

HOUSE BILL No. 5284

October 15, 1997, Introduced by Rep. Alley and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11502, 11503, 11504, 11506, 11507a, 11509, 11511, 11512, 11516, 11517, 11519, 11529, 11532, 11533, 11534, 11535, 11536, and 11538 (MCL 324.11502, 324.11503, 324.11504, 324.11506, 324.11507a, 324.11509, 324.11511, 324.11512, 324.11516, 324.11517, 324.11519, 324.11529, 324.11532, 324.11533, 324.11534, 324.11535, 324.11536, and 324.11538), sections 11502 and 11504 as amended and section 11507a as added by 1996 PA 359, section 11506 as amended by 1996 PA 392, and sections 11509, 11511, 11512, 11516, 11517, 11519, and 11529 as amended by 1996 PA 358, and by adding sections 11508a, 11511a, 11511b, 11511c, 11511d, 11531a, 11531b, 11534a, and 11551; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

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

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

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

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

23 (9) "CONDITIONS OF SITING" MEANS THOSE CRITERIA WHICH GOVERN
24 THE SELECTION, LOCATION, AND CONSTRUCTION OF A LANDFILL OR INCIN-
25 ERATOR CONTAINED IN THE SOLID WASTE MANAGEMENT PLAN IN EFFECT AT
26 THE TIME THE LANDFILL OR INCINERATOR WAS SITED OR ANY OTHER SUCH
27 CRITERIA FORMALLY AGREED UPON BETWEEN AUTHORIZED OFFICIALS OF 1

1 OR MORE LOCAL UNITS OF GOVERNMENT IN WHICH THE LANDFILL IS
2 LOCATED AND THE OWNER OR OPERATOR OF A LANDFILL OR INCINERATOR AT
3 THE TIME THE LANDFILL OR INCINERATOR WAS SITED.

4 (10) "CONDITIONS OF OPERATION" MEANS THOSE CRITERIA WHICH
5 GOVERN THE OPERATION OF A LANDFILL OR INCINERATOR CONTAINED IN
6 THE SOLID WASTE MANAGEMENT PLAN IN EFFECT AT THE TIME THE 1997
7 AMENDMENTS TO THIS SECTION TAKE EFFECT.

8 (11) ~~—(8)—~~ "Consistency review" means evaluation of the
9 administrative and technical components of an application for a
10 permit, license, or for operating conditions in the course of
11 inspection, for the purpose of determining consistency with the
12 requirements of this part, rules promulgated under this part, and
13 approved plans and specifications.

14 (12) ~~—(9)—~~ "Corrective action" means the investigation,
15 assessment, cleanup, removal, containment, isolation, treatment,
16 or monitoring of constituents, as defined in a facility's
17 approved hydrogeological monitoring plan, released into the envi-
18 ronment from a disposal area, or the taking of other actions
19 related to the release as may be necessary to prevent, minimize,
20 or mitigate injury to the public health, safety, or welfare, the
21 environment, or natural resources that is consistent with subti-
22 tle D of the solid waste disposal act, title II of Public Law
23 89-272, 42 U.S.C. 6941 and 6942 to 6949a or regulations promul-
24 gated pursuant to that act.

25 Sec. 11503. (1) "Department" means the department of envi-
26 ronmental quality.

1 (2) "Director" means the director of the department.

2 (3) "Discharge" includes, but is not limited to, any
3 spilling, leaking, pumping, pouring, emitting, emptying, dis-
4 charging, injecting, escaping, leaching, dumping, or disposing of
5 a substance into the environment which is or may become injurious
6 to the public health, safety, or welfare, or to the environment.

7 (4) "Disposal area" means 1 or more of the following at a
8 location as defined by the boundary identified in its construc-
9 tion permit or engineering plans approved by the department:

10 (a) A solid waste transfer facility.

11 (b) Incinerator.

12 (c) Sanitary landfill.

13 (d) Processing plant.

14 (e) Other solid waste handling or disposal facility utilized
15 in the disposal of solid waste.

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

22 (6) "Escrow account" means an account managed by a bank or
23 other financial institution whose account operations are regu-
24 lated and examined by a federal or state agency and which com-
25 plies with section 11523b.

26 (7) "EXPANSION OF A MUNICIPAL SOLID WASTE LANDFILL OR A
27 COMMERCIAL TYPE III LANDFILL" MEANS THE LATERAL EXPANSION OF A

1 MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL TYPE III LANDFILL
2 BEYOND ITS SITED ACREAGE.

3 (8) ~~-(7)-~~ "Financial assurance" means the mechanisms used to
4 demonstrate that the funds necessary to meet the cost of closure,
5 postclosure maintenance and monitoring, and corrective action
6 will be available whenever they are needed.

7 (9) ~~-(8)-~~ "Financial test" means a corporate or local gov-
8 ernment financial test or guarantee approved for type II land-
9 fills under subtitle D of the solid waste disposal act, title II
10 of Public Law 89-272, 42 U.S.C. 6945. An owner or operator may
11 use a single financial test for more than 1 facility.

12 Information submitted to the department to document compliance
13 with the test shall include a list showing the name and address
14 of each facility and the amount of funds assured by the test for
15 each facility. For purposes of the financial test, the owner or
16 operator shall aggregate the sum of the closure, postclosure, and
17 corrective action costs it seeks to assure with any other envi-
18 ronmental obligations assured by a financial test under state or
19 federal law.

20 (10) "FLOW CONTROL" MEANS ANY REQUIREMENT DIRECTING THE
21 LOCATION IN WHICH SOLID WASTE OR RECYCLABLE MATERIALS MAY BE DIS-
22 POSED, PROCESSED, OR TRANSFERRED OR SHALL NOT BE DISPOSED, PRO-
23 CESSSED, OR TRANSFERRED.

24 (11) ~~-(9)-~~ "Garbage" means rejected food wastes including
25 waste accumulation of animal, fruit, or vegetable matter used or
26 intended for food or that attends the preparation, use, cooking,

1 dealing in, or storing of meat, fish, fowl, fruit, or vegetable
2 matter.

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

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

7 (A) FOR PURPOSES OF A HOST COMMUNITY AGREEMENT ENTERED INTO
8 BEFORE THE EFFECTIVE DATE OF THE 1997 AMENDMENTS TO THIS SECTION,
9 THE COUNTY OR MUNICIPALITY IN WHICH THE LANDFILL OR INCINERATOR
10 IS LOCATED.

11 (B) SUBJECT TO SUBSECTION (3), FOR PURPOSES OF A HOST COMMU-
12 NITY AGREEMENT ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THE
13 1997 AMENDMENTS TO THIS SECTION, 1 OF THE FOLLOWING:

14 (i) THE CITY OR VILLAGE IN WHICH A MUNICIPAL SOLID WASTE
15 LANDFILL OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PRO-
16 POSED TO BE LOCATED IF THAT CITY OR VILLAGE HAS ADOPTED ZONING
17 ORDINANCES PURSUANT TO 1921 PA 207, MCL 125.581 TO 125.592, FOR
18 DEVELOPMENTS OTHER THAN THOSE REGULATED BY THIS PART.

19 (ii) THE TOWNSHIP IN WHICH A MUNICIPAL SOLID WASTE LANDFILL
20 OR COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PROPOSED TO BE
21 LOCATED IF THAT TOWNSHIP HAS ADOPTED A ZONING ORDINANCE PURSUANT
22 TO THE TOWNSHIP RURAL ZONING ACT, 1943 PA 184, MCL 125.271 TO
23 125.301, AND THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL
24 TYPE III LANDFILL OR INCINERATOR IS NOT PROPOSED TO BE LOCATED IN
25 A VILLAGE THAT HAS ADOPTED A ZONING ORDINANCE PURSUANT TO 1921 PA
26 207, MCL 125.581 TO 125.592, FOR DEVELOPMENTS OTHER THAN THOSE
27 REGULATED BY THIS PART.

1 (iii) THE COUNTY IN WHICH A MUNICIPAL SOLID WASTE LANDFILL
2 OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PROPOSED TO
3 BE LOCATED IF THE MUNICIPAL SOLID WASTE LANDFILL, COMMERCIAL
4 TYPE III LANDFILL, OR INCINERATOR IS NOT PROPOSED TO BE LOCATED
5 IN A MUNICIPALITY DESCRIBED IN SUBDIVISION (A) OR (B).

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

15 (4) "HOST COMMUNITY AGREEMENT" MEANS A WRITTEN, LEGALLY
16 ENFORCEABLE DOCUMENT OR DOCUMENTS EXECUTED BETWEEN AUTHORIZED
17 OFFICIALS OF THE HOST COMMUNITY AND THE OWNER OR OPERATOR OF A
18 LANDFILL OR INCINERATOR THAT GOVERNS THE LOCATION OF THE LANDFILL
19 OR INCINERATOR OR ANY OPERATION OF A LANDFILL OR INCINERATOR, OR
20 BOTH.

21 (5) ~~-(2)-~~ "Inert material" means a substance that will not
22 decompose, dissolve, or in any other way form a contaminated
23 leachate upon contact with water, or other liquids determined by
24 the department as likely to be found at the disposal area, perco-
25 lating through the substance.

26 (6) ~~-(3)-~~ "Insurance" means insurance that conforms to the
27 requirements of 40 C.F.R. 258.74(d) provided by an insurer who

1 has a certificate of authority from the Michigan commissioner of
2 insurance to sell this line of coverage. An applicant for an
3 operating license shall submit evidence of the required coverage
4 by submitting both of the following to the department:

5 (a) A certificate of insurance that uses wording approved by
6 the department.

