LOCATION OF THE  
3 PROPOSED MUNICIPAL SOLID WASTE LANDFILL. WITHIN 7 DAYS AFTER  
4 CONVENING, THE ARBITRATION PANEL SHALL DO 1 OF THE FOLLOWING:

5 (A) ORDER THE PARTIES TO CONTINUE NEGOTIATING FOR A PERIOD  
6 NOT TO EXCEED 30 DAYS AFTER THE DATE OF THE ORDER IF, IN THE  
7 JUDGMENT OF THE PANEL, ARBITRATION CAN BE AVOIDED BY THE NEGOTIA-  
8 TION OF ANY REMAINING ISSUES. IF THE PANEL ORDERS THE PARTIES TO  
9 CONTINUE NEGOTIATIONS, THE REQUEST TO INITIATE ARBITRATION MAY BE  
10 RESUBMITTED UPON EXPIRATION OF THE NEGOTIATION PERIOD.

11 (B) ORDER THE PARTIES TO SUBMIT THEIR RESPECTIVE FINAL  
12 OFFERS TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE ORDER.  
13 IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER WITHIN 7 DAYS  
14 AFTER THE DATE OF THE ORDER, THE ARBITRATION PANEL SHALL ISSUE A  
15 SUBSEQUENT ORDER TO THE HOST COMMUNITY TO SUBMIT ITS FINAL OFFER  
16 TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE SUBSEQUENT  
17 ORDER. IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER  
18 WITHIN 7 DAYS AFTER THE DATE OF THE SECOND ORDER, THE OWNER'S OR  
19 OPERATOR'S FINAL OFFER SHALL BE CONSIDERED THE APPROVED HOST COM-  
20 MUNITY AGREEMENT. IF THE LANDFILL OWNER OR OPERATOR FAILS TO  
21 SUBMIT A FINAL OFFER WITHIN 7 DAYS AFTER THE DATE OF THE INITIAL  
22 ORDER TO THE LANDFILL OWNER OR OPERATOR UNDER THIS SUBDIVISION,  
23 THE PROPOSAL SHALL BE CONSIDERED ABANDONED.

24 (6) A FINAL OFFER SHALL CONTAIN THE LANDFILL OWNER'S OR  
25 OPERATOR'S OR THE HOST COMMUNITY'S FINAL TERMS AND CONDITIONS  
26 RELATING TO THE FACILITY AND ANY INFORMATION OR ARGUMENTS IN  
27 SUPPORT OF THE PROPOSALS. ADDITIONAL SUPPORTING INFORMATION MAY

1 BE SUBMITTED AT ANY TIME. A FINAL OFFER MAY NOT INCLUDE ANY OF  
2 THE FOLLOWING:

3 (A) RESTRICTIONS ON THE INTRASTATE FLOW OF SOLID WASTE.

4 (B) TECHNICAL REQUIREMENTS RELATING TO THE DESIGN, CONSTRUC-  
5 TION, OR OPERATION OF THE LANDFILL WHICH ARE MORE RESTRICTIVE  
6 THAN THE PROVISIONS IN THIS PART OR THE RULES PROMULGATED UNDER  
7 THIS PART.

8 (C) TERMS AFFECTING ANY PORTION OF THE LANDFILL OR OTHER  
9 FACILITY WHICH IS NOT LOCATED ON THE CONTIGUOUS PROPERTY.

10 (7) NEGOTIATIONS BETWEEN THE PARTIES MAY CONTINUE DURING THE  
11 ARBITRATION PROCESS. IF AN ISSUE SUBJECT TO NEGOTIATION IS  
12 RESOLVED TO THE SATISFACTION OF BOTH PARTIES, IT SHALL BE INCOR-  
13 PORATED INTO A WRITTEN AGREEMENT BETWEEN BOTH PARTIES AND THE  
14 FINAL OFFER OF EACH PARTY SHALL BE AMENDED CONSISTENT WITH SUCH  
15 AGREEMENT.

16 (8) SUBJECT TO SUBSECTION (7), AFTER THE FINAL OFFERS ARE  
17 SUBMITTED TO THE PANEL, NEITHER PARTY MAY AMEND ITS FINAL OFFER,  
18 EXCEPT WITH THE WRITTEN PERMISSION OF THE OTHER PARTY.

19 (9) WITHIN 60 DAYS AFTER THE LAST DAY FOR SUBMITTING A FINAL  
20 OFFER UNDER THIS SECTION, THE PANEL SHALL ISSUE AN ARBITRATION  
21 AWARD WITH APPROVAL OF A MINIMUM OF 2 PANEL MEMBERS. THE ARBI-  
22 TRATION AWARD SHALL ADOPT, WITHOUT MODIFICATION, THE FINAL OFFER  
23 OF EITHER THE PERSON INTERESTED IN SITING A MUNICIPAL SOLID WASTE  
24 LANDFILL OR THE HOST COMMUNITY, EXCEPT THAT THE ARBITRATION AWARD  
25 SHALL DELETE THOSE ITEMS WHICH ARE NOT SUBJECT TO ARBITRATION  
26 UNDER THIS SECTION. A COPY OF THE ARBITRATION AWARD SHALL BE

1 SERVED ON BOTH PARTIES. THE PANEL MAY, AT ITS DISCRETION, MEET  
2 WITH 1 OR BOTH PARTIES PRIOR TO ISSUING AN ARBITRATION AWARD.

3 (10) IF THE LANDFILL OWNER OR OPERATOR CONSTRUCTS AND OPER-  
4 ATES THE FACILITY THAT IS THE SUBJECT OF AN ARBITRATION AWARD  
5 UNDER THIS SECTION, THE ARBITRATION AWARD SHALL BE CONSIDERED AN  
6 APPROVED HOST COMMUNITY AGREEMENT AND SHALL BE BINDING ON THE  
7 LANDFILL OWNER OR OPERATOR, THE HOST COMMUNITY, AND THE  
8 DEPARTMENT.

9 (11) FOR PURPOSES OF THIS SECTION, THE STATE IS DIVIDED INTO  
10 THE FOLLOWING REGIONS:

11 (A) REGION I - UPPER PENINSULA -- ALGER, BARAGA, CHIPPEWA,  
12 DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEEWENAW, LUCE,  
13 MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON, AND SCHOOLCRAFT  
14 COUNTIES.

15 (B) REGION II - NORTHERN LOWER PENINSULA -- ALCONA, ALPENA,  
16 ANTRIM, ARENAC, BAY, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE,  
17 CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, IOSCO, ISABELLA,  
18 KALKASKA, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MIDLAND,  
19 MISSAUKEE, MONTMORENCY, NEWAYGO, OCEANA, OGEMAW, OSCEOLA, OSCODA,  
20 OTSEGO, PRESQUE ISLE, ROSCOMMON, AND WEXFORD COUNTIES.

