

**SUBSTITUTE FOR
HOUSE BILL NO. 4461**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding subpart 11 to part 115.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SUBPART 11 MATERIALS MANAGEMENT PLANS**
2 **Sec. 11571. (1) The department shall ensure that each county**
3 **has an approved materials management plan. The approved solid waste**
4 **management plan in effect on the effective date of the amendatory**
5 **act that added this section remains in effect until a materials**
6 **management plan has been approved for the planning area under this**
7 **subpart. Before a materials management plan is approved for a**
8 **county pursuant to section 11575, a solid waste management plan may**
9 **be amended pursuant to the procedures that applied under section**

1 11533 and former sections 11534 to 11537a immediately before the
2 effective date of the amendatory act that added this section.

3 (2) The planning area of a single MMP may include 2 or more
4 counties if the county boards of commissioners of those counties
5 agree to the joint exercise of the powers and performance of the
6 duties under this subpart of the county boards of commissioners and
7 of the county approval agencies. In addition, if the department is
8 responsible for preparing the MMP for 2 or more counties under
9 section 11575, the department may include those counties in the
10 planning area of a single MMP and may exercise its powers and
11 perform its duties under this subpart for those counties jointly.

12 (3) Multicounty MMPs are subject to the same procedure for
13 approval as single-county MMPs, and each county board of
14 commissioners shall take formal action on a multicounty MMP as
15 appropriate. A multicounty MMP shall include a process to ensure
16 that the requirements of section 11578 are met.

17 (4) All of the municipalities of a county shall be included in
18 the planning area of a single MMP. However, a municipality located
19 in 2 counties that are not in the same planning area may request
20 that the entire municipality be included in the planning area for 1
21 of those counties and excluded from the planning area of the other
22 county. A municipality that is adjacent to a county boundary may
23 request that it be included in the planning area of the MMP for the
24 adjacent county. A request under this subsection shall be submitted
25 to and is subject to the approval of the county board of
26 commissioners of each of the affected counties. If a county board
27 of commissioners fails to approve a request under this subsection
28 within 90 days after the request is submitted to the county board,
29 the municipality making the request may appeal to the department.

1 The department shall issue a decision on the appeal within 45 days
2 after the appeal is filed with the department. The decision of the
3 department is final.

4 (5) Within 180 days after the effective date of the amendatory
5 act that added this section, the department shall, in writing,
6 request the county board of commissioners of each county to submit
7 to the department a notice of intent to prepare an MMP. Within 180
8 days after the request is delivered, the county board of
9 commissioners shall submit the notice of intent. If the county
10 board of commissioners declines to prepare an MMP, all of the
11 following apply:

12 (a) The county board of commissioners shall notify the
13 municipalities in the county and the regional planning agency for
14 the county of its decision.

15 (b) All the municipalities in the county, acting jointly, or
16 the regional planning agency may, within the remaining balance of
17 the 180-day time period applicable to the county board of
18 commissioners, submit to the department a notice of intent to
19 prepare an MMP.

20 (c) Upon request of the municipalities or regional planning
21 agency, the department may extend the deadline under subdivision
22 (b) to allow the municipalities and regional planning agency an
23 opportunity to determine which will submit the notice of intent.

24 (6) If a notice of intent is not submitted to the department
25 by the applicable deadline under subsection (5), the department may
26 prepare an MMP for the county, subject to section 11575(11).

27 (7) A notice of intent under subsection (5) shall meet the
28 following requirements, as applicable:

29 (a) State that the county board of commissioners, all the

1 municipalities in the county, acting jointly, or the regional
2 planning agency for the county, whichever submits the notice of
3 intent, will prepare an MMP and will be the county approval agency.

4 (b) For a county with a population of less than 250,000, be
5 accompanied by both of the following:

6 (i) Documentation that the county approval agency consulted
7 with each adjacent county regarding the option of preparing a
8 multicounty MMP pursuant to the urban cooperation act of 1967, 1967
9 (Ex Sess) PA 7, MCL 124.501 to 124.512.

10 (ii) Documentation of the outcome of the consultations,
11 including a copy of any interlocal agreement identifying the
12 process for creating a multicounty MMP.

13 (c) For a county with a population of 250,000 or more, be
14 accompanied by both of the following:

15 (i) Documentation that the county approval agency submitted to
16 the county board of commissioners of each adjacent county a request
17 to respond within 30 days indicating the adjacent county's interest
18 in the option of preparing a multicounty MMP pursuant to the urban
19 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
20 124.512.

21 (ii) Documentation of the outcome of the request, including a
22 copy of any interlocal agreement identifying the process for
23 creating a multicounty MMP.

24 (8) The submittal of a notice of intent under subsection (5)
25 commences the running of a 3-year deadline for municipal approval
26 of the MMP and submission of the MMP to the department under
27 section 11575.

28 (9) Not more than 30 days after the submission of a notice of
29 intent to the department under subsection (5), the CAA shall do all

1 of the following:

2 (a) Submit a copy of the notice of intent to the legislative
3 body of each municipality located within the planning area.

4 (b) Publish the notice of intent in a newspaper or by
5 electronic media having major circulation or viewership in the
6 planning area.

7 (c) Request publication of the notice of intent on websites of
8 local units of government in the planning area and other multimedia
9 outlets as appropriate.

10 (10) The CAA shall also do all of the following:

11 (a) Within 120 days after submitting the notice of intent,
12 designate a planning agency and an individual within the DPA who
13 shall serve as the DPA's contact person for the purposes of this
14 subpart.

15 (b) Appoint a planning committee under section 11572.

