



HOUSE BILL No. 5830

April 30, 1996, Introduced by Rep. Munsell and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 11502, 11503, 11504, 11507, 11509, 11510, 11511, 11512, 11516, 11517, 11519, 11523, 11525, 11529, 11541, and 11542 of Act No. 451 of the Public Acts of 1994, entitled

"Natural resources and environmental protection act,"

being sections 324.11502, 324.11503, 324.11504, 324.11507, 324.11509, 324.11510, 324.11511, 324.11512, 324.11516, 324.11517, 324.11519, 324.11523, 324.11525, 324.11529, 324.11541, and 324.11542 of the Michigan Compiled Laws; to add sections 11523a, 11523b, 11525a, 11525b, 11531a, 11532a, 11550, and 20115b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 11502, 11503, 11504, 11507, 11509,
2 11510, 11511, 11512, 11516, 11517, 11519, 11523, 11525, 11529,
3 11541, and 11542 of Act No. 451 of the Public Acts of 1994, being

1 sections 324.11502, 324.11503, 324.11504, 324.11507, 324.11509,
2 324.11510, 324.11511, 324.11512, 324.11516, 324.11517, 324.11519,
3 324.11523, 324.11525, 324.11529, 324.11541, and 324.11542 of the
4 Michigan Compiled Laws, are amended and sections 11523a, 11523b,
5 11525a, 11525b, 11531a, 11532a, 11550, and 20115b are added to
6 read as follows:

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

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

11 (3) "Bond" means A FINANCIAL INSTRUMENT EXECUTED ON A FORM
12 APPROVED BY THE DEPARTMENT, INCLUDING a surety bond from a surety
13 company authorized to transact business in this state, a certifi-
14 cate of deposit, a cash bond, ~~or~~ an irrevocable letter of
15 credit, INSURANCE, A TRUST FUND, AN ESCROW ACCOUNT, OR A COMBINA-
16 TION OF ANY OF THESE INSTRUMENTS in favor of the department. THE
17 OWNER OR OPERATOR OF A DISPOSAL AREA WHO IS REQUIRED TO ESTABLISH
18 A BOND UNDER OTHER STATE OR FEDERAL STATUTE MAY PETITION THE
19 DEPARTMENT TO ALLOW SUCH A BOND TO MEET THE REQUIREMENTS OF THIS
20 PART. THE DEPARTMENT SHALL APPROVE A BOND ESTABLISHED UNDER
21 OTHER STATE OR FEDERAL STATUTE IF THE BOND PROVIDES EQUIVALENT
22 FUNDS AND ACCESS BY THE DEPARTMENT AS OTHER FINANCIAL INSTRUMENTS
23 ALLOWED BY THIS SUBSECTION.

24 (4) "CERTIFICATE OF DEPOSIT" MEANS A NEGOTIABLE CERTIFICATE
25 OF DEPOSIT HELD BY A BANK OR OTHER FINANCIAL INSTITUTION REGU-
26 LATED AND EXAMINED BY A STATE OR FEDERAL AGENCY, THE VALUE OF
27 WHICH IS FULLY INSURED BY AN AGENCY OF THE UNITED STATES

1 GOVERNMENT. A CERTIFICATE OF DEPOSIT USED TO FULFILL THE
2 REQUIREMENTS OF THIS PART SHALL BE IN THE SOLE NAME OF THE
3 DEPARTMENT WITH A MATURITY DATE OF NOT LESS THAN 1 YEAR AND SHALL
4 BE RENEWED NOT LESS THAN 60 DAYS BEFORE THE MATURITY DATE. AN
5 APPLICANT WHO USES A CERTIFICATE OF DEPOSIT AS A BOND SHALL
6 RECEIVE ANY ACCRUED INTEREST ON THAT CERTIFICATE OF DEPOSIT UPON
7 RELEASE OF THE BOND BY THE DEPARTMENT.

8 (5) ~~-(4)-~~ "Certified health department" means a city,
9 county, or district department of health that is specifically
10 delegated authority by the department to perform designated
11 activities as prescribed by this part.

12 (6) ~~-(5)-~~ "Coal or wood ash" means either or both of the
13 following:

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

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

21 (7) ~~-(6)-~~ "Collection center" means a tract of land, build-
22 ing, unit, or appurtenance or combination thereof that is used to
23 collect junk motor vehicles and farm implements under section
24 11530.

25 (8) "CONSISTENCY REVIEW" MEANS EVALUATION OF THE ADMINISTRA-
26 TIVE AND TECHNICAL COMPONENTS OF AN APPLICATION FOR A PERMIT,
27 LICENSE, OR FOR OPERATING CONDITIONS IN THE COURSE OF INSPECTION,

1 FOR THE PURPOSE OF DETERMINING CONSISTENCY WITH THE REQUIREMENTS
2 OF THIS PART, RULES PROMULGATED UNDER THIS PART, AND APPROVED
3 PLANS AND SPECIFICATIONS.

4 (9) "CORRECTIVE ACTION" MEANS THE INVESTIGATION, ASSESSMENT,
5 CLEANUP, REMOVAL, CONTAINMENT, ISOLATION, TREATMENT, OR MONITOR-
6 ING OF REGULATED SUBSTANCES, AS DEFINED IN A FACILITY'S APPROVED
7 HYDROGEOLOGICAL MONITORING PLAN, RELEASED INTO THE ENVIRONMENT,
8 OR THE TAKING OF SUCH OTHER ACTIONS AS MAY BE NECESSARY TO PRE-
9 VENT, MINIMIZE, OR MITIGATE INJURY TO THE PUBLIC HEALTH, SAFETY,
10 OR WELFARE, THE ENVIRONMENT, OR NATURAL RESOURCES.

11 Sec. 11503. (1) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVI-
12 RONMENTAL QUALITY.

13 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

14 (3) ~~+(1)~~ "Discharge" includes, but is not limited to, any
15 spilling, leaking, pumping, pouring, emitting, emptying, dis-
16 charging, injecting, escaping, leaching, dumping, or disposing of
17 a substance into the environment which is or may become injurious
18 to the public health, safety, or welfare, or to the environment.

19 (4) ~~+(2)~~ "Disposal area" means ~~a~~ 1 OR MORE OF THE FOLLOW-
20 ING AT A LOCATION AS DEFINED BY THE BOUNDARY IDENTIFIED IN ITS
21 CONSTRUCTION PERMIT OR ENGINEERING PLANS APPROVED BY THE
22 DEPARTMENT:

23 (A) A solid waste transfer facility. ~~, incinerator,~~
24 ~~sanitary~~

25 (B) INCINERATOR.

26 (C) SANITARY landfill. ~~, processing~~

(D) PROCESSING plant. ~~or other~~

(E) OTHER solid waste handling or disposal facility utilized in the disposal of solid waste.

~~(3) "Enforceable mechanism" means a legal method whereby the state, a county, a municipality, or a person is authorized to take action to guarantee compliance with an approved county solid waste management plan. Enforceable mechanisms include contracts, intergovernmental agreements, laws, ordinances, rules, and regulations.~~

(5) "ESCROW ACCOUNT" MEANS AN ACCOUNT MANAGED BY A BANK OR OTHER FINANCIAL INSTITUTION WHOSE ACCOUNT OPERATIONS ARE REGULATED AND EXAMINED BY A FEDERAL OR STATE AGENCY AND WHICH COMPLIES WITH SECTION 11523B.

(6) "FINANCIAL ASSURANCE" MEANS THE MECHANISMS USED TO DEMONSTRATE THAT THE FUNDS NECESSARY TO MEET THE COST OF CLOSURE, POSTCLOSURE MAINTENANCE AND MONITORING, AND CORRECTIVE ACTION WILL BE AVAILABLE WHENEVER THEY ARE NEEDED.

(7) "FINANCIAL TEST" MEANS A CORPORATE OR LOCAL GOVERNMENT FINANCIAL TEST OR GUARANTEE APPROVED FOR TYPE II LANDFILLS UNDER SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT, TITLE II OF PUBLIC LAW 89-272, 42 U.S.C. 6945. AN OWNER OR OPERATOR MAY USE A SINGLE FINANCIAL TEST FOR MORE THAN 1 FACILITY. INFORMATION SUBMITTED TO THE DEPARTMENT TO DOCUMENT COMPLIANCE WITH THE TEST SHALL INCLUDE A LIST SHOWING THE NAME AND ADDRESS OF EACH FACILITY AND THE AMOUNT OF FUNDS ASSURED BY THE TEST FOR EACH FACILITY. FOR PURPOSES OF THE FINANCIAL TEST, THE OWNER OR OPERATOR SHALL AGGREGATE THE SUM OF THE CLOSURE, POSTCLOSURE, AND

1 CORRECTIVE ACTION COSTS IT SEEKS TO ASSURE WITH ANY OTHER
2 ENVIRONMENTAL OBLIGATIONS ASSURED BY A FINANCIAL TEST UNDER STATE
3 OR FEDERAL LAW.

4 (8) ~~(4)~~ "Garbage" means rejected food wastes including
5 waste accumulation of animal, fruit, or vegetable matter used or
6 intended for food or that attends the preparation, use, cooking,
7 dealing in, or storing of meat, fish, fowl, fruit, or vegetable
8 MATTER.

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

12 (2) "IMPACTED COMMUNITY" MEANS THE MUNICIPALITY IN WHICH THE
13 DISPOSAL AREA IS LOCATED, ALL MUNICIPALITIES WITHIN A 1-MILE
14 RADIUS OF THE BOUNDARY OF THE PARCEL OF PROPERTY IN WHICH THE
15 DISPOSAL AREA IS LOCATED, AND ALL MUNICIPALITIES BETWEEN THE DIS-
16 POSAL AREA AND THE NEAREST ACCESS POINT TO A STATE HIGHWAY OR AN
17 INTERSTATE HIGHWAY.

18 (3) ~~(2)~~ "Inert material" means a substance that will not
19 decompose, dissolve, or in any other way form a contaminated
20 leachate upon contact with water, or other liquids determined by
21 the department as likely to be found at the disposal area, perco-
22 lating through the substance.

23 (4) "INSURANCE" MEANS INSURANCE THAT CONFORMS TO THE
24 REQUIREMENTS OF 40 C.F.R. 258.74(d) PROVIDED BY AN INSURER WHO
25 HAS A CERTIFICATE OF AUTHORITY FROM THE MICHIGAN COMMISSIONER OF
26 INSURANCE TO SELL THIS LINE OF COVERAGE. AN APPLICANT FOR AN

1 OPERATING LICENSE SHALL SUBMIT EVIDENCE OF THE REQUIRED COVERAGE
2 BY SUBMITTING BOTH OF THE FOLLOWING TO THE DEPARTMENT:

3 (A) A CERTIFICATE OF INSURANCE THAT USES WORDING APPROVED BY
4 THE DEPARTMENT.

5 (B) A CERTIFIED TRUE AND COMPLETE COPY OF THE INSURANCE
6 POLICY.

7 (5) ~~-(3)-~~ "Landfill" means a disposal area that is a sani-
8 tary landfill.

9 (6) "LETTER OF CREDIT" MEANS AN IRREVOCABLE LETTER OF CREDIT
10 THAT COMPLIES WITH 40 C.F.R. 258.74(c).

11 (7) ~~-(4)-~~ "Medical waste" means that term as it is defined
12 in part 138 of the public health code, Act No. 378 of the Public
13 Acts of 1978, being sections 333.13801 to 333.13831 of the
14 Michigan Compiled Laws.

15 (8) ~~-(5)-~~ "Municipal solid waste incinerator" means an
16 incinerator that is owned or operated by any person, and meets
17 all of the following requirements:

18 (a) The incinerator receives solid waste from off site and
19 burns only household waste from single and multiple dwellings,
20 hotels, motels, and other residential sources, or this household
21 waste together with solid waste from commercial, institutional,
22 municipal, county, or industrial sources that, if disposed of,
23 would not be required to be placed in a disposal facility
24 licensed under part 111.

25 (b) The incinerator has established contractual requirements
26 or other notification or inspection procedures sufficient to

1 assure that the incinerator receives and burns only waste
2 referred to in subdivision (a).

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

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

7 (e) The incinerator is not an incinerator that receives and
8 burns only medical waste or only waste produced at 1 or more
9 hospitals.

10 (9) ~~(6)~~ "Municipal solid waste incinerator ash" means the
11 substances remaining after combustion in a municipal solid waste
12 incinerator.

13 (10) ~~(7)~~ "Perpetual care fund" means a perpetual care fund
14 provided for in section 11525.

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

19 Sec. 11507. (1) The department and a health officer shall
20 assist in developing and encouraging methods for the disposal of
21 solid waste that are environmentally sound, that maximize the
22 utilization of valuable resources, and that encourage resource
23 conservation including source reduction and source separation.

24 (2) This part shall be construed and administered to encour-
25 age and facilitate the effort of all persons to engage in source
26 separation and site separation of material from solid waste, and
27 other environmentally sound measures to prevent materials from

1 entering the waste stream or which encourage the removal of
2 materials from the waste stream.

3 (3) A MUNICIPALITY MAY ENACT AN ORDINANCE THAT REGULATES THE
4 COLLECTION AND HANDLING OF SOLID WASTE WITHIN THAT MUNICIPALITY.

5 (4) A COUNTY MAY ENACT AN ORDINANCE THAT REGULATES THE COL-
6 LECTION AND HANDLING OF SOLID WASTE IN THOSE PARTS OF A COUNTY
7 NOT REGULATED BY A MUNICIPAL ORDINANCE UNDER SUBSECTION (3).

8 (5) ~~(3)~~ The department may exempt from regulation under
9 this part solid waste that is determined by the department to be
10 inert material for uses and in a manner approved by the
11 department.

12 Sec. 11509. (1) Except as otherwise provided in section
13 11529, a person otherwise allowed under this part to own or oper-
14 ate a solid waste disposal area shall not establish a disposal
15 area without a construction permit from the department, ~~contrary~~
16 ~~to an approved solid waste management plan,~~ or contrary to a
17 permit, license, or final order issued pursuant to this part. A
18 person proposing the establishment of a disposal area shall ~~make~~
19 ~~application~~ APPLY for a construction permit to the department
20 through the health officer on a form provided by the department.
21 If the disposal area is located in a county or city that does not
22 have a certified health department, the application shall be made
23 directly to the department.