7 (b) A certified true and complete copy of the insurance
8 policy.

9 ~~-(4) "Landfill" means a disposal area that is a sanitary~~
10 ~~landfill.~~

11 (7) "LANDFILL" MEANS A TYPE OF DISPOSAL AREA CONSISTING OF 1
12 OR MORE DISCRETE AREAS DESIGNATED TO RECEIVE NONHAZARDOUS WASTE
13 FOR PERMANENT DISPOSAL AND AREAS USED IN ASSOCIATION WITH THE
14 DISPOSAL OF WASTE.

15 (8) ~~-(5)-~~ "Letter of credit" means an irrevocable letter of
16 credit that complies with 40 C.F.R. 258.74(c).

17 (9) ~~-(6)-~~ "Medical waste" means that term as it is defined
18 in part 138 of the public health code, ~~Act No. 378 of the Public~~
19 ~~Acts of 1978, being sections 333.13801 to 333.13831 of the~~
20 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.13801 TO 333.13831.

21 (10) ~~-(7)-~~ "Municipal solid waste incinerator" means an
22 incinerator that is owned or operated by any person, and meets
23 all of the following requirements:

24 (a) The incinerator receives solid waste from off site and
25 burns only household waste from single and multiple dwellings,
26 hotels, motels, and other residential sources, or this household
27 waste together with solid waste from commercial, institutional,

1 municipal, county, or industrial sources that, if disposed of,
2 would not be required to be placed in a disposal facility
3 licensed under part 111.

4 (b) The incinerator has established contractual requirements
5 or other notification or inspection procedures sufficient to
6 assure that the incinerator receives and burns only waste
7 referred to in subdivision (a).

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

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

12 (e) The incinerator is not an incinerator that receives and
13 burns only medical waste or only waste produced at 1 or more
14 hospitals.

15 (11) ~~-(8)-~~ "Municipal solid waste incinerator ash" means the
16 substances remaining after combustion in a municipal solid waste
17 incinerator.

18 (12) "MUNICIPAL SOLID WASTE LANDFILL" OR "TYPE II LANDFILL"
19 MEANS A LANDFILL WHICH RECEIVES HOUSEHOLD WASTE, MUNICIPAL SOLID
20 WASTE INCINERATOR ASH, OR SEWAGE SLUDGE AND WHICH IS NOT A LAND
21 APPLICATION UNIT, SURFACE IMPOUNDMENT, INJECTION WELL, OR WASTE
22 PILE. A MUNICIPAL SOLID WASTE LANDFILL MAY ALSO RECEIVE OTHER
23 TYPES OF SOLID WASTE, SUCH AS COMMERCIAL WASTE, NONHAZARDOUS
24 SLUDGE, CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE, AND
25 INDUSTRIAL WASTE. A MUNICIPAL SOLID WASTE LANDFILL MAY BE PUB-
26 LICLY OR PRIVATELY OWNED.

1 (13) ~~-(9)-~~ "Perpetual care fund" means a perpetual care fund
2 provided for in section 11525.

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

7 Sec. 11506. (1) "SITED ACREAGE" MEANS ANY ACREAGE DESIGNATED
8 IN A COUNTY SOLID WASTE MANAGEMENT PLAN OR HOST COMMUNITY AGREE-
9 MENT FOR THE LOCATION OF A MUNICIPAL SOLID WASTE LANDFILL OR COM-
10 Mercial TYPE III LANDFILL BY A LEGAL DESCRIPTION, MAP, OR MUNICI-
11 PAL PARCEL DESIGNATION.

12 (2) ~~-(1)-~~ "Solid waste" means garbage, rubbish, ashes,
13 incinerator ash, incinerator residue, street cleanings, municipal
14 and industrial sludges, solid commercial and solid industrial
15 waste, and animal waste other than organic waste generated in the
16 production of livestock and poultry. Solid waste does not
17 include the following:

18 (a) Human body waste.

19 (b) Medical waste as it is defined in part 138 of the public
20 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~
21 ~~tions 333.13801 to 333.13831 of the Michigan Compiled Laws, 1978~~
22 ~~PA 368, MCL 333.13801 TO 333.13831, and regulated under part 138~~
23 ~~of Act No. 368 of the Public Acts of 1978~~ THE PUBLIC HEALTH
24 CODE, 1978 PA 368, MCL 333.13801 TO 333.13831, and part 55.

25 (c) Organic waste generated in the production of livestock
26 and poultry.

1 (d) Liquid waste.

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

4 (f) Slag or slag products directed to a slag processor or to
5 a reuser of slag or slag products.

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

1 and management practices under the right to farm act, ~~Act No. 93~~
2 ~~of the Public Acts of 1981, being sections 286.471 to 286.474 of~~
3 ~~the Michigan Compiled Laws~~ 1981 PA 93, MCL 286.471 TO 286.474.

4 (h) Materials approved for emergency disposal by the
5 department.

6 (i) Source separated materials.

7 (j) Site separated material.

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

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

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

15 (iii) As aggregate, road, or building material which in
16 ultimate use will be stabilized or bonded by cement, limes, or
17 asphalt.

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

22 (v) As the sole material in a depository designed to
23 reclaim, develop, or otherwise enhance land, subject to the
24 approval of the department. In evaluating the site, the depart-
25 ment shall consider the physical and chemical properties of the
26 ash including leachability, and the engineering of the
27 depository, including, but not limited to, the compaction,

1 control of surface water and groundwater that may threaten to
2 infiltrate the site, and evidence that the depository is designed
3 to prevent water percolation through the material.

4 (1) Other wastes regulated by statute.

5 (3) ~~-(2)-~~ "Solid waste hauler" means a person who owns or
6 operates a solid waste transporting unit.

7 (4) ~~-(3)-~~ "Solid waste processing plant" means a tract of
8 land, building, unit, or appurtenance of a building or unit or a
9 combination of land, buildings, and units that is used or
10 intended for use for the processing of solid waste or the separa-
11 tion of material for salvage or disposal, or both, but does not
12 include a plant engaged primarily in the acquisition, processing,
13 and shipment of ferrous or nonferrous metal scrap, or a plant
14 engaged primarily in the acquisition, processing, and shipment of
15 slag or slag products.

16 (5) ~~-(4)-~~ "Solid waste transporting unit" means a container
17 that may be an integral part of a truck or other piece of equip-
18 ment used for the transportation of solid waste.

19 (6) ~~-(5)-~~ "Solid waste transfer facility" means a tract of
20 land, a building and any appurtenances, or a container, or any
21 combination of land, buildings, or containers that is used or
22 intended for use in the rehandling or storage of solid waste
23 incidental to the transportation of the solid waste, but is not
24 located at the site of generation or the site of disposal of the
25 solid waste.

26 (7) ~~-(6)-~~ "Source separated material" means glass, metal,
27 wood, paper products, plastics, rubber, textiles, garbage, yard

1 clippings, or any other material approved by the department that
2 is separated at the source of generation for the purpose of con-
3 version into raw materials or new products.

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

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

11 (A) CONSTRUCTION AND DEMOLITION WASTE LANDFILLS.

12 (B) INDUSTRIAL WASTE LANDFILLS.

13 (10) ~~-(7)-~~ "Yard clippings" means leaves, grass clippings,
14 vegetable or other garden debris, shrubbery, or brush or tree
15 trimmings, less than 4 feet in length and 2 inches in diameter,
16 that can be converted to compost humus. Yard clippings do not
17 include stumps, agricultural wastes, animal waste, roots, sewage
18 sludge, or garbage.

19 Sec. 11507a. (1) The owner or operator of a landfill shall
20 annually submit a report to the state and the county and munici-
21 pality in which the landfill is located that contains information
22 on the amount of solid waste received by the landfill during the
23 year itemized, to the extent possible, by county, state, or coun-
24 try of origin.

25 (2) By September 1, 1996, the department shall develop and
26 submit to the legislature a plan to gather data on the amount of

1 recyclable materials recovered in the state itemized, to the
2 extent possible, by county, state, or country of origin.

3 (3) BY SEPTEMBER 1, 1997, THE DEPARTMENT SHALL SUBMIT TO THE
4 LEGISLATURE A REPORT THAT CATEGORIZES THE AMOUNT OF SOLID WASTE
5 RECEIVED BY LANDFILLS IN THE STATE ITEMIZED BY STATE OR COUNTRY
6 OF ORIGIN AND CALCULATES THE PERCENTAGE OF SOLID WASTE THAT IS
7 DISPOSED OF ON THE BASIS OF IN-STATE AND OUT-OF-STATE GENERATION.

8 SEC. 11508A. AN ORDINANCE, LAW, RULE, REGULATION, POLICY,
9 SOLID WASTE MANAGEMENT PLAN, OR PRACTICE OF A MUNICIPALITY,
10 COUNTY, OR OTHER LOCAL UNIT OF GOVERNMENT THAT PROHIBITS OR REGU-
11 LATES THE LOCATION, DEVELOPMENT, OR OPERATION OF A MUNICIPAL
12 SOLID WASTE LANDFILL, A COMMERCIAL TYPE III LANDFILL, OR AN
13 INCINERATOR SHALL BE CONSIDERED IN CONFLICT WITH THIS PART AND
14 SHALL NOT BE ENFORCEABLE. THIS SECTION DOES NOT APPLY TO EITHER
15 OF THE FOLLOWING:

16 (A) THE CONDITIONS OF SITING AND CONDITIONS OF OPERATION
17 APPLICABLE TO A MUNICIPAL SOLID WASTE LANDFILL OR A COMMERCIAL
18 TYPE III LANDFILL UNDER SECTION 11511B(1).