16 (c) Oversee the creation and implementation of the DPA's work
17 program under section 11587(4).

18 (d) Upon request of the department, submit a report on
19 progress in the preparation of the MMP.

20 (11) All submittals and notices under this section and
21 sections 11572 to 11576 shall be in writing. A written notice may
22 be given by electronic mail if the recipient has indicated that the
23 recipient will receive notice by electronic mail and has specified
24 the electronic mail address to which the notice is to be sent.

25 Sec. 11572. (1) Within 180 days after the CAA submits a notice
26 of intent to the department under section 11571, the CAA shall
27 appoint a planning committee. The planning committee is a permanent
28 body. Initial planning committee members shall be appointed for 5-
29 year terms. Their immediate successors shall be appointed for 2-,

1 3-, 4-, or 5-year terms such that, as nearly as possible, the same
2 number are appointed for each term length. Subsequently, members
3 shall be appointed for terms of 5 years. A member may be
4 reappointed.

5 (2) If a vacancy occurs on the planning committee, the CAA
6 shall make an appointment for the unexpired term in the same manner
7 as the original appointment. The CAA may remove a member of the
8 planning committee for incompetence, dereliction of duty, or
9 malfeasance, misfeasance, or nonfeasance in office.

10 (3) The first meeting of the planning committee shall be
11 called by the designated planning agency. At the first meeting, the
12 planning committee shall elect from among its members a chairperson
13 and other officers as it considers necessary or appropriate. A
14 majority of the members of the planning committee constitute a
15 quorum for the transaction of business at a meeting of the planning
16 committee. For the purposes of determining the quorum, the number
17 of members of the planning committee is the number as established
18 under subsection (4), excluding any unfilled vacancies created in
19 the past 90 days. The affirmative vote of a majority of the number
20 of members of the planning committee as established under
21 subsection (4) is required for official action of the planning
22 committee. A planning committee shall adopt procedures for the
23 conduct of its business.

24 (4) A planning committee shall consist of the following
25 members:

26 (a) A representative of a solid waste disposal facility
27 operator that provides service in the planning area.

28 (b) A representative of a hauler that provides service in the
29 planning area.

1 (c) A representative of a materials recovery facility operator
2 that provides service in the planning area.

3 (d) A representative of a composting facility or anaerobic
4 digester operator that provides service in the planning area.

5 (e) A representative of a waste diversion, reuse, or reduction
6 facility operator that provides service in the planning area.

7 (f) A representative of an environmental interest group that
8 has members residing in the planning area.

9 (g) An elected official of the county.

10 (h) An elected official of a township in the planning area.

11 (i) An elected official of a city or village in the planning
12 area.

13 (j) A representative of a business that generates a managed
14 material in the planning area.

15 (k) A representative of the regional planning agency whose
16 territory includes the planning area.

17 (l) Any additional members appointed under subsections (5) or
18 (6) or section 11578(3), as applicable.

19 (5) The CAA may appoint to the planning committee as an
20 additional regular member 1 representative that does business in or
21 resides in an adjacent municipality outside the planning area.

22 (6) CAAs preparing a multicounty MMP under section 11571 shall
23 appoint a single planning committee. For each county, both of the
24 following additional members may be appointed to the planning
25 committee:

26 (a) An elected official of the county or a municipality in the
27 planning area.

28 (b) A representative from a business that generates managed
29 materials within the planning area.

1 (7) If the CAA has difficulty finding qualified individuals to
2 serve on the planning committee, the department may approve a
3 reduction in the number of members of the planning committee.
4 However, at a minimum, the planning committee shall include all of
5 the following members:

6 (a) A representative of the solid waste disposal industry that
7 provides service in the planning area.

8 (b) A representative of a materials utilization facility that
9 provides service in the planning area.

10 (c) Two individuals, each of whom is either a member of an
11 environmental interest group who resides in the planning area or a
12 representative of the regional planning agency.

13 (d) An elected official of the county.

14 (e) An elected official of a township in the planning area.

15 (f) An elected official of a city or village in the planning
16 area.

17 Sec. 11573. In addition to its other responsibilities under
18 part 115, the planning committee shall do all of the following:

19 (a) Direct the DPA in the preparation of the MMP.

20 (b) Review and approve the DPA's work program under section
21 11587(4).

22 (c) Identify relevant local materials management policies and
23 priorities.

24 (d) Ensure coordination in the preparation of the MMP.

25 (e) Advise counties and municipalities with respect to the
26 MMP.

27 (f) Ensure that the DPA is fulfilling the requirements of part
28 115 as to both the content of the MMP and public participation. The
29 planning committee shall notify the DPA of any deficiencies. If the

1 deficiencies are not addressed by the DPA to the planning
2 committee's satisfaction, the planning committee shall notify the
3 CAA. If the deficiencies are not addressed by the CAA to the
4 planning committee's satisfaction, the planning committee shall
5 notify the department. The department shall address the
6 deficiencies and may prepare the MMP under section 11575(11).

7 Sec. 11574. (1) In addition to its other responsibilities
8 under part 115, a DPA shall do all of the following:

9 (a) Serve as the primary government resource in the planning
10 area for information about the MMP and the MMP development process.

11 (b) Under the direction of the planning committee, prepare an
12 MMP.

13 (c) During the preparation of an MMP, solicit the advice of
14 and consult with all of the following:

15 (i) Periodically, the municipalities, appropriate
16 organizations, and the private sector, including materials
17 management facility operators, in the planning area.

18 (ii) The appropriate county or regional planning agency.

19 (iii) Counties adjacent to the planning area and municipalities
20 in those counties.