21 (C) REGION III - SOUTHERN LOWER PENINSULA -- ALLEGAN, BARRY,  
22 BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, GENESEE, GRATIOT,  
23 HILLSDALE, HURON, INGHAM, IONIA, JACKSON, KALAMAZOO, KENT,  
24 LAPEER, LENAWEE, LIVINGSTON, MACOMB, MONROE, MONTCALM, MUSKEGON,  
25 OAKLAND, OTTAWA, ST. CLAIR, ST. JOSEPH, SAGINAW, SANILAC,  
26 SHIAWASSEE, TUSCOLA, VAN BUREN, WASHTENAW, AND WAYNE COUNTIES.

1           SEC. 11511D. A MUNICIPAL SOLID WASTE LANDFILL OR A TYPE III  
2 LANDFILL THAT IS IN COMPLIANCE WITH THIS PART AND THE RULES  
3 PROMULGATED UNDER THIS PART IS NOT SUBJECT TO THE FOLLOWING:

4           (A) THE COUNTY ZONING ACT, 1943 PA 183, MCL 125.201 TO  
5 125.240.

6           (B) THE TOWNSHIP ZONING ACT, 1943 PA 184, MCL 125.271 TO  
7 125.310.

8           (C) THE CITY AND VILLAGE ZONING ACT, 1921 PA 207, MCL  
9 125.581 TO 125.600.

10          Sec. 11512. (1) A person shall dispose of solid waste at a  
11 disposal area licensed under this part unless a person is permit-  
12 ted by state law or rules promulgated by the department to dis-  
13 pose of the solid waste at the site of generation.

14          (2) Except as otherwise provided in this section or in sec-  
15 tion 11529, a person otherwise allowed under this part to own or  
16 operate a solid waste disposal area shall not conduct, manage,  
17 maintain, or operate a disposal area within this state without a  
18 license from the department, ~~contrary to an approved solid waste~~  
19 ~~management plan,~~ or contrary to a permit, license, or final  
20 order issued under this part. A person who intends to conduct,  
21 manage, maintain, or operate a disposal area shall submit a  
22 ~~prior~~ license application to the department through a certified  
23 health department on a form provided by the department. If the  
24 disposal area is located in a county or city that does not have a  
25 certified health department, the application shall be made  
26 directly to the department. A person authorized by this part to

1 operate more than 1 type of disposal area at the same facility  
2 may apply for a single license.

3 (3) The application for a license shall contain the name and  
4 residence of the applicant, the location of the proposed or  
5 existing disposal area, the type or types of disposal area pro-  
6 posed, evidence of bonding, and other information required by  
7 rule. In addition, an applicant for a type II landfill shall  
8 submit evidence of financial assurance adequate to meet the  
9 requirements of section 11523a, the maximum waste slope in the  
10 active portion, an estimate of remaining permitted capacity, and  
11 documentation on the amount of waste received at the disposal  
12 area during the previous license period or expected to be  
13 received, whichever is greater. The application shall be accom-  
14 panied by a fee based on the number of years proposed for licen-  
15 sure as specified in subsections (7), (9), and (10).

16 (4) At the time of application for a license for a disposal  
17 area, the applicant shall submit to a health officer or the  
18 department a certification under the seal of a licensed profes-  
19 sional engineer verifying that the construction of the disposal  
20 area has proceeded according to the approved plans. If construc-  
21 tion of the disposal area or a portion of the disposal area is  
22 not complete, the department shall require additional construc-  
23 tion certification of that portion of the disposal area during  
24 intermediate progression of the operation, as specified in  
25 section 11516(4).

26 (5) An applicant for an operating license, within 6 months  
27 after a license denial, may resubmit the application, together



1 with additional information or corrections as are necessary to  
2 address the reason for denial, without being required to pay an  
3 additional application fee.

4 (6) In order to conduct tests and assess operational capa-  
5 bilities, the owner or operator of a municipal solid waste incin-  
6 erator that is designed to burn at a temperature in excess of  
7 2500 degrees Fahrenheit may operate the incinerator without an  
8 operating license, upon notice to the department, for a period  
9 not to exceed 60 days.

10 (7) The application for a type II landfill operating license  
11 shall be accompanied by the following fee for the 2-year term of  
12 the operating license, calculated in accordance with  
13 subsection (8):

14 (a) Landfills receiving less than 100 tons per day,  
15 \$250.00.

16 (b) Landfills receiving 100 tons per day or more, but less  
17 than 250 tons per day, \$1,000.00.

18 (c) Landfills receiving 250 tons per day or more, but less  
19 than 500 tons per day, \$2,500.00.

20 (d) Landfills receiving 500 tons per day or more, but less  
21 than 1,000 tons per day, \$5,000.00.

22 (e) Landfills receiving 1,000 tons per day or more, but less  
23 than 1,500 tons per day, \$10,000.00.

24 (f) Landfills receiving 1,500 tons per day or more, but less  
25 than 3,000 tons per day, \$20,000.00.

26 (g) Landfills receiving greater than 3,000 tons per day,  
27 \$30,000.00.

1 (8) Type II landfill application fees shall be based on the  
2 average amount of waste projected to be received daily during the  
3 license period. Application fees for license renewals shall be  
4 based on the average amount of waste received in the previous  
5 calendar year. Application fees shall be adjusted in the follow-  
6 ing circumstances:

7 (a) If a landfill accepts more waste than projected, a sup-  
8 plemental fee equal to the difference shall be submitted with the  
9 next license application.

10 (b) If a landfill accepts less waste than projected, the  
11 department shall credit the applicant an amount equal to the dif-  
12 ference with the next license application.

13 (c) A type II landfill that measures waste by volume rather  
14 than weight shall pay a fee based on 3 cubic yards per ton.

15 (d) A landfill used exclusively for municipal solid waste  
16 incinerator ash that measures waste by volume rather than weight  
17 shall pay a fee based on 1 cubic yard per ton.

18 (e) If an application is submitted to renew a license more  
19 than 1 year prior to license expiration, the department shall  
20 credit the applicant an amount equal to 1/2 the application fee.

21 (f) If an application is submitted to renew a license more  
22 than 6 months but less than 1 year prior to license expiration,  
23 the department shall credit the applicant an amount equal to 1/4  
24 the application fee.

25 (9) The operating license application for a type III land-  
26 fill shall be accompanied by a fee equal to \$2,500.00.

1 (10) The operating license application for a solid waste  
2 processing plant, solid waste transfer facility, other disposal  
3 area, or combination of these entities shall be accompanied by a  
4 fee equal to \$500.00.

5 (11) The department shall deposit operating license applica-  
6 tion fees collected under this section in the perpetual care  
7 account of the solid waste management fund established in  
8 section 11550.

9 (12) A person who applies for an operating license for more  
10 than 1 type of disposal area at the same facility shall pay a fee  
11 equal to the sum of the applicable application fees listed in  
12 this section.