19 (B) HOST COMMUNITY AGREEMENTS.

20 Sec. 11509. (1) Except as otherwise provided in section
21 11529, a person otherwise allowed under this part to own or oper-
22 ate a solid waste disposal area shall not establish a disposal
23 area without a construction permit from the department, ~~contrary~~
24 ~~to an approved solid waste management plan,~~ or contrary to a
25 permit, license, or final order issued pursuant to this part. IF
26 THE DISPOSAL AREA IS A MUNICIPAL SOLID WASTE LANDFILL OR A
27 COMMERCIAL TYPE III LANDFILL, OR AN INCINERATOR, THE DEPARTMENT

1 SHALL NOT ISSUE A CONSTRUCTION PERMIT FOR THAT LANDFILL OR
2 INCINERATOR UNLESS THE APPLICANT IS IN COMPLIANCE WITH SECTIONS
3 11511A, 11511B, AND 11511C. A person proposing the establishment
4 of a disposal area shall apply for a construction permit to the
5 department through the health officer on a form provided by the
6 department. If the disposal area is located in a county or city
7 that does not have a certified health department, the application
8 shall be made directly to the department.

9 (2) The application for a construction permit shall contain
10 the name and residence of the applicant, the location of the pro-
11 posed disposal area, the INITIAL design capacity of the disposal
12 area, A COPY OF THE HOST COMMUNITY AGREEMENT, IF APPLICABLE, and
13 other information specified by rule. A person may apply to con-
14 struct more than 1 type of disposal area at the same facility
15 under a single permit. The application shall be accompanied by
16 an engineering plan and a construction permit application fee. A
17 construction application permit for a landfill shall be accom-
18 panied by a fee in an amount that is the sum of all of the appli-
19 cable fees in this subsection:

20 (a) For a new sanitary landfill, a fee equal to the follow-
21 ing amount:

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

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

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

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

- 1 (i) For a municipal solid waste landfill, \$1,000.00.
- 2 (ii) For an industrial waste landfill, \$750.00.
- 3 (iii) For a type III landfill limited to low hazard indus-
- 4 trial waste, construction and demolition waste, or other nonin-
- 5 dustrial waste, \$500.00.
- 6 (c) For a vertical expansion of an existing sanitary land-
- 7 fill, a fee equal to the following amount:
- 8 (i) For a municipal solid waste landfill, \$750.00.
- 9 (ii) For an industrial waste landfill, \$500.00.
- 10 (iii) For an industrial waste landfill limited to low hazard
- 11 industrial waste, construction and demolition waste, or other
- 12 nonindustrial waste, \$250.00.
- 13 (3) The application for a construction permit for a solid
- 14 waste transfer facility, a solid waste processing plant, other
- 15 disposal area, or a combination of these, shall be accompanied by
- 16 a fee in the following amount:
- 17 (a) For a new facility for municipal solid waste, or a com-
- 18 bination of municipal solid waste and waste listed in subdivision
- 19 (b), \$1,000.00.
- 20 (b) For a new facility for industrial waste, or construction
- 21 and demolition waste, \$500.00.
- 22 (c) For the expansion of an existing facility for any type
- 23 of waste, \$250.00.
- 24 (4) If an application is returned to the applicant as admin-
- 25 istratively incomplete, the department shall refund the entire
- 26 fee. If a permit is denied or an application is withdrawn, the
- 27 department shall refund 1/2 the amount specified in subsection

1 (3) to the applicant. An applicant for a construction permit,
2 within 12 months after a permit denial or withdrawal, may resub-
3 mit the application and the refunded portion of the fee, together
4 with the additional information as needed to address the reasons
5 for denial, without being required to pay an additional applica-
6 tion fee.

7 (5) An application for a modification to a construction
8 permit or for renewal of a construction permit which has expired
9 shall be accompanied by a fee of \$250.00. Increases in final
10 elevations that do not result in an increase in design capacity
11 or a change in the solid waste boundary shall be considered a
12 modification and not a vertical expansion.

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

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

19 Sec. 11511. (1) The department shall make a final decision
20 as to whether to issue a construction permit within 120 days
21 after the department receives an administratively complete
22 application. The decision of the department and the reasons for
23 the decision shall be in writing with specific reference to this
24 part or rules promulgated under this part for any substantiation
25 of denial of the permit application and shall be sent by
26 first-class mail to the clerk of the municipality in which the
27 disposal area is proposed to be located and to the applicant

1 within 10 days after the final decision is made. If the
2 department fails to make a final decision within 120 days, the
3 permit shall be considered issued.

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

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

25 SEC. 11511A. (1) EXCEPT AS PROVIDED IN SECTION 11511C, THE
26 DEPARTMENT SHALL NOT ISSUE A CONSTRUCTION PERMIT UNDER THIS PART
27 FOR A NEW MUNICIPAL SOLID WASTE LANDFILL OR A NEW COMMERCIAL TYPE

1 III LANDFILL OR A NEW INCINERATOR OR THE EXPANSION OF A MUNICIPAL
2 SOLID WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL, UNLESS
3 THE PERSON PROPOSING TO CONSTRUCT THE LANDFILL OR INCINERATOR HAS
4 ENTERED INTO A HOST COMMUNITY AGREEMENT WITH THE HOST COMMUNITY
5 AND THE HOST COMMUNITY AGREEMENT IS APPROVED PURSUANT TO SUBSEC-
6 TION (3).

7 (2) WHEN A HOST COMMUNITY IS NEGOTIATING A HOST COMMUNITY
8 AGREEMENT, THE HOST COMMUNITY SHALL TAKE ANY EXISTING SOLID WASTE
9 MANAGEMENT PLAN FOR THAT JURISDICTION INTO CONSIDERATION.

10 (3) IF A HOST COMMUNITY ENTERS INTO A HOST COMMUNITY AGREE-
11 MENT PURSUANT TO THIS SECTION, THE HOST COMMUNITY SHALL FORWARD A
12 COPY OF THE HOST COMMUNITY AGREEMENT TO THE COUNTY BOARD OF COM-
13 MISSIONERS OF THE COUNTY IN WHICH THE HOST COMMUNITY IS LOCATED.
14 WITHIN 90 DAYS OF RECEIPT OF THE HOST COMMUNITY AGREEMENT, THE
15 COUNTY BOARD OF COMMISSIONERS SHALL VOTE TO APPROVE OR DISAPPROVE
16 THE HOST COMMUNITY AGREEMENT. UNLESS A MAJORITY OF THE MEMBERS
17 OF THE COUNTY BOARD OF COMMISSIONERS DISAPPROVE THE HOST COMMU-
18 NITY AGREEMENT WITHIN THE 90-DAY TIME PERIOD, IT IS APPROVED. IF
19 THE COUNTY BOARD OF COMMISSIONERS DISAPPROVES THE HOST COMMUNITY
20 AGREEMENT, THE BOARD SHALL SUBMIT ITS OBJECTIONS TO THE HOST COM-
21 MUNITY WITHIN 30 DAYS FOLLOWING ITS DISAPPROVAL OF THE HOST COM-
22 MUNITY AGREEMENT. UPON RECEIPT OF THE BOARD'S OBJECTIONS, THE
23 MUNICIPALITY MAY ATTEMPT TO NEGOTIATE WITH THE PERSON PROPOSING
24 TO CONSTRUCT THE LANDFILL OR INCINERATOR TO ADDRESS THOSE OBJEC-
25 TIONS WITHIN THE HOST COMMUNITY AGREEMENT. THE MUNICIPALITY
26 SHALL EITHER RESUBMIT A MODIFIED HOST COMMUNITY AGREEMENT FOR
27 REVIEW BY THE COUNTY BOARD OF COMMISSIONERS OR NOTIFY THE BOARD

1 THAT IT INTENDS TO PURSUE THE PREVIOUSLY SUBMITTED HOST COMMUNITY
2 AGREEMENT. UNLESS WITHIN 90 DAYS AFTER SUBMITTAL OF THE MODIFIED
3 HOST COMMUNITY AGREEMENT OR THE NOTIFICATION THAT IT INTENDS TO
4 PURSUE THE PREVIOUSLY SUBMITTED HOST COMMUNITY AGREEMENT, THE
5 LEGISLATIVE BODIES OF 2/3 OF THE MUNICIPALITIES WITHIN THE COUNTY
6 ADOPT RESOLUTIONS OBJECTING TO THE HOST COMMUNITY AGREEMENT, THE
7 HOST COMMUNITY AGREEMENT IS APPROVED.

8 (4) AS USED IN THIS SECTION:

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

12 (B) "NEW MUNICIPAL SOLID WASTE LANDFILL OR NEW COMMERCIAL
13 TYPE III LANDFILL" MEANS A MUNICIPAL SOLID WASTE LANDFILL OR A
14 COMMERCIAL TYPE III LANDFILL THAT ON THE EFFECTIVE DATE OF THIS
15 SECTION IS NOT LOCATED ON SITED ACREAGE NOR IS AN EXPANSION OF A
16 MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL TYPE III LANDFILL.