24 (2) The application for a construction permit shall contain
25 the name and residence of the applicant, the location of the pro-
26 posed disposal area, THE DESIGN CAPACITY OF THE DISPOSAL AREA,
27 EVIDENCE THAT A HOST AGREEMENT HAS BEEN ENTERED INTO WITH ALL

1 IMPACTED COMMUNITIES PURSUANT TO SECTION 11532A, and other
2 information ~~considered necessary by the department~~ SPECIFIED BY
3 RULE. A PERSON MAY APPLY TO CONSTRUCT MORE THAN 1 TYPE OF DIS-
4 POSAL AREA AT THE SAME FACILITY UNDER A SINGLE PERMIT. The appli-
5 cation shall be accompanied by an engineering plan and a con-
6 struction permit application fee. A construction application
7 permit ~~fee~~ for a landfill shall be accompanied by a fee in an
8 amount that is the sum of all of the applicable fees in this
9 subsection:

- 10 ~~(a) For a permitted site size of the following:~~
11 ~~(i) Less than 5 acres:~~
12 ~~(A) \$100.00 for a new permit application.~~
13 ~~(B) \$25.00 for a renewal permit application.~~
14 ~~(ii) 5 to 19 acres:~~
15 ~~(A) \$170.00 for a new permit application.~~
16 ~~(B) \$100.00 for a renewal permit application.~~
17 ~~(iii) 20 to 79 acres:~~
18 ~~(A) \$240.00 for a new permit application.~~
19 ~~(B) \$150.00 for a renewal permit application.~~
20 ~~(iv) 80 acres or more:~~
21 ~~(A) \$320.00 for a new permit application.~~
22 ~~(B) \$230.00 for a renewal permit application.~~
23 ~~(b) For the estimated solid waste volume per day:~~
24 ~~(i) Less than 50 cubic yards:~~
25 ~~(A) \$60.00 for a new permit application.~~
26 ~~(B) \$15.00 for a renewal permit application.~~

- 1 ~~(ii) 50 to 100 cubic yards.~~
- 2 ~~(A) \$80.00 for a new permit application.~~
- 3 ~~(B) \$30.00 for a renewal permit application.~~
- 4 ~~(iii) 101 to 700 cubic yards.~~
- 5 ~~(A) \$100.00 for a new permit application.~~
- 6 ~~(B) \$50.00 for a renewal permit application.~~
- 7 ~~(iv) More than 700 cubic yards.~~
- 8 ~~(A) \$130.00 for a new permit application.~~
- 9 ~~(B) \$100.00 for a renewal permit application.~~
- 10 ~~(c) For the nature of the solid waste.~~
- 11 ~~(i) Residential.~~
- 12 ~~(A) \$100.00 for a new permit application.~~
- 13 ~~(B) \$50.00 for a renewal permit application.~~
- 14 ~~(ii) Industrial or combination residential and industrial.~~
- 15 ~~(A) \$125.00 for a new permit application.~~
- 16 ~~(B) \$75.00 for a renewal permit application.~~
- 17 ~~(d) For hydrogeological characteristics.~~
- 18 ~~(i) Natural soil.~~
- 19 ~~(A) \$40.00 for a new permit application.~~
- 20 ~~(B) \$10.00 for a renewal permit application.~~
- 21 ~~(ii) Compacted clay.~~
- 22 ~~(A) \$70.00 for a new permit application.~~
- 23 ~~(B) \$30.00 for a renewal permit application.~~
- 24 ~~(iii) Synthetic liner.~~
- 25 ~~(A) \$100.00 for a new permit application.~~
- 26 ~~(B) \$70.00 for a renewal permit application.~~

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, ~~or~~ a solid waste processing plant,
23 OTHER DISPOSAL AREA, OR A COMBINATION OF THESE, shall be accom-
24 panied by a fee in ~~an~~ THE FOLLOWING amount: ~~that is the sum of~~
25 ~~all of the applicable fees in this subsection.~~

26 ~~(a) For a permitted site size of the following:~~

- 1 ~~(i) Less than 5 acres.~~
- 2 ~~(A) \$50.00 for a new permit application.~~
- 3 ~~(B) \$15.00 for a renewal permit application.~~
- 4 ~~(ii) 5 acres or more.~~
- 5 ~~(A) \$100.00 for a new permit application.~~
- 6 ~~(B) \$75.00 for a renewal permit application.~~
- 7 ~~(b) For a building size of the following.~~
- 8 ~~(i) Less than 500 square feet.~~
- 9 ~~(A) \$50.00 for a new permit application.~~
- 10 ~~(B) \$20.00 for a renewal permit application.~~
- 11 ~~(ii) 500 to 1,000 square feet.~~
- 12 ~~(A) \$100.00 for a new permit application.~~
- 13 ~~(B) \$60.00 for a renewal permit application.~~
- 14 ~~(iii) More than 1,000 square feet.~~
- 15 ~~(A) \$150.00 for a new permit application.~~
- 16 ~~(B) \$100.00 for a renewal permit application.~~
- 17 ~~(c) For the nature of the solid waste.~~
- 18 ~~(i) Residential.~~
- 19 ~~(A) \$100.00 for a new permit application.~~
- 20 ~~(B) \$30.00 for a renewal permit application.~~
- 21 ~~(ii) Industrial or combination residential and industrial.~~
- 22 ~~(A) \$150.00 for a new permit application.~~
- 23 ~~(B) \$90.00 for a renewal permit application.~~
- 24 ~~(d) For site characteristics.~~
- 25 ~~(i) High site that is dry and has no groundwater or surface~~
- 26 ~~water problems.~~

~~(A) \$50.00 for a new permit application.~~

~~(B) \$10.00 for a renewal permit application.~~

~~(ii) Surface water on site:~~

~~(A) \$75.00 for a new permit application.~~

~~(B) \$30.00 for a renewal permit application.~~

~~(e) For the estimated solid waste volume per day:~~

~~(i) Less than 50 cubic yards:~~

~~(A) \$50.00 for a new permit application.~~

~~(B) \$25.00 for a renewal permit application.~~

~~(ii) 50 to 500 cubic yards:~~

~~(A) \$100.00 for a new permit application.~~

~~(B) \$75.00 for a renewal permit application.~~

~~(iii) More than 500 cubic yards:~~

~~(A) \$150.00 for a new permit application.~~

~~(B) \$125.00 for a renewal permit application.~~

(A) FOR A NEW FACILITY FOR MUNICIPAL SOLID WASTE, OR A COMBINATION OF MUNICIPAL SOLID WASTE AND WASTE LISTED IN SUBDIVISION (B), \$1,000.00.

(B) FOR A NEW FACILITY FOR INDUSTRIAL WASTE, OR CONSTRUCTION AND DEMOLITION WASTE, \$500.00.

(C) FOR THE EXPANSION OF AN EXISTING FACILITY FOR ANY TYPE OF WASTE, \$250.00.

(4) IF AN APPLICATION IS RETURNED TO THE APPLICANT AS ADMINISTRATIVELY INCOMPLETE, THE DEPARTMENT SHALL REFUND THE ENTIRE FEE. IF A PERMIT IS DENIED OR AN APPLICATION IS WITHDRAWN, THE DEPARTMENT SHALL REFUND 1/2 THE AMOUNT SPECIFIED IN SUBSECTION (3) TO THE APPLICANT. An applicant for a construction permit,

1 within ~~6~~ 12 months after a permit denial OR WITHDRAWAL, may
2 resubmit the application AND THE REFUNDED PORTION OF THE FEE,
3 together with the additional information as needed to address the
4 reasons for denial, without being required to pay an additional
5 application fee.

6 (5) AN APPLICATION FOR A MODIFICATION TO A CONSTRUCTION
7 PERMIT OR FOR RENEWAL OF A CONSTRUCTION PERMIT WHICH HAS EXPIRED
8 SHALL BE ACCOMPANIED BY A FEE OF \$250.00. INCREASES IN FINAL
9 ELEVATIONS THAT DO NOT RESULT IN AN INCREASE IN DESIGN CAPACITY
10 OR A CHANGE IN THE SOLID WASTE BOUNDARY SHALL BE CONSIDERED A
11 MODIFICATION AND NOT A VERTICAL EXPANSION.

12 (6) A PERSON WHO APPLIES TO PERMIT MORE THAN 1 TYPE OF DIS-
13 POSAL AREA AT THE SAME FACILITY SHALL PAY A FEE EQUAL TO THE SUM
14 OF THE APPLICABLE FEES LISTED IN THIS SECTION.

15 (7) THE DEPARTMENT SHALL DEPOSIT PERMIT APPLICATION FEES
16 COLLECTED UNDER THIS SECTION IN THE SOLID WASTE STAFF ACCOUNT OF
17 THE SOLID WASTE MANAGEMENT FUND ESTABLISHED IN SECTION 11550.

18 Sec. 11510. (1) Before the submission of a construction
19 permit application for a new disposal area, the applicant shall
20 request a health officer or the department to provide an advisory
21 analysis of the proposed disposal area. However, the applicant,
22 not less than 15 days after the request, and notwithstanding an
23 analysis result, may file an application for a construction
24 permit.

25 (2) Upon receipt of a construction permit application, the
26 department shall do all of the following:

1 (a) Immediately notify the clerk of the municipality in
2 which the disposal area is located or proposed to be located, the
3 local soil erosion and sedimentation control agency, each divi-
4 sion within the department AND THE DEPARTMENT of natural
5 resources that has responsibilities in land, air, or water man-
6 agement, and the designated regional solid waste management plan-
7 ning agency.

8 (b) Publish a notice in a newspaper having major circulation
9 in the vicinity of the proposed disposal area. The required pub-
10 lished notice shall contain a map indicating the location of the
11 proposed disposal area and shall contain a description of the
12 proposed disposal area and the location where the complete appli-
13 cation package may be reviewed and where copies may be obtained.

14 (c) Indicate in the public, departmental, and municipality
15 notice that the department shall hold a public hearing in the
16 area of the proposed disposal area if a written request is sub-
17 mitted by the applicant or a municipality within 30 days after
18 the date of publication of the notice, or by a petition submitted
19 to the department containing a number of signatures equal to not
20 less than 10% of the number of registered voters of the munici-
21 pality where the proposed disposal area is to be located who
22 voted in the last gubernatorial election. The petition shall be
23 validated by the clerk of the municipality. The public hearing
24 shall be held after the department makes a preliminary review of
25 the application and all pertinent data and before a construction
26 permit is issued or denied.

1 (d) ~~Review~~ CONDUCT A CONSISTENCY REVIEW OF the plans of
2 the proposed disposal area to determine if it complies with this
3 part and the rules promulgated under this part. The review shall
4 be made by persons qualified in hydrogeology and sanitary land-
5 fill engineering. A written ~~approval~~ ACKNOWLEDGMENT THAT THE
6 APPLICATION PACKAGE IS IN COMPLIANCE WITH THE REQUIREMENTS OF
7 THIS PART AND RULES PROMULGATED UNDER THIS PART by the persons
8 qualified in hydrogeology and sanitary landfill engineering shall
9 be received before a construction permit is issued. If the
10 CONSISTENCY REVIEW OF THE site ~~review, plan review,~~ AND THE
11 PLANS and the application meet the requirements of this part and
12 the rules promulgated under this part, the department shall issue
13 a construction permit that may contain a stipulation specifically
14 applicable to the site and operation. Except as otherwise pro-
15 vided in section 11542, an expansion of the area of a disposal
16 area, an enlargement in capacity of a disposal area, or an alter-
17 ation of a disposal area to a different type of disposal area
18 than had been specified in the previous construction permit
19 application constitutes a new proposal for which a new construc-
20 tion permit is required. The upgrading of a disposal area type
21 required by the department to comply with this part or the rules
22 promulgated under this part or to comply with a consent order
23 does not require a new construction permit.

24 (e) Notify the Michigan aeronautics commission if the dis-
25 posal area is a sanitary landfill proposed to be located within
26 10,000 feet of a runway or a proposed runway extension contained
27 in a plan approved by the Michigan aeronautics commission of an

1 airport licensed and regulated by the Michigan aeronautics
2 commission. The department shall make a copy of the application
3 available to the Michigan aeronautics commission. If, after a
4 period of time for review and comment not to exceed 60 days, the
5 Michigan aeronautics commission informs the department that it
6 finds that operation of the proposed disposal area would present
7 a potential hazard to air navigation and presents the basis for
8 its findings, the department may either recommend appropriate
9 changes in the location, construction, or operation of the pro-
10 posed disposal area or deny the application for a construction
11 permit. The department shall give an applicant an opportunity to
12 rebut a finding of the Michigan aeronautics commission that the
13 operation of a proposed disposal area would present a potential
14 hazard to air navigation.

15 Sec. 11511. (1) The department shall make a final decision
16 as to whether to issue a construction permit within 120 days
17 after the department receives an administratively complete
18 application. The decision of the department and the reasons for
19 the decision shall be in writing WITH SPECIFIC REFERENCE TO THIS
20 PART OR RULES PROMULGATED UNDER THIS PART FOR ANY SUBSTANTIATION
21 OF DENIAL OF THE PERMIT APPLICATION and shall be sent by
22 first-class mail to the clerk of the municipality in which the
23 disposal area is proposed to be located and to the applicant
24 within 10 days after the final decision is made. If the depart-
25 ment fails to make a final decision within 120 days, the permit
26 shall be considered issued.

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

7 ~~(3) Except as otherwise provided in this subsection, the~~
8 ~~department shall not issue a construction permit for a disposal~~
9 ~~area within a planning area unless a solid waste management plan~~
10 ~~for that planning area has been approved pursuant to sections~~
11 ~~11536 and 11537 and unless the disposal area complies with and is~~
12 ~~consistent with the approved solid waste management plan. The~~
13 ~~department may issue a construction permit for a disposal area~~
14 ~~designed to receive ashes produced in connection with the combus-~~
15 ~~tion of fossil fuels for electrical power generation in the~~
16 ~~absence of an approved county solid waste management plan, upon~~
17 ~~receipt of a letter of approval from whichever county or coun-~~
18 ~~ties, group of municipalities, or regional planning agency has~~
19 ~~prepared or is preparing the county solid waste management plan~~
20 ~~for that planning area under section 11533 and from the munici-~~
21 ~~pality in which the disposal area is to be located.~~

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

26 (2) Except as otherwise provided in this section or in
27 section 11529, a person otherwise allowed under this part to own

1 or operate a solid waste disposal area shall not conduct, manage,
2 maintain, or operate a disposal area within this state without a
3 license from the department, ~~contrary to an approved solid waste~~
4 ~~management plan,~~ or contrary to a permit, license, or final
5 order issued under this part. A person who intends to conduct,
6 manage, maintain, or operate a disposal area shall ~~make~~ SUBMIT
7 a prior license application to the department through a certified
8 health department on a form provided by the department. If the
9 disposal area is located in a county or city that does not have a
10 certified health department, the application shall be made
11 directly to the department. A PERSON AUTHORIZED BY THIS PART TO
12 OPERATE MORE THAN 1 TYPE OF DISPOSAL AREA AT THE SAME FACILITY
13 MAY APPLY FOR A SINGLE LICENSE.

14 (3) The application for a license shall contain the name and
15 residence of the applicant, the location of the proposed or
16 existing disposal area, THE TYPE OR TYPES OF DISPOSAL AREA PRO-
17 POSED, EVIDENCE OF BONDING, and other information ~~the department~~
18 ~~considers necessary~~ REQUIRED BY RULE. ~~The application shall be~~
19 ~~accompanied by a fee of \$100.00.~~ IN ADDITION, AN APPLICANT FOR A
20 TYPE II LANDFILL SHALL SUBMIT EVIDENCE OF FINANCIAL ASSURANCE
21 ADEQUATE TO MEET THE REQUIREMENTS OF SECTION 11523A, THE MAXIMUM
22 WASTE SLOPE IN THE ACTIVE PORTION, AN ESTIMATE OF REMAINING PER-
23 MITTED CAPACITY, AND DOCUMENTATION ON THE AMOUNT OF WASTE
24 RECEIVED AT THE DISPOSAL AREA DURING THE PREVIOUS LICENSE PERIOD
25 OR EXPECTED TO BE RECEIVED, WHICHEVER IS GREATER. THE APPLICA-
26 TION SHALL BE ACCOMPANIED BY A FEE BASED ON THE NUMBER OF YEARS

1 PROPOSED FOR LICENSURE AS SPECIFIED IN SUBSECTIONS (7), (9), AND
2 (10).

3 (4) At the time of application for a license for a disposal
4 area, the applicant shall submit to a health officer or the
5 department a certification under the seal of a licensed profes-
6 sional engineer verifying that the construction of the disposal
7 area has proceeded according to the approved plans. ~~The~~ IF
8 CONSTRUCTION OF THE DISPOSAL AREA OR A PORTION OF THE DISPOSAL
9 AREA IS NOT COMPLETE, THE department shall require additional
10 CONSTRUCTION certification OF THAT PORTION OF THE DISPOSAL AREA
11 during intermediate progression of the operation, ~~or to verify~~
12 ~~proper closure of the site~~ AS SPECIFIED IN SECTION 11516(4).