13 Sec. 11516. (1) Subject to subsection (4), the department  
14 shall conduct a consistency review and make a final decision on a  
15 license application within 90 days after the department receives  
16 an administratively complete application. The decision of the  
17 department and the reasons for the decision shall be documented  
18 in writing with specific reference to this part or rules promul-  
19 gated under this part and shall be sent by first-class mail to  
20 the clerk of the municipality in which the disposal area is  
21 located and to the applicant within 10 days after the final deci-  
22 sion is made. If the department fails to make a final decision  
23 within 90 days, the license is considered issued.

24 (2) An operating license shall expire 2 years after the date  
25 of issuance. An operating license may be renewed before expira-  
26 tion upon payment of a renewal application fee ~~specified in~~ AS

1 PROVIDED UNDER section 11512(8) if the licensee is in compliance  
2 with this part and the rules promulgated under this part.

3 (3) The issuance of the operating license under this part  
4 empowers the department or a health officer or an authorized rep-  
5 resentative of a health officer to enter at any reasonable time,  
6 pursuant to law, in or upon private or public property licensed  
7 under this part for the purpose of inspecting or investigating  
8 conditions relating to the storage, processing, or disposal of  
9 any material.

10 ~~(4) Except as otherwise provided in this subsection, the~~  
11 ~~department shall not issue an operating license for a new dis-~~  
12 ~~posal area within a planning area unless a solid waste management~~  
13 ~~plan for that planning area has been approved pursuant to~~  
14 ~~sections 11536 and 11537 and unless the disposal area complies~~  
15 ~~with and is consistent with the approved solid waste management~~  
16 ~~plan. The department may issue an operating license for a dis-~~  
17 ~~posal area designed to receive ashes produced in connection with~~  
18 ~~the combustion of fossil fuels for electrical power generation in~~  
19 ~~the absence of an approved county solid waste management plan,~~  
20 ~~upon receipt of a letter of approval from whichever county or~~  
21 ~~counties, group of municipalities, or regional planning agency~~  
22 ~~has prepared or is preparing the county solid waste management~~  
23 ~~plan for that planning area under section 11533 and from the~~  
24 ~~municipality in which the disposal area is to be located.~~

25 (4) ~~(5)~~ Issuance of an operating license by the department  
26 authorizes the licensee to accept waste for disposal in certified  
27 portions of the disposal area for which a bond was established

1 under section 11523 and, for type II landfills, for which  
2 financial assurance was demonstrated under section 11523a. If  
3 the construction of a portion of a landfill licensed under this  
4 section is not complete at the time of license application, the  
5 owner or operator of the landfill shall submit a certification  
6 under the seal of a licensed professional engineer verifying that  
7 the construction of that portion of the landfill has proceeded  
8 according to the approved plans, at least 60 days prior to the  
9 anticipated date of waste disposal in that portion of the  
10 landfill. If the department does not deny the certification  
11 within 60 days of receipt, the owner or operator may accept waste  
12 for disposal in the certified portion. In the case of a denial,  
13 the department shall ~~—~~ issue a written statement stating the  
14 reasons why the construction or certification is not consistent  
15 with this part or rules promulgated under this part or the  
16 approved plans.

17 Sec. 11517. (1) Within 9 months after the completion of  
18 construction of a municipal solid waste incinerator, the owner or  
19 operator of a municipal solid waste incinerator shall submit a  
20 plan to the department for a program that, to the extent practi-  
21 cable, reduces the incineration of noncombustible materials and  
22 dangerous combustible materials and their hazardous by-products  
23 at the incinerator. The department shall approve or disapprove  
24 the plan submitted under this subsection within 30 days after  
25 receiving it. In reviewing the plan, the department shall con-  
26 sider the ~~current county solid waste management plan,~~ available  
27 markets for separated materials, disposal alternatives for the

1 separated materials, and collection practices for handling such  
2 separated materials. If the department disapproves a plan, the  
3 department shall notify the owner or operator submitting the plan  
4 of this fact, and shall provide modifications that, if included,  
5 would result in the plan's approval. If the department disap-  
6 proves a plan, the owner or operator of a municipal solid waste  
7 incinerator shall within 30 days after receipt of the  
8 department's disapproval submit a revised plan that addresses all  
9 of the modifications provided by the department. The department  
10 shall approve or disapprove the revised plan within 30 days after  
11 receiving it, and approval of the revised plan shall not be  
12 unreasonably withheld.

13 (2) Not later than 6 months after the approval of the plan  
14 by the department under subsection (1), the owner or operator  
15 shall implement the plan in accordance with the implementation  
16 schedule set forth in the plan. The operation of a municipal  
17 solid waste incinerator without an approved plan under this sec-  
18 tion shall subject the owner or operator, or both, to all of the  
19 sanctions provided by this part.

20 Sec. 11519. (1) The department shall specify, in writing,  
21 the reasons for denial of a construction permit or an operating  
22 license, further specifying those particular sections of this  
23 part or rules promulgated under this part that may be violated by  
24 granting the application and the manner in which the violation  
25 may occur.

26 (2) The health officer or department may issue a cease and  
27 desist order specifying a schedule of closure or remedial action

1 in accordance with this part and rules promulgated under this  
2 part or may establish a consent agreement specifying a schedule  
3 of closure or remedial action in accordance with this part and  
4 rules promulgated under this part to a person who establishes,  
5 constructs, conducts, manages, maintains, or operates a disposal  
6 area without a permit or license or to a person who holds a  
7 permit or license but establishes, constructs, conducts, manages,  
8 maintains, or operates a disposal area contrary to ~~an approved~~  
9 ~~solid waste management plan or contrary to~~ the permit or license  
10 issued under this part.

11 (3) The department may issue a final order revoking, sus-  
12 pending, or restricting a permit or license after a contested  
13 case hearing as provided in the administrative procedures act of  
14 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~  
15 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL  
16 24.201 TO 24.328, if the department finds that the disposal area  
17 is not being constructed or operated in accordance with ~~the~~  
18 ~~approved plans,~~ the conditions of a permit or license, this  
19 part, or the rules promulgated under this part. A final order  
20 issued pursuant to this section is subject to judicial review as  
21 provided in ~~Act No. 306 of the Public Acts of 1969~~ THE ADMINIS-  
22 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO  
23 24.328. The department or a health officer shall inspect and  
24 file a written report not less than 4 times per year for each  
25 licensed disposal area. The department or the health officer  
26 shall provide the municipality in which the licensed disposal  
27 area is located with a copy of each written inspection report if

1 the municipality arranges with the department or the health  
2 officer to bear the expense of duplicating and mailing the  
3 reports.