17 SEC. 11511B. (1) SUBJECT TO SUBSECTIONS (2) AND (3), EACH
18 MUNICIPAL SOLID WASTE LANDFILL AND COMMERCIAL TYPE III LANDFILL
19 IN THE STATE THAT IS LOCATED ON SITED ACREAGE ON THE EFFECTIVE
20 DATE OF THIS SECTION MAY CONTINUE TO OPERATE WITHIN ITS SITED
21 ACREAGE, SUBJECT TO THE FOLLOWING:

22 (A) CONDITIONS OF SITING.

23 (B) CONDITIONS OF OPERATION, EXCLUDING PROVISIONS RELATED TO
24 FLOW CONTROL.

25 (C) THE PROVISIONS OF AN EFFECTIVE HOST COMMUNITY
26 AGREEMENT. NOTHING IN THIS PART VOIDS, MODIFIES, OR OTHERWISE

1 INTERFERES WITH A HOST COMMUNITY AGREEMENT ENTERED INTO BEFORE
2 THE EFFECTIVE DATE OF THIS SECTION AND WHICH REMAINS IN EFFECT.

3 (2) NOTWITHSTANDING SUBSECTION (1)(B), IF A MUNICIPAL SOLID
4 WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL IS NOT SUBJECT
5 TO A HOST COMMUNITY AGREEMENT, PROVISIONS RELATED TO FLOW CONTROL
6 IN THE CONDITIONS OF OPERATION MAY BE ENFORCED FOR A PERIOD OF 30
7 MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION.

8 (3) AT ANY TIME AFTER THE EFFECTIVE DATE OF THIS SECTION,
9 THE OWNER OR OPERATOR OF A MUNICIPAL SOLID WASTE LANDFILL OR COM-
10 MERCIAL TYPE III LANDFILL MAY ENTER INTO A HOST COMMUNITY AGREE-
11 MENT WITH THE HOST COMMUNITY. IF A HOST COMMUNITY AGREEMENT IS
12 APPROVED IN THE MANNER PROVIDED IN SECTION 11511A(3), THE LAND-
13 FILL SHALL OPERATE UNDER THE TERMS OF THAT HOST COMMUNITY
14 AGREEMENT.

15 SEC. 11511C. (1) AN OWNER OR OPERATOR OF A MUNICIPAL SOLID
16 WASTE LANDFILL OR COMMERCIAL TYPE III LANDFILL THAT ON THE EFFEC-
17 TIVE DATE OF THIS SECTION IS LOCATED ON SITED ACREAGE WHO WISHES
18 TO EXPAND THAT LANDFILL ONTO CONTIGUOUS PROPERTY AND WHO HAS BEEN
19 UNABLE TO REACH AGREEMENT WITH THE HOST COMMUNITY REGARDING A
20 HOST COMMUNITY AGREEMENT FOR THAT EXPANSION MAY REQUEST THAT AN
21 ARBITRATION PANEL BE CONVENED TO RESOLVE THE DISPUTE IF ALL OF
22 THE FOLLOWING CONDITIONS ARE MET:

23 (A) NOT MORE THAN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS
24 SECTION, THE OWNER OF THE MUNICIPAL SOLID WASTE LANDFILL OR COM-
25 MERCIAL TYPE III LANDFILL SUBMITS A STATEMENT DESCRIBING ALL CON-
26 TIGUOUS PROPERTY OWNED BY THE OWNER OF THE LANDFILL OR A
27 SUBSIDIARY, PARENT, OR AN AFFILIATE OF THE OWNER. THE OWNER OF

1 THE LANDFILL SHALL SUBMIT THE STATEMENT TO EACH COUNTY AND
2 MUNICIPALITY IN WHICH EITHER THE LANDFILL OR CONTIGUOUS PROPERTY
3 IS LOCATED. THE STATEMENT SHALL DESCRIBE THE PROPERTY BY PARCEL
4 OR LOT NUMBER OR METES AND BOUNDS DESCRIPTION, AND IDENTIFY THE
5 OWNER OR OWNERS OF RECORD.

6 (B) THE EXPANSION COMPLIES WITH THIS PART AND THE RULES
7 PROMULGATED UNDER THIS PART INCLUDING REQUIREMENTS OF OBTAINING
8 NECESSARY CONSTRUCTION PERMITS AND OPERATING LICENSES.

9 (C) THE SITED ACREAGE OF THE LANDFILL IS SUBJECT TO A HOST
10 COMMUNITY AGREEMENT.

11 (2) AN ARBITRATION PANEL CONVENED UNDER THIS SECTION SHALL
12 DETERMINE WHETHER OR NOT A PROPOSED EXPANSION SHOULD TAKE PLACE
13 AND THE SPECIFIC LOCATION AND ACREAGE FOR THAT EXPANSION, IF
14 ANY. IF THE ARBITRATION PANEL DETERMINES THAT AN EXPANSION
15 SHOULD TAKE PLACE, THE ARBITRATION PANEL SHALL DETERMINE THE
16 TERMS OF A HOST COMMUNITY AGREEMENT THAT WILL GOVERN OPERATIONS
17 OF THE LANDFILL. IN MAKING ITS DETERMINATIONS, THE ARBITRATION
18 PANEL SHALL CONSIDER ALL OF THE FOLLOWING:

19 (A) THE AMOUNT OF PERMITTED AND SITED ACREAGE AVAILABLE TO
20 THE LANDFILL OWNER OR OPERATOR.

21 (B) THE CAPACITY NEEDS OF THE AREA IN WHICH THE LANDFILL IS
22 LOCATED AND OF THE STATE.

23 (C) WHETHER THE EXPANSION IS CONSISTENT WITH THE SURROUNDING
24 LAND USES.

25 (D) THE OVERALL ENVIRONMENTAL PROTECTION AFFORDED BY THE
26 EXPANSION OF THE LANDFILL.

1 (3) TO INITIATE ARBITRATION UNDER THIS SECTION, THE OWNER OR
2 OPERATOR OF A MUNICIPAL SOLID WASTE LANDFILL OR A COMMERCIAL TYPE
3 III LANDFILL SHALL, WITHIN 90 DAYS AFTER A SUBMITTAL OF AN OFFER
4 TO THE HOST COMMUNITY REGARDING THE EXPANSION AND THE TERMS OF A
5 HOST COMMUNITY AGREEMENT, SUBMIT TO THE HOST COMMUNITY A WRITTEN
6 REQUEST TO INITIATE ARBITRATION.

7 (4) AN ARBITRATION PANEL CONVENED TO DETERMINE THE TERMS OF
8 A HOST COMMUNITY AGREEMENT PURSUANT TO THIS SECTION SHALL CONSIST
9 OF 3 ARBITRATORS. ONE ARBITRATOR SHALL BE SELECTED BY THE HOST
10 COMMUNITY. ONE ARBITRATOR SHALL BE SELECTED BY THE OWNER OR
11 OPERATOR OF THE LANDFILL. ONE ARBITRATOR SHALL BE JOINTLY
12 SELECTED BY THE OWNER OR OPERATOR OF THE LANDFILL AND THE HOST
13 COMMUNITY. IF THE OWNER OR OPERATOR FAILS TO NOTIFY THE HOST
14 COMMUNITY OF THE OWNER'S OR OPERATOR'S SELECTION OF AN ARBITRATOR
15 WITHIN 30 DAYS AFTER SUBMITTING A WRITTEN REQUEST TO INITIATE
16 ARBITRATION TO THE HOST COMMUNITY, THE DIRECTOR SHALL SELECT AN
17 ARBITRATOR FOR THE OWNER OR OPERATOR FROM A LIST OF ARBITRATORS
18 PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION. IF THE HOST
19 COMMUNITY FAILS TO NOTIFY THE OWNER OR OPERATOR OF THE HOST
20 COMMUNITY'S SELECTION OF AN ARBITRATOR WITHIN 30 DAYS AFTER
21 RECEIVING THE WRITTEN REQUEST TO INITIATE ARBITRATION, THE DIREC-
22 TOR SHALL SELECT AN ARBITRATOR FOR THE HOST COMMUNITY FROM A LIST
23 OF ARBITRATORS PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.
24 IF THE PARTIES ARE UNABLE TO AGREE TO JOINTLY SELECT THE THIRD
25 ARBITRATOR, THE DIRECTOR SHALL SELECT AN ARBITRATOR FROM A LIST
26 OF ARBITRATORS PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.

1 (5) THE ARBITRATION PANEL SHALL BE CONVENED WITHIN 60 DAYS
2 AFTER RECEIPT OF THE REQUEST TO INITIATE ARBITRATION BY THE HOST
3 COMMUNITY. WITHIN 7 DAYS AFTER CONVENING, THE ARBITRATION PANEL
4 SHALL DO 1 OF THE FOLLOWING:

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

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

24 (6) A FINAL OFFER SHALL CONTAIN THE LANDFILL OWNER'S OR
25 OPERATOR'S OR THE HOST COMMUNITY'S FINAL TERMS AND CONDITIONS
26 RELATING TO THE LANDFILL AND ANY INFORMATION OR ARGUMENTS IN

1 SUPPORT OF THE PROPOSALS. ADDITIONAL SUPPORTING INFORMATION MAY
2 BE SUBMITTED AT ANY TIME.

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

9 (8) AFTER THE FINAL OFFERS ARE SUBMITTED TO THE ARBITRATION
10 PANEL, NEITHER PARTY MAY AMEND ITS FINAL OFFER, EXCEPT WITH THE
11 WRITTEN PERMISSION OF THE OTHER PARTY.

