

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5771

(As amended, September 28 and 29, 2004)

(Page 1 of 3)

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 1301, 11701, 11702, 11703, 11704, 11705, 11706,
11707, 11708, 11709, 11710, 11711, 11712, 11713, 11714, 11715,
11716, 11717, 11718, and 11719 (MCL 324.1301, 324.11701, 324.11702,
324.11703, 324.11704, 324.11705, 324.11706, 324.11707, 324.11708,
324.11709, 324.11710, 324.11711, 324.11712, 324.11713, 324.11714,
324.11715, 324.11716, 324.11717, 324.11718, and 324.11719), section 1301
as added by 2004 PA 325, sections 11703, 11704, and 11709 as amended by
2004 PA 325, and by adding sections 11715b, 11715d, 11717b, and 11720.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

<<Sec. 1301. As used in this part:

(a) "Application period" means the period beginning when an application for a permit is received by the state and ending when the application is considered to be administratively complete under section 1305 and any applicable fee has been paid.

(b) "Department" means the department, agency, or officer authorized by this act to approve or deny an application for a particular permit.

(c) "Director" means the director of the state department authorized under this act to approve or deny an application for a particular permit or the director's designee.

(d) "Permit" means a permit or operating license required by any of the following sections or by rules promulgated thereunder, or, in the case of section 9112, by an ordinance or resolution adopted thereunder:

(i) Section 3104, floodplain alteration permit.

- (ii) Section 3503, permit for use of water in mining iron ore.
- (iii) Section 4105, sewerage system construction permit.
- (iv) Section 6516, vehicle testing license.
- (v) Section 6521, motor vehicle fleet testing permit.
- (vi) Section 8310, restricted use pesticide dealer business location license.
- (vii) Section 8504, license to manufacture or distribute fertilizer.
- (viii) Section 9112, local soil erosion and sedimentation control permit.
- (ix) Section 11509, solid waste disposal area construction permit.
- (x) Section 11512, solid waste disposal area operating license.
- (xi) Section 11542, municipal solid waste incinerator ash landfill operating license amendment.
- (xii) Section ~~11703~~ **11702**, septage waste servicing license. ~~(xiii) Section 11704, or septage waste vehicle license.~~
- (~~xiii~~) ~~(xiv)~~ Section 11709, septage waste ~~disposal site~~ permit.
- (~~xiv~~) ~~(xv)~~ Section 30104, inland lakes and streams project permit.
- (~~xv~~) ~~(xvi)~~ Section 30304, state permit for dredging, filling, or other activity in wetland.
- (~~xvi~~) ~~(xvii)~~ Section 31509, dam construction, repair, removal permit.
- (~~xvii~~) ~~(xviii)~~ Section 32312, flood risk, high risk, or environmental area permit.
- (~~xviii~~) ~~(xix)~~ Section 32503, permit for dredging and filling bottomland.
- (~~xix~~) ~~(xx)~~ Section 35304, department permit for critical dune area use.
- (~~xx~~) ~~(xxi)~~ Section 36505, endangered species permit.
- (~~xxi~~) ~~(xxii)~~ Section 41702, game bird hunting preserve license.
- (~~xxii~~) ~~(xxiii)~~ Section 42101, dog training area permit.
- (~~xxiii~~) ~~(xxiv)~~ Section 42501, fur dealer's license.
- (~~xxiv~~) ~~(xxv)~~ Section 42702, game dealer's license.
- (~~xxv~~) ~~(xxvi)~~ Section 44513, charter boat operating permit under reciprocal agreement.
- (~~xxvi~~) ~~(xxvii)~~ Section 44517, boat livery operating permit.
- (~~xxvii~~) ~~(xxviii)~~ Section 45503, permit to take frogs for scientific use.
- (~~xxviii~~) ~~(xxix)~~ Section 45902, game fish propagation license.
- (~~xxix~~) ~~(xxx)~~ Section 45906, game fish import license.
- (~~xxx~~) ~~(xxxi)~~ Section 61525, oil or gas well drilling permit.
- (~~xxxi~~) ~~(xxxii)~~ Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.
- (~~xxxii~~) ~~(xxxiii)~~ Section 63103a, metallic mineral mining permit.
- (~~xxxiii~~) ~~(xxxiv)~~ Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit during the term of the permit, respectively.
- (~~xxxiv~~) ~~(xxxv)~~ Section 63704, sand dune mining permit.
- (~~xxxv~~) ~~(xxxvi)~~ Section 72108, use permits for Michigan trailway.
- (~~xxxvi~~) ~~(xxxvii)~~ Section 76109, sunken aircraft or watercraft abandoned property recovery permit.