4 (4) The department may issue an order summarily suspending a  
5 permit or license if the department determines that a violation  
6 of this part or rules promulgated under this part has occurred  
7 which, in the department's opinion, constitutes an emergency or  
8 poses an imminent risk of injury to the public health or the  
9 environment. A determination that a violation poses an imminent  
10 risk of injury to the public health shall be made by the  
11 department. Summary suspension may be ordered effective on the  
12 date specified in the order or upon service of a certified copy  
13 of the order on the licensee, whichever is later, and shall  
14 remain effective during the proceedings. The proceedings shall  
15 be commenced within 7 days of the issuance of the order and shall  
16 be promptly determined.

17 Sec. 11529. (1) A disposal area that is a solid waste  
18 transfer facility is not subject to the construction permit and  
19 operating license requirements of this part if either of the fol-  
20 lowing circumstances exists:

21 (a) The solid waste transfer facility is not designed to  
22 accept wastes from vehicles with mechanical compaction devices.

23 (b) The solid waste transfer facility accepts less than 200  
24 uncompacted cubic yards per day.

25 (2) A solid waste transfer facility that is exempt from the  
26 construction permit and operating license requirements of this  
27 part under subsection (1) shall comply with the operating



1 requirements of this part and the rules promulgated under this  
2 part.

3 (3) Except as provided in subsection (5), a disposal area  
4 that is an incinerator may, but is not required to, comply with  
5 the construction permit and operating license requirements of  
6 this part if both of the following conditions are met:

7 (a) The operation of the incinerator does not result in the  
8 exposure of any solid waste to the atmosphere and the elements.

9 (b) The incinerator has a permit issued under part 55.

10 (4) A disposal area that is an incinerator that does not  
11 comply with the construction permit and operating license  
12 requirements of this part as permitted in subsection (3) is  
13 subject to the ~~planning provisions of this part and must be~~  
14 ~~included in the county solid waste management plan for the county~~  
15 ~~in which the incinerator is located~~ HOST COMMUNITY AGREEMENT  
16 REQUIREMENTS PROVIDED IN SECTION 11511A.

17 (5) A disposal area that is a municipal solid waste inciner-  
18 ator that is designed to burn at a temperature in excess of 2500  
19 degrees Fahrenheit is not subject to the construction permit  
20 requirements of this part.

21 SEC. 11531A. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) AND  
22 SECTION 11531B, A COUNTY OR A MUNICIPALITY SHALL NOT ENACT AN  
23 ORDINANCE, RULE, REGULATION, OR LAW THAT DIRECTS OR RESTRICTS THE  
24 FLOW OF THE SOLID WASTE. THE PORTION OF AN ORDINANCE, RULE, REG-  
25 ULATION, OR LAW THAT VIOLATES THIS SUBSECTION IS VOID.

26 (2) AN ORDINANCE ENACTED PRIOR TO JANUARY 1, 2002 BY A  
27 COUNTY OR MUNICIPALITY INCIDENTAL TO THE ISSUANCE OF BONDS BY THE

1 COUNTY OR MUNICIPALITY OR BY A PUBLIC SERVICE AUTHORITY SERVING  
2 THE COUNTY OR MUNICIPALITY TO FINANCE SOLID WASTE MANAGEMENT  
3 FACILITIES OF THAT COUNTY OR MUNICIPALITY, OR THE EXECUTION,  
4 DELIVERY, OR PERFORMANCE OF A WASTE CONTRACT, MAY REMAIN IN  
5 EFFECT TO THE EXTENT NECESSARY FOR THE SHORTER OF THE FOLLOWING  
6 PERIODS:

7 (A) UNTIL THE BONDS HAVE BEEN PAID IN FULL OR THE TERM OF  
8 THE WASTE CONTRACT HAS EXPIRED.

9 (B) FOR THE REMAINING USEFUL LIFE OF THE FACILITY AS THAT  
10 REMAINING LIFE MAY BE EXTENDED BY THE FOLLOWING:

11 (i) RETROFITTING OF EQUIPMENT OR THE MAKING OF OTHER SIGNIF-  
12 ICANT MODIFICATIONS TO MEET APPLICABLE ENVIRONMENTAL REQUIREMENTS  
13 OR SAFETY REQUIREMENTS.

14 (ii) REPAIR OR REPLACEMENT OF EQUIPMENT OR COMPONENTS THAT  
15 DOES NOT ADD TO THE CAPACITY OF A WASTE MANAGEMENT FACILITY.

16 (3) AS USED IN THIS SECTION, "WASTE CONTRACT" MEANS A CON-  
17 TRACT BETWEEN A COUNTY OR MUNICIPALITY AND A PUBLIC SERVICE  
18 AUTHORITY CONCERNING THE MOVEMENT OR DELIVERY OF SOLID WASTE GEN-  
19 ERATED WITHIN THE JURISDICTIONAL BOUNDARIES OF THE COUNTY OR  
20 MUNICIPALITY OR PUBLIC SERVICE AUTHORITY.

21 SEC. 11531B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
22 PART, A MUNICIPALITY, TO THE EXTENT ALLOWED BY LAW, MAY PROHIBIT,  
23 AT A DISPOSAL AREA WITHIN ITS JURISDICTION, THE DISPOSAL OF SOLID  
24 WASTE THAT WAS GENERATED OUTSIDE OF THE STATE.

25 Sec. 11532. (1) Except as provided in subsection (3), a  
26 municipality may impose an impact fee of not more than 10 cents  
27 per cubic yard on solid waste that is disposed of in a landfill

1 located within the municipality that is utilized by the public  
2 and utilized to dispose of solid waste collected from 2 or more  
3 persons. However, if the landfill is located within a village,  
4 the impact fee provided for in this subsection shall be imposed  
5 by the township in agreement with the village. The impact fee  
6 shall be assessed uniformly on all wastes accepted for disposal.

7 (2) Except as provided in subsection (3), a municipality may  
8 impose an impact fee of not more than 10 cents per cubic yard on  
9 municipal solid waste incinerator ash that is disposed of in a  
10 landfill located within the municipality that is utilized to dis-  
11 pose of municipal solid waste incinerator ash. However, if the  
12 landfill is located within a village, the impact fee provided for  
13 in this subsection shall be imposed by the township in agreement  
14 with the village.

15 (3) ~~A~~ AS PART OF A HOST COMMUNITY AGREEMENT, A municipal-  
16 ity may enter into an agreement with the owner or operator of a  
17 landfill to establish a higher impact fee than ~~those~~ THAT pro-  
18 vided for in ~~subsections (1) and~~ SUBSECTION (1) OR (2).