13 (5) An applicant for an operating license, within ~~3~~ 6
14 months after a license denial, may resubmit the application,
15 together with additional information or corrections as are neces-
16 sary to address the reason for denial, without being required to
17 pay an additional application fee.

18 (6) In order to conduct tests and assess operational capa-
19 bilities, the owner or operator of a municipal solid waste incin-
20 erator that is designed to burn at a temperature in excess of
21 2500 degrees Fahrenheit may operate the incinerator without an
22 operating license, upon notice to the department, for a period
23 not to exceed 60 days.

24 (7) THE APPLICATION FOR A TYPE II LANDFILL OPERATING LICENSE
25 SHALL BE ACCOMPANIED BY THE FOLLOWING FEE FOR THE 2-YEAR TERM OF
26 THE OPERATING LICENSE, CALCULATED IN ACCORDANCE WITH
27 SUBSECTION (8):

1 (A) LANDFILLS RECEIVING LESS THAN 100 TONS PER DAY,
2 \$250.00.

3 (B) LANDFILLS RECEIVING 100 TONS PER DAY OR MORE, BUT LESS
4 THAN 250 TONS PER DAY, \$1,000.00.

5 (C) LANDFILLS RECEIVING 250 TONS PER DAY OR MORE, BUT LESS
6 THAN 500 TONS PER DAY, \$2,500.00.

7 (D) LANDFILLS RECEIVING 500 TONS PER DAY OR MORE, BUT LESS
8 THAN 1,000 TONS PER DAY, \$5,000.00.

9 (E) LANDFILLS RECEIVING 1,000 TONS PER DAY OR MORE, BUT LESS
10 THAN 1,500 TONS PER DAY, \$10,000.00.

11 (F) LANDFILLS RECEIVING 1,500 TONS PER DAY OR MORE, BUT LESS
12 THAN 3,000 TONS PER DAY, \$20,000.00.

13 (G) LANDFILLS RECEIVING GREATER THAN 3,000 TONS PER DAY,
14 \$30,000.00.

15 (8) TYPE II LANDFILL APPLICATION FEES SHALL BE BASED ON THE
16 AVERAGE AMOUNT OF WASTE PROJECTED TO BE RECEIVED DAILY DURING THE
17 LICENSE PERIOD. APPLICATION FEES FOR LICENSE RENEWALS SHALL BE
18 BASED ON THE AVERAGE AMOUNT OF WASTE RECEIVED IN THE PREVIOUS
19 CALENDAR YEAR. APPLICATION FEES SHALL BE ADJUSTED IN THE FOLLOW-
20 ING CIRCUMSTANCES:

21 (A) IF A LANDFILL ACCEPTS MORE WASTE THAN PROJECTED, A SUP-
22 PLEMENTAL FEE EQUAL TO THE DIFFERENCE SHALL BE SUBMITTED WITH THE
23 NEXT LICENSE APPLICATION.

24 (B) IF A LANDFILL ACCEPTS LESS WASTE THAN PROJECTED, THE
25 DEPARTMENT SHALL CREDIT THE APPLICANT AN AMOUNT EQUAL TO THE DIF-
26 FERENCE WITH THE NEXT LICENSE APPLICATION.

1 (C) A TYPE II LANDFILL THAT MEASURES WASTE BY VOLUME RATHER
2 THAN WEIGHT SHALL PAY A FEE BASED ON 3 CUBIC YARDS PER TON.

3 (D) A LANDFILL USED EXCLUSIVELY FOR MUNICIPAL SOLID WASTE
4 INCINERATOR ASH THAT MEASURES WASTE BY VOLUME RATHER THAN WEIGHT
5 SHALL PAY A FEE BASED ON 1 CUBIC YARD PER TON.

6 (E) IF AN APPLICATION IS SUBMITTED TO RENEW A LICENSE MORE
7 THAN 1 YEAR PRIOR TO LICENSE EXPIRATION, THE DEPARTMENT SHALL
8 CREDIT THE APPLICANT AN AMOUNT EQUAL TO 1/2 THE APPLICATION FEE.

9 (F) IF AN APPLICATION IS SUBMITTED TO RENEW A LICENSE MORE
10 THAN 6 MONTHS BUT LESS THAN 1 YEAR PRIOR TO LICENSE EXPIRATION,
11 THE DEPARTMENT SHALL CREDIT THE APPLICANT AN AMOUNT EQUAL TO 1/4
12 THE APPLICATION FEE.

13 (9) THE OPERATING LICENSE APPLICATION FOR A TYPE III LAND-
14 FILL SHALL BE ACCOMPANIED BY A FEE EQUAL TO \$2,500.00.

15 (10) THE OPERATING LICENSE APPLICATION FOR A SOLID WASTE
16 PROCESSING PLANT, SOLID WASTE TRANSFER FACILITY, OTHER DISPOSAL
17 AREA, OR COMBINATION OF THESE ENTITIES SHALL BE ACCOMPANIED BY A
18 FEE EQUAL TO \$500.00.

19 (11) THE DEPARTMENT SHALL DEPOSIT OPERATING LICENSE APPLICA-
20 TION FEES COLLECTED UNDER THIS SECTION IN THE PERPETUAL CARE
21 ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND ESTABLISHED IN
22 SECTION 11550.

23 (12) A PERSON WHO APPLIES FOR AN OPERATING LICENSE FOR MORE
24 THAN 1 TYPE OF DISPOSAL AREA AT THE SAME FACILITY SHALL PAY A FEE
25 EQUAL TO THE SUM OF THE APPLICATION FEES LISTED IN THIS SECTION.

26 Sec. 11516. (1) Subject to subsection (4), the department
27 shall CONDUCT A CONSISTENCY REVIEW AND make a final decision on a

1 license application within 90 days after the department receives
2 ~~the~~ AN ADMINISTRATIVELY COMPLETE application. The decision of
3 the department and the reasons for the decision shall be
4 DOCUMENTED in writing WITH SPECIFIC REFERENCE TO THIS PART OR
5 RULES PROMULGATED UNDER THIS PART and shall be sent by
6 first-class mail to the clerk of the municipality in which the
7 disposal area is located and to the applicant within 10 days
8 after the final decision is made. If the department fails to
9 make a final decision within 90 days, the license is considered
10 issued.

11 (2) An operating license shall expire 2 years after the date
12 of issuance. An operating license may be renewed before expira-
13 tion upon payment of a renewal application fee ~~of \$100.00~~
14 SPECIFIED IN SECTION 11512(8) if the licensee is in compliance
15 with this part and the rules promulgated under this part.

16 (3) The issuance of ~~a~~ THE OPERATING license UNDER THIS
17 PART empowers the department or a health officer or an authorized
18 representative of a health officer to enter at any reasonable
19 time, pursuant to law, in or upon private or public property
20 licensed under this part for the purpose of inspecting or inves-
21 tigating conditions relating to the storage, processing, or dis-
22 posal of any material.

23 ~~(4) Except as otherwise provided in this subsection, the~~
24 ~~department shall not issue an operating license for a new dis-~~
25 ~~posal area within a planning area unless a solid waste management~~
26 ~~plan for that planning area has been approved pursuant to~~
27 ~~sections 11536 and 11537 and unless the disposal area complies~~

~~1 with and is consistent with the approved solid waste management
2 plan. The department may issue an operating license for a dis-
3 posal area designed to receive ashes produced in connection with
4 the combustion of fossil fuels for electrical power generation in
5 the absence of an approved county solid waste management plan,
6 upon receipt of a letter of approval from whichever county or
7 counties, group of municipalities, or regional planning agency
8 has prepared or is preparing the county solid waste management
9 plan for that planning area under section 11533 and from the
10 municipality in which the disposal area is to be located.~~

11 (4) SUBJECT TO SECTION 11532A, ISSUANCE OF AN OPERATING
12 LICENSE BY THE DEPARTMENT AUTHORIZES THE LICENSEE TO ACCEPT WASTE
13 FOR DISPOSAL IN CERTIFIED PORTIONS OF THE DISPOSABLE AREA FOR
14 WHICH A BOND WAS ESTABLISHED UNDER SECTION 11523 AND, FOR TYPE II
15 LANDFILLS, FOR WHICH FINANCIAL ASSURANCE WAS DEMONSTRATED UNDER
16 SECTION 11523A. IF THE CONSTRUCTION OF A PORTION OF A LANDFILL
17 LICENSED UNDER THIS SECTION IS NOT COMPLETE AT THE TIME OF
18 LICENSE APPLICATION, THE OWNER OR OPERATOR OF THE LANDFILL SHALL
19 SUBMIT A CERTIFICATION UNDER THE SEAL OF A LICENSED PROFESSIONAL
20 ENGINEER VERIFYING THAT THE CONSTRUCTION OF THAT PORTION OF THE
21 LANDFILL HAS PROCEEDED ACCORDING TO THE APPROVED PLANS AT LEAST
22 60 DAYS PRIOR TO THE ANTICIPATED DATE OF WASTE DISPOSAL IN THAT
23 PORTION OF THE LANDFILL. IF THE DEPARTMENT DOES NOT DENY THE
24 CERTIFICATION WITHIN 60 DAYS OF RECEIPT, THE OWNER OR OPERATOR
25 MAY ACCEPT WASTE FOR DISPOSAL IN THE CERTIFIED PORTION. IN THE
26 CASE OF A DENIAL, THE DEPARTMENT SHALL, ISSUE A WRITTEN STATEMENT
27 STATING THE REASONS WHY THE CONSTRUCTION OR CERTIFICATION IS NOT

1 CONSISTENT WITH THIS PART OR RULES PROMULGATED UNDER THIS PART OR
2 THE APPROVED PLANS.

3 Sec. 11517. (1) Within 9 months after the completion of
4 construction of a municipal solid waste incinerator, the owner or
5 operator of a municipal solid waste incinerator shall submit a
6 plan to the department for a program that, to the extent practi-
7 cable, reduces the incineration of noncombustible materials and
8 dangerous combustible materials and their hazardous by-products
9 at the incinerator. The department shall approve or disapprove
10 the plan submitted under this subsection within 30 days after
11 receiving it. In reviewing the plan, the department shall con-
12 sider the ~~current county solid waste management plan,~~ available
13 markets for separated materials, disposal alternatives for the
14 separated materials, and collection practices for handling such
15 separated materials. If the department disapproves a plan, the
16 department shall notify the owner or operator submitting the plan
17 of this fact, and shall provide modifications that, if included,
18 would result in the plan's approval. If the department disap-
19 proves a plan, the owner or operator of a municipal solid waste
20 incinerator shall within 30 days after receipt of the
21 department's disapproval submit a revised plan that addresses all
22 of the modifications provided by the department. The department
23 shall approve or disapprove the revised plan within 30 days after
24 receiving it, and approval of the revised plan shall not be
25 unreasonably withheld.

26 (2) Not later than 6 months after the approval of the plan
27 by the department under subsection (1), the owner or operator

1 shall implement the plan in accordance with the implementation
2 schedule set forth in the plan. The operation of a municipal
3 solid waste incinerator without an approved plan under this sec-
4 tion shall subject the owner or operator, or both, to all of the
5 sanctions provided by this part.

6 Sec. 11519. (1) The department shall specify, in writing,
7 the reasons for denial of a construction permit or an operating
8 license, further specifying those particular sections of this
9 part or rules promulgated under this part that may be violated by
10 granting the application and the manner in which the violation
11 may occur.

12 (2) The health officer or department may issue a cease and
13 desist order specifying a schedule of closure or remedial action
14 in accordance with this part and rules promulgated under this
15 part or may establish a consent agreement specifying a schedule
16 of closure or remedial action in accordance with this part and
17 rules promulgated under this part to a person who establishes,
18 constructs, conducts, manages, maintains, or operates a disposal
19 area without a permit or license or to a person who holds a
20 permit or license but establishes, constructs, conducts, manages,
21 maintains, or operates a disposal area contrary to ~~an approved~~
22 ~~solid waste management plan or contrary to~~ the permit or license
23 issued under this part.

24 (3) The department may issue a final order revoking, sus-
25 pending, or restricting a permit or license after a contested
26 case hearing as provided in the administrative procedures act of
27 1969, Act No. 306 of the Public Acts of 1969, being sections

1 24.201 to 24.328 of the Michigan Compiled Laws, if the department
2 finds that the disposal area is not being constructed or operated
3 in accordance with ~~the approved plans,~~ the conditions of a
4 permit or license, this part, or the rules promulgated under this
5 part. A final order issued pursuant to this section is subject
6 to judicial review as provided in Act No. 306 of the Public Acts
7 of 1969. The department or a health officer shall inspect and
8 file a written report not less than 4 times per year for each
9 licensed disposal area. The department or the health officer
10 shall provide the municipality in which the licensed disposal
11 area is located with a copy of each written inspection report if
12 the municipality arranges with the department or the health offi-
13 cer to bear the expense of duplicating and mailing the reports.

14 (4) The department, after consultation with the director of
15 ~~public~~ COMMUNITY health or a designated representative of the
16 director of ~~public~~ COMMUNITY health, may issue an order summar-
17 ily suspending a permit or license if the department determines
18 that a violation of this part or rules promulgated under this
19 part has occurred which, in the department's opinion, constitutes
20 an emergency or poses an imminent risk of injury to the public
21 health or the environment. A determination that a violation
22 poses an imminent risk of injury to the public health shall be
23 made by the director of ~~public~~ COMMUNITY health. Summary sus-
24 pension may be ordered effective on the date specified in the
25 order or upon service of a certified copy of the order on the
26 licensee, whichever is later, and shall remain effective during
27 the proceedings. The proceedings shall be commenced within

1 7 days of the issuance of the order and shall be promptly
2 determined.

3 Sec. 11523. (1) The department shall not issue a license to
4 operate a disposal area unless the applicant has filed, as a part
5 of the application for a license, ~~a bond to cover the cost of~~
6 ~~closure and of postclosure monitoring and maintenance of the dis-~~
7 ~~posal area after capacity has been reached or operations have~~
8 ~~otherwise terminated, in accordance with the following~~ EVIDENCE
9 OF THE FOLLOWING FINANCIAL ASSURANCE:

10 (a) ~~Except as provided in subdivision (b), a bond-~~
11 FINANCIAL ASSURANCE established for a TYPE III LANDFILL OR A PRE-
12 EXISTING UNIT AT A TYPE II landfill shall be in THE FORM OF A
13 BOND IN an amount equal to \$20,000.00 per acre of licensed land-
14 fill WITHIN THE SOLID WASTE BOUNDARY. However, the amount of the
15 bond shall not be less than \$20,000.00 or more than
16 \$1,000,000.00. Each bond shall provide assurance for the mainte-
17 nance of the finished landfill site for a period of 30 years
18 after the landfill or any approved portion is completed. IN
19 ADDITION TO THIS BOND, A PERPETUAL CARE FUND SHALL BE MAINTAINED
20 UNDER SECTION 11525.