12 (9) WITHIN 60 DAYS AFTER THE LAST DAY FOR SUBMITTING A FINAL
13 OFFER UNDER THIS SECTION, THE ARBITRATION PANEL SHALL ISSUE AN
14 ARBITRATION AWARD WITH APPROVAL OF A MINIMUM OF 2 PANEL MEMBERS.
15 THE ARBITRATION AWARD SHALL ADOPT, WITHOUT MODIFICATION, THE
16 FINAL OFFER OF EITHER THE OWNER OR OPERATOR OF THE LANDFILL OR
17 THE HOST COMMUNITY, EXCEPT THAT THE ARBITRATION AWARD SHALL
18 DELETE THOSE ITEMS THAT ARE NOT SUBJECT TO ARBITRATION UNDER THIS
19 SECTION. A COPY OF THE ARBITRATION AWARD SHALL BE SERVED ON BOTH
20 PARTIES. THE ARBITRATION PANEL MAY, AT ITS DISCRETION, MEET WITH
21 1 OR BOTH PARTIES PRIOR TO ISSUING AN ARBITRATION AWARD.

22 (10) IF THE LANDFILL OWNER OR OPERATOR CONSTRUCTS AND OPER-
23 ATES THE FACILITY THAT IS THE SUBJECT OF AN ARBITRATION AWARD
24 UNDER THIS SECTION, THE ARBITRATION AWARD SHALL BE CONSIDERED AN
25 APPROVED HOST COMMUNITY AGREEMENT AND SHALL BE BINDING ON THE
26 LANDFILL OWNER OR OPERATOR, THE HOST COMMUNITY, AND THE
27 DEPARTMENT.

1 (11) AS USED IN THIS SECTION, "CONTIGUOUS PROPERTY" MEANS
2 THE SAME OR GEOGRAPHICALLY CONTIGUOUS PROPERTY OWNED ON OR BEFORE
3 JANUARY 1, 1996 BY THE SAME PERSON, ITS SUBSIDIARIES, PARENT COR-
4 PORATION, OR AFFILIATES THAT MAY BE DIVIDED BY A PUBLIC OR PRI-
5 VATE RIGHT-OF-WAY. PROPERTY OWNED BY SUCH PERSONS AND CONNECTED
6 BY A RIGHT-OF-WAY WHICH SUCH PERSONS CONTROL AND TO WHICH THE
7 PUBLIC DOES NOT HAVE ACCESS IS ALSO CONTIGUOUS PROPERTY.

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

11 (A) THE COUNTY RURAL ZONING ENABLING ACT, 1943 PA 183, MCL
12 125.201 TO 125.232.

13 (B) THE TOWNSHIP RURAL ZONING ACT, 1943 PA 184, MCL 125.271
14 TO 125.301.

15 (C) 1921 PA 207, MCL 125.581 TO 125.592.

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

20 (2) Except as otherwise provided in this section or in sec-
21 tion 11529, a person otherwise allowed under this part to own or
22 operate a solid waste disposal area shall not conduct, manage,
23 maintain, or operate a disposal area within this state without a
24 license from the department, ~~contrary to an approved solid waste~~
25 ~~management plan,~~ or contrary to a permit, license, or final
26 order issued under this part. A person who intends to conduct,
27 manage, maintain, or operate a disposal area shall submit a prior

1 license application to the department through a certified health
2 department on a form provided by the department. If the disposal
3 area is located in a county or city that does not have a certi-
4 fied health department, the application shall be made directly to
5 the department. A person authorized by this part to operate more
6 than 1 type of disposal area at the same facility may apply for a
7 single license.

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

21 (4) At the time of application for a license for a disposal
22 area, the applicant shall submit to a health officer or the
23 department a certification under the seal of a licensed profes-
24 sional engineer verifying that the construction of the disposal
25 area has proceeded according to the approved plans. If construc-
26 tion of the disposal area or a portion of the disposal area is
27 not complete, the department shall require additional

1 construction certification of that portion of the disposal area
2 during intermediate progression of the operation, as specified in
3 section 11516(4).

4 (5) An applicant for an operating license, within 6 months
5 after a license denial, may resubmit the application, together
6 with additional information or corrections as are necessary to
7 address the reason for denial, without being required to pay an
8 additional application fee.

9 (6) In order to conduct tests and assess operational capa-
10 bilities, the owner or operator of a municipal solid waste incin-
11 erator that is designed to burn at a temperature in excess of
12 2500 degrees Fahrenheit may operate the incinerator without an
13 operating license, upon notice to the department, for a period
14 not to exceed 60 days.

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

19 (a) Landfills receiving less than 100 tons per day,
20 \$250.00.

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

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

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

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

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

5 (g) Landfills receiving greater than 3,000 tons per day,
6 \$30,000.00.

7 (8) Type II landfill application fees shall be based on the
8 average amount of waste projected to be received daily during the
9 license period. Application fees for license renewals shall be
10 based on the average amount of waste received in the previous
11 calendar year. Application fees shall be adjusted in the follow-
12 ing circumstances:

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

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

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

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

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

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

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

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

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

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

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

1 decision is made. If the department fails to make a final
2 decision within 90 days, the license is considered issued.

3 (2) An operating license shall expire 2 years after the date
4 of issuance. An operating license may be renewed before expira-
5 tion upon payment of a renewal application fee specified in
6 section 11512(8) if the licensee is in compliance with this part
7 and the rules promulgated under this part.

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

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

~~1 plan for that planning area under section 11533 and from the~~
~~2 municipality in which the disposal area is to be located.~~

3 (4) ~~-(5)-~~ Issuance of an operating license by the department
4 authorizes the licensee to accept waste for disposal in certified
5 portions of the disposal area for which a bond was established
6 under section 11523 and, for type II landfills, for which finan-
7 cial assurance was demonstrated under section 11523a. If the
8 construction of a portion of a landfill licensed under this sec-
9 tion is not complete at the time of license application, the
10 owner or operator of the landfill shall submit a certification
11 under the seal of a licensed professional engineer verifying that
12 the construction of that portion of the landfill has proceeded
13 according to the approved plans at least 60 days prior to the
14 anticipated date of waste disposal in that portion of the
15 landfill. If the department does not deny the certification
16 within 60 days of receipt, the owner or operator may accept waste
17 for disposal in the certified portion. In the case of a denial,
18 the department shall, issue a written statement stating the rea-
19 sons why the construction or certification is not consistent with
20 this part or rules promulgated under this part or the approved
21 plans.

22 Sec. 11517. (1) Within 9 months after the completion of
23 construction of a municipal solid waste incinerator, the owner or
24 operator of a municipal solid waste incinerator shall submit a
25 plan to the department for a program that, to the extent practi-
26 cable, reduces the incineration of noncombustible materials and
27 dangerous combustible materials and their hazardous by-products

1 at the incinerator. The department shall approve or disapprove
2 the plan submitted under this subsection within 30 days after
3 receiving it. In reviewing the plan, the department shall con-
4 sider the ~~current county solid waste management plan,~~ available
5 markets for separated materials, disposal alternatives for the
6 separated materials, and collection practices for handling such
7 separated materials. If the department disapproves a plan, the
8 department shall notify the owner or operator submitting the plan
9 of this fact, and shall provide modifications that, if included,
10 would result in the plan's approval. If the department disap-
11 proves a plan, the owner or operator of a municipal solid waste
12 incinerator shall within 30 days after receipt of the
13 department's disapproval submit a revised plan that addresses all
14 of the modifications provided by the department. The department
15 shall approve or disapprove the revised plan within 30 days after
16 receiving it, and approval of the revised plan shall not be
17 unreasonably withheld.

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

25 Sec. 11519. (1) The department shall specify, in writing,
26 the reasons for denial of a construction permit or an operating
27 license, further specifying those particular sections of this

1 part or rules promulgated under this part that may be violated by
2 granting the application and the manner in which the violation
3 may occur.

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

16 (3) The department may issue a final order revoking, sus-
17 pending, or restricting a permit or license after a contested
18 case hearing as provided in the administrative procedures act of
19 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
20 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL
21 24.201 TO 24.328, if the department finds that the disposal area
22 is not being constructed or operated in accordance with ~~the~~
23 ~~approved plans,~~ the conditions of a permit or license, this
24 part, or the rules promulgated under this part. A final order
25 issued pursuant to this section is subject to judicial review as
26 provided in ~~Act No. 306 of the Public Acts of 1969~~ THE
27 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO

1 24.328. The department or a health officer shall inspect and
2 file a written report not less than 4 times per year for each
3 licensed disposal area. The department or the health officer
4 shall provide the municipality in which the licensed disposal
5 area is located with a copy of each written inspection report if
6 the municipality arranges with the department or the health offi-
7 cer to bear the expense of duplicating and mailing the reports.

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

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

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

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

3 (2) A solid waste transfer facility that is exempt from the
4 construction permit and operating license requirements of this
5 part under subsection (1) shall comply with the operating
6 requirements of this part and the rules promulgated under this
7 part.