19 (4) IN ADDITION TO THE IMPACT FEE PROVIDED IN  
20 SUBSECTION (1), (2), OR (3), A COUNTY IN WHICH A LANDFILL  
21 DESCRIBED IN SUBSECTION (1) OR (2) IS LOCATED MAY IMPOSE AN  
22 IMPACT FEE OF NOT MORE THAN 10 CENTS PER CUBIC YARD OF SOLID  
23 WASTE OR MUNICIPAL SOLID WASTE INCINERATOR ASH DISPOSED OF IN THE  
24 LANDFILL. MONEY COLLECTED BY A COUNTY PURSUANT TO THIS SECTION  
25 SHALL BE USED BY THAT COUNTY ONLY TO ADDRESS IMPACTS OF THE LAND-  
26 FILL OR FOR DISTRIBUTION BY THE COUNTY TO MUNICIPALITIES EITHER

1 WITHIN OR OUTSIDE OF THE COUNTY THAT ARE IMPACTED BY THE  
2 LANDFILL.

3 (5) ~~-(4)-~~ The impact fees imposed under this section shall  
4 be collected by the owner or operator of a landfill and shall be  
5 paid to the COUNTY OR municipality quarterly by the thirtieth day  
6 after the end of each calendar quarter. However, the impact fees  
7 allowed to be assessed to each landfill under this section shall  
8 be reduced by any amount of revenue paid to or available to the  
9 municipality OR COUNTY from the landfill under the terms of any  
10 preexisting agreements, including, but not limited to, contracts,  
11 special use permit conditions, court settlement agreement condi-  
12 tions, and trusts.

13 (6) ~~-(5)-~~ Unless a trust fund is established by a municipal-  
14 ity pursuant to subsection ~~-(6)-~~ (7), the revenue collected by a  
15 municipality under subsections (1) and (2) shall be deposited in  
16 its general fund to be used for any purpose that promotes the  
17 public health, safety, or welfare of the citizens of the  
18 municipality. However, revenue collected pursuant to this sec-  
19 tion shall not be used to bring or support a lawsuit or other  
20 legal action against an owner or operator of a landfill who is  
21 collecting an impact fee pursuant to subsection ~~-(4)-~~ (5) unless  
22 the owner or operator of the landfill has instituted a lawsuit or  
23 other legal action against the municipality.

24 (7) ~~-(6)-~~ The municipality may establish a trust fund to  
25 receive revenue collected pursuant to this section. The trust  
26 fund shall be administered by a board of trustees. The board of  
27 trustees shall consist of the following members:

1 (a) The chief elected official of the municipality creating  
2 the trust fund.

3 (b) An individual from the municipality appointed by the  
4 governing board of the municipality.

5 (c) An individual approved by the owners or operators of the  
6 landfills within the municipality and appointed by the governing  
7 board of the municipality.

8 (8) ~~(7)~~ Individuals appointed to serve on the board of  
9 trustees under subsection ~~(6)(b)~~ (7)(B) and (c) shall serve for  
10 terms of 2 years.

11 (9) ~~(8)~~ Money in the trust fund may be expended, pursuant  
12 to a majority vote of the board of trustees, for any purpose that  
13 promotes the public health, safety, or welfare of the citizens of  
14 the municipality. However, revenue collected pursuant to this  
15 section shall not be used to bring or support a lawsuit or other  
16 legal action against an owner or operator of a landfill who is  
17 collecting an impact fee pursuant to subsection ~~(4)~~ (5) unless  
18 the owner or operator of the landfill has instituted a lawsuit or  
19 other legal action against the municipality.

20 Sec. 11533. (1) A COUNTY, OR 2 OR MORE COUNTIES ACTING  
21 JOINTLY, MAY PREPARE A SOLID WASTE MANAGEMENT PLAN. Each solid  
22 waste management plan shall include ~~an enforceable program and~~  
23 ~~process to assure that the nonhazardous solid waste generated or~~  
24 ~~to be generated in the planning area for a period of 10 years or~~  
25 ~~more is collected and recovered, processed, or disposed of at~~  
26 ~~disposal areas which comply with state law and rules promulgated~~  
27 ~~by the department governing location, design, and operation of~~

1 ~~the disposal areas~~ THE BEST AVAILABLE DATA NECESSARY TO MANAGE  
2 SOLID WASTE WITHIN THE PLANNING AREA.

3 ~~(2) An initial solid waste management plan shall be pre-~~  
4 ~~pared and approved under this section and shall be submitted to~~  
5 ~~the director not later than January 5, 1984. Following submittal~~  
6 ~~of the initial plan, the solid waste management plan shall be~~  
7 ~~reviewed and updated every 5 years. An updated plan and an~~  
8 ~~amendment to a plan shall be prepared and approved as provided in~~  
9 ~~sections 11533, 11534, 11535, 11536, 11537, and 11537a. The~~  
10 ~~solid waste management plan shall encompass all municipalities~~  
11 ~~within the county. The solid waste management plan shall at a~~  
12 ~~minimum comply with the requirements of sections 11537a and~~  
13 ~~11538. The solid waste management plan shall take into consider-~~  
14 ~~ation solid waste management plans in contiguous counties and~~  
15 ~~existing local approved solid waste management plans as they~~  
16 ~~relate to the county's needs. At a minimum, a county preparing a~~  
17 ~~solid waste management plan shall consult with the regional plan-~~  
18 ~~ning agency from the beginning to the completion of the plan.~~

19 ~~(3) Not later than July 1, 1981, each county shall file with~~  
20 ~~the department and with each municipality within the county on a~~  
21 ~~form provided by the department, a notice of intent, indicating~~  
22 ~~the county's intent to prepare a county solid waste management~~  
23 ~~plan or to upgrade an existing plan. The notice shall identify~~  
24 ~~the designated agency which shall be responsible for preparing~~  
25 ~~the county solid waste management plan.~~

26 ~~(2) (4) If the county fails to file a notice of intent~~  
27 ~~with the department within the prescribed time, the department~~

1 ~~immediately shall notify each municipality within the county and~~  
2 ~~shall request those municipalities to prepare the county solid~~  
3 ~~waste management plan and shall convene a meeting to discuss the~~  
4 ~~plan preparation. Within 4 months following notification by the~~  
5 ~~department, the municipalities shall decide by a majority vote of~~  
6 ~~the municipalities in the county whether or not to file a notice~~  
7 ~~of intent to prepare the county solid waste management plan.~~  
8 ~~Each municipality in the county shall have 1 vote. If a majority~~  
9 ~~does not agree, then a notice of intent shall not be filed. The~~  
10 ~~notice shall identify the designated agency which is responsible~~  
11 ~~for preparing the county solid waste management plan. PREPARE A~~  
12 ~~SOLID WASTE MANAGEMENT PLAN UNDER SUBSECTION (1), THE MUNICIPALI-~~  
13 ~~TIES WITHIN A COUNTY REPRESENTING 51% OR MORE OF THE TOTAL COUNTY~~  
14 ~~POPULATION MAY JOINTLY PREPARE A SOLID WASTE MANAGEMENT PLAN.~~