21 (b) ~~A bond established for a landfill or portion of a land-~~
22 ~~fill that receives municipal solid waste incinerator ash under~~
23 ~~section 11542 shall be in an amount equal to \$50,000.00 per acre~~
24 ~~of licensed landfill or portion of the landfill. Each bond shall~~
25 ~~provide assurance for the maintenance of the finished landfill~~
26 ~~site or portion of landfill site for a period of 30 years after~~
27 ~~the landfill or any approved portion is completed.~~ FINANCIAL

1 ASSURANCE FOR A TYPE II LANDFILL WHICH IS AN EXISTING UNIT OR A
2 NEW UNIT SHALL BE IN AN AMOUNT EQUAL TO THE COST, IN CURRENT DOL-
3 LARS, OF HIRING A THIRD PARTY, TO CONDUCT CLOSURE, POSTCLOSURE
4 MAINTENANCE AND MONITORING, AND IF NECESSARY, CORRECTIVE ACTION.
5 AN APPLICATION FOR A TYPE II LANDFILL WHICH IS AN EXISTING UNIT
6 OR NEW UNIT SHALL DEMONSTRATE FINANCIAL ASSURANCE IN ACCORDANCE
7 WITH SECTION 11523A.

8 (c) ~~A bond~~ FINANCIAL ASSURANCE established for a solid
9 waste transfer facility, incinerator, processing plant, ~~or~~
10 other solid waste handling or disposal facility, OR A COMBINATION
11 OF THESE utilized in the disposal of solid waste shall be IN THE
12 FORM OF A BOND in an amount equal to 1/4 of 1% of the construc-
13 tion cost of the facility, but shall not be less than \$4,000.00,
14 and shall be continued in effect for a period of 2 years after
15 the disposal area is closed.

16 (2) ~~(d) An applicant for a license to operate~~ THE OWNER OR
17 OPERATOR OF a landfill may post a cash bond with the department
18 ~~as provided for in subsection (2)~~ instead of ~~a surety bond or~~
19 ~~certificate of deposit~~ OTHER BONDING MECHANISMS TO FULFILL THE
20 FINANCIAL ASSURANCE REQUIREMENTS OF THIS SECTION. A minimum ~~of~~
21 ~~\$20,000.00~~ AMOUNT EQUAL TO THE REMAINING FINANCIAL ASSURANCE
22 DIVIDED BY THE TERM OF THE OPERATING LICENSE shall be paid to the
23 department prior to licensure. Subsequent payments to the
24 department shall be made ~~every 6 months~~ ANNUALLY in an amount
25 ~~per acre of licensed landfill or any approved portion of land~~
26 ~~fill as determined by the department~~ EQUAL TO THE REMAINING
27 FINANCIAL ASSURANCE DIVIDED BY THE NUMBER OF YEARS REMAINING

1 UNTIL THE OPERATING LICENSE EXPIRES, until the required amount
2 ~~per acre~~ is attained. ~~(2) An applicant who elects to use a~~
3 ~~certificate of deposit as bond shall receive any accrued interest~~
4 ~~on that certificate of deposit upon release of the bond by the~~
5 ~~department.~~ An ~~applicant~~ OWNER OR OPERATOR OF A DISPOSAL AREA
6 who elects to post cash as bond shall accrue interest on that
7 bond at the annual rate of 6%, to be accrued quarterly, except
8 that the interest rate payable to an ~~applicant~~ OWNER OR
9 OPERATOR shall not exceed the rate of interest accrued on the
10 state common cash fund for the quarter in which an accrual is
11 determined. Interest shall be paid to the ~~applicant~~ OWNER OR
12 OPERATOR upon release of the bond by the department. Any inter-
13 est greater than 6% shall be deposited in the state treasury to
14 the credit of the general fund and shall be appropriated to the
15 department to be used by the department for administration of
16 this part.

17 (3) An ~~applicant for~~ OWNER OR OPERATOR OF a disposal area
18 that is not a landfill who has accomplished closure ~~or postclo-~~
19 ~~sure monitoring and maintenance,~~ IN A MANNER approved by the
20 department and in accordance with this part and the rules promul-
21 gated under this part, may request a 50% reduction in the bond
22 DURING THE 2-YEAR PERIOD AFTER CLOSURE. AT THE END OF THE 2-YEAR
23 PERIOD, THE OWNER OR OPERATOR MAY REQUEST THAT THE DEPARTMENT
24 TERMINATE THE BOND. THE DEPARTMENT SHALL APPROVE TERMINATION OF
25 THE BOND WITHIN 60 DAYS OF SUCH REQUEST PROVIDED ALL WASTE AND
26 WASTE RESIDUES HAVE BEEN REMOVED FROM THE DISPOSAL AREA AND THAT
27 CLOSURE IS CERTIFIED.

1 (4) The department may utilize a bond required under this
2 section for the closure and postclosure monitoring and mainte-
3 nance of a disposal area if the ~~applicant~~ OWNER OR OPERATOR
4 fails to comply with the closure and postclosure monitoring and
5 maintenance requirements of this part and the rules promulgated
6 under this part TO THE EXTENT NECESSARY TO CORRECT SUCH VIOLA-
7 TIONS FOLLOWING ISSUANCE OF A NOTICE OF VIOLATION OR OTHER ORDER
8 BY THE DEPARTMENT WHICH ALLEGES VIOLATION OF THIS PART AND RULES
9 PROMULGATED UNDER THIS PART AND PROVIDES 7 DAYS' NOTICE AND
10 OPPORTUNITY FOR HEARING.

11 (5) ~~In addition to the bond required in subsection (1), a~~
12 ~~landfill that receives municipal solid waste incinerator ash~~
13 ~~under section 11542 shall provide a bond or a letter of credit in~~
14 ~~an amount equal to \$2,000,000.00. The bond or letter of credit~~
15 ~~described in this subsection shall provide assurance for remedial~~
16 ~~action at the landfill for a period of time extending 30 years~~
17 ~~after the landfill or any portion of the landfill is closed.~~
18 UNDER THE TERMS OF A SURETY BOND, LETTER OF CREDIT, OR INSURANCE
19 POLICY, THE ISSUING INSTITUTION SHALL NOTIFY BOTH THE DEPARTMENT
20 AND THE OWNER OR OPERATOR AT LEAST 120 DAYS BEFORE THE EXPIRATION
21 DATE OR ANY CANCELLATION OF THE BOND. IF THE OWNER OR OPERATOR
22 DOES NOT EXTEND THE EFFECTIVE DATE OF THE BOND, OR ESTABLISH
23 ALTERNATE FINANCIAL ASSURANCE WITHIN 90 DAYS AFTER RECEIPT OF AN
24 EXPIRATION OR CANCELLATION NOTICE BY THE ISSUING INSTITUTION, THE
25 DEPARTMENT MAY DRAW ON THE BOND.

26 (6) The department shall not issue a construction permit or
27 a new license to operate a disposal area to an applicant that is

1 the subject of a bankruptcy action commenced under title 11 of
2 the United States Code, 11 U.S.C. 101 to 1330, or any other
3 predecessor or successor statute.

4 (7) A PERSON REQUIRED UNDER THIS SECTION TO PROVIDE FINAN-
5 CIAL ASSURANCE IN THE FORM OF A BOND FOR A LANDFILL MAY REQUEST A
6 REDUCTION IN THE BOND BASED UPON THE VALUE OF THE PERPETUAL CARE
7 FUND ESTABLISHED UNDER SECTION 11525. A PERSON REQUESTING A BOND
8 REDUCTION SHALL DO SO ON A FORM CONSISTENT WITH THIS PART AS PRE-
9 PARED BY THE DEPARTMENT. THE DEPARTMENT SHALL GRANT THIS REQUEST
10 UNLESS THERE ARE SUFFICIENT GROUNDS FOR DENIAL AND THOSE REASONS
11 ARE PROVIDED IN WRITING. THE DEPARTMENT SHALL GRANT OR DENY A
12 REQUEST FOR A REDUCTION OF THE BOND WITHIN 60 DAYS AFTER THE
13 REQUEST IS MADE. IF THE DEPARTMENT GRANTS A REQUEST FOR A
14 REDUCED BOND, THE DEPARTMENT SHALL REQUIRE A BOND IN AN AMOUNT
15 SUCH THAT FOR TYPE III LANDFILLS, AND TYPE II LANDFILLS WHICH ARE
16 PREEXISTING UNITS, THE AMOUNT OF MONEY IN THE PERPETUAL CARE FUND
17 PLUS THE AMOUNT OF THE REDUCED BOND EQUALS THE MAXIMUM AMOUNT
18 REQUIRED IN A PERPETUAL CARE FUND IN SECTION 11525(2).

19 (8) THE DEPARTMENT SHALL RELEASE THE BOND REQUIRED BY THIS
20 SECTION IF THE AMOUNT IN THE PERPETUAL CARE FUND EXCEEDS THE
21 AMOUNT OF THE FINANCIAL ASSURANCE REQUIRED UNDER SUBSECTION (1).

22 (9) PRIOR TO CLOSURE OF A LANDFILL, IF MONEY IS DISBURSED
23 FROM THE PERPETUAL CARE FUND, THEN THE DEPARTMENT MAY REQUIRE A
24 CORRESPONDING INCREASE IN THE AMOUNT OF BONDING REQUIRED TO BE
25 PROVIDED IF NECESSARY TO MEET THE REQUIREMENT OF THIS SECTION.

26 SEC. 11523A. (1) EFFECTIVE APRIL 9, 1997, THE DEPARTMENT
27 SHALL NOT ISSUE A LICENSE TO OPERATE A TYPE II LANDFILL UNLESS

1 THE APPLICANT DEMONSTRATES THAT FOR ANY NEW UNIT OR EXISTING UNIT
2 AT THE FACILITY, THE COMBINATION OF THE PERPETUAL CARE FUND
3 ESTABLISHED UNDER SECTION 11525, BONDS, AND THE FINANCIAL CAPA-
4 BILITY OF THE APPLICANT AS EVIDENCED BY A FINANCIAL TEST, PRO-
5 VIDES FINANCIAL ASSURANCE IN AN AMOUNT NOT LESS THAN THAT
6 REQUIRED BY THIS SECTION. AN APPLICANT MAY UTILIZE A FINANCIAL
7 TEST FOR AN AMOUNT UP TO, BUT NOT EXCEEDING 70% OF THE CLOSURE,
8 POSTCLOSURE, AND CORRECTIVE ACTION COST ESTIMATE.

9 (2) AN APPLICANT MAY DEMONSTRATE COMPLIANCE WITH THIS SEC-
10 TION BY SUBMITTING EVIDENCE WITH A FORM CONSISTENT WITH THIS
11 PART, AS PREPARED BY THE DEPARTMENT, THAT THE APPLICANT HAS
12 FINANCIAL ASSURANCE FOR ANY EXISTING UNIT OR NEW UNIT IN AN
13 AMOUNT EQUAL TO OR GREATER THAN THE SUM OF THE FOLLOWING STAN-
14 DARDIZED COSTS:

15 (A) A STANDARD CLOSURE COST ESTIMATE. THE STANDARD CLOSURE
16 COST ESTIMATE SHALL BE BASED UPON THE SUM OF THE FOLLOWING COSTS
17 IN 1996 DOLLARS, ADJUSTED FOR INFLATION AND PARTIAL CLOSURES, IF
18 ANY, AS SPECIFIED IN SUBSECTIONS (4) AND (5):

19 (i) A BASE COST OF \$20,000.00 PER ACRE TO CONSTRUCT A COM-
20 PACTED SOIL FINAL COVER USING ON-SITE MATERIAL.

21 (ii) A SUPPLEMENTAL COST OF \$20,000.00 PER ACRE, TO INSTALL
22 A SYNTHETIC COVER LINER, IF REQUIRED BY RULES UNDER THIS PART.

23 (iii) A SUPPLEMENTAL COST OF \$5,000.00 PER ACRE, IF LOW PER-
24 MEABILITY SOIL MUST BE TRANSPORTED FROM OFF-SITE TO CONSTRUCT THE
25 FINAL COVER OR IF A BENTONITE GEOCOMPOSITE LINER IS USED IN LIEU
26 OF LOW PERMEABILITY SOIL IN A COMPOSITE COVER.

1 (iv) A SUPPLEMENTAL COST OF \$5,000.00 PER ACRE, TO CONSTRUCT
2 A PASSIVE GAS COLLECTION SYSTEM IN THE FINAL COVER, UNLESS AN
3 ACTIVE GAS COLLECTION SYSTEM HAS BEEN INSTALLED AT THE FACILITY.

4 (B) A STANDARD POSTCLOSURE COST ESTIMATE. THE STANDARD
5 POSTCLOSURE COST ESTIMATE SHALL BE BASED UPON THE SUM OF THE FOL-
6 LOWING COSTS, ADJUSTED FOR INFLATION AS SPECIFIED IN SECTION
7 11525(2):

8 (i) A FINAL COVER MAINTENANCE COST OF \$200.00 PER ACRE PER
9 YEAR.

10 (ii) A LEACHATE DISPOSAL COST OF \$100.00 PER ACRE PER YEAR.

11 (iii) A LEACHATE TRANSPORTATION COST OF \$1,000.00 PER ACRE
12 PER YEAR, IF LEACHATE IS REQUIRED TO BE TRANSPORTED OFF-SITE FOR
13 TREATMENT.

14 (iv) A GROUNDWATER MONITORING COST OF \$1,000.00 PER MONITOR-
15 ING WELL PER YEAR.

16 (v) A GAS MONITORING COST OF \$100.00 PER MONITORING POINT
17 PER YEAR, FOR MONITORING POINTS USED TO DETECT LANDFILL GAS AT OR
18 BEYOND THE FACILITY PROPERTY BOUNDARY.

19 (C) THE CORRECTIVE ACTION COST ESTIMATE, IF ANY. THE COR-
20 RECTIVE ACTION COST ESTIMATE SHALL BE A DETAILED WRITTEN ESTI-
21 MATE, IN CURRENT DOLLARS, OF THE COST OF HIRING A THIRD PARTY TO
22 PERFORM CORRECTIVE ACTION IN ACCORDANCE WITH THIS PART.

23 (3) IN LIEU OF USING SOME OR ALL OF THE STANDARDIZED COSTS
24 SPECIFIED IN SUBSECTION (2) OF THIS SECTION, AN APPLICANT MAY
25 ESTIMATE THE SITE SPECIFIC COSTS OF CLOSURE OR POSTCLOSURE MAIN-
26 TENANCE AND MONITORING. A SITE SPECIFIC COST ESTIMATE SHALL BE A
27 WRITTEN ESTIMATE, IN CURRENT DOLLARS, OF THE COST OF HIRING A

1 THIRD PARTY TO PERFORM THE ACTIVITY. A THIRD PARTY IS A PARTY
2 WHO IS NEITHER A PARENT CORPORATION OR A SUBSIDIARY OF THE OWNER
3 OR OPERATOR. SITE SPECIFIC COST ESTIMATES SHALL BE BASED ON THE
4 FOLLOWING:

5 (A) FOR CLOSURE, THE COST TO CLOSE THE LARGEST AREA OF THE
6 LANDFILL EVER REQUIRING A FINAL COVER AT ANY TIME DURING THE
7 ACTIVE LIFE, IF THE EXTENT AND MANNER OF ITS OPERATION WOULD MAKE
8 CLOSURE THE MOST EXPENSIVE, IN ACCORDANCE WITH THE APPROVED CLO-
9 SURE PLAN. THE CLOSURE COST ESTIMATE MAY NOT INCORPORATE ANY
10 SALVAGE VALUE THAT MAY BE REALIZED BY THE SALE OF STRUCTURES,
11 LAND, EQUIPMENT, OR OTHER ASSETS ASSOCIATED WITH THE FACILITY AT
12 THE TIME OF FINAL CLOSURE.