21 (d) Not less than 10 days before each public meeting at which
22 the DPA will discuss the MMP, give notice of the meeting to the
23 chief elected official of each municipality within the planning
24 area and any other person within the planning area that requests
25 notice. The notice shall indicate as precisely as possible the
26 subject matter being discussed.

27 (e) Obtain written approval of the MMP from the planning
28 committee.

29 (f) Submit a copy of the MMP as approved by the planning

1 committee to all of the following with a notice specifying the end
2 of the public comment period under subdivision (h):

3 (i) The department.

4 (ii) The legislative body of each municipality within the
5 planning area.

6 (iii) The legislative body of each county or municipality
7 adjacent to the planning area that has requested the opportunity to
8 review the MMP.

9 (iv) The regional planning agency for each county included in
10 the planning area.

11 (g) Publish a notice in a newspaper or by electronic media
12 having major circulation or viewership in the planning area. The
13 notice shall indicate a location where copies of the proposed MMP
14 are available for public inspection or copying at cost, specify the
15 end of the public comment period under subdivision (h), and solicit
16 public comment. Notice posted in electronic media shall remain
17 posted until the end of the public comment period.

18 (h) Receive public comments on the MMP for not less than 60
19 days after the publication of the notice under subdivision (g).

20 (i) During the public comment period under subdivision (h),
21 conduct a public hearing on the MMP. Not less than 30 days before
22 the hearing, the planning committee shall publish a notice of the
23 hearing in a newspaper or by electronic media having major
24 circulation or viewership in the planning area. Notice posted in
25 electronic media shall remain posted until the end of the public
26 hearing. The notice shall indicate a location where copies of the
27 proposed MMP are available for public inspection or copying at cost
28 and shall indicate the time and place of the public hearing. The
29 same notice may be used to satisfy the requirements of this

1 subdivision and subdivision (g). The planning committee shall
2 submit to the department proof of publication of notice under this
3 subdivision and subdivision (g).

4 (j) Submit to the planning committee a summary of the comments
5 received during the public comment period.

6 (2) The DPA, or the department if the department prepares an
7 MMP, shall use a standard format in preparing the MMP. The
8 department shall prepare the standard format and provide a copy of
9 the standard format to each DPA that the department knows will
10 prepare an MMP. The department shall provide the standard format to
11 any other person upon request.

12 (3) The planning committee shall consider the comment summary
13 received from the DPA under subsection (1)(j) and may direct the
14 DPA to revise the MMP. The DPA shall revise the MMP as directed by
15 the planning committee. Not more than 30 days after the end of the
16 public comment period, the DPA shall submit the proposed MMP, as
17 revised, if applicable, to the planning committee.

18 (4) Not more than 30 days after the MMP is submitted to the
19 planning committee under subsection (3), the planning committee
20 shall take formal action on the MMP and, if the planning committee
21 approves the MMP in compliance with section 11572(3), the DPA shall
22 submit the MMP to the CAA.

23 Sec. 11575. (1) Not more than 60 days after the MMP is
24 submitted to the CAA under section 11574(4), the CAA shall approve
25 or reject the MMP and notify the planning committee. A notice that
26 the CAA rejects the MMP shall state the specific reasons for the
27 rejection.

28 (2) Not more than 30 days after notice of the rejection of the
29 MMP is sent under subsection (1), the planning committee may revise

1 the MMP and submit the revised MMP to the CAA. After a revised MMP
2 is timely submitted to the CAA under this subsection or the 30-day
3 period expires and a revised MMP is not submitted, the CAA shall
4 approve or reject the revised MMP or original MMP, respectively,
5 and notify the planning committee.

6 (3) If the CAA rejects the MMP under subsection (2), the CAA
7 shall prepare and approve an MMP, subject to the continued running
8 of the 3-year period under section 11571(8).

9 (4) Not more than 10 business days after the CAA approves an
10 MMP under subsection (1), (2), or (3), the DPA shall submit a copy
11 of the MMP to the legislative body of each municipality located
12 within the planning area.

13 (5) Not more than 120 days after the MMP is submitted to the
14 legislative body of a municipality, the legislative body may
15 approve or reject the MMP. The legislative body shall notify the
16 DPA of an approval or rejection.

17 (6) Within 30 days after the deadline for municipal
18 notification to the DPA under subsection (5), the DPA shall notify
19 the department which municipalities timely approved the MMP, which
20 timely rejected the MMP, and which did not timely notify the DPA of
21 approval or rejection. The notice shall be accompanied by a copy of
22 the MMP. If the MMP is not approved by at least 2/3 of the
23 municipalities that timely notify the DPA of their approval or
24 rejection under subsection (5), then the department shall proceed
25 under subsection (7) or (9). If the MMP is approved by at least 2/3
26 of the municipalities that timely notify the DPA of their approval
27 or rejection under subsection (5), then subsection (9) applies.

28 (7) The department may approve an extension of a deadline
29 under subsections (2) to (6) if the extension is requested by the

1 entity subject to the deadline within a reasonable time after the
2 issues giving rise to the need for an extension arise.

3 (8) If the MMP is neither approved nor rejected by a deadline
4 established in this subpart, subject to any extension under
5 subsection (7), the MMP is considered automatically approved at
6 that step in the approval process, and the approval process shall
7 continue at the next step. This subsection does not apply to
8 failure of an individual municipality to approve or disapprove the
9 MMP under subsection (5).

10 (9) Within 180 days after the MMP is submitted to the
11 department under subsection (6), the department shall approve or
12 reject the MMP. The department shall approve the MMP if the MMP
13 complies with part 115. If the department approves the MMP, the MMP
14 is final. If the department rejects the MMP, subsection (11)
15 applies.