15 ~~(5) If the municipalities fail to file a notice of intent~~  
16 ~~to prepare a county solid waste management plan with the depart-~~  
17 ~~ment within the prescribed time, the department shall request the~~  
18 ~~appropriate regional solid waste management planning agency to~~  
19 ~~prepare the county solid waste management plan. The regional~~  
20 ~~solid waste management planning agency shall respond within~~  
21 ~~90 days after the date of the request.~~

22 ~~(6) If the regional solid waste management planning agency~~  
23 ~~declines to prepare a county solid waste management plan, the~~  
24 ~~department shall prepare the solid waste management plan for the~~  
25 ~~county and that plan shall be final.~~

1       ~~(7) A solid waste management planning agency, upon request~~  
2 ~~of the department, shall submit a progress report in preparing~~  
3 ~~its solid waste management plan.~~

4       Sec. 11534. (1) The county executive of a charter county  
5 that elects a county executive and that chooses to prepare a  
6 solid waste management plan under section 11533 or the county  
7 board of commissioners in all other counties choosing to prepare  
8 ~~an initial~~ A solid waste management plan under section 11533,  
9 or the municipalities preparing ~~an initial~~ A solid waste man-  
10 agement plan under section ~~11533(4)~~ 11533(2), shall appoint a  
11 planning committee to assist ~~the agency designated to prepare~~  
12 IN THE PREPARATION OF the SOLID WASTE MANAGEMENT plan under  
13 section 11533. ~~If the county charter provides procedures for~~  
14 ~~approval by the county board of commissioners of appointments by~~  
15 ~~the county executive, an appointment under this subsection shall~~  
16 ~~be subject to that approval. A planning committee appointed pur-~~  
17 ~~suant to this subsection shall be appointed for terms of 2~~  
18 ~~years. A planning committee appointed pursuant to this subsec-~~  
19 ~~tion may be reappointed for the purpose of completing the prepa-~~  
20 ~~ration of the initial solid waste management plan or overseeing~~  
21 ~~the implementation of the initial plan. Reappointed members of a~~  
22 ~~planning committee shall serve for terms not to exceed 2 years as~~  
23 ~~determined by the appointing authority. An initial solid waste~~  
24 ~~management plan shall only be approved by a majority of the mem-~~  
25 ~~bers appointed and serving.~~

26       (2) A planning committee appointed pursuant to this section  
27 shall consist of ~~14 members. Of the members appointed, 4 shall~~



1 MEMBERS WHO represent the solid waste management industry, ~~2~~  
 2 ~~shall represent~~ environmental interest groups, ~~1 shall~~  
 3 ~~represent~~ county government, ~~1 shall represent~~ city govern-  
 4 ment, ~~1 shall represent~~ township government, ~~1 shall~~  
 5 ~~represent~~ the regional solid waste planning agency, ~~1 shall~~  
 6 ~~represent~~ industrial waste generators, and ~~3 shall represent~~  
 7 the general public. ~~A member appointed to represent a county,~~  
 8 ~~city, or township government shall be an elected official of that~~  
 9 ~~government or the designee of that elected official. Vacancies~~  
 10 ~~shall be filled in the same manner as the original appointments.~~  
 11 ~~A member may be removed for nonperformance of duty.~~

12 ~~(3) A planning committee appointed pursuant to this section~~  
 13 ~~shall annually elect a chairperson and shall establish procedures~~  
 14 ~~for conducting the committee's activities and for reviewing the~~  
 15 ~~matters to be considered by the committee.~~

16 SEC. 11534A. (1) A COUNTY IS NOT ELIGIBLE TO RECEIVE A  
 17 GRANT RELATED TO SOLID WASTE MANAGEMENT, SOURCE SEPARATION, OR  
 18 RECYCLING UNLESS THE COUNTY HAS PREPARED OR HAS JOINTLY PREPARED  
 19 A SOLID WASTE MANAGEMENT PLAN.

20 (2) A LOCAL UNIT OF GOVERNMENT SHALL NOT ISSUE BONDS TO  
 21 FINANCE A DISPOSAL AREA OR FOR OTHER SOLID WASTE MANAGEMENT,  
 22 SOURCE SEPARATION, OR RECYCLING PROJECTS UNLESS THE LOCAL UNIT OF  
 23 GOVERNMENT IS WITHIN THE JURISDICTION OF THE PLAN AREA OF A SOLID  
 24 WASTE MANAGEMENT PLAN.

25 Sec. 11535. ~~A county or regional solid waste management~~  
 26 ~~planning agency~~ THE ENTITY OR ENTITIES preparing a solid waste  
 27 management plan shall do all of the following:

1 (a) Solicit the advice of and consult periodically during  
2 the preparation of the plan with the municipalities, appropriate  
3 organizations, and the private sector in the county ~~under sec-~~  
4 ~~tion 11538(1)~~ and solicit the advice of and consult with the  
5 appropriate county or regional solid waste management planning  
6 agency and adjacent counties and municipalities in adjacent coun-  
7 ties which may be significantly affected by the solid waste man-  
8 agement plan for a county.

9 ~~(b) If a planning committee has been appointed under sec-~~  
10 ~~tion 11534, prepare the plan with the advice, consultation, and~~  
11 ~~assistance of the planning committee.~~

12 ~~(c) Notify by letter the chief elected official of each~~  
13 ~~municipality within the county and any other person within the~~  
14 ~~county so requesting, not less than 10 days before each public~~  
15 ~~meeting of the planning agency designated by the county, if that~~  
16 ~~planning agency plans to discuss the county plan. The letter~~  
17 ~~shall indicate as precisely as possible the subject matter being~~  
18 ~~discussed.~~

19 (B) ~~(d)~~ Submit for review a copy of the proposed ~~county~~  
20 ~~or regional~~ solid waste management plan ~~to the department,~~ to  
21 each municipality within the affected ~~county,~~ and to adjacent  
22 counties and municipalities that may be affected by the plan or  
23 that have requested the opportunity to review the plan. ~~The~~  
24 ~~county plan shall be submitted for review to the designated~~  
25 ~~regional solid waste management planning agency for that county.~~  
26 PLANNING AREA. Reviewing ~~agencies~~ MUNICIPALITIES shall be  
27 allowed an opportunity of not less than 3 months to review and

1 comment on the plan before adoption of the plan by the county ~~or~~  
2 ~~a designated regional solid waste management planning agency.~~  
3 ~~The comments of a reviewing agency shall be submitted with the~~  
4 ~~plan to the county board of commissioners or to the regional~~  
5 ~~solid waste management planning agency.~~ OR THE MUNICIPALITIES  
6 PREPARING THE PLAN.

7 (C) ~~(e)~~ Publish a notice, at the time the plan is submit-  
8 ted for review under subdivision ~~(d)~~ (B), of the availability  
9 of the plan for inspection or copying, at cost, by an interested  
10 person.