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

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

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

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

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

26 SEC. 11531A. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS
27 SECTION AND SECTION 11531B, A COUNTY OR A MUNICIPALITY SHALL NOT

1 ENACT AN ORDINANCE, RULE, REGULATION, OR LAW THAT DIRECTS OR
2 RESTRICTS THE FLOW OF THE SOLID WASTE. EXCEPT AS OTHERWISE PRO-
3 VIDED IN THIS SECTION OR SECTION 11531B, THE PORTION OF AN ORDI-
4 NANCE, RULE, REGULATION, OR LAW THAT VIOLATES THIS SUBSECTION IS
5 VOID.

6 (2) AN ORDINANCE ENACTED PRIOR TO JANUARY 1, 1996 BY A
7 COUNTY OR MUNICIPALITY THAT DIRECTS THE FLOW OF SOLID WASTE GEN-
8 ERATED WITHIN THE COUNTY OR MUNICIPALITY TO A SOLID WASTE MANAGE-
9 MENT FACILITY FINANCED WITH BONDS OF THE COUNTY OR MUNICIPALITY
10 OR OF A PUBLIC SERVICE AUTHORITY SERVING THE COUNTY OR MUNICIPAL-
11 ITY OR AN ORDINANCE ENACTED PRIOR TO JANUARY 1, 1996 WITH RESPECT
12 TO WHICH A COUNTY, MUNICIPALITY, OR PUBLIC SERVICE AUTHORITY
13 ENTERED INTO A WASTE CONTRACT, MAY REMAIN IN EFFECT UNTIL THE
14 BONDS HAVE BEEN PAID IN FULL OR THE TERM OF THE WASTE CONTRACT
15 HAS EXPIRED OR FOR THE REMAINING USEFUL LIFE OF THE FACILITY,
16 WHICHEVER IS SHORTER.

17 (3) NOTWITHSTANDING SUBSECTION (2), AN ORDINANCE DESCRIBED
18 IN SUBSECTION (2) MAY REMAIN IN EFFECT FOR THE REMAINING USEFUL
19 LIFE OF THE FACILITY IF THE COUNTY OR MUNICIPALITY THAT ENACTED
20 THE ORDINANCE RENEWS THAT ORDINANCE BY AN AFFIRMATIVE VOTE OF THE
21 GOVERNING BOARD OF THAT COUNTY OR MUNICIPALITY AT LEAST EVERY 2
22 YEARS. AS USED IN THIS SUBSECTION, REMAINING USEFUL LIFE OF THE
23 FACILITY INCLUDES EXTENDING THE USEFUL LIFE BY EITHER OF THE
24 FOLLOWING:

25 (A) RETROFITTING OF EQUIPMENT OR THE MAKING OF OTHER SIGNIF-
26 ICANT MODIFICATIONS TO MEET APPLICABLE ENVIRONMENTAL REQUIREMENTS
27 OR SAFETY REQUIREMENTS.

1 (B) REPAIR OR REPLACEMENT OF EQUIPMENT OR COMPONENTS THAT
2 DOES NOT ADD TO THE ORIGINAL DESIGN CAPACITY OF A WASTE MANAGE-
3 MENT FACILITY.

4 (4) AS USED IN THIS SECTION:

5 (A) "PUBLIC SERVICE AUTHORITY" MEANS AN AUTHORITY CREATED
6 UNDER 1947 PA 179, MCL 123.301 TO 123.310.

7 (B) "WASTE CONTRACT" MEANS A CONTRACT BETWEEN A COUNTY OR
8 MUNICIPALITY AND A PUBLIC SERVICE AUTHORITY CONCERNING THE MOVE-
9 MENT OR DELIVERY OF SOLID WASTE GENERATED WITHIN THE JURISDIC-
10 TIONAL BOUNDARIES OF SUCH COUNTY, MUNICIPALITY, OR PUBLIC SERVICE
11 AUTHORITY.

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

16 Sec. 11532. (1) Except as provided in subsection (3), a
17 municipality may impose an impact fee of not more than 10 cents
18 per cubic yard on solid waste that is disposed of in a landfill
19 located within the municipality that is utilized by the public
20 and utilized to dispose of solid waste collected from 2 or more
21 persons. However, if the landfill is located within a village,
22 the impact fee provided for in this subsection shall be imposed
23 by the township in agreement with the village. The impact fee
24 shall be assessed uniformly on all wastes accepted for disposal.

25 (2) Except as provided in subsection (3), a municipality may
26 impose an impact fee of not more than 10 cents per cubic yard on
27 municipal solid waste incinerator ash that is disposed of in a

1 landfill located within the municipality that is utilized to
2 dispose of municipal solid waste incinerator ash. However, if
3 the landfill is located within a village, the impact fee provided
4 for in this subsection shall be imposed by the township in agree-
5 ment with the village.

6 (3) ~~—A—~~ AS PART OF A HOST COMMUNITY AGREEMENT, A municipal-
7 ity may enter into an agreement with the owner or operator of a
8 landfill to establish a higher impact fee than those provided for
9 in subsections (1) and (2).

10 (4) IN ADDITION TO THE IMPACT FEE PROVIDED IN
11 SUBSECTION (1), (2), OR (3), A COUNTY IN WHICH A LANDFILL
12 DESCRIBED IN SUBSECTION (1) OR (2) IS LOCATED MAY IMPOSE AN
13 IMPACT FEE OF NOT MORE THAN 10 CENTS PER CUBIC YARD OF SOLID
14 WASTE OR MUNICIPAL SOLID WASTE INCINERATOR ASH DISPOSED OF IN THE
15 LANDFILL. MONEY COLLECTED BY A COUNTY PURSUANT TO THIS SECTION
16 SHALL BE USED BY THAT COUNTY ONLY TO ADDRESS IMPACTS OF THE LAND-
17 FILL OR FOR DISTRIBUTION BY THE COUNTY TO MUNICIPALITIES EITHER
18 WITHIN OR OUTSIDE OF THE COUNTY THAT ARE IMPACTED BY THE
19 LANDFILL.

20 (5) ~~—(4)—~~ The impact fees imposed under this section shall
21 be collected by the owner or operator of a landfill and shall be
22 paid to the COUNTY OR municipality quarterly by the thirtieth day
23 after the end of each calendar quarter. However, the impact fees
24 allowed to be assessed to each landfill under ~~—this section—~~
25 SUBSECTION (1), (2), OR (3) shall be reduced by any amount of
26 revenue paid to or available to the municipality from the
27 landfill under the terms of any preexisting agreements,

1 including, but not limited to, contracts, special use permit
2 conditions, court settlement agreement conditions, and trusts.

3 (6) ~~—(5)—~~ Unless a trust fund is established by a municipal-
4 ity pursuant to subsection ~~—(6)—~~ (7), the revenue collected by a
5 municipality under subsections (1) and (2) shall be deposited in
6 its general fund to be used for any purpose that promotes the
7 public health, safety, or welfare of the citizens of the
8 municipality. However, revenue collected pursuant to this sec-
9 tion shall not be used to bring or support a lawsuit or other
10 legal action against an owner or operator of a landfill who is
11 collecting an impact fee pursuant to subsection ~~—(4)—~~ (5) unless
12 the owner or operator of the landfill has instituted a lawsuit or
13 other legal action against the municipality.

14 (7) ~~—(6)—~~ The municipality may establish a trust fund to
15 receive revenue collected pursuant to this section. The trust
16 fund shall be administered by a board of trustees. The board of
17 trustees shall consist of the following members:

18 (a) The chief elected official of the municipality creating
19 the trust fund.

20 (b) An individual from the municipality appointed by the
21 governing board of the municipality.

22 (c) An individual approved by the owners or operators of the
23 landfills within the municipality and appointed by the governing
24 board of the municipality.

25 (8) ~~—(7)—~~ Individuals appointed to serve on the board of
26 trustees under subsection ~~—(6)(b)—~~ (7)(B) and (c) shall serve for
27 terms of 2 years.

1 (9) ~~-(8)-~~ Money in the trust fund may be expended, pursuant
2 to a majority vote of the board of trustees, for any purpose that
3 promotes the public health, safety, or welfare of the citizens of
4 the municipality. However, revenue collected pursuant to this
5 section shall not be used to bring or support a lawsuit or other
6 legal action against an owner or operator of a landfill who is
7 collecting an impact fee pursuant to subsection ~~-(4)-~~ (5) unless
8 the owner or operator of the landfill has instituted a lawsuit or
9 other legal action against the municipality.

10 (10) AN IMPACT FEE IMPOSED UNDER THIS SECTION BY A MUNICI-
11 PALITY OR COUNTY DOES NOT AFFECT A MUNICIPAL OR COUNTY ORDINANCE
12 THAT IMPOSES A FEE TO FUND SERVICES PROVIDED BY THAT MUNICIPALITY
13 OR COUNTY.

14 Sec. 11533. (1) A COUNTY, OR 2 OR MORE COUNTIES ACTING
15 JOINTLY, MAY PREPARE A SOLID WASTE MANAGEMENT PLAN. Each solid
16 waste management plan shall include ~~an enforceable program and~~
17 ~~process to assure that the nonhazardous solid waste generated or~~
18 ~~to be generated in the planning area for a period of 10 years or~~
19 ~~more is collected and recovered, processed, or disposed of at~~
20 ~~disposal areas which comply with state law and rules promulgated~~
21 ~~by the department governing location, design, and operation of~~
22 ~~the disposal areas~~ THE BEST AVAILABLE DATA NECESSARY TO MANAGE
23 SOLID WASTE WITHIN THE PLANNING AREA.