16 (10) Before approving or rejecting an MMP under subsection
17 (9), the department may return the MMP to the CAA with a written
18 request for modifications necessary for approval under subsection
19 (9) or to clarify the MMP. If the department returns the MMP for
20 modifications, the running of the 180-day period under subsection
21 (9) is tolled for 90 days or until the CAA responds to the
22 department's request, whichever occurs first. If the CAA does not
23 approve the modifications requested by the department, subsection
24 (11) applies.

25 (11) Subject to subsection (9), if a CAA does not prepare an
26 MMP or the MMP does not timely obtain an approval required by part
27 115, the department may prepare and approve an MMP for the county.
28 An MMP prepared and approved by the department is final. Once the
29 MMP is final, the county shall implement the MMP.

1 Sec. 11576. (1) Amendments to an MMP shall be made only as
2 provided in subsection (2), (3), or (4).

3 (2) The department shall initiate the adoption of 1 or more
4 amendments to MMPs if the department determines that the guidance
5 provided by legislation, by this state's solid waste policy, or by
6 reports and initiatives of the department has significantly changed
7 the required contents of MMPs. The procedure for adopting an
8 amendment to the MMP under this subsection is the same as the
9 procedure for adoption of an initial MMP.

10 (3) The CAA may initiate 1 or more amendments to an MMP by
11 filing a notice of intent with the department. Except as provided
12 in subsection (4), the procedure for adopting an amendment to the
13 MMP under this subsection is the same as the procedure for adoption
14 of an initial MMP except as follows:

15 (a) The county submits a notice of intent on its own
16 initiative rather than in response to a request from the department
17 under section 11571.

18 (b) If the CAA rejects a revised amendment under section
19 11575(2), the amendment process terminates.

20 (c) Section 11575(11) does not apply. Instead, if any required
21 approval is not timely granted, the amendment process terminates
22 and the amendments are not adopted.

23 (4) If, after a notice of intent is filed under subsection
24 (3), the department determines that the amendment will increase
25 materials utilization or the recovery of managed material and
26 complies with part 115, the department may authorize the CAA to
27 amend the MMP. To amend the MMP, the CAA shall do all of the
28 following:

29 (a) Submit a copy of the amendment to all of the following

1 with a notice specifying the end of the public comment period under
2 subdivision (c):

3 (i) The department.

4 (ii) The legislative body of each municipality within the
5 planning area.

6 (iii) The legislative body of each county or municipality
7 adjacent to the planning area that requested the opportunity to
8 review the MMP under section 11574(1)(f).

9 (iv) The regional planning agency for each county included in
10 the planning area.

11 (b) Publish a notice in a newspaper or by electronic media
12 having major circulation or viewership in the planning area. The
13 notice shall indicate a location where copies of the amendment are
14 available for public inspection or copying at cost, specify the end
15 of the public comment period under subdivision (c), and solicit
16 public comment. Notice posted in electronic media shall remain
17 posted until the end of the public comment period.

18 (c) Receive public comments on the amendment for not less than
19 30 days after the publication of the notice under subdivision (b).

20 (d) If timely requested, conduct a public meeting on the
21 amendment during the public comment period under subdivision (c).
22 Not less than 15 days before the public meeting, the planning
23 committee shall publish a notice of the meeting in a newspaper or
24 by electronic media having major circulation or viewership in the
25 planning area. Notice posted in electronic media shall remain
26 posted until the end of the public meeting. The notice shall
27 indicate a location where copies of the proposed amendment are
28 available for public inspection or copying at cost and shall
29 indicate the time and place of the public meeting. The same notice

1 may be used to satisfy the requirements of this subdivision and
2 subdivision (b). The planning committee shall submit to the
3 department proof of notice publication under this subdivision and
4 subdivision (b).

5 (e) Prepare and consider a summary of the comments received
6 during the public comment period. The CAA may revise the amendment
7 in response to the public comments.

8 (f) Submit the amendment to the department in writing. The
9 department shall provide the CAA with written approval of the
10 submitted amendment.

11 (5) A county shall keep its MMP current. The following changes
12 do not require an amendment if made in a supplement to the MMP
13 provided for by the department under section 11574(2) for the
14 purpose of changes not requiring an amendment:

15 (a) Transportation infrastructure.

16 (b) Population density.

17 (c) Materials management facility inventory.

18 (d) Local ordinances that do not control the development of a
19 materials management facility and that minimally control the
20 operation of the materials management facility, such as ordinances
21 addressing landscaping, screening, and other ancillary construction
22 details; hours of operation; operating records and reporting
23 requirements; noise, litter, odor, dust, and other site nuisances;
24 and facility security and safety.

25 (6) Changes made without amendment under subsection (5) shall
26 be incorporated in the next amendment made under subsection (2) or
27 (3).

28 (7) By every fifth anniversary date of the approval of the
29 initial MMP, the CAA shall do both of the following:

1 (a) Obtain from the planning committee an MMP review. The CAA
2 shall timely direct the planning committee to prepare and submit
3 the review. The purpose of the review is to ensure that the MMP
4 complies with part 115 and to evaluate the progress that has been
5 made in meeting the MMP's materials management goals, including the
6 benchmark recycling standards.

7 (b) After considering the MMP review under subdivision (a),
8 submit to the department 1 of the following, as appropriate:

9 (i) A notice of intent to prepare an MMP amendment.

10 (ii) A statement indicating that an amendment is not needed to
11 advance the materials management goals.