~~(xxxvii) (xxxviii)~~ Section 76504, Mackinac Island motor vehicle and land use permits.

~~(xxxviii) (xxxix)~~ Section 80159, buoy or beacon permit.

(e) "Processing deadline" means the last day of the processing period.

(f) "Processing period" means the following time period after the close of the application period, for the following permit, as applicable:

(i) Twenty days for a permit under section 61525 or 62509.

~~(ii) (i)~~ Thirty days for a permit under section 9112.

~~(iii) (ii)~~ Thirty days after the department consults with the underwater salvage and preserve committee created under section 76103, for a permit under section 76109.

~~(iv) (iii)~~ Sixty days, for a permit under section 30104 for a minor project as established by rule under section 30105(6) or for a permit under section 32312.

~~(v) (iv)~~ Sixty days or, if a hearing is held, 90 days for a permit under section 35304.

~~(vi) (v)~~ Sixty days or, if a hearing is held, 120 days for a permit under section 30104, other than a permit for a minor project as established by rule under section 30105(6), or for a permit under section 31509.

~~(vi) Twenty days for a permit under section 61525 or 62509.~~

~~(vii)~~ Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation permit during the term of the permit under section 63525, or a permit under section 72108.

~~(viii)~~ Ninety days or, if a hearing is held, 150 days for a permit under section 3104, 30304, or 32503.

~~(ix)~~ One hundred and twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.

~~(x)~~ One hundred fifty days for a permit under section 36505. However, if a site inspection or federal approval is required, the 150-day period is tolled pending completion of the inspection or receipt of the federal approval.

~~(xi)~~ For any other permit, 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.>>

1 Sec. 11701. As used in this part:

2 (a) "Agricultural land" means land on which a food crop, a
3 feed crop, or a fiber crop is grown, including land used or
4 suitable for use as a range or pasture; a sod farm; or a

1 Christmas tree farm.

2 (b) ~~—(a)—~~ "Certified health department" means a city, county,
3 or district department of health ~~to which the director has~~
4 ~~delegated the authority to perform activities as prescribed by~~
5 ~~this part~~ certified under section 11716.

6 (c) ~~—(b)—~~ "Cesspool" means a cavity in the ground that
7 receives waste to be partially absorbed directly or indirectly by
8 the surrounding soil.

9 (d) "Department" means the department of environmental
10 quality or its authorized agent.

11 (e) "Director" means the director of the department of
12 environmental quality or his or her designee.

13 (f) "Domestic septage" means liquid or solid material removed
14 from a septic tank, cesspool, portable toilet, type III marine
15 sanitation device, or similar storage or treatment works that
16 receives only domestic sewage. Domestic septage does not include
17 liquid or solid material removed from a septic tank, cesspool, or
18 similar facility that receives either commercial wastewater or
19 industrial wastewater and does not include grease removed from a
20 grease interceptor, grease trap, or other appurtenance used to
21 retain grease or other fatty substances contained in restaurant
22 waste.

23 (g) "Domestic sewage" means waste and wastewater from humans
24 or household operations.

25 (h) "Domestic treatment plant septage" means biosolids
26 generated during the treatment of domestic sewage in a treatment
27 works and transported to a receiving facility or managed in

1 accordance with a residuals management program approved by the
2 department.

3 (i) "Food establishment septage" means material pumped from a
4 grease interceptor, grease trap, or other appurtenance used to
5 retain grease or other fatty substances contained in restaurant
6 wastes and which is blended into a uniform mixture, consisting of
7 not more than 1 part of that restaurant-derived material per 3
8 parts of domestic septage, prior to land application or disposed
9 of at a receiving facility.

10 (j) "Fund" means the septage waste program fund created in
11 section 11717.

12 (k) ~~-(e)-~~ "Governmental unit" means a county, township,
13 municipality, or ~~other~~ regional authority.