11 (D) ~~(f)~~ Conduct a public hearing on the proposed ~~county~~  
12 solid waste management plan before formal adoption. A notice  
13 shall be published not less than 30 days before a hearing in a  
14 newspaper having a major circulation within the county OR COUN-  
15 TIES INCLUDED IN THE PLANNING AREA. The notice shall indicate a  
16 location where copies of the SOLID WASTE MANAGEMENT plan are  
17 available for public inspection and shall indicate the time and  
18 place of the public hearing.

19 Sec. 11536. (1) ~~A municipality located in 2 counties or~~  
20 ~~adjacent to a municipality located in another county may request~~  
21 ~~to be included in the adjacent county's plan. Before the munici-~~  
22 ~~pality may be included, the request shall be approved by a reso-~~  
23 ~~lution of the county boards of commissioners of the counties~~  
24 ~~involved. A municipality may appeal to the department a decision~~  
25 ~~to exclude it from an adjacent county's plan. If there is an~~  
26 ~~appeal, the department shall issue a decision within 45 days.~~  
27 ~~The decision of the department is final. (2) Except as provided~~

1 ~~in subsection (3), the~~ THE county board of commissioners OR IF A  
2 SOLID WASTE MANAGEMENT PLAN IS PREPARED UNDER SECTION 11533(2),  
3 THE MUNICIPALITIES IN THE COUNTY PREPARING THE SOLID WASTE MAN-  
4 AGEMENT PLAN shall formally act on the plan following the public  
5 hearing required by section ~~11535(f)~~ 11535(D).

6 ~~(3) If a planning committee has been appointed by the~~  
7 ~~county board of commissioners under section 11534(1), the county~~  
8 ~~board of commissioners, or if a plan is prepared under section~~  
9 ~~11533(4), the municipalities in the county who voted in favor of~~  
10 ~~filing a notice of intent to prepare a county solid waste manage-~~  
11 ~~ment plan, shall take formal action on the plan after the comple-~~  
12 ~~tion of public hearings and only after the plan has been approved~~  
13 ~~by a majority of the planning committee as provided in section~~  
14 ~~11534(1). If the county board of commissioners, or, if a plan is~~  
15 ~~prepared under section 11533(4), a majority of the municipalities~~  
16 ~~in the county who voted in favor of filing a notice of intent to~~  
17 ~~prepare a county solid waste management plan, does or do not~~  
18 ~~approve the plan as submitted, the plan shall be returned to the~~  
19 ~~planning committee along with a statement of objections to the~~  
20 ~~plan. Within 30 days after receipt, the planning committee shall~~  
21 ~~review the objections and shall return the plan with its~~  
22 ~~recommendations.~~

23 (2) ~~(4)~~ Following approval UNDER SUBSECTION (1), the  
24 ~~county~~ SOLID WASTE MANAGEMENT plan shall be approved by the  
25 governing bodies of not less than ~~67%~~ 66-2/3% of the municipal-  
26 ities within each respective county before the plan may take  
27 effect. IF THE SOLID WASTE MANAGEMENT PLAN IS PREPARED UNDER

1 SECTION 11533(2), THE PLAN SHALL BE APPROVED BY NOT LESS THAN  
2 66-2/3% OF THE GOVERNING BODIES OF THE PARTICIPATING  
3 MUNICIPALITIES. IF A MUNICIPALITY FAILS TO APPROVE OR REJECT THE  
4 SOLID WASTE MANAGEMENT PLAN WITHIN 90 DAYS, SUCH FAILURE SHALL BE  
5 CONSIDERED AN APPROVAL.

6 ~~(5) A county plan prepared by a regional solid waste man-~~  
7 ~~agement planning agency shall be approved by the governing bodies~~  
8 ~~of not less than 67% of the municipalities within each respective~~  
9 ~~county before the plan may take effect.~~

10 ~~(6) If, after the plan has been adopted, the governing~~  
11 ~~bodies of not less than 67% of the municipalities have not~~  
12 ~~approved the plan, the department shall prepare a plan for the~~  
13 ~~county, including those municipalities that did not approve the~~  
14 ~~county plan. A plan prepared by the department shall be final.~~

15 (3) UPON APPROVAL UNDER SUBSECTION (2), A SOLID WASTE MAN-  
16 AGEMENT PLAN SHALL BE SUBMITTED TO THE DEPARTMENT.

17 (4) AN ENTITY OR ENTITIES PREPARING A SOLID WASTE MANAGEMENT  
18 PLAN UNDER THIS PART SHALL UPDATE THAT PLAN EVERY 5 YEARS TO  
19 REFLECT CHANGES IN DATA.

20 Sec. 11538. ~~(1) Not later than September 11, 1979, the~~  
21 ~~director shall promulgate rules for the development, form, and~~  
22 ~~submission of initial solid waste management plans. The rules~~  
23 ~~shall require~~ A SOLID WASTE MANAGEMENT PLAN PREPARED PURSUANT TO  
24 THIS PART SHALL INCLUDE all of the following:

25 (a) The establishment of goals and objectives for prevention  
26 of adverse effects on the public health and on the environment  
27 resulting from improper solid waste collection, processing, or

1 disposal including protection of surface and groundwater quality,  
2 air quality, and the land.

3 (b) An evaluation AND CHARACTERIZATION of waste ~~problems~~  
4 STREAMS by type and volume, including residential and commercial  
5 solid waste, HOUSEHOLD hazardous waste, industrial sludges, pre-  
6 treatment residues, municipal sewage sludge, air pollution con-  
7 trol residue, and other wastes from industrial or municipal  
8 sources.

9 ~~(c) An evaluation and selection of technically and economi-~~  
10 ~~cally feasible solid waste management options, which may include~~  
11 ~~sanitary landfill, resource recovery systems, resource conserva-~~  
12 ~~tion, or a combination of options.~~

13 (C) ~~(d)~~ An inventory and description of all existing  
14 facilities where solid waste is being treated, processed, or dis-  
15 posed of, including COMPOSTING AND RECYCLING FACILITIES AND a  
16 summary of ~~the deficiencies, if any, of the facilities in meet-~~  
17 ~~ing current solid waste management needs~~ CAPACITY.

18 ~~(e) The encouragement and documentation as part of the~~  
19 ~~plan, of all opportunities for participation and involvement of~~  
20 ~~the public, all affected agencies and parties, and the private~~  
21 ~~sector.~~

22 ~~(f) That the plan contain enforceable mechanisms for imple-~~  
23 ~~menting the plan, including identification of the municipalities~~  
24 ~~within the county responsible for the enforcement. This subdivi-~~  
25 ~~sion does not preclude the private sector's participation in pro-~~  
26 ~~viding solid waste management services consistent with the county~~  
27 ~~plan.~~

1 (D) PUBLIC EDUCATION EFFORTS CONCERNING SOLID WASTE DISPOSAL  
2 ALTERNATIVES.