12 (8) The department may review an MMP periodically and
13 determine if any amendments are necessary to comply with part 115.
14 If the department determines that an amendment to a specific MMP is
15 necessary, all of the following apply:

16 (a) The department, after notice and opportunity for a public
17 hearing held pursuant to the administrative procedures act of 1969,
18 1969 PA 306, MCL 24.201 to 24.328, may withdraw approval of the MMP
19 or the noncompliant portion of the MMP.

20 (b) The department shall establish a schedule for compliance
21 with part 115.

22 (c) If the planning area does not amend its MMP within the
23 schedule established under subdivision (b), the department shall
24 amend the MMP to address the deficiencies.

25 Sec. 11577. The goals of an MMP are all of the following:

26 (a) To prevent adverse effects on the environment, natural
27 resources, or the public health, safety, or welfare resulting from
28 improper collection, processing, recovery, or disposal of managed
29 materials, including protection of surface water and groundwater,

1 air, and land.

2 (b) To ensure managed materials are sustainably managed to
3 achieve benefits to the economy, communities, and the environment.

4 (c) To ensure that all managed material generated in the
5 planning area is collected and recovered, processed, or disposed at
6 materials management facilities that comply with state statutes and
7 rules or managed appropriately at out-of-state facilities.

8 Sec. 11578. (1) An MMP shall meet all of the following
9 requirements:

10 (a) Include measurable, objective, and specific goals for the
11 planning area for solid waste diversion from disposal areas,
12 including, but not limited to, the municipal solid waste recycling
13 rate goal under section 11507, the benchmark recycling standards,
14 and the material utilization and reduction activities identified by
15 the MMP.

16 (b) Include an implementation strategy for the county to
17 demonstrate progress toward or meet the materials management goals
18 by the time of the 5-year MMP review under section 11576(7). The
19 implementation strategy shall include, but is not limited to, all
20 of the following:

21 (i) How progress will be made to reduce the amount of organic
22 material being disposed of, through food waste reduction,
23 composting, and anaerobic digestion.

24 (ii) How progress will be made to reduce the amount of
25 recyclable materials being disposed of, through increased
26 recycling, including expanding convenient access and recycling at
27 single and multifamily dwellings, businesses, and institutions.

28 (iii) A process whereby each of a planning area's materials
29 utilization facilities are evaluated based on information contained

1 in reports submitted to the department on an annual basis.

2 (iv) A description of the resources needed for meeting the
3 materials management goals and how the development of necessary
4 materials utilization facilities and activities will be promoted.

5 (v) A description of how the benchmark recycling standards
6 will be met.

7 (vi) A timetable for implementation.

8 (c) Identify by type and tonnage all managed material
9 generated in the planning area, to determine the planning area's
10 managed material capacity need and all managed material that is
11 included in the planning area's materials management goals. Amounts
12 of material may be estimated using a formula provided by the
13 department.

14 (d) Require that a proposed materials management facility meet
15 the requirements of part 115 and be consistent with the materials
16 management goals.

17 (e) To the extent practicable, identify and evaluate current
18 and planned materials management infrastructure and systems that
19 contribute or will contribute to meeting the goal under section
20 11577(c) and other options to meet that goal.

21 (f) Include an inventory of the names and addresses of all of
22 the following, subject to subdivision (g):

23 (i) Existing disposal areas.

24 (ii) Materials utilization facilities that meet both of the
25 following requirements:

26 (A) Are in operation on the effective date of the amendatory
27 act that added this section.

28 (B) On the effective date of the amendatory act that added
29 this section, comply with part 115 or, within 1 year after that

1 date, are in the process of becoming compliant.

2 (iii) Waste diversion centers for which notification has been
3 given to the department under section 11521b.

4 (g) Include a materials management facility in the inventory
5 under subdivision (f) only if the owner or operator of the facility
6 has submitted to the county a written acknowledgment indicating
7 that the owner or operator is aware of the proposed inclusion of
8 the facility in the MMP relative to the materials capacity needs
9 identified in subdivision (c) and that the facility has the
10 indicated capacity to manage the materials identified under
11 subdivision (h). The MMP shall include a statement that the owner
12 or operator of each facility listed in the MMP has submitted such
13 an acknowledgment to the county. If the submitted acknowledgments
14 do not document sufficient capacity for disposal or utilization of
15 the identified managed materials to reach the MMP's materials
16 management capacity requirements, including the materials
17 management goals, the MMP shall identify specific strategies,
18 including a schedule and approach to develop and fund capacity.

19 (h) Describe the facilities inventoried pursuant to
20 subdivision (f), including a summary of the deficiencies, if any,
21 of the facilities in meeting current materials management needs.
22 The description shall, at a minimum, include all of the following
23 information:

24 (i) The facility latitude and longitude.

25 (ii) The estimated facility acreage.

26 (iii) A description of the materials managed.

27 (iv) The processes for handling materials at the facility.

28 (v) The total authorized capacity of the facility.

29 (i) Ensure that the materials management facilities that are

1 identified as necessary to be sited can be developed in compliance
2 with state law pertaining to protection of the public health and
3 the environment, considering the available land in the planning
4 area and the technical feasibility of, and economic costs
5 associated with, the facilities.

6 (j) Include an enforceable mechanism to meet the goal of
7 section 11577(c) and otherwise implement the MMP, and identify the
8 party responsible to ensure compliance with part 115. The MMP may
9 contain a mechanism for the county and municipalities in the
10 planning area to assist the department and the department of state
11 police in conducting the inspection program established in section
12 11526(2) and (3). This subdivision does not preclude the private
13 sector's participation in providing materials management services
14 consistent with the MMP for the planning area.