13 (B) FOR POSTCLOSURE, THE COST TO CONDUCT POSTCLOSURE MAINTENANCE
14 AND MONITORING IN ACCORDANCE WITH THE APPROVED POSTCLOSURE
15 PLAN FOR THE ENTIRE POSTCLOSURE PERIOD.

16 (4) THE OWNER OR OPERATOR OF A LANDFILL SUBJECT TO THIS SECTION
17 SHALL, DURING THE ACTIVE LIFE OF THE LANDFILL AND DURING THE
18 POSTCLOSURE CARE PERIOD, ANNUALLY ADJUST THE FINANCIAL ASSURANCE
19 COST ESTIMATES AND CORRESPONDING AMOUNT OF FINANCIAL ASSURANCE
20 FOR INFLATION. COST ESTIMATES SHALL BE ADJUSTED FOR INFLATION BY
21 MULTIPLYING THE COST ESTIMATE BY AN INFLATION FACTOR DERIVED FROM
22 THE MOST RECENT BUREAU OF RECLAMATION COMPOSITE INDEX PUBLISHED
23 BY THE UNITED STATES DEPARTMENT OF COMMERCE OR ANOTHER INDEX THAT
24 IS MORE REPRESENTATIVE OF THE COSTS OF CLOSURE AND POSTCLOSURE
25 MONITORING AND MAINTENANCE. THE OWNER OR OPERATOR SHALL DOCUMENT
26 THE ADJUSTMENT ON A FORM CONSISTENT WITH THIS PART AS PREPARED BY

1 THE DEPARTMENT AND SHALL PLACE SUCH DOCUMENTATION IN THE
2 OPERATING RECORD OF THE FACILITY.

3 (5) THE OWNER OR OPERATOR OF A LANDFILL SUBJECT TO THIS SEC-
4 TION MAY REQUEST THAT THE DEPARTMENT AUTHORIZE A REDUCTION IN THE
5 APPROVED COST ESTIMATES AND CORRESPONDING FINANCIAL ASSURANCE FOR
6 THE LANDFILL BY SUBMITTING A FORM CONSISTENT WITH THE PART AS
7 PREPARED BY THE DEPARTMENT CERTIFYING COMPLETION OF ANY OF THE
8 FOLLOWING ACTIVITIES:

9 (A) PARTIAL CLOSURE OF THE LANDFILL. THE CURRENT CLOSURE
10 COST ESTIMATE FOR PARTIALLY CLOSED PORTIONS OF A LANDFILL UNIT
11 MAY BE REDUCED BY 80%, IF THE MAXIMUM WASTE SLOPE ON THE UNCLOSED
12 PORTIONS OF THE UNIT DOES NOT EXCEED 25%. THE PERCENTAGE OF THE
13 COST ESTIMATE REDUCTION APPROVED BY THE DEPARTMENT FOR THE PAR-
14 Tially CLOSED PORTION SHALL BE REDUCED 1% FOR EVERY 1% INCREASE
15 IN THE SLOPE OF WASTE OVER 25% IN THE ACTIVE PORTION. AN OWNER
16 OR OPERATOR REQUESTING A REDUCTION IN FINANCIAL ASSURANCE FOR
17 PARTIAL CLOSURE SHALL ENCLOSE WITH THE REQUEST A CERTIFICATION
18 UNDER THE SEAL OF A LICENSED PROFESSIONAL ENGINEER THAT CERTIFIES
19 BOTH OF THE FOLLOWING:

20 (i) A PORTION OF THE LICENSED LANDFILL UNIT HAS REACHED
21 FINAL GRADES AND HAS HAD A FINAL COVER INSTALLED IN COMPLIANCE
22 WITH THE APPROVED CLOSURE PLAN AND RULES PROMULGATED UNDER THIS
23 PART.

24 (ii) THE MAXIMUM SLOPE OF WASTE IN THE ACTIVE PORTION OF THE
25 LANDFILL UNIT AT THE TIME OF PARTIAL CLOSURE.

26 (B) FINAL CLOSURE OF THE LANDFILL. AN OWNER OR OPERATOR
27 REQUESTING A COST ESTIMATE REDUCTION FOR FINAL CLOSURE SHALL

1 SUBMIT A CERTIFICATION UNDER THE SEAL OF A LICENSED PROFESSIONAL
2 ENGINEER THAT CLOSURE OF THAT LANDFILL UNIT HAS BEEN FULLY COM-
3 PLETED IN ACCORDANCE WITH THE APPROVED CLOSURE PLAN FOR THE
4 LANDFILL. UPON SUBMITTAL OF THE CLOSURE CERTIFICATION AND COM-
5 PLETION OF THE CONSISTENCY REVIEW, THE OWNER OR OPERATOR MAY
6 REDUCE THE CLOSURE COST ESTIMATE BY 100%.

7 (C) POSTCLOSURE MAINTENANCE AND MONITORING. THE OWNER OR
8 OPERATOR OF A LANDFILL UNIT WHO HAS COMPLETED FINAL CLOSURE OF
9 THE UNIT MAY REQUEST A REDUCTION IN THE POSTCLOSURE COST ESTIMATE
10 AND CORRESPONDING FINANCIAL ASSURANCE FOR 1 YEAR OR MORE OF POST-
11 CLOSURE MAINTENANCE AND MONITORING IF THE LANDFILL HAS BEEN MONI-
12 TORED AND MAINTAINED IN ACCORDANCE WITH THE APPROVED POSTCLOSURE
13 PLAN. THE DEPARTMENT SHALL, WITHIN 60 DAYS OF RECEIVING A COST
14 ESTIMATE REDUCTION REQUEST GRANT WRITTEN APPROVAL OR ISSUE A
15 WRITTEN DENIAL STATING THE REASON FOR DENIAL. THE DEPARTMENT
16 SHALL GRANT THE REQUEST AND THE OWNER OR OPERATOR MAY REDUCE THE
17 POSTCLOSURE COST ESTIMATE TO REFLECT THE NUMBER OF YEARS REMAIN-
18 ING IN THE POSTCLOSURE PERIOD UNLESS THE DEPARTMENT PROVIDED IN
19 WRITING THAT THE OWNER OR OPERATOR HAS NOT PERFORMED THE SPECIFIC
20 TASKS CONSISTENT WITH THIS PART, RULES PROMULGATED UNDER THIS
21 PART, AND AN APPROVED PLAN.

22 (6) THE OWNER OR OPERATOR OF A LANDFILL SUBJECT TO THIS SEC-
23 TION MAY REQUEST A REDUCTION IN THE AMOUNT OF ONE OR MORE OF THE
24 FINANCIAL ASSURANCE MECHANISMS IN PLACE. IF THE COMBINED VALUE
25 OF THE REMAINING FINANCIAL ASSURANCE MECHANISMS EQUALS THE
26 REQUIRED AMOUNT UNDER SECTION 11523A, THE DEPARTMENT SHALL
27 APPROVE THE REQUEST.

1 (7) AN OWNER OR OPERATOR REQUESTING THAT THE DEPARTMENT
2 APPROVE A FINANCIAL ASSURANCE REDUCTION FOR PERFORMANCE OF THE
3 ACTIVITIES SPECIFIED IN SUBSECTION (5) OR DUE TO EXCESS FINANCIAL
4 ASSURANCE SPECIFIED IN SUBSECTION (6) SHALL DO SO ON A FORM CON-
5 SISTENT WITH THIS PART AS PREPARED BY THE DEPARTMENT. THE
6 DEPARTMENT SHALL GRANT WRITTEN APPROVAL OR, WITHIN 30 DAYS OF
7 RECEIVING A FINANCIAL ASSURANCE REDUCTION REQUEST, ISSUE A WRIT-
8 TEN DENIAL STATING THE REASON FOR THE DENIAL.

9 SEC. 11523B. (1) THE OWNER OR OPERATOR OF A LANDFILL MAY
10 ESTABLISH A TRUST FUND OR ESCROW ACCOUNT TO FULFILL THE REQUIRE-
11 MENTS OF SECTIONS 11523 AND 11523A. THE TRUST FUND OR ESCROW
12 ACCOUNT SHALL BE EXECUTED ON A FORM PROVIDED BY THE DEPARTMENT.

13 (2) PAYMENTS INTO A TRUST-FUND OR ESCROW ACCOUNT SHALL BE
14 MADE ANNUALLY OVER THE TERM OF THE FIRST OPERATING LICENSE ISSUED
15 AFTER THE EFFECTIVE DATE OF THIS SECTION. THE FIRST PAYMENT INTO
16 A TRUST FUND OR ESCROW ACCOUNT SHALL BE MADE PRIOR TO LICENSURE
17 AND SHALL BE AT LEAST EQUAL TO THE PORTION OF THE FINANCIAL
18 ASSURANCE REQUIREMENT TO BE COVERED BY THE TRUST FUND OR ESCROW
19 ACCOUNT DIVIDED BY THE TERM OF THE OPERATING LICENSE. SUBSEQUENT
20 PAYMENTS SHALL BE EQUAL TO THE REMAINING FINANCIAL ASSURANCE
21 REQUIREMENT DIVIDED BY THE NUMBER OF YEARS REMAINING UNTIL THE
22 LICENSE EXPIRES.

23 (3) IF THE OWNER OR OPERATOR OF A LANDFILL ESTABLISHES A
24 TRUST FUND OR ESCROW ACCOUNT AFTER HAVING USED ONE OR MORE ALTER-
25 NATE FORMS OF FINANCIAL ASSURANCE, THE INITIAL PAYMENT INTO THE
26 TRUST FUND OR ESCROW ACCOUNT SHALL BE AT LEAST THE AMOUNT THE

1 FUND WOULD CONTAIN IF THE FUND WERE ESTABLISHED INITIALLY AND
2 ANNUAL PAYMENTS MADE ACCORDING TO SUBSECTION (2).

3 (4) ALL EARNINGS AND INTEREST FROM A TRUST FUND OR ESCROW
4 ACCOUNT SHALL BE CREDITED TO THE FUND OR ACCOUNT. HOWEVER, THE
5 CUSTODIAN MAY BE COMPENSATED FOR REASONABLE FEES AND COSTS FOR
6 HIS OR HER RESPONSIBILITIES AS CUSTODIAN. THE CUSTODIAN SHALL
7 ENSURE THE FILING OF ALL REQUIRED TAX RETURNS FOR WHICH THE TRUST
8 FUND OR ESCROW ACCOUNT IS LIABLE AND SHALL DISBURSE FUNDS FROM
9 EARNINGS TO PAY LAWFULLY DUE TAXES OWED BY THE TRUST FUND OR
10 ESCROW ACCOUNT, WITHOUT PERMISSION OF THE DEPARTMENT.

11 (5) THE CUSTODIAN SHALL ANNUALLY, 30 DAYS PRECEDING THE
12 ANNIVERSARY DATE OF ESTABLISHMENT OF THE FUND, FURNISH TO THE
13 OWNER OR OPERATOR AND TO THE DEPARTMENT A STATEMENT CONFIRMING
14 THE VALUE OF THE FUND OR ACCOUNT AS OF THE END OF THAT MONTH.

15 (6) THE OWNER OR OPERATOR MAY REQUEST THAT THE DEPARTMENT
16 AUTHORIZE THE RELEASE OF FUNDS FROM A TRUST FUND OR ESCROW
17 ACCOUNT. THE DEPARTMENT SHALL GRANT THE REQUEST IF THE OWNER OR
18 OPERATOR DEMONSTRATES THAT THE VALUE OF THE FUND OR ACCOUNT
19 EXCEEDS THE OWNER'S OR OPERATOR'S FINANCIAL ASSURANCE
20 OBLIGATION. A PAYMENT OR DISBURSEMENT FROM THE FUND OR ACCOUNT
21 SHALL NOT BE MADE WITHOUT THE PRIOR WRITTEN APPROVAL OF THE
22 DEPARTMENT.

23 (7) THE OWNER OR OPERATOR SHALL RECEIVE ALL INTEREST OR
24 EARNINGS FROM A TRUST FUND OR ESCROW ACCOUNT UPON ITS
25 TERMINATION.

26 (8) FOR PURPOSES OF THIS SECTION, THE TERM "CUSTODIAN" MEANS
27 THE TRUSTEE OF A TRUST FUND OR ESCROW AGENT OF AN ESCROW ACCOUNT.

1 Sec. 11525. (1) The owner or operator of a landfill shall
2 establish and maintain a perpetual care fund ~~to be used exclu-~~
3 ~~sively for closure, monitoring, and maintenance of the landfill~~
4 ~~and for response activity necessitated by a discharge from the~~
5 ~~landfill of a substance that is or may become injurious to the~~
6 ~~public health, safety, or welfare, or the environment~~ AS SPECI-
7 FIED IN THIS SECTION. A perpetual care fund may be established
8 as a trust or an escrow account AND MAY BE USED TO DEMONSTRATE
9 FINANCIAL ASSURANCE FOR TYPE II LANDFILLS UNDER SECTION 11523 AND
10 SECTION 11523A.

11 (2) Except as otherwise provided in this section, the owner
12 or operator of a landfill shall deposit into ~~the~~ ITS perpetual
13 care fund 75 cents for each ton or portion of a ton of solid
14 waste that is disposed of in the landfill after June 17, 1990.
15 ~~If the landfill is not equipped with a scale, the owner or oper-~~
16 ~~ator shall deposit into the perpetual care fund 25 cents for each~~
17 ~~cubic yard or portion of a cubic yard of solid waste that is dis-~~
18 ~~posed of in the landfill after June 17, 1990.~~ THE DEPOSITS SHALL
19 BE MADE NOT LESS THAN SEMIANNUALLY UNTIL THE FUND REACHES THE
20 MAXIMUM REQUIRED FUND AMOUNT. THE MAXIMUM REQUIRED FUND AMOUNT
21 IS \$1,156,000.00, AS THIS AMOUNT IS ANNUALLY ADJUSTED FOR INFLA-
22 TION AND ROUNDED TO THE NEAREST THOUSAND. THE DEPARTMENT SHALL
23 ADJUST THE MAXIMUM REQUIRED FUND AMOUNT FOR INFLATION ANNUALLY BY
24 MULTIPLYING THE AMOUNT BY AN INFLATION FACTOR DERIVED FROM THE
25 MOST RECENT BUREAU OF RECLAMATION COMPOSITE INDEX PUBLISHED BY
26 THE UNITED STATES DEPARTMENT OF COMMERCE OR ANOTHER INDEX MORE

1 REPRESENTATIVE OF THE COSTS OF CLOSURE AND POSTCLOSURE MONITORING
2 AND MAINTENANCE AS DETERMINED APPROPRIATE BY THE DEPARTMENT.

3 (3) The owner or operator of a landfill that is used for the
4 disposal of the following materials shall deposit into the per-
5 petual care fund 7.5 cents for each ton or cubic yard or portion
6 of a ton or cubic yard of the following materials that are dis-
7 posed of in the landfill after June 17, 1990:

8 (a) Coal or wood ash that is disposed of in a landfill that
9 is used only for the disposal of coal or wood ash, or that is
10 permanently segregated in a landfill.

11 (b) Wastewater treatment sludge or sediments from wood pulp
12 or paper producing industries that is disposed of in a landfill
13 that is used only for the disposal of wastewater treatment sludge
14 and sediments from wood pulp or paper producing industries, or
15 that is permanently segregated in a landfill.

16 (c) Foundry sand that is approved by the department for use
17 as daily cover at an operating landfill, that is disposed of in a
18 landfill that is used only for the disposal of foundry sand, or
19 that is permanently segregated in a landfill.