24 ~~-(2) An initial solid waste management plan shall be pre-~~
25 ~~pared and approved under this section and shall be submitted to~~
26 ~~the director not later than January 5, 1984. Following submittal~~
27 ~~of the initial plan, the solid waste management plan shall be~~

~~1 reviewed and updated every 5 years. An updated plan and an
2 amendment to a plan shall be prepared and approved as provided in
3 sections 11533, 11534, 11535, 11536, 11537, and 11537a. The
4 solid waste management plan shall encompass all municipalities
5 within the county. The solid waste management plan shall at a
6 minimum comply with the requirements of sections 11537a and
7 11538. The solid waste management plan shall take into consider-
8 ation solid waste management plans in contiguous counties and
9 existing local approved solid waste management plans as they
10 relate to the county's needs. At a minimum, a county preparing a
11 solid waste management plan shall consult with the regional plan-
12 ning agency from the beginning to the completion of the plan.~~

~~13 (3) Not later than July 1, 1981, each county shall file with
14 the department and with each municipality within the county on a
15 form provided by the department, a notice of intent, indicating
16 the county's intent to prepare a county solid waste management
17 plan or to upgrade an existing plan. The notice shall identify
18 the designated agency which shall be responsible for preparing
19 the county solid waste management plan.~~

~~20 (2) (4) If the county fails to file a notice of intent
21 with the department within the prescribed time, the department
22 immediately shall notify each municipality within the county and
23 shall request those municipalities to prepare the county solid
24 waste management plan and shall convene a meeting to discuss the
25 plan preparation. Within 4 months following notification by the
26 department, the municipalities shall decide by a majority vote of
27 the municipalities in the county whether or not to file a notice~~

~~1 of intent to prepare the county solid waste management plan.~~
~~2 Each municipality in the county shall have 1 vote. If a majority~~
~~3 does not agree, then a notice of intent shall not be filed. The~~
~~4 notice shall identify the designated agency which is responsible~~
~~5 for preparing the county solid waste management plan.~~ PREPARE A
6 SOLID WASTE MANAGEMENT PLAN UNDER SUBSECTION (1), THE MUNICIPALITY-
7 TIES WITHIN A COUNTY REPRESENTING 51% OR MORE OF THE TOTAL COUNTY
8 POPULATION MAY JOINTLY PREPARE A SOLID WASTE MANAGEMENT PLAN.

9 ~~(5) If the municipalities fail to file a notice of intent~~
~~10 to prepare a county solid waste management plan with the depart-~~
~~11 ment within the prescribed time, the department shall request the~~
~~12 appropriate regional solid waste management planning agency to~~
~~13 prepare the county solid waste management plan. The regional~~
~~14 solid waste management planning agency shall respond within~~
15 90 days after the date of the request.

16 ~~(6) If the regional solid waste management planning agency~~
~~17 declines to prepare a county solid waste management plan, the~~
~~18 department shall prepare the solid waste management plan for the~~
~~19 county and that plan shall be final.~~

20 ~~(7) A solid waste management planning agency, upon request~~
~~21 of the department, shall submit a progress report in preparing~~
~~22 its solid waste management plan.~~

23 Sec. 11534. (1) The county executive of a charter county
24 that elects a county executive and that chooses to prepare a
25 solid waste management plan under section 11533 or the county
26 board of commissioners in all other counties choosing to prepare
27 ~~an initial~~ A solid waste management plan under section 11533,

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

18 (2) A planning committee appointed pursuant to this section
19 shall consist of ~~14 members~~. Of the members appointed, ~~4 shall~~
20 MEMBERS WHO represent the solid waste management industry, ~~2~~
21 ~~shall represent~~ environmental interest groups, ~~1 shall~~
22 ~~represent~~ county government, ~~1 shall represent~~ city govern-
23 ment, ~~1 shall represent~~ township government, ~~1 shall~~
24 ~~represent~~ the regional solid waste planning agency, ~~1 shall~~
25 ~~represent~~ industrial waste generators, and ~~3 shall represent~~
26 the general public. ~~A member appointed to represent a county,~~
27 ~~city, or township government shall be an elected official of that~~

~~1 government or the designee of that elected official. Vacancies~~
~~2 shall be filled in the same manner as the original appointments.~~
~~3 A member may be removed for nonperformance of duty.~~

~~4 (3) A planning committee appointed pursuant to this section~~
~~5 shall annually elect a chairperson and shall establish procedures~~
~~6 for conducting the committee's activities and for reviewing the~~
~~7 matters to be considered by the committee.~~

8 SEC. 11534A. A COUNTY IS NOT ELIGIBLE TO RECEIVE A GRANT
9 RELATED TO SOLID WASTE MANAGEMENT, SOURCE SEPARATION, OR RECYCL-
10 ING UNLESS THE COUNTY HAS PREPARED OR HAS JOINTLY PREPARED A
11 SOLID WASTE MANAGEMENT PLAN.

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

15 (a) Solicit the advice of and consult periodically during
16 the preparation of the plan with the municipalities, appropriate
17 organizations, and the private sector in the county under section
18 11538(1) and solicit the advice of and consult with the appropri-
19 ate county or regional solid waste management planning agency and
20 adjacent counties and municipalities in adjacent counties which
21 may be significantly affected by the solid waste management plan
22 for a county.

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

26 ~~(c) Notify by letter the chief elected official of each~~
27 ~~municipality within the county and any other person within the~~

1 ~~county so requesting, not less than 10 days before each public~~
2 ~~meeting of the planning agency designated by the county, if that~~
3 ~~planning agency plans to discuss the county plan. The letter~~
4 ~~shall indicate as precisely as possible the subject matter being~~
5 ~~discussed.~~

6 (B) ~~-(d)-~~ Submit for review a copy of the proposed ~~county~~
7 ~~or regional~~ solid waste management plan ~~to the department,~~ to
8 each municipality within the affected ~~county, and to adjacent~~
9 ~~counties and municipalities that may be affected by the plan or~~
10 ~~that have requested the opportunity to review the plan. The~~
11 ~~county plan shall be submitted for review to the designated~~
12 ~~regional solid waste management planning agency for that county.~~
13 PLANNING AREA. Reviewing ~~agencies~~ MUNICIPALITIES shall be
14 allowed an opportunity of not less than 3 months to review and
15 comment on the plan before adoption of the plan by the county ~~or~~
16 ~~a designated regional solid waste management planning agency.~~
17 ~~The comments of a reviewing agency shall be submitted with the~~
18 ~~plan to the county board of commissioners or to the regional~~
19 ~~solid waste management planning agency.~~ OR THE MUNICIPALITIES
20 PREPARING THE PLAN.

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

25 (D) ~~-(f)-~~ Conduct a public hearing on the proposed ~~county~~
26 solid waste management plan before formal adoption. A notice
27 shall be published not less than 30 days before a hearing in a

1 newspaper having a major circulation within the county OR
2 COUNTIES INCLUDED IN THE PLANNING AREA. The notice shall indi-
3 cate a location where copies of the SOLID WASTE MANAGEMENT plan
4 are available for public inspection and shall indicate the time
5 and place of the public hearing.

6 Sec. 11536. (1) ~~A municipality located in 2 counties or~~
7 ~~adjacent to a municipality located in another county may request~~
8 ~~to be included in the adjacent county's plan. Before the munici-~~
9 ~~pality may be included, the request shall be approved by a reso-~~
10 ~~lution of the county boards of commissioners of the counties~~
11 ~~involved. A municipality may appeal to the department a decision~~
12 ~~to exclude it from an adjacent county's plan. If there is an~~
13 ~~appeal, the department shall issue a decision within 45 days.~~
14 ~~The decision of the department is final. (2) Except as provided~~
15 ~~in subsection (3), the~~ THE county board of commissioners OR IF A
16 SOLID WASTE MANAGEMENT PLAN IS PREPARED UNDER SECTION 11533(2),
17 THE MUNICIPALITIES IN THE COUNTY PREPARING THE SOLID WASTE MAN-
18 AGEMENT PLAN shall formally act on the plan following the public
19 hearing required by section ~~11535(f)~~ 11535(C).

20 ~~(3) If a planning committee has been appointed by the~~
21 ~~county board of commissioners under section 11534(1), the county~~
22 ~~board of commissioners, or if a plan is prepared under section~~
23 ~~11533(4), the municipalities in the county who voted in favor of~~
24 ~~filing a notice of intent to prepare a county solid waste manage-~~
25 ~~ment plan, shall take formal action on the plan after the comple-~~
26 ~~tion of public hearings and only after the plan has been approved~~
27 ~~by a majority of the planning committee as provided in section~~

~~1 11534(1). If the county board of commissioners, or, if a plan is
2 prepared under section 11533(4), a majority of the municipalities
3 in the county who voted in favor of filing a notice of intent to
4 prepare a county solid waste management plan, does or do not
5 approve the plan as submitted, the plan shall be returned to the
6 planning committee along with a statement of objections to the
7 plan. Within 30 days after receipt, the planning committee shall
8 review the objections and shall return the plan with its
9 recommendations.~~

10 (2) ~~(4)~~ Following approval UNDER SUBSECTION (1), the
11 ~~county~~ SOLID WASTE MANAGEMENT plan shall be approved by the
12 governing bodies of not less than ~~67%~~ 66-2/3% of the municipal-
13 ities within each respective county before the plan may take
14 effect. IF THE SOLID WASTE MANAGEMENT PLAN IS PREPARED UNDER
15 SECTION 11533(2), THE PLAN SHALL BE APPROVED BY NOT LESS THAN
16 66-2/3% OF THE GOVERNING BODIES OF THE MUNICIPALITIES WITHIN THE
17 COUNTY. IF A MUNICIPALITY FAILS TO APPROVE OR REJECT THE SOLID
18 WASTE MANAGEMENT PLAN WITHIN 90 DAYS, SUCH FAILURE SHALL BE CON-
19 sidered AN APPROVAL.