15 (k) Calculate the municipal solid waste recycling rate for the
16 planning area.

17 (l) Describe the materials management transportation
18 infrastructure.

19 (m) Include current and projected population densities and
20 identify population centers and centers of managed material
21 generation in the planning area, using a formula provided by the
22 department, to demonstrate that the capacity required for managed
23 material is met.

24 (n) Describe the mechanisms by which municipalities in the
25 planning area will ensure convenient recycling access, such as 1 or
26 more of the following:

27 (i) Assignment of the responsibility to the county or an
28 authority.

29 (ii) A franchise agreement.

1 (iii) An intergovernmental agreement.

2 (iv) Municipal service.

3 (v) Licensing under an ordinance.

4 (vi) A public-private partnership.

5 (o) Specify a recommended minimum level of recycling service
6 that incorporates the access requirements of the benchmark
7 recycling standards. The county or a municipality within the
8 planning area may, through an appropriate enforceable mechanism,
9 require haulers operating in its jurisdiction to provide the
10 recommended level or a different minimum level of recycling
11 service.

12 (p) Identify the DPA and the entity or entities responsible
13 for each of the following and document the appropriateness of the
14 DPA and other identified entities to carry out their respective
15 responsibilities:

16 (i) Implementing the access requirements of the benchmark
17 recycling standards.

18 (ii) Identifying the materials utilization framework and the
19 achievement of the materials management goals.

20 (iii) Otherwise monitoring, implementing, and enforcing the MMP
21 and providing any required reports to the department.

22 (iv) Administering the funding mechanisms identified in section
23 11581 that will be used to implement the MMP.

24 (v) Ensuring compliance with part 115.

25 This state may serve as a responsible party under this
26 subdivision on behalf of a municipality if the municipality is
27 under a financial consent order or in receivership.

28 (q) With respect to education and outreach for residents and
29 businesses in the planning area, do both of the following:

1 (i) Provide a strategic plan that identifies roles,
 2 responsibilities, funding sources, and methods for persons
 3 providing the education and outreach services.

4 (ii) Describe the county or regional role in providing
 5 continuing recycling education. The recycling education shall
 6 include, but is not limited to, providing a recycling guide, in
 7 hard copy at select public locations and electronically on a cell
 8 phone-friendly website. The recycling guide shall do all of the
 9 following:

10 (A) Identify recycling locations.

11 (B) Identify recyclable materials.

12 (C) Explain how to prepare recyclable materials for
 13 collection.

14 (D) Describe other best practices.

15 (E) Include a listed telephone number for additional
 16 information.

17 (r) Include a siting process under section 11579 and a copy of
 18 any ordinance, law, rule, or regulation of a municipality, county,
 19 or governmental authority within the planning area that applies to
 20 the siting process.

21 (s) Take into consideration the MMPs of counties adjacent to
 22 the planning area as they relate to the planning area's needs.

23 (t) Document all opportunities for participation and
 24 involvement of the public, all affected agencies and parties, and
 25 the private sector in the preparation of the MMP.

26 (2) An MMP may include management plans for debris from
 27 environmental damage, for debris from disasters, or for other
 28 materials, such as construction or demolition waste, not otherwise
 29 required to be covered by an MMP. A management plan for debris from

1 disasters in an MMP may include recommendations for incorporation
2 of disaster debris management plans into municipal, county, or
3 regional emergency management plans.

4 (3) If a solid waste landfill is proposed to be developed in
5 the planning area within 2 miles of a municipality that is located
6 adjacent to the planning area, or if a solid waste processing and
7 transfer facility or materials utilization facility is proposed to
8 be developed in the planning area within 1 mile of such a
9 municipality, all of the following apply:

10 (a) The CAA shall notify the legislative body of the adjacent
11 municipality of the proposed development in writing. The notice
12 shall include a copy of this subsection.

13 (b) The legislative body of the adjacent municipality may
14 appoint a representative of the municipality as an additional
15 regular member of the planning committee. The legislative body must
16 submit to the planning committee notice of an appointment within 60
17 days after receiving notice from the CAA of the right to make the
18 appointment.

19 (c) The planning committee shall provide the adjacent
20 municipality an opportunity to comment on the proposed development.

21 (d) The materials management facility developer and the
22 planning committee shall address, to the extent practicable, each
23 concern identified by the adjacent municipality. The county
24 planning committee shall document compliance with this subdivision.

25 Sec. 11579. (1) An MMP shall include a siting process with a
26 set of minimum criteria for the purposes of section 11585(3).

27 (2) A materials utilization facility need not be sited if the
28 CAA or DPA demonstrates to the department that the planning area
29 has available capacity sufficient to address the managed materials

1 identified by the MMP as being generated in the planning area.

2 (3) The siting process shall not include siting criteria that
3 are more restrictive than state law if a materials utilization
4 facility could not be developed anywhere in the planning area under
5 those criteria.

6 Sec. 11580. (1) In addition to the other requirements of part
7 115, if the county board of commissioners, municipalities, and
8 regional planning agency do not timely submit a notice of intent to
9 prepare an MMP and the department prepares an MMP as authorized
10 under section 11571, the MMP prepared by the department shall
11 comply with all of the following:

12 (a) Automatically find all materials utilization facilities or
13 solid waste processing and transfer facilities that are exempt from
14 permit and license requirements, that comply with local zoning
15 requirements, and that are identified in the MMP to be consistent
16 with the MMP.

17 (b) Not allow approval of additional solid waste landfill
18 disposal capacity unless the county board of commissioners has made
19 the demonstration required under section 11509(9).