20 ~~(d) Until June 17, 1993, organic fruit and vegetable pro-~~
21 ~~cessing waste.~~

22 (4) The owner or operator of a landfill that is used only
23 for the disposal of a mixture of 2 or more of the materials
24 described in subsection (3)(a) to (c) or in which a mixture of 2
25 or more of these materials are permanently segregated shall
26 deposit into the perpetual care fund 19 cents for each ton or

1 cubic yard or portion of a ton or cubic yard of these materials
2 that are disposed of in the landfill after June 17, 1990.

3 (5) Money is not required to be deposited into a perpetual
4 care fund for materials that are regulated under ~~Act No. 92 of~~
5 ~~the Public Acts of 1970, being sections 425.181 to 425.188 of the~~
6 ~~Michigan Compiled Laws~~ PART 631.

7 (6) The owner or operator of a landfill may contribute addi-
8 tional amounts into the perpetual care fund at his or her
9 discretion.

10 (7) The custodian of a perpetual care fund shall be a bank
11 or other financial institution that has the authority to act as a
12 custodian and whose account operations are regulated and examined
13 by a federal or state agency. ~~The custodian shall invest money~~
14 ~~in a perpetual care fund in time or demand deposits of the custo-~~
15 ~~dian or any other financial institution, to the extent insured by~~
16 ~~an agency of the federal government, in direct obligations of the~~
17 ~~federal government, or this state, or in obligations where the~~
18 ~~principal and interest are guaranteed by the federal government~~
19 ~~or this state or in a common trust fund or registered mutual fund~~
20 ~~comprised solely of these investments. Earnings shall be~~
21 ~~credited~~ UNTIL THE PERPETUAL CARE FUND REACHES THE MAXIMUM
22 REQUIRED FUND AMOUNT, THE CUSTODIAN OF A PERPETUAL CARE FUND
23 SHALL CREDIT INTEREST AND EARNINGS OF THE PERPETUAL CARE FUND to
24 the perpetual care fund. AFTER THE PERPETUAL CARE FUND REACHES
25 THE MAXIMUM REQUIRED FUND AMOUNT, EARNINGS SHALL BE DISTRIBUTED
26 AS DIRECTED BY THE OWNER OR OPERATOR. The agreement governing the
27 operation of the perpetual care fund shall be executed on a form

1 ~~provided~~ CONSISTENT WITH THIS PART AS PREPARED by the
2 department. The custodian may be compensated FROM THE FUND for
3 reasonable fees and costs incurred for his or her responsibili-
4 ties as custodian. ~~The accounts of a perpetual care fund shall~~
5 ~~be kept on a calendar year basis.~~ The custodian of a perpetual
6 care fund shall annually make an accounting to the department
7 within 30 days following the close of the ~~calendar~~ STATE FISCAL
8 year.

9 (8) The custodian of a perpetual care fund shall not dis-
10 burse any funds to the owner or operator of a landfill for the
11 purposes of the perpetual care fund except upon the prior written
12 approval of the department. However, the custodian shall ~~file~~
13 ENSURE THE FILING OF all required tax returns for which the per-
14 petual care fund is liable and shall disburse funds ~~from earn-~~
15 ~~ings of the fund~~ to pay lawfully due taxes owed by the perpetual
16 care fund without permission of the department. ~~Upon the~~
17 ~~request of the owner or operator of a landfill for a disbursement~~
18 ~~of funds from a perpetual care fund, the department, within 60~~
19 ~~days, shall grant written approval or issue a written denial~~
20 ~~stating the reasons for denial.~~ The owner or operator of the
21 landfill shall provide notice of requests for disbursement and
22 denials and approvals to the custodian of the perpetual care
23 fund. Requests for disbursement from a perpetual care fund shall
24 be submitted not more frequently than ~~quarterly~~ SEMIANNUALLY.
25 THE OWNER OR OPERATOR OF A LANDFILL MAY REQUEST DISBURSEMENT OF
26 FUNDS FROM A PERPETUAL CARE FUND WHENEVER THE AMOUNT OF MONEY IN
27 THE FUND EXCEEDS THE MAXIMUM REQUIRED FUND AMOUNT SPECIFIED IN

1 SUBSECTION (2). THE DEPARTMENT SHALL APPROVE THE DISBURSEMENT
2 PROVIDED THE TOTAL AMOUNT OF FINANCIAL ASSURANCE MAINTAINED MEETS
3 THE REQUIREMENTS OF SECTIONS 11523 AND 11523A.

4 (9) If the amount of money in a perpetual care fund ~~falls~~
5 IS below ~~an~~ THE FOLLOWING amount, ~~equal to that required in~~
6 ~~section 11523,~~ the department is not required to approve a dis-
7 bursement from the fund, and the cost of necessary closure,
8 POSTCLOSURE monitoring ~~—~~ AND maintenance, and ~~response~~
9 ~~activities~~ CORRECTIVE ACTION, IF NECESSARY, shall be borne by
10 the owner and operator of the landfill: ~~—~~

11 (A) FOR THOSE LANDFILLS CONTAINING ONLY THOSE MATERIALS
12 SPECIFIED IN SUBSECTION (3), AN AMOUNT EQUAL TO 1/2 OF THE MAXI-
13 MUM REQUIRED FUND AMOUNT SPECIFIED IN SUBSECTION (2).

14 (B) FOR ALL OTHER LANDFILLS, AN AMOUNT EQUAL TO THE MAXIMUM
15 REQUIRED FUND AMOUNT SPECIFIED IN SUBSECTION (2).

16 (10) ~~(9)~~ If the owner or operator of a landfill refuses or
17 fails to conduct closure, POSTCLOSURE monitoring ~~—~~ AND mainte-
18 nance, or ~~response activities~~ CORRECTIVE ACTION as ~~are~~ neces-
19 sary to protect the public health, safety, or welfare, or the
20 environment or fails to request the disbursement of money from a
21 perpetual care fund when necessary to protect the public health,
22 safety, or welfare, or the environment, then the department may
23 require the disbursement of money from the perpetual care fund
24 and may expend the money for closure, POSTCLOSURE monitoring ~~—~~
25 AND maintenance, and ~~response activities~~ CORRECTIVE ACTION, AS
26 NECESSARY. The department may assess a perpetual care fund for

1 administrative costs associated with actions taken under this
2 subsection.

3 (11) ~~(10) Except as provided in subsection (12), upon the~~
4 ~~expiration of 30 years after the closure of a landfill~~ UPON
5 APPROVAL BY THE DEPARTMENT OF A REQUEST TO TERMINATE FINANCIAL
6 ASSURANCE FOR A LANDFILL UNDER SECTION 11525A, any money in the
7 perpetual care fund for that landfill shall be disbursed by the
8 custodian ~~upon approval by the department as follows: (a) Fifty~~
9 ~~percent shall be deposited in the environmental response fund~~
10 ~~created in part 201. (b) Fifty percent shall be returned~~ to the
11 owner of the disposal area unless a contract between the owner
12 and the operator of the disposal area provides otherwise.

13 (12) ~~(11)~~ The owner of a landfill shall provide notice to
14 the custodian of the perpetual care fund for that landfill if
15 there is a change of ownership of the landfill. The custodian
16 shall maintain records of ownership of a landfill during the time
17 in which a perpetual care fund is established.

18 ~~(12) Following the expiration of 30 years after the closure~~
19 ~~of a landfill, the owner of the landfill may petition the depart-~~
20 ~~ment for approval of disbursement of money in a perpetual care~~
21 ~~fund. The department shall approve disbursement pursuant to~~
22 ~~subsection (10) unless the department determines that the owner~~
23 ~~or operator of the landfill has refused or failed to conduct clo-~~
24 ~~sure, monitoring, maintenance, or response activities at the~~
25 ~~landfill necessary to protect the public health, safety, or wel-~~
26 ~~fare, or the environment. If the department makes this~~
27 ~~determination, the department shall deny the owner's request for~~

~~1 approval of disbursement and shall notify the owner of the
2 landfill and the custodian in writing of that determination and
3 the reasons for that determination. Ninety days after receiving
4 notice of the department's determination under this subsection,
5 the custodian shall disburse all of the money in the perpetual
6 care fund to the environmental response fund created in part 20+
7 unless during this 90 day period the owner or operator of the
8 landfill appeals the department's determination in circuit
9 court. If the owner of a landfill does not petition for the
10 department's approval of a disbursement, the department on its
11 own may approve disbursement of money in a perpetual care fund
12 pursuant to subsection (10) or this subsection.~~

13 (13) This section does not relieve an owner or operator of a
14 disposal area that is a landfill of any liability that he or she
15 may have under this part or as otherwise provided by law.

16 (14) This section does not create a cause of action at law
17 or in equity against a custodian of a perpetual care fund other
18 than for errors or omissions related to investments, accountings,
19 disbursements, filings of required tax returns, and maintenance
20 of records required by this section or the applicable perpetual
21 care fund.

22 (15) As used in this section, "custodian" means the trustee
23 or escrow agent of a perpetual care fund.

24 SEC. 11525A. (1) A SOLID WASTE PROGRAM ADMINISTRATION FEE
25 IS IMPOSED UPON THE OWNERS OR OPERATORS OF LANDFILLS IN THE
26 STATE. THE ANNUAL CUMULATIVE TOTAL AMOUNT OF THIS FEE SHALL BE
27 \$1,040,000.00 AS THIS AMOUNT IS ANNUALLY ADJUSTED FOR INFLATION.

1 THE DEPARTMENT SHALL ANNUALLY ADJUST THIS AMOUNT FOR INFLATION BY
2 MULTIPLYING THE AMOUNT BY AN INFLATION FACTOR DERIVED FROM THE
3 INDEX UTILIZED IN SECTION 11525(2).

4 (2) THE DEPARTMENT SHALL APPORTION THE CUMULATIVE SOLID
5 WASTE PROGRAM ADMINISTRATION FEE AMONG THE OPERATING LANDFILLS IN
6 THE STATE. THE APPORTIONMENT SHALL BE MADE ON THE BASIS OF EACH
7 LANDFILL'S PRO RATA SHARE OF THE CUMULATIVE TOTAL OF AMOUNTS
8 MAINTAINED IN INDIVIDUAL PERPETUAL CARE FUNDS IN THE STATE.

9 (3) WITHIN 30 DAYS FOLLOWING THE CLOSE OF EACH STATE FISCAL
10 YEAR, THE OWNER OR OPERATOR OF A LANDFILL SHALL REPORT TO THE
11 DEPARTMENT THE TOTAL AMOUNT OF ASSETS IN ITS PERPETUAL CARE
12 FUND. THE DEPARTMENT SHALL DETERMINE THE CUMULATIVE TOTAL AMOUNT
13 OF PERPETUAL CARE FUNDS IN THE STATE BUT SHALL NOT CREDIT ANY
14 INDIVIDUAL LANDFILL MORE THAN THE MAXIMUM REQUIRED FUND AMOUNT
15 ESTABLISHED IN SECTION 11525(2). THE DEPARTMENT SHALL DETERMINE
16 EACH LANDFILL'S PRO RATA SHARE OF PERPETUAL CARE FUND CONTRIBU-
17 TIONS USING THIS AMOUNT.

18 (4) WITHIN 60 DAYS FOLLOWING THE CLOSE OF EACH STATE FISCAL
19 YEAR, THE DEPARTMENT SHALL NOTIFY THE OWNER OR OPERATOR OF EACH
20 LANDFILL OF ITS ASSESSED SHARE OF THE SOLID WASTE PROGRAM ADMIN-
21 ISTRATION FEE. WITHIN 90 DAYS FOLLOWING THE CLOSE OF THE STATE
22 FISCAL YEAR, THE OWNER OR OPERATOR OF A LANDFILL SHALL PAY HIS OR
23 HER ASSESSED SHARE OF THE SOLID WASTE PROGRAM ADMINISTRATION
24 FEE.

25 (5) FEES COLLECTED UNDER THIS SECTION SHALL BE FORWARDED TO
26 THE STATE TREASURER FOR DEPOSIT IN THE SOLID WASTE STAFF ACCOUNT
27 OF THE SOLID WASTE MANAGEMENT FUND ESTABLISHED IN SECTION 11550.

1 SEC. 11525B. (1) THE OWNER OR OPERATOR OF A DISPOSAL AREA
2 SHALL PROVIDE CONTINUOUS FINANCIAL ASSURANCE COVERAGE UNTIL
3 RELEASED FROM THESE REQUIREMENTS BY THE DEPARTMENT UNDER THE PRO-
4 VISIONS OF THIS PART.

5 (2) THE OWNER OR OPERATOR OF A LANDFILL WHO HAS COMPLETED
6 POSTCLOSURE MAINTENANCE AND MONITORING OF THE LANDFILL IN ACCORD-
7 ANCE WITH THIS PART, RULES PROMULGATED UNDER THIS PART, AND
8 APPROVED POSTCLOSURE PLAN MAY REQUEST THAT FINANCIAL ASSURANCE
9 REQUIRED BY SECTIONS 11523 AND 11523A BE TERMINATED. A PERSON
10 REQUESTING TERMINATION OF BONDING AND FINANCIAL ASSURANCE SHALL
11 SUBMIT TO THE DEPARTMENT A STATEMENT THAT THE LANDFILL HAS BEEN
12 MONITORED AND MAINTAINED IN ACCORDANCE WITH THIS PART, RULES
13 PROMULGATED UNDER THIS PART, AND APPROVED POSTCLOSURE PLAN FOR
14 THE POSTCLOSURE PERIOD SPECIFIED IN SECTION 11523 AND SHALL CER-
15 TIFY THAT THE LANDFILL IS NOT SUBJECT TO CORRECTIVE ACTION UNDER
16 SECTION 11515. WITHIN 60 DAYS OF RECEIVING A STATEMENT UNDER
17 THIS SUBSECTION, THE DEPARTMENT SHALL PERFORM A CONSISTENCY
18 REVIEW OF THE SUBMITTED STATEMENT, AND IF APPROVED, SHALL NOTIFY
19 THE OWNER OR OPERATOR THAT HE OR SHE IS NO LONGER REQUIRED TO
20 MAINTAIN FINANCIAL ASSURANCE, SHALL RETURN OR RELEASE ALL FINAN-
21 CIAL ASSURANCE MECHANISMS, AND SHALL NOTIFY THE CUSTODIAN OF THE
22 PERPETUAL CARE FUND THAT MONEY FROM THE FUND SHALL BE DISBURSED
23 AS PROVIDED IN SECTION 11525(11). THE DEPARTMENT SHALL PROVIDE
24 WITHIN 60 DAYS THE OWNER OR OPERATOR WITH A DETAILED WRITTEN
25 STATEMENT OF THE REASONS WHY THE DEPARTMENT HAS DETERMINED THAT
26 POSTCLOSURE MAINTENANCE AND MONITORING AND CORRECTIVE ACTION, IF

1 ANY, HAVE NOT BEEN CONDUCTED IN ACCORDANCE WITH THE RULES
2 PROMULGATED UNDER THIS PART.

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

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

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

11 (2) A solid waste transfer facility that is exempt from the
12 construction permit and operating license requirements of this
13 part under subsection (1) shall comply with the operating
14 requirements of this part and the rules promulgated under this
15 part.

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

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

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

23 ~~(4) A disposal area that is an incinerator that does not~~
24 ~~comply with the construction permit and operating license~~
25 ~~requirements of this part as permitted in subsection (3) is~~
26 ~~subject to the planning provisions of this part and must be~~

1 ~~included in the county solid waste management plan for the county~~
2 ~~in which the incinerator is located.~~

3 (4) ~~(5)~~ A disposal area that is a municipal solid waste
4 incinerator that is designed to burn at a temperature in excess
5 of 2500 degrees Fahrenheit is not subject to the construction
6 permit requirements of this part.