14 (l) "Incorporation" means the mechanical mixing of
15 surface-applied septage waste with the soil.

16 (m) ~~-(d)-~~ "Injection" means the pressurized placement of
17 septage waste below the surface of soil.

18 ~~-(e) "Motor vehicle" means a vehicle that is self-propelled~~
19 ~~and used to transport septage waste.~~

20 (n) "Operating plan" means a plan developed by a receiving
21 facility for receiving septage waste that specifies at least all
22 of the following:

23 (i) Categories of septage waste that the receiving facility
24 will receive.

25 (ii) The receiving facility's service area.

26 (iii) The hours of operation for receiving septage waste.

27 (iv) Any other conditions for receiving septage waste

1 established by the receiving facility.

2 (o) "Pathogen" means a disease-causing agent. Pathogen
3 includes, but is not limited to, certain bacteria, protozoa,
4 viruses, and viable helminth ova.

5 (p) ~~—(f)—~~ "Peace officer" means ~~every~~ a sheriff or
6 sheriff's deputy, a village or township marshal, an officer of
7 the police department of any city, village, or township, any
8 officer of the Michigan state police, any peace officer who is
9 trained and certified pursuant to the ~~Michigan law enforcement~~
10 ~~officers training council act of 1965, Act No. 203 of the Public~~
11 ~~Acts of 1965, being sections 28.601 to 28.616 of the Michigan~~
12 ~~Compiled Laws~~ commission on law enforcement standards act, 1965
13 PA 203, MCL 28.601 to 28.616, or any conservation officer
14 appointed by the department or the department of natural
15 resources pursuant to section ~~6 of Act No. 192 of the Public~~
16 ~~Acts of 1929, being section 300.16 of the Michigan Compiled Laws~~
17 1606.

18 (q) ~~—(g)—~~ "Portable toilet" means a receptacle for human
19 waste temporarily in a location for human use.

20 ~~—(h)—~~ "Public septage waste treatment facility" means a
21 septage waste or other wastewater treatment facility owned and
22 operated by a governmental unit and approved by the department
23 for treating septage waste.

24 ~~—(i)—~~ "Seepage pit" means a dry well, leaching pit, or any
25 other cavity in the ground that receives the liquid discharge of
26 a septic tank.

27 ~~—(j)—~~ "Septage waste" means any human excrement, other domestic

1 ~~or restaurant waste, or other material or substance removed from~~
2 ~~a portable toilet, septic tank, seepage pit, cesspool, sewage~~
3 ~~lift station, or other enclosure as determined by the department~~
4 ~~under section 11718, but does not include liquid industrial waste~~
5 ~~regulated under part 121.~~

6 (r) "Receiving facility" means a structure that is designed
7 to receive septage waste for treatment at a wastewater treatment
8 plant to which the structure is directly connected, and that is
9 available for that purpose as provided for in an ordinance of the
10 local unit of government that operates the wastewater treatment
11 plant or in an operating plan. Receiving facility does not
12 include either of the following:

13 (i) A septic tank.

14 (ii) A structure or a wastewater treatment plant at which the
15 disposal of septage waste is prohibited by order of the
16 department under section 11708 or 11715b.

17 (s) "Receiving facility service area" or "service area" means
18 the territory for which a receiving facility has the capacity and
19 is available to receive and treat septage waste, subject to the
20 following:

21 (i) Beginning 1 year after the effective date of the 2004
22 amendatory act that added this subdivision and before the 2011
23 state fiscal year, the geographic service area of a receiving
24 facility shall not extend more than 15 radial miles from the
25 receiving facility.

26 (ii) After the 2010 state fiscal year, the geographic service
27 area of a receiving facility shall not extend more than 25 radial

1 miles from the receiving facility.

2 (t) "Sanitary sewer cleanout septage" means sanitary sewage
3 or cleanout residue removed from a separate sanitary sewer
4 collection system that is not land applied and that is
5 transported by a vehicle licensed under this part elsewhere
6 within the same system or to a receiving facility that is
7 approved by the department.

8 (u) "Septage waste" means the fluid mixture of untreated and
9 partially treated sewage solids, liquids, and sludge of human or
10 domestic origin which is removed from a wastewater system.
11 Septage waste consists only of food establishment septage,
12 domestic septage, domestic treatment plant septage, or sanitary
13 sewer cleanout septage, or any combination of these.