3 (E) ~~(g)~~ Current and projected population densities of  
4 ~~each~~ THE county and identification of population centers and  
5 centers of solid waste generation, including industrial wastes.

6 (F) AN ANALYSIS OR EVALUATION OF THE BEST AVAILABLE INFORMA-  
7 TION APPLICABLE TO THE PLAN AREA IN REGARD TO RECYCLABLE MATERI-  
8 ALS AND COMPOSTING.

9 ~~(h) That the plan area has, and will have during the plan~~  
10 ~~period, access to a sufficient amount of available and suitable~~  
11 ~~land, accessible to transportation media, to accommodate the~~  
12 ~~development and operation of solid waste disposal areas, or~~  
13 ~~resource recovery facilities provided for in the plan.~~

14 ~~(i) That the solid waste disposal areas or resource recov-~~  
15 ~~ery facilities provided for in the plan are capable of being~~  
16 ~~developed and operated in compliance with state law and rules of~~  
17 ~~the department pertaining to protection of the public health and~~  
18 ~~the environment, considering the available land in the plan area,~~  
19 ~~and the technical feasibility of, and economic costs associated~~  
20 ~~with, the facilities.~~

21 ~~(j) A timetable or schedule for implementing the county~~  
22 ~~solid waste management plan.~~

23 ~~(2) Each solid waste management plan shall identify specific~~  
24 ~~sites for solid waste disposal areas for a 5-year period after~~  
25 ~~approval of a plan or plan update. In calculating disposal need~~  
26 ~~requirements to measure compliance with this section, only those~~  
27 ~~existing waste stream volume reduction levels achieved through~~

~~1 source reduction, reuse, composting, recycling, or incineration,  
2 or any combination of these reduction devices, that can currently  
3 be demonstrated or that can be reasonably expected to be achieved  
4 through currently active implementation efforts for proposed  
5 volume reduction projects, may be assumed by the planning  
6 entity. In addition, if the solid waste management plan does not  
7 also identify specific sites for solid waste disposal areas for  
8 the remaining portion of the entire planning period required by  
9 this part after approval of a plan or plan update, the solid  
10 waste management plan shall include an interim siting mechanism  
11 and an annual certification process as described in subsections  
12 (3) and (4). In calculating the capacity of identified disposal  
13 areas to determine if disposal needs are met for the entire  
14 required planning period, full achievement of the solid waste  
15 management plan's volume reduction goals may be assumed by the  
16 planning entity if the plan identifies a detailed programmatic  
17 approach to achieving these goals. If a siting mechanism is not  
18 included, and disposal capacity falls to less than 5 years of  
19 capacity, a county shall amend its plan to resolve the  
20 shortfall.~~

~~21 (3) An interim siting mechanism shall include both a process  
22 and a set of minimum siting criteria, both of which are not  
23 subject to interpretation or discretionary acts by the planning  
24 entity, and which if met by an applicant submitting a disposal  
25 area proposal, will guarantee a finding of consistency with the  
26 plan. The interim siting mechanism shall be operative upon the  
27 call of the board of commissioners or shall automatically be~~



~~1 operative whenever the annual certification process shows that  
2 available disposal capacity will provide for less than 66 months  
3 of disposal needs. In the latter event, applications for a find-  
4 ing of consistency from the proposers of disposal area capacity  
5 will be received by the planning agency commencing on January 1  
6 following completion of the annual certification process. Once  
7 operative, an interim siting mechanism will remain operative for  
8 at least 90 days or until more than 66 months of disposal capac-  
9 ity is once again available, either by the approval of a request  
10 for consistency or by the adoption of a new annual certification  
11 process which concludes that more than 66 months of disposal  
12 capacity is available.~~

~~13 (4) An annual certification process shall be concluded by  
14 June 30 of each year, commencing on the first June 30 which is  
15 more than 12 months after the department's approval of the plan  
16 or plan update. The certification process will examine the  
17 remaining disposal area capacity available for solid wastes gen-  
18 erated within the planning area. In calculating disposal need  
19 requirements to measure compliance with this section, only those  
20 existing waste stream volume reduction levels achieved through  
21 source reduction, reuse, composting, recycling, or incineration,  
22 or any combination of these reduction devices, that can currently  
23 be demonstrated or that can be reasonably expected to be achieved  
24 through currently active implementation efforts for proposed  
25 volume reduction projects, may be assumed. The annual certifica-  
26 tion of disposal capacity shall be approved by the board of  
27 commissioners. Failure to approve an annual certification by~~

~~1 June 30 is equivalent to a finding that less than a sufficient  
2 amount of capacity is available and the interim siting mechanism  
3 will then be operative on the first day of the following  
4 January. As part of the department's responsibility to act on  
5 construction permit applications, the department has final deci-  
6 sion authority to approve or disapprove capacity certifications  
7 and to determine consistency of a proposed disposal area with the  
8 solid waste management plan.~~

~~9 (5) A board of commissioners may adopt a new certification  
10 of disposal capacity at any time. A new certification of dis-  
11 posal capacity shall supersede all previous certifications, and  
12 become effective 30 days after adoption by the board of commis-  
13 sioners and remain in effect until subsequent certifications are  
14 adopted.~~

~~15 (6) In order for a disposal area to serve the disposal needs  
16 of another county, state, or country, the service, including the  
17 disposal of municipal solid waste incinerator ash, must be  
18 explicitly authorized in the approved solid waste management plan  
19 of the receiving county. With regard to intercounty service  
20 within Michigan, the service must also be explicitly authorized  
21 in the exporting county's solid waste management plan.~~

~~22 (7) A person shall not dispose of, store, or transport solid  
23 waste in this state unless the person complies with the require-  
24 ments of this part.~~

~~25 (8) Following approval by the director of a county solid  
26 waste management plan and after July 1, 1981, an ordinance, law,  
27 rule, regulation, policy, or practice of a municipality, county,~~

1 ~~or governmental authority created by statute, which prohibits or~~  
2 ~~regulates the location or development of a solid waste disposal~~  
3 ~~area, and which is not part of or not consistent with the~~  
4 ~~approved solid waste management plan for the county, shall be~~  
5 ~~considered in conflict with this part and shall not be~~  
6 ~~enforceable.~~

7       SEC. 11551. ADMINISTRATIVE RULES R 299.4112(1)(B) AND  
8 299.4711(E)(iii)(C) OF THE MICHIGAN ADMINISTRATIVE CODE ARE  
9 RESCINDED.

10       Enacting section 1. Sections 11513, 11524, 11531, 11537,  
11 11537a, 11539, 11539a, 11541, and 11547 of the natural resources  
12 and environmental protection act, 1994 PA 451, MCL 324.11513,  
13 324.11524, 324.11531, 324.11537, 324.11537a, 324.11539,  
14 324.11539a, 324.11541, and 324.11547, are repealed.