20 (c) Require all haulers serving the planning area to provide
21 recycling access consistent with the access requirements of the
22 benchmark recycling standards.

23 (2) If the department prepares an MMP, the MMP need not
24 contain a requirement for a proposed materials management facility
25 to meet additional siting criteria or obtain host community
26 approval under section 11585(3)(c).

27 Sec. 11581. (1) In addition to the materials management
28 planning grants under section 11587, a municipality or county may
29 fund the implementation of an MMP through any of the following

1 methods, if applicable and to the extent authorized by the
2 mechanism:

3 (a) A millage under 1917 PA 298, MCL 123.261.

4 (b) A municipal utility service fee.

5 (c) Special assessments under 1957 PA 185, MCL 123.731 to
6 123.786; 1954 PA 188, MCL 41.721 to 41.738; or the township and
7 village public improvement and public service act, 1923 PA 116, MCL
8 41.411 to 41.419.

9 (d) A service provider franchise agreement.

10 (e) Hauler licensing fees.

11 (f) A voter-approved millage.

12 (g) A general fund appropriation.

13 (h) Supplemental fees for service.

14 (i) A surcharge under section 8a of the urban cooperation act
15 of 1967, 1967 (Ex Sess) PA 7, MCL 124.508a.

16 (j) A landfill surcharge.

17 (k) A flow control fee structure.

18 (l) Any other lawful mechanism.

19 (2) Appropriate uses for funding described in subsection (1)
20 may include, but are not limited to, the following:

21 (a) Recycling programs.

22 (b) Organic materials management.

23 (c) Education and outreach regarding recycling and materials
24 utilization.

25 (d) Relevant market development.

26 (e) Materials reduction and reuse initiatives.

27 Sec. 11582. (1) The CAA shall certify to the department the
28 CAA's progress toward meeting all components of its materials
29 management goals. The first certification shall be submitted by the

1 first June 30 that is more than 2 years after the department's
2 approval of the initial MMP or MMP amendment. Subsequent
3 certifications shall be submitted by June 30 every 2 years after
4 the first certification.

5 (2) If a county does not make progress toward meeting its
6 benchmark recycling standards and ultimately the municipal solid
7 waste recycling rate goal under section 11507, the county is
8 ineligible for assistance from the recycling access and voluntary
9 participation program under section 11550(9) until both of the
10 following requirements are met:

11 (a) The county adopts an ordinance or other enforceable
12 mechanism to ensure that any solid waste hauler providing curbside
13 solid waste hauling service also offers curbside recycling service
14 to dwellings of 4 or fewer units in the planning area.

15 (b) Any remaining deficiencies in a county's progress toward
16 meeting its materials management goals are addressed.

17 Sec. 11583. An ordinance, law, rule, regulation, policy, or
18 practice of a municipality, county, or governmental authority
19 created by statute that conflicts with part 115 is not enforceable
20 if either of the following applies:

21 (a) It prohibits or regulates the location or development of a
22 materials management facility and is not incorporated in or
23 consistent with the MMP for the county.

24 (b) It violates section 207 of the Michigan zoning enabling
25 act, 2006 PA 110, MCL 125.3207, with respect to a materials
26 management facility.

27 Sec. 11584. (1) A county, municipality, authority, or regional
28 planning agency that owns or operates a materials management
29 facility may adopt requirements controlling the flow of solid waste

1 or managed material to the materials management facility, to the
2 extent allowed by the interstate commerce clause, clause 3 of
3 section 8 of article I of the Constitution of the United States.

4 (2) The county board of commissioners may ensure that the
5 necessary materials management authorizations or fees or any other
6 regulatory ordinances or agreements needed to achieve the materials
7 management goals are in effect.

8 (3) The department shall do all of the following:

9 (a) Maintain a database for materials management facilities to
10 report to the department information, as determined by the
11 department, required under part 115.

12 (b) Provide materials management facilities with instructions
13 necessary to add information to the database.

14 (c) Provide CAAs access to information in the database.

15 Sec. 11585. (1) If a disposal area that does not require a
16 license or permit under part 115 or a materials utilization
17 facility is proposed to be located in a local unit of government
18 that has a zoning ordinance, the disposal area or materials
19 utilization facility is consistent with the MMP if it complies with
20 the zoning ordinance and the owner or operator of the proposed
21 disposal area or materials utilization facility presents
22 documentation to the department and the CAA from the local unit of
23 government exercising zoning authority demonstrating that the
24 disposal area complies with local zoning.

25 (2) A disposal area or materials utilization facility is
26 automatically consistent with the MMP if the specific facility or
27 type of facility is identified in the MMP as being automatically
28 consistent.

29 (3) A materials management facility that is not automatically

1 consistent with the MMP is considered consistent if, as determined
2 by the CAA or other entity specified by the MMP and by the
3 department, all of the following requirements are met:

4 (a) The MMP authorizes that type of materials management
5 facility to be sited by following the siting procedure and meeting
6 the minimum siting criteria included in the MMP under section
7 11579, or the facility is a captive type III landfill and both of
8 the following apply:

9 (i) The landfill accepts only waste generated by the owner or
10 operator of the landfill.

11 (ii) The landfill met local land use requirements when
12 initially sited.

13 (b) The materials management facility follows the siting
14 procedure and meets minimum siting criteria in the MMP.

15 (c) The materials management facility meets either of the
16 following requirements:

17 (i) Has host community approval.

18 (ii) Meets any supplemental siting criteria in the MMP for
19 materials management facilities that do not have host community
20 approval.