14 (v) "Septage waste servicing license" means a septage waste
15 servicing license as provided for under sections 11703 and
16 11706.

17 (w) "Septage waste vehicle" means a vehicle that is
18 self-propelled or towed and that includes a tank used to
19 transport septage waste. Septage waste vehicle does not include
20 an instrument of husbandry as defined in section 21 of the
21 Michigan vehicle code, 1949 PA 300, MCL 257.21.

22 (x) "Septage waste vehicle license" means a septage waste
23 vehicle license as provided for under sections 11704 and 11706.

24 (y) ~~-(k)-~~ "Septic tank" means a septic toilet, chemical
25 closet, or other enclosure used for the ~~storage or~~
26 decomposition of ~~septage waste~~ domestic sewage.

27 (z) ~~-(l)-~~ "Service" or "servicing" means cleaning, removing,

1 transporting, or disposing, ~~of~~ by application to land or
2 otherwise, of septage waste. ~~from a portable toilet, septic~~
3 ~~tank, seepage pit, cesspool, sewage lift station, or other~~
4 ~~enclosure as determined by the department under section 11718.~~

5 ~~(m) "Sewage lift station" means a pumping facility that~~
6 ~~lifts septage waste to a higher elevation.~~

7 (aa) ~~(n)~~ "Site" means a location ~~that has been approved by~~
8 ~~the department as a suitable location~~ or locations on a parcel
9 or tract, as those terms are defined in section 102 of the land
10 division act, 1967 PA 288, MCL 560.102, proposed or used for the
11 disposal of septage waste on land.

12 (bb) "Site permit" means a permit issued under section 11709
13 authorizing the application of septage waste to a site.

14 (cc) "Storage facility" means a structure that receives
15 septage waste for storage but not for treatment.

16 (dd) ~~(e)~~ "Tank" means ~~a~~ an enclosed container placed on a
17 ~~motor~~ septage waste vehicle to carry or transport septage
18 waste.

19 (ee) "Type I public water supply well", "type IIa public
20 water supply well", "type IIb public water supply well", and
21 "type III public water supply well" mean those terms,
22 respectively, as described in R 325.10502 of the Michigan
23 administrative code.

24 (ff) "Type III marine sanitation device" means that term as
25 defined in 33 CFR 159.3.

26 Sec. 11702. (1) ~~Except as otherwise provided in this~~
27 ~~section, a person shall not engage in the business of servicing,~~

~~<<(2) Licensure, as provided in this part, is not required for a real property owner who services his or her own portable toilet, septic tank, seepage pit, cesspool, sewage lift station, or other enclosure as determined by the department under section 11718 located on that person's property. Septage waste removed by a real property owner pursuant to this subsection may be disposed of on the real property from which it originates, if the real property is at least 20 acres in size, and if the disposal is in compliance with sections 11710, 11711, and 11714, and any rules promulgated under this part pertaining to the disposal of septage waste.~~

24 <<(2) ~~(3)>> The septage waste servicing license and septage waste
25 vehicle license requirements provided in this part are not
26 applicable to a ~~public septage waste treatment facility~~
27 publicly owned receiving facility subject to a permit issued~~

1 under part 31.

2 Sec. 11703. (1) ~~A person shall not engage in the business~~
 3 ~~of servicing except as authorized by a septage waste servicing~~
 4 ~~license issued by the department pursuant to part 13. The~~
 5 ~~department shall provide an application form that includes~~ **An**
 6 **application for a septage waste servicing license shall include**
 7 all of the following:

8 (a) The applicant's name and mailing address.