7 SEC. 11531A. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A
8 COUNTY OR A MUNICIPALITY SHALL NOT ENACT AN ORDINANCE THAT
9 REQUIRES ALL OR PART OF THE SOLID WASTE GENERATED WITHIN THE
10 COUNTY OR MUNICIPALITY TO BE DISPOSED OF IN ANY PARTICULAR DIS-
11 POSAL AREA. EXCEPT AS PROVIDED IN SUBSECTION (2), AN ORDINANCE
12 THAT VIOLATES THIS SUBSECTION IS VOID.

13 (2) AN ORDINANCE ENACTED PRIOR TO JANUARY 1, 1996 BY A
14 COUNTY OR MUNICIPALITY INCIDENTAL TO THE ISSUANCE OF BONDS BY THE
15 COUNTY OR MUNICIPALITY TO FINANCE SOLID WASTE MANAGEMENT PROGRAMS
16 OF THAT COUNTY OR MUNICIPALITY MAY REMAIN IN EFFECT FOR THE
17 SHORTER OF THE FOLLOWING PERIODS:

18 (A) UNTIL THE BONDS HAVE BEEN PAID IN FULL.

19 (B) FOR 15 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

20 Sec. 11532. (1) Except as provided in subsection (3), a
21 municipality may impose an impact fee of not more than 10 cents
22 per cubic yard on solid waste that is disposed of in a landfill
23 located within the municipality that is utilized by the public
24 and utilized to dispose of solid waste collected from 2 or more
25 persons. However, if the landfill is located within a village,
26 the impact fee provided for in this subsection shall be imposed

1 by the township in agreement with the village. The impact fee
2 shall be assessed uniformly on all wastes accepted for disposal.

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

11 (3) ~~AS~~ AS PART OF A HOST COMMUNITY AGREEMENT UNDER SECTION
12 11532A, A municipality may enter into an agreement with the owner
13 or operator of a landfill to establish a higher impact fee than
14 those provided for in subsections (1) and (2).

15 (4) The impact fees imposed under this section shall be col-
16 lected by the owner or operator of a landfill and shall be paid
17 to the municipality OR MUNICIPALITIES quarterly by the thirtieth
18 day after the end of each calendar quarter. However, the impact
19 fees allowed to be assessed to each landfill under this section
20 shall be reduced by any amount of revenue paid to or available to
21 the municipality OR MUNICIPALITIES from the landfill under the
22 terms of any preexisting agreements, including, but not limited
23 to, contracts, special use permit conditions, court settlement
24 agreement conditions, and trusts.

25 (5) Unless a trust fund is established by a municipality
26 pursuant to subsection (6), the revenue collected by a
27 municipality under subsections (1) and (2) shall be deposited in

1 its general fund to be used for any purpose that promotes the
2 public health, safety, or welfare of the citizens of the
3 municipality. However, revenue collected pursuant to this sec-
4 tion shall not be used to bring or support a lawsuit or other
5 legal action against an owner or operator of a landfill who is
6 collecting an impact fee pursuant to subsection (4) unless the
7 owner or operator of the landfill has instituted a lawsuit or
8 other legal action against the municipality.

9 (6) The municipality may establish a trust fund to receive
10 revenue collected pursuant to this section. The trust fund shall
11 be administered by a board of trustees. The board of trustees
12 shall consist of the following members:

13 (a) The chief elected official of the municipality creating
14 the trust fund.

15 (b) An individual from the municipality appointed by the
16 governing board of the municipality.

17 (c) An individual approved by the owners or operators of the
18 landfills within the municipality and appointed by the governing
19 board of the municipality.

20 (7) Individuals appointed to serve on the board of trustees
21 under subsection (6)(b) and (c) shall serve for terms of
22 2 years.

23 (8) Money in the trust fund may be expended, pursuant to a
24 majority vote of the board of trustees, for any purpose that pro-
25 motes the public health, safety, or welfare of the citizens of
26 the municipality. However, revenue collected pursuant to this
27 section shall not be used to bring or support a lawsuit or other

1 legal action against an owner or operator of a landfill who is
2 collecting an impact fee pursuant to subsection (4) unless the
3 owner or operator of the landfill has instituted a lawsuit or
4 other legal action against the municipality.

5 SEC. 11532A. (1) PRIOR TO RECEIVING A CONSTRUCTION PERMIT
6 UNDER THIS PART OR PRIOR TO THE EXPANSION OF A DISPOSAL AREA'S
7 LICENSED ACREAGE, VOLUME, OR CAPACITY, THE OWNER OR OPERATOR OF A
8 DISPOSAL AREA SHALL ENTER INTO A HOST COMMUNITY AGREEMENT WITH
9 ALL IMPACTED COMMUNITIES REGARDING OPERATIONS AT THAT DISPOSAL
10 AREA. UPON ENTERING INTO A HOST COMMUNITY AGREEMENT WITH
11 IMPACTED COMMUNITIES, THE OWNER OR OPERATOR OF THE DISPOSAL AREA
12 SHALL PROVIDE THE DEPARTMENT WITH EVIDENCE THAT THE AGREEMENT HAS
13 BEEN ENTERED INTO.

14 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), ALL DISPOSAL AREAS
15 IN THE STATE THAT ARE LICENSED UNDER THIS PART ON THE EFFECTIVE
16 DATE OF THIS SECTION MAY CONTINUE TO OPERATE WITHIN THE TERMS OF
17 THE DISPOSAL AREAS' LICENSED ACREAGE, VOLUME, OR CAPACITY AS PRO-
18 VIDED IN THE LICENSE SUBJECT TO THE FOLLOWING:

19 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE DISPOSAL AREA
20 SHALL BE OPERATED IN COMPLIANCE WITH THE SOLID WASTE MANAGEMENT
21 PLAN FOR THE JURISDICTION IN WHICH THE DISPOSAL AREA IS LOCATED
22 THAT WAS IN EFFECT IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF
23 THIS SECTION, WHICH SOLID WASTE MANAGEMENT PLAN IS HEREBY INCOR-
24 PORATED BY REFERENCE.

25 (B) EXCEPT AS PROVIDED IN SECTION 11531A, ANY PROVISIONS OF
26 A SOLID WASTE MANAGEMENT PLAN UNDER SUBDIVISION (A) RELATED TO

1 THE LOCATION OR LOCATIONS WHERE SOLID WASTE MUST BE DISPOSED OF
2 DO NOT APPLY.

3 (3) THE OWNER OR OPERATOR OF A DISPOSAL AREA MAY AT ANY TIME
4 ENTER INTO A HOST COMMUNITY AGREEMENT WITH IMPACTED COMMUNITIES
5 REGARDING OPERATIONS AT THE DISPOSAL AREA. IF THE OWNER OR OPER-
6 ATOR OF A DISPOSAL AREA ENTERS INTO A HOST COMMUNITY AGREEMENT
7 WITH ALL IMPACTED COMMUNITIES, THIS HOST COMMUNITY AGREEMENT
8 SUPERSEDES THE PROVISIONS OF SUBSECTION (2). UPON ENTERING INTO
9 A HOST COMMUNITY AGREEMENT WITH IMPACTED COMMUNITIES, THE OWNER
10 OR OPERATOR OF THE DISPOSAL AREA SHALL PROVIDE THE DEPARTMENT
11 WITH EVIDENCE THAT THE AGREEMENT HAS BEEN ENTERED INTO.

12 Sec. 11541. ~~(1) The state solid waste management plan~~
13 ~~shall consist of the state solid waste plan and all county plans~~
14 ~~approved or prepared by the department. (2) The department shall~~
15 ~~consult and assist in the preparation and implementation of the~~
16 ~~county solid waste management plans. (3) The department may~~
17 ~~undertake or contract for studies or reports necessary or useful~~
18 ~~in the preparation of the state solid waste management plan.~~
19 ~~(4) The department shall develop a strategy to~~ PROMOTE POLI-
20 CIES THAT encourage resource recovery and establishment of
21 waste-to-energy facilities. ~~By March 30, 1989, the department~~
22 ~~shall submit to the legislature a report on the details of the~~
23 ~~strategy. The report shall recommend public and private sector~~
24 ~~incentives and suggest potential regulatory relief to remove con-~~
25 ~~straints on the siting of waste to energy and resource recovery~~
26 ~~facilities. The strategy and report shall be prepared with the~~
27 ~~goal of reducing land disposal to unusable residuals by the year~~

~~1 2005. The report shall include specific recommendations for
2 necessary legislation to implement the strategy.~~

3 Sec. 11542. (1) The generation, transportation, treatment,
4 storage, and disposal of municipal solid waste incinerator ash is
5 regulated under this part as solid waste and is not regulated
6 under part 111.

7 (2) Except as provided in subsection (10), municipal solid
8 waste incinerator ash shall be disposed of in 1 of the
9 following:

10 (a) A landfill that meets all of the following
11 requirements:

12 (i) The landfill is in compliance with this part and the
13 rules promulgated under this part.

14 (ii) The landfill is used exclusively for the disposal of
15 municipal solid waste incinerator ash.

16 (iii) The landfill design includes all of the following in
17 descending order according to their placement in the landfill:

18 (A) A leachate collection system.

19 (B) A synthetic liner at least 60 mils thick.

20 (C) A compacted clay liner of 5 feet or more with a maximum
21 hydraulic conductivity of 1×10^{-7} centimeters per second.

22 (D) A leak detection and leachate collection system.

23 (E) A compacted clay liner at least 3 feet thick with a max-
24 imum hydraulic conductivity of 1×10^{-7} centimeters per second
25 or a synthetic liner at least 40 mils thick.

26 (b) A landfill that meets all of the following
27 requirements:

1 (i) The landfill is in compliance with this part and the
2 rules promulgated under this part.

3 (ii) The landfill is used exclusively for the disposal of
4 municipal solid waste incinerator ash.

5 (iii) The landfill design includes all of the following in
6 descending order according to their placement in the landfill:

7 (A) A leachate collection system.

8 (B) ~~A synthetic liner at least 60 mils thick.~~ A COMPOSITE
9 LINER, AS DEFINED IN R 299.4102 OF THE MICHIGAN ADMINISTRATIVE
10 CODE.

11 ~~(C) A geotextile layer at least 100 mils thick.~~

12 ~~(D) A synthetic liner at least 40 mils thick.~~

13 ~~(E) A geotextile layer at least 100 mils thick.~~

14 (C) ~~(F)~~ A leak detection and leachate collection system.

15 ~~(G) A synthetic liner at least 40 mils thick.~~

16 ~~(iv) The landfill's cells each hold a maximum of 100,000
17 cubic yards of municipal solid waste incinerator ash.~~

18 (D) A SECOND COMPOSITE LINER.

19 (iv) ~~(v)~~ If contaminants that may threaten the public
20 health, safety, or welfare, or the environment are found in the
21 leachate collection system described in subparagraph ~~(iii)(F)~~
22 (iii)(C), the owner or operator of the landfill shall determine
23 the source and nature of the contaminants and make repairs, to
24 the extent practicable, that will prevent the contaminants from
25 entering the leachate collection system. If the department
26 determines that the source of the contaminants is caused by a
27 design failure of the landfill, the department, notwithstanding

1 an approved construction permit or operating license, may require
2 landfill cells at that landfill that will be used for the dis-
3 posal of municipal solid waste incinerator ash, which are under
4 construction or will be constructed in the future at the land-
5 fill, to be constructed in conformance with improved design stan-
6 dards approved by the department. However, this subparagraph
7 does not require the removal of liners or leak detection and
8 leachate collection systems that are already in place in a land-
9 fill cell under construction.

10 ~~(vi) On June 12, 1989, the owner or operator of the land-~~
11 ~~fill has a letter of agreement with an existing municipal solid~~
12 ~~waste incinerator to receive municipal solid waste incinerator~~
13 ~~ash, and the owner or operator has by September 10, 1989 submit-~~
14 ~~ted this letter to the department.~~

15 (c) A landfill that IS A MONITORABLE UNIT, AS DEFINED IN
16 R 299.4104 OF THE MICHIGAN ADMINISTRATIVE CODE, AND THAT meets
17 all of the following requirements:

18 (i) The landfill is in compliance with this part and the
19 rules promulgated under this part.

20 (ii) The landfill is used exclusively for the disposal of
21 municipal solid waste incinerator ash.

22 (iii) The landfill design includes all of the following in
23 descending order according to their placement in the landfill:

24 (A) A leachate collection system.

25 (B) A synthetic liner at least ~~80~~ 60 mils thick.

26 (C) ~~At the option of the owner or operator of the landfill,~~
27 ~~a leak detection and leachate collection system.~~ IMMEDIATELY

1 BELOW THE SYNTHETIC LINER, EITHER 2 FEET OF COMPACTED CLAY WITH A
2 MAXIMUM HYDRAULIC CONDUCTIVITY OF 1×10^{-7} CENTIMETERS PER
3 SECOND OR A BENTONITE GEOCOMPOSITE LINER, AS SPECIFIED IN R
4 299.4914 OF THE MICHIGAN ADMINISTRATIVE CODE.

5 (D) At least 10 feet of either natural or compacted clay
6 with a maximum hydraulic conductivity of 1×10^{-7} centimeters
7 per second, OR EQUIVALENT.

8 ~~(iv) If construction of the landfill begins prior to~~
9 ~~June 1, 1990, the liner specified in subparagraph (iii)(B) may be~~
10 ~~60 mils thick.~~

11 (d) A landfill with a design approved by the department that
12 will prevent the migration of any hazardous constituent into the
13 groundwater or surface water at least as effectively as the
14 design requirements of subdivisions (a) to (c).

15 (e) A type II landfill, as defined in R 299.4105 of the
16 Michigan administrative code, if all of the following conditions
17 apply:

18 (i) The ash was generated by a municipal solid waste incin-
19 erator that is designed to burn at a temperature in excess of
20 2500 degrees Fahrenheit.

21 (ii) The ash is tested by a laboratory listed on the list
22 compiled by the department under section 11544 and the ash, upon
23 testing, meets the requirements of 40 C.F.R. 261.20 to 261.24. A
24 person seeking to dispose of ash under this subdivision may
25 select an approved laboratory from the list compiled in section
26 11544 to conduct the test.

1 (iii) The ash from any individual municipal solid waste
2 incinerator is disposed of pursuant to this subdivision for a
3 period not to exceed 60 days.

4 ~~(3) Except as provided in subsection (5), a landfill that~~
5 ~~is constructed pursuant to the design described in subsection~~
6 ~~(2)(a) or (b) shall be capped following its closure by all of the~~
7 ~~following in descending order:~~

8 ~~(a) Six inches of top soil with a vegetative cover.~~

9 ~~(b) Two feet of subsurface drainage media or cobbles or a~~
10 ~~combination thereof to protect against animal burrowing, tempera-~~
11 ~~ture, erosion, and rooted vegetation.~~

12 ~~(c) A flexible membrane liner at least 30 mils thick.~~

13 ~~(d) 3 feet of compacted clay with a maximum hydraulic con-~~
14 ~~ductivity of 1×10^{-7} centimeters per second.~~

15 ~~(e) A synthetic liner at least 30 mils thick with a geomem-~~
16 ~~brane infiltration system above the liner may be used in place of~~
17 ~~the compacted clay specified in subdivision (d) if on June 12,~~
18 ~~1989 the owner or operator of the landfill has a letter of agree-~~
19 ~~ment with an existing municipal solid waste incinerator to~~
20 ~~receive municipal solid waste incinerator ash, and the owner or~~
21 ~~operator has by September 10, 1989 submitted this letter to the~~
22 ~~department.~~

23 (4) Except as provided in subsection (5), a landfill that is
24 constructed pursuant to the design described in subsection
25 ~~(2)(c)~~ (2) shall be capped following its closure by all of the
26 following in descending order:

1 (a) Six inches of top soil with a vegetative cover.