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

24 ~~(6) If, after the plan has been adopted, the governing~~
25 ~~bodies of not less than 67% of the municipalities have not~~
26 ~~approved the plan, the department shall prepare a plan for the~~

~~1 county, including those municipalities that did not approve the~~
~~2 county plan. A plan prepared by the department shall be final.~~

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

5 (4) AN ENTITY PREPARING A SOLID WASTE MANAGEMENT PLAN UNDER
6 THIS PART SHALL UPDATE THAT PLAN EVERY 5 YEARS TO REFLECT CHANGES
7 IN DATA.

8 Sec. 11538. ~~(1) Not later than September 11, 1979, the~~
~~9 director shall promulgate rules for the development, form, and~~
~~10 submission of initial solid waste management plans. The rules~~
11 ~~shall require~~ A SOLID WASTE MANAGEMENT PLAN PREPARED PURSUANT TO
12 THIS PART SHALL INCLUDE all of the following:

13 (a) The establishment of goals and objectives for prevention
14 of adverse effects on the public health and on the environment
15 resulting from improper solid waste collection, processing, or
16 disposal including protection of surface and groundwater quality,
17 air quality, and the land.

18 (b) An evaluation AND CHARACTERIZATION of waste ~~problems~~
19 STREAMS by type and volume, including residential and commercial
20 solid waste, HOUSEHOLD hazardous waste, industrial sludges, pre-
21 treatment residues, municipal sewage sludge, air pollution con-
22 trol residue, and other wastes from industrial or municipal
23 sources.

24 ~~(c) An evaluation and selection of technically and economi-~~
25 ~~cally feasible solid waste management options, which may include~~
26 ~~sanitary landfill, resource recovery systems, resource~~
27 ~~conservation, or a combination of options.~~

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

6 ~~-(e) The encouragement and documentation as part of the~~
7 ~~plan, of all opportunities for participation and involvement of~~
8 ~~the public, all affected agencies and parties, and the private~~
9 ~~sector.~~

10 ~~-(f) That the plan contain enforceable mechanisms for imple-~~
11 ~~menting the plan, including identification of the municipalities~~
12 ~~within the county responsible for the enforcement. This subdivi-~~
13 ~~sion does not preclude the private sector's participation in pro-~~
14 ~~viding solid waste management services consistent with the county~~
15 ~~plan.~~

16 (D) PUBLIC EDUCATION EFFORTS CONCERNING SOLID WASTE DISPOSAL
17 ALTERNATIVES.

18 (E) ~~-(g)-~~ Current and projected population densities of each
19 county and identification of population centers and centers of
20 solid waste generation, including industrial wastes.

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

24 ~~-(h) That the plan area has, and will have during the plan~~
25 ~~period, access to a sufficient amount of available and suitable~~
26 ~~land, accessible to transportation media, to accommodate the~~

1 ~~development and operation of solid waste disposal areas, or~~
2 ~~resource recovery facilities provided for in the plan.~~

3 ~~(i) That the solid waste disposal areas or resource recov-~~
4 ~~ery facilities provided for in the plan are capable of being~~
5 ~~developed and operated in compliance with state law and rules of~~
6 ~~the department pertaining to protection of the public health and~~
7 ~~the environment, considering the available land in the plan area,~~
8 ~~and the technical feasibility of, and economic costs associated~~
9 ~~with, the facilities.~~

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

12 ~~(2) Each solid waste management plan shall identify specific~~
13 ~~sites for solid waste disposal areas for a 5-year period after~~
14 ~~approval of a plan or plan update. In calculating disposal need~~
15 ~~requirements to measure compliance with this section, only those~~
16 ~~existing waste stream volume reduction levels achieved through~~
17 ~~source reduction, reuse, composting, recycling, or incineration,~~
18 ~~or any combination of these reduction devices, that can currently~~
19 ~~be demonstrated or that can be reasonably expected to be achieved~~
20 ~~through currently active implementation efforts for proposed~~
21 ~~volume reduction projects, may be assumed by the planning~~
22 ~~entity. In addition, if the solid waste management plan does not~~
23 ~~also identify specific sites for solid waste disposal areas for~~
24 ~~the remaining portion of the entire planning period required by~~
25 ~~this part after approval of a plan or plan update, the solid~~
26 ~~waste management plan shall include an interim siting mechanism~~
27 ~~and an annual certification process as described in subsections~~

~~1 (3) and (4). In calculating the capacity of identified disposal
2 areas to determine if disposal needs are met for the entire
3 required planning period, full achievement of the solid waste
4 management plan's volume reduction goals may be assumed by the
5 planning entity if the plan identifies a detailed programmatic
6 approach to achieving these goals. If a siting mechanism is not
7 included, and disposal capacity falls to less than 5 years of
8 capacity, a county shall amend its plan to resolve the
9 shortfall.~~

~~10 (3) An interim siting mechanism shall include both a process
11 and a set of minimum siting criteria, both of which are not
12 subject to interpretation or discretionary acts by the planning
13 entity, and which if met by an applicant submitting a disposal
14 area proposal, will guarantee a finding of consistency with the
15 plan. The interim siting mechanism shall be operative upon the
16 call of the board of commissioners or shall automatically be
17 operative whenever the annual certification process shows that
18 available disposal capacity will provide for less than 66 months
19 of disposal needs. In the latter event, applications for a find-
20 ing of consistency from the proposers of disposal area capacity
21 will be received by the planning agency commencing on January 1
22 following completion of the annual certification process. Once
23 operative, an interim siting mechanism will remain operative for
24 at least 90 days or until more than 66 months of disposal capac-
25 ity is once again available, either by the approval of a request
26 for consistency or by the adoption of a new annual certification~~

1 ~~process which concludes that more than 66 months of disposal~~
2 ~~capacity is available.~~

3 ~~(4) An annual certification process shall be concluded by~~
4 ~~June 30 of each year, commencing on the first June 30 which is~~
5 ~~more than 12 months after the department's approval of the plan~~
6 ~~or plan update. The certification process will examine the~~
7 ~~remaining disposal area capacity available for solid wastes gen-~~
8 ~~erated within the planning area. In calculating disposal need~~
9 ~~requirements to measure compliance with this section, only those~~
10 ~~existing waste stream volume reduction levels achieved through~~
11 ~~source reduction, reuse, composting, recycling, or incineration,~~
12 ~~or any combination of these reduction devices, that can currently~~
13 ~~be demonstrated or that can be reasonably expected to be achieved~~
14 ~~through currently active implementation efforts for proposed~~
15 ~~volume reduction projects, may be assumed. The annual certifica-~~
16 ~~tion of disposal capacity shall be approved by the board of~~
17 ~~commissioners. Failure to approve an annual certification by~~
18 ~~June 30 is equivalent to a finding that less than a sufficient~~
19 ~~amount of capacity is available and the interim siting mechanism~~
20 ~~will then be operative on the first day of the following~~
21 ~~January. As part of the department's responsibility to act on~~
22 ~~construction permit applications, the department has final deci-~~
23 ~~sion authority to approve or disapprove capacity certifications~~
24 ~~and to determine consistency of a proposed disposal area with the~~
25 ~~solid waste management plan.~~

26 ~~(5) A board of commissioners may adopt a new certification~~
27 ~~of disposal capacity at any time. A new certification of~~

~~1 disposal capacity shall supersede all previous certifications,
2 and become effective 30 days after adoption by the board of com-
3 missioners and remain in effect until subsequent certifications
4 are adopted.~~

~~5 (6) In order for a disposal area to serve the disposal needs
6 of another county, state, or country, the service, including the
7 disposal of municipal solid waste incinerator ash, must be
8 explicitly authorized in the approved solid waste management plan
9 of the receiving county. With regard to intercounty service
10 within Michigan, the service must also be explicitly authorized
11 in the exporting county's solid waste management plan.~~

~~12 (7) A person shall not dispose of, store, or transport solid
13 waste in this state unless the person complies with the require-
14 ments of this part.~~

~~15 (8) Following approval by the director of a county solid
16 waste management plan and after July 1, 1981, an ordinance, law,
17 rule, regulation, policy, or practice of a municipality, county,
18 or governmental authority created by statute, which prohibits or
19 regulates the location or development of a solid waste disposal
20 area, and which is not part of or not consistent with the
21 approved solid waste management plan for the county, shall be
22 considered in conflict with this part and shall not be
23 enforceable.~~

~~24 SEC. 11551. ADMINISTRATIVE RULES R 299.4112(1)(B) AND
25 R 299.4711(E)(iii)(C) OF THE MICHIGAN ADMINISTRATIVE CODE ARE
26 RESCINDED.~~

1 Enacting section 1. Sections 11513, 11524, 11531, 11537,
2 11537a, 11539, 11539a, 11541, and 11547 of the natural resources
3 and environmental protection act, 1994 PA 451, MCL 324.11513,
4 324.11524, 324.11531, 324.11537, 324.11537a, 324.11539,
5 324.11539a, 324.11541, and 324.11547, are repealed.