9 (b) The location or locations where the business is operated,
 10 **if the applicant is engaged in the business of servicing.**

11 ~~(c) Additional information pertinent to this part as~~
 12 ~~required by the department.~~

13 ~~—— (2) A person who submits a completed application form under~~
 14 ~~subsection (1) shall submit to the department with the~~
 15 ~~application all of the following:~~

16 ~~—— (a) An application fee of \$300.00 that will be refunded by~~
 17 ~~the department if a septage waste servicing license is not~~
 18 ~~issued.~~

19 ~~—— (b) A \$100.00 fee to accompany an initial license application~~
 20 ~~to be credited to the septage waste site contingency fund as~~
 21 ~~provided in section 11717.~~

22 (c) Written approval from all ~~public septage waste~~
 23 ~~treatment~~ **receiving** facilities where the applicant plans to
 24 dispose of septage waste. ~~and the~~

25 (d) **The locations of the** sites where the applicant plans to
 26 ~~dispose of septage waste upon receiving the department's~~
 27 ~~approval,~~ **apply septage waste to land** and, for each proposed

1 ~~disposal~~ site, either proof ~~of ownership of~~ that the
2 applicant owns the proposed ~~disposal~~ site or written approval
3 from the site owner.

4 (e) A written plan for disposal of septage waste obtained in
5 the winter, if the disposal will be by a method other than
6 delivery to a receiving facility or, subject to section 11711,
7 application to land.

8 (f) Written proof of satisfaction of the continuing education
9 requirements of subsection (2), if applicable.

10 (g) Any additional information pertinent to this part
11 required by the department.

12 (h) Payment of the septage waste servicing license fee as
13 provided in section 11717b.

14 (2) Beginning January 1, 2007, a person is not eligible for
15 an initial servicing license unless the person has successfully
16 completed not less than 10 hours of continuing education during
17 the 2-year period before applying for the license. Beginning
18 January 1, 2007 and until December 31, 2009, a person is not
19 eligible to renew a servicing license unless the person has
20 successfully completed not less than 10 hours of continuing
21 education during the 2-year period preceding the issuance of the
22 license. Beginning January 1, 2010, a person is not eligible to
23 renew a servicing license unless the person has successfully
24 completed not less than 30 hours of continuing education during
25 the 5-year period preceding the issuance of the license.

26 (3) Before offering or conducting a course of study
27 represented to meet the educational requirements of subsection

1 (2), a person shall obtain approval from the department. The
2 department may suspend or revoke the approval of a person to
3 offer or conduct a course of study to meet the requirements of
4 subsection (2) for a violation of this part or of the rules
5 promulgated under this part.

6 (4) If an applicant or licensee is a corporation,
7 partnership, or other legal entity, the applicant or licensee
8 shall designate a responsible agent to fulfill the requirements
9 of subsections (2) and (3). The responsible agent's name shall
10 appear on any license or permit required under this part.

11 (5) ~~—(3)—~~ A person ~~who holds a septage waste servicing~~
12 ~~license~~ **engaged in servicing** shall maintain at all times at his
13 or her place of business a complete record of the amount of
14 septage waste that the person has transported ~~and~~ or disposed
15 of, ~~and~~ the location at which ~~the disposal of septage waste~~
16 ~~has occurred. The person shall display these records upon the~~
17 ~~request of the director, a peace officer, or an official of a~~
18 ~~certified health department.~~ **septage waste was disposed of, and**
19 **any complaints received concerning disposal of the septage waste.**
20 The person shall also report this information to the department
21 on an annual basis in a manner required by the department.

22 (6) A person engaged in servicing shall maintain records
23 required under subsection (5) or 40 CFR part 503 for at least 5
24 years. A person engaged in servicing or an individual who
25 actually applies septage waste to land, as applicable, shall
26 display these records upon the request of the director, a peace
27 officer, or an official of a certified health department.

1 Sec. 11704. (1) ~~A person who is required to be licensed~~
 2 ~~pursuant to section 11703 shall not use a motor vehicle to~~
 3 ~~transport septage waste except as authorized by a septage waste~~
 4 ~~motor vehicle license issued by the department pursuant to part~~
 5 ~~13 for each vehicle that is used to transport septage waste. A~~
 6 ~~septage waste motor vehicle license application submitted to the~~
 7 ~~department shall be accompanied by a license fee of \$75.00 for~~
 8 ~~each vehicle required to be licensed under this part. A motor~~
 9 ~~vehicle license application~~ **An application for a septage waste**
 10 **vehicle license** shall include all of the following:

11 ~~information:~~

12 (a) The model and year of the ~~motor~~ **septage waste** vehicle.

13 (b) The capacity of any tank used to remove or transport
 14 ~~the~~ septage waste.