2 (b) Two feet of ~~compacted clay with a maximum hydraulic~~
3 ~~conductivity of 1×10^{-7} centimeters per second of compacted~~
4 ~~clay~~ SOIL TO PROTECT AGAINST ANIMAL BURROWING, TEMPERATURE, ERO-
5 SION, AND ROOTED VEGETATION.

6 (c) An infiltration collection system.

7 (d) A synthetic liner at least 30 mils thick.

8 (e) ~~One foot~~ TWO FEET of compacted clay with a maximum
9 hydraulic conductivity of 1×10^{-7} centimeters per second.

10 (5) A landfill that receives municipal solid waste incinera-
11 tor ash under this section may be capped with a design approved
12 by the department that will prevent the migration of any hazard-
13 ous constituent into the groundwater or surface water at least as
14 effectively as the design requirements of ~~subsections (3) and~~
15 SUBSECTION (4).

16 (6) If leachate is collected from a landfill under this sec-
17 tion, the leachate shall be monitored and tested in accordance
18 with this part and the rules promulgated under this part.

19 (7) Prior to and after June 12, 1989, notwithstanding any
20 other provision in this section, municipal solid waste incinera-
21 tor ash may be stored or may continue to be stored on a temporary
22 basis if all of the following conditions exist:

23 (a) The ash is stored in a landfill licensed under this
24 part.

25 (b) The owner or operator of the landfill, by September 12,
26 1989, does either of the following:

1 (i) Applies for an operating permit amendment pursuant to
2 subsection (11) that would allow the permanent disposal of the
3 ash at the landfill.

4 (ii) Applies for a construction permit under this part that
5 would allow the permanent disposal of the ash at the landfill.

6 (c) The ash is stored for not longer than 9 months after an
7 operating license or an operating license amendment is approved
8 or denied by the department, or by June 12, 1991, whichever
9 occurs first, unless the department has unreasonably delayed
10 approving or denying an operating license or operating license
11 amendment.

12 (d) On June 12, 1989, the owner or operator of the landfill
13 has a letter of agreement with an existing municipal solid waste
14 incinerator or with a municipal solid waste incinerator under
15 construction to receive municipal solid waste incinerator ash,
16 and the owner or operator has by September 10, 1989 submitted
17 this letter to the department.

18 (e) The temporary storage at the landfill provides for an
19 intermediate separation of the ash from other solid waste using
20 not less than 2 feet of compacted soil or a synthetic liner at
21 least 30 mils thick and the ash is covered daily in a manner that
22 prevents the ash from blowing.

23 (f) By September 10, 1989 or prior to beginning temporary
24 storage, the owner or operator of the landfill receiving the
25 municipal solid waste incinerator ash submits an ash management
26 plan to the department that includes leachate and runoff control
27 measures and dust control measures. The department shall approve

1 or disapprove the plan submitted under this subsection within 30
2 days of receiving it. If the department disapproves the plan,
3 the department shall notify the owner or operator submitting the
4 plan of this fact, and shall provide modifications that, if
5 included, would result in the plan's approval. If the department
6 disapproves a plan, the owner or operator of the landfill shall
7 within 30 days after receipt of the department's disapproval
8 submit a revised plan that addresses all of the modifications
9 provided by the department. The department shall approve or dis-
10 approve the revised plan within 30 days of receiving it, and the
11 department shall not unreasonably withhold approval of the
12 revised plan. Upon approval by the department, the plan shall
13 become part of the operating license of the landfill. The opera-
14 tion of a landfill without an approved plan under this subdivi-
15 sion subjects the owner or operator, or both, to all of the sanc-
16 tions provided by this part.

17 (g) By July 12, 1989 or prior to receiving the ash for tem-
18 porary storage, the owner or operator of the landfill notifies
19 the governing body of the municipality and the county board of
20 commissioners of the county in which the landfill is located of
21 its intent to temporarily store the ash.

22 (8) Following a period of temporary storage under subsection
23 (7), municipal solid waste incinerator ash shall be permanently
24 disposed of in accordance with this section. In addition to any
25 other penalty provided in this part, a person who stores munici-
26 pal solid waste incinerator ash under subsection (7) for a period

1 longer than is allowed by subsection (7) is liable for a civil
2 fine of \$5,000.00 per day of violation.

3 (9) The owner or operator of a landfill that receives munic-
4 ipal solid waste incinerator ash under this section for temporary
5 storage or for disposal shall do all of the following:

6 (a) Manage the ash to control dust.

7 (b) Manage the landfill to control track out.

8 (c) Manage all access roads within the landfill to control
9 dust.

10 (d) Only dispose of wet ash in the landfill.

11 (e) If the ash was in temporary storage under subsection
12 (7), rewet the ash prior to transporting the ash to the permanent
13 landfill.

14 (10) As an alternative to disposal described in
15 subsection (2), the owner or operator of a municipal solid waste
16 incinerator may process municipal solid waste incinerator ash
17 through mechanical or chemical methods, or both, to substantially
18 diminish the toxicity of the ash or its constituents or limit the
19 leachability of the ash or its constituents to minimize threats
20 to human health and the environment, if processing is performed
21 on the site of the municipal solid waste incinerator or at the
22 site of a landfill described in subsection (2), if the process
23 has been approved by the department as provided by rule, and if
24 the ash is tested after processing in accordance with a protocol
25 approved by the department as provided by rule. The department
26 shall approve the process and testing protocol under this
27 subsection only if the process and testing protocol will protect

1 human health and the environment. In making this determination,
2 the department shall consider all potential pathways of human and
3 environmental exposure, including both short-term and long-term,
4 to constituents of the ash that may be released during the reuse
5 or recycling of the ash. The department shall consider requiring
6 methods to determine the leaching, total chemical analysis,
7 respirability, and toxicity of reused or recycled ash. A leach-
8 ing procedure shall include testing under both acidic and native
9 conditions. If municipal solid waste incinerator ash is pro-
10 cessed in accordance with the requirements of this subsection and
11 the processed ash satisfies the testing protocol approved by the
12 department as provided by rule, the ash may be disposed of in a
13 ~~type II~~ MUNICIPAL SOLID WASTE landfill, as defined by
14 ~~R 299.4105~~ R 299.4104 of the Michigan administrative code,
15 licensed under this part or may be used in any manner approved by
16 the department. If municipal solid waste incinerator ash is pro-
17 cessed as provided in this subsection, but does not satisfy the
18 testing protocol approved by the department as provided by rule,
19 the ash shall be disposed of in accordance with subsection (2).
20 (11) The disposal of municipal solid waste incinerator ash
21 within a landfill that is in compliance with subsection (2) does
22 not constitute a new proposal for which a new construction permit
23 is required under section 11510, if a construction permit has
24 previously been issued under section 11509 for the landfill and
25 the owner or operator of the landfill submits 6 copies of an
26 operating license amendment application to the department for
27 approval. The operating license amendment application shall

1 include revised plans and specifications for all facility
2 modifications including a leachate disposal plan, an erosion con-
3 trol plan, and a dust control plan which shall be part of the
4 operating license amendment. The dust control plan shall contain
5 sufficient detail to ensure that dust emissions are controlled by
6 available control technologies that reduce dust emissions by a
7 reasonably achievable amount to the extent necessary to protect
8 human health and the environment. The dust control plan shall
9 provide for the ash to be wet during all times that the ash is
10 exposed to the atmosphere at the landfill or otherwise to be cov-
11 ered by daily cover material; for dust emissions to be controlled
12 during dumping, grading, loading, and bulk transporting of the
13 ash at the landfill; and for dust emissions from access roads
14 within the landfill to be controlled. With the exception of a
15 landfill that is in existence on June 12, 1989 that the depart-
16 ment determines is otherwise in compliance with this section, the
17 owner or operator of the landfill shall obtain the operating
18 license amendment prior to initiating construction. Prior to
19 operation, the owner or operator of a landfill shall submit to
20 the department certification from a licensed professional engi-
21 neer that the landfill has been constructed in accordance with
22 the approved plan and specifications. At the time the copies are
23 submitted to the department, the owner or operator of the land-
24 fill shall send a copy of the operating license amendment appli-
25 cation to the municipality where the landfill is located. At
26 least 30 days prior to making a final decision on the operating
27 license amendment, the department shall hold at least 1 public

1 meeting in the vicinity of the landfill to receive public
2 comments. Prior to a public meeting, the department shall pub-
3 lish notice of the meeting in a newspaper serving the local
4 area. The department shall issue a final decision on an operat-
5 ing license amendment application within 120 days after the
6 department receives an administratively complete application.

7 (12) Once every other month, the owner or operator of a
8 municipal solid waste incinerator shall collect a 24-hour compos-
9 ite sample of the municipal solid waste incinerator ash generated
10 by the incinerator. By July 12, 1989, the owner or operator of a
11 municipal solid waste incinerator shall submit a protocol for
12 sample collection to the department for approval. Each sample
13 shall be collected according to the approved protocol. The owner
14 or operator shall perform an analysis of the collected sample for
15 trace metals as totals by acid digestion using analytical methods
16 described in SW-846 "test methods for evaluating solid waste,
17 third edition". The purpose of these tests is to determine the
18 changes in characteristics of municipal solid waste incinerator
19 ash from source separation initiatives over the life of the
20 facility. If fly ash generated by the municipal solid waste
21 incinerator is processed separately from the bottom ash, the
22 owner or operator shall perform separate tests on the fly ash and
23 the bottom ash. The owner or operator of the municipal solid
24 waste incinerator shall submit these test results to the depart-
25 ment within 60 days after the sample was collected.

26 (13) The owner or operator of a municipal solid waste
27 incinerator or a disposal area that receives municipal solid

1 waste incinerator ash shall allow the department access to the
2 facility for the purpose of supervising the collection of samples
3 or obtaining samples of ash to test or to monitor air quality at
4 the facility.

5 (14) As used in subsection (2), "landfill" means a landfill
6 or a specific portion of a landfill.

7 SEC. 11550. (1) THE SOLID WASTE MANAGEMENT FUND IS CREATED
8 WITHIN THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY
9 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
10 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER
11 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
12 INVESTMENTS.

13 (2) MONEY IN THE SOLID WASTE MANAGEMENT FUND AT THE CLOSE OF
14 THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO
15 THE GENERAL FUND.

16 (3) THE STATE TREASURER SHALL ESTABLISH, WITHIN THE SOLID
17 WASTE MANAGEMENT FUND, A SOLID WASTE STAFF ACCOUNT AND A PERPET-
18 UAL CARE ACCOUNT.

19 (4) MONEY SHALL BE EXPENDED FROM THE SOLID WASTE STAFF
20 ACCOUNT, UPON APPROPRIATION, ONLY FOR THE FOLLOWING PURPOSES:

21 (A) PREPARING GENERALLY APPLICABLE GUIDANCE REGARDING THE
22 SOLID WASTE PERMIT AND LICENSE PROGRAM OR ITS IMPLEMENTATION OR
23 ENFORCEMENT.

24 (B) REVIEWING AND ACTING ON ANY APPLICATION FOR A PERMIT OR
25 LICENSE, PERMIT OR LICENSE REVISION, OR PERMIT OR LICENSE RENEW-
26 AL, INCLUDING THE COST OF PUBLIC NOTICE AND PUBLIC HEARINGS.

1 (C) PERFORMING AN ADVISORY ANALYSIS UNDER SECTION 11510(1).

2 (D) GENERAL ADMINISTRATIVE COSTS OF RUNNING THE PERMIT AND
3 LICENSE PROGRAM, INCLUDING PERMIT AND LICENSE TRACKING AND DATA
4 ENTRY.

5 (E) INSPECTION OF LICENSED DISPOSAL AREAS AND OPEN DUMPS.

6 (F) IMPLEMENTING AND ENFORCING THE CONDITIONS OF ANY PERMIT
7 OR LICENSE.

8 (G) GROUNDWATER MONITORING AUDITS AT DISPOSAL AREAS WHICH
9 ARE OR HAVE BEEN LICENSED UNDER THIS PART.

10 (H) REVIEWING AND ACTING UPON CORRECTIVE ACTION PLANS FOR
11 DISPOSAL AREAS WHICH ARE OR HAVE BEEN LICENSED UNDER THIS PART.

12 (I) REVIEW OF CERTIFICATIONS OF CLOSURE.

13 (J) POSTCLOSURE MAINTENANCE AND MONITORING INSPECTIONS AND
14 REVIEW.

15 (K) REVIEW OF BONDS AND FINANCIAL ASSURANCE DOCUMENTATION AT
16 DISPOSAL AREAS WHICH ARE OR HAVE BEEN LICENSED UNDER THIS PART.

17 (5) MONEY SHALL BE EXPENDED FROM THE PERPETUAL CARE ACCOUNT
18 ONLY FOR THE PURPOSE OF CONDUCTING THE FOLLOWING ACTIVITIES AT
19 DISPOSAL AREAS WHICH ARE OR HAVE BEEN LICENSED UNDER THIS PART:

20 (A) POSTCLOSURE MAINTENANCE AND MONITORING AT A DISPOSAL
21 AREA WHERE THE OWNER OR OPERATOR IS NO LONGER REQUIRED TO DO SO.

22 (B) TO CONDUCT CLOSURE, OR POSTCLOSURE MAINTENANCE AND MONI-
23 TORING AND CORRECTIVE ACTION IF NECESSARY, AT A DISPOSAL AREA
24 WHERE THE OWNER OR OPERATOR HAS FAILED TO DO SO. MONEY SHALL BE
25 EXPENDED FROM THE ACCOUNT ONLY AFTER FUNDS FROM ANY PERPETUAL
26 CARE FUND OR OTHER FINANCIAL ASSURANCE MECHANISMS HELD BY THE

1 OWNER OR OPERATOR HAVE BEEN EXPENDED AND THE DEPARTMENT HAS USED
2 REASONABLE EFFORTS TO OBTAIN FUNDING FROM OTHER SOURCES.

3 SEC. 20115B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
4 PART, IF A RELEASE AT A DISPOSAL AREA LICENSED UNDER PART 115 IS
5 SOLELY A RELEASE FROM THAT DISPOSAL AREA AND THE RELEASE IS DIS-
6 COVERED THROUGH THE DISPOSAL AREA'S HYDROGEOLOGICAL MONITORING
7 PLAN, THE RESPONSE ACTIVITIES IMPLEMENTED AT THE DISPOSAL AREA
8 SHALL BE THE CORRECTIVE ACTIONS REQUIRED UNDER PART 115. THIS
9 SECTION DOES NOT APPLY TO RELEASES FROM A DISPOSAL AREA AFTER
10 COMPLETION OF THE POSTCLOSURE MONITORING PERIOD OF THE DISPOSAL
11 AREA.

12 Section 2. Sections 11513, 11524, 11531, 11533, 11534,
13 11535, 11536, 11537, 11537a, 11538, 11539, 11539a, and 11547 of
14 Act No. 451 of the Public Acts of 1994, being sections 324.11513,
15 324.11524, 324.11531, 324.11533, 324.11534, 324.11535, 324.11536,
16 324.11537, 324.11537a, 324.11538, 324.11539, 324.11539a, and
17 324.11547 of the Michigan Compiled Laws, are repealed.

18 Section 3. This amendatory act shall take effect October 1,
19 1996.