21 (4) The CAA or other entity specified by the MMP shall
22 promptly notify the owner or operator of the materials management
23 facility in writing of its determination under subsection (3)
24 whether the materials management facility is consistent with the
25 MMP.

26 (5) The department shall determine whether a materials
27 management facility is consistent with the MMP through an
28 independent evaluation as part of the review process for an
29 application for a registration, for approval under a general

1 permit, or for a construction permit or operating license. The
2 applicant for a permit for a materials management facility shall
3 include in the application documentation of the facility's
4 consistency with the MMP.

5 (6) A landfill, other than a captive type III landfill, or a
6 municipal solid waste incinerator need not be sited if the CAA
7 demonstrates to the department through its materials management
8 plan that the planning area has at least 66 months of available
9 solid waste disposal capacity.

10 (7) A captive facility that is an existing coal ash landfill
11 or existing coal ash impoundment is considered consistent with and
12 included in the MMP if the disposal area continues to accept waste
13 generated only by the owner of the disposal area and meets either
14 or both of the following requirements:

15 (a) Was issued a construction permit and licensed for
16 operation under this part.

17 (b) Met local land use law requirements when initially sited
18 or constructed.

19 (8) A coal ash impoundment permitted, licensed, or otherwise
20 in existence on the date of approval of the solid waste management
21 plan for the planning area where the coal ash impoundment is
22 located shall be considered to be consistent with the plan and
23 included in the plan.

24 Sec. 11586. (1) The state solid waste management plan consists
25 of the state solid waste plan and all MMPs approved by the
26 department.

27 (2) The department shall consult and assist in the preparation
28 and implementation of MMPs.

29 (3) The department may undertake or contract for studies or

1 reports necessary or useful in the preparation of the state solid
2 waste management plan.

3 (4) The department shall promote policies that encourage
4 resource recovery and establishment of materials utilization
5 facilities.

6 Sec. 11587. (1) Subject to appropriations, a materials
7 management planning grant program is established to provide grants,
8 to be known as materials management planning grants, to county
9 boards of commissioners for the use of CAAs. If a county board of
10 commissioners is not the CAA, the county board of commissioners
11 shall make awarded grant money available to the CAA within 60 days
12 after receipt. The department may promulgate rules for the
13 implementation of the grant program. Grant funds shall be awarded
14 pursuant to a grant agreement. If the department prepares the MMP,
15 grant funds appropriated for local planning may be used by the
16 department for MMP preparation.

17 (2) Grants shall be used for administrative costs for
18 preparing, implementing, and maintaining an MMP, including, but not
19 limited to, the following:

20 (a) Development of a work program as described in subsection
21 (4) (b) and R 299.4704 and R 299.4705 of the MAC, including a prior
22 work program.

23 (b) Developing an initial MMP and amending the MMP.

24 (c) Ensuring public participation.

25 (d) Determining whether new materials management facilities
26 are consistent with the MMP.

27 (e) Collecting and submitting data for the database utilized
28 by the department for materials management facility reporting
29 purposes, and evaluating data in the database for the planning

1 area.

2 (f) Recycling education and outreach.

3 (g) Recycling and materials utilization programs.

4 (h) Preparation of required reports to the department.

5 (i) MMP implementation.

6 (j) Efforts to obtain support for the MMP and planning process
7 from local units of government.

8 (3) Materials management planning grants shall cover 100% of
9 eligible costs up to the authorized maximum amount as specified by
10 rule.

11 (4) Materials management planning grants shall be awarded
12 annually. To be eligible for grants in the first 3 years of the
13 grant program, the CAA must do both of the following:

14 (a) Submit a notice of intent to prepare an MMP under section
15 11571.

16 (b) Within 180 days after submitting the notice of intent to
17 prepare an MMP, submit to and obtain department approval of a work
18 program for preparing the MMP. The work program shall be prepared
19 by the DPA and reviewed and approved by the planning committee. The
20 work program shall describe the activities for developing and
21 implementing the MMP and associated costs to be covered by the
22 county and the grant.

23 (5) In each of the first 3 years of the grant program, the
24 amount of a grant shall equal the sum of the following:

25 (a) \$60,000.00 for each county in the planning area.

26 (b) An additional \$10,000.00 for each county in the planning
27 area if the planning area includes more than 1 county.

28 (c) Fifty cents for each resident of the planning area, up to
29 600,000 residents.

1 (6) To be eligible for grants in the fourth and subsequent
2 years of the grant program, the county must have an approved work
3 program under subsection (4) or an approved MMP. In the fourth and
4 subsequent years of the grant program, the amount of a grant to the
5 CAA shall equal the sum of the following, as applicable:

6 (a) \$60,000.00 for each county in the planning area.

7 (b) An additional \$10,000.00 for each county in the planning
8 area if the planning area includes more than 1 county and the CAAs
9 were responsible for preparing the MMP.

10 (7) A grantee under this section shall keep records, subject
11 to audit, documenting use of the grant for MMP development and
12 implementation.

13 (8) For the purpose of determining the number of counties in a
14 planning area under this section, the inclusion or exclusion of a
15 municipality under section 11571(4) shall not be considered.

16 Enacting section 1. This amendatory act takes effect 90 days
17 after the date it is enacted into law.

18 Enacting section 2. This amendatory act does not take effect
19 unless all of the following bills of the 101st Legislature are
20 enacted into law:

21 (a) House Bill No. 4454.

22 (b) House Bill No. 4455.

23 (c) House Bill No. 4456.

24 (d) House Bill No. 4457.

25 (e) House Bill No. 4458.

26 (f) House Bill No. 4459.

27 (g) House Bill No. 4460.