15 (c) The name of the ~~motor vehicle's~~ insurance carrier **for**
 16 **the septage waste vehicle.**

17 (d) **Whether the septage waste vehicle or any other vehicle**
 18 **owned by the person applying for the septage waste vehicle**
 19 **license will be used at any time during the license period for**
 20 **land application of septage waste.**

21 (e) ~~(d) Additional~~ **Any additional** information pertinent to
 22 this part ~~as~~ required by the department.

23 (f) **A septage waste vehicle license fee as provided by**
 24 **section 11717b for each septage waste vehicle.**

25 (2) A person who is issued a septage waste ~~motor~~ vehicle
 26 license shall carry **a copy of** that license at all times in ~~the~~
 27 ~~motor~~ **each** vehicle that is described in ~~that~~ **the** license and

1 display the license upon the request of the department, a peace
2 officer, or an official of a certified health department.

3 (3) ~~Without the express permission of the department, a~~
4 ~~person shall not use a vehicle used to transport septage waste to~~
5 ~~transport hazardous waste regulated under part 111 or liquid~~
6 ~~industrial waste regulated under part 121.~~ **A septage waste**
7 **vehicle shall not be used to transport hazardous waste regulated**
8 **under part 111 or liquid industrial waste regulated under part**
9 **121, without the express written permission of the department.**

10 Sec. 11705. A tank upon a **septage waste** vehicle ~~licensed~~
11 ~~pursuant to section 11704~~ shall be closed in transit to prevent
12 the release of septage waste and odor. The ~~motor~~ **septage waste**
13 vehicle ~~—, tank,—~~ and accessory equipment shall be **kept** clean and
14 maintained in a manner that prevents environmental damage or harm
15 to the public health.

16 Sec. 11706. (1) Upon receipt of **an** application ~~forms~~
17 ~~complying with sections 11703 and 11704~~ **for a septage waste**
18 **servicing license or a septage waste vehicle license**, the
19 department shall review ~~each~~ **the** application to ensure that it
20 is complete. **If the department determines that the application**
21 **is incomplete, the department shall promptly notify the applicant**
22 **of the deficiencies.** If the department determines that the
23 application ~~forms are~~ **is** complete, the department shall
24 promptly provide the ~~applicable~~ **appropriate** certified health
25 department with ~~copies~~ **a copy** of all application materials.
26 Upon receipt of the application materials, a certified health
27 department shall conduct ~~all necessary~~ investigations **necessary**

1 to verify that the ~~locations to be used for disposal~~ **sites**, the
2 servicing methods, and the ~~motor~~ **septage waste** vehicles ~~and~~
3 ~~tanks~~ are in compliance with this part. ~~and the rules~~
4 ~~promulgated under this part. Upon approving of the applicant, If~~
5 **so**, the department shall **approve the application and** issue ~~a~~
6 ~~license as provided in sections 11703 and 11704~~ **the license**
7 **applied for in that application.** If a certified health
8 department does not exist, the department may perform the
9 functions of a certified health department as necessary.

10 (2) A **septage waste servicing** license ~~issued pursuant to~~
11 ~~section 11703 or 11704~~ is not transferable and is valid, **unless**
12 **suspended or revoked**, for ~~3~~ 5 years. ~~unless revoked or~~
13 ~~suspended by the department.~~ A **septage waste vehicle license** is
14 not transferable and is valid, **unless suspended or revoked**, for
15 the same 5-year period as the licensee's septage waste servicing
16 license.

17 Sec. 11707. Each ~~motor vehicle licensed pursuant to~~
18 ~~section 11704~~ **septage waste vehicle for which a septage waste**
19 **vehicle license has been issued** shall display on both sides of
20 the ~~motor~~ **septage waste** vehicle in letters not less than 2
21 inches high the words "licensed septage hauler", the ~~motor~~
22 vehicle license number issued by the department, and a seal
23 furnished by the department that designates the year the **septage**
24 **waste vehicle** license was issued.

25 Sec. 11708. ~~A person licensed under this part shall~~
26 ~~deposit all septage waste in a public septage waste treatment~~
27 ~~facility if a facility is available to receive that septage waste~~

1 ~~and is located within 15 road miles of the location where the~~
2 ~~septage waste is received. This section does not restrict a~~
3 ~~licensed person from taking septage waste to any public septage~~
4 ~~waste treatment facility, regardless of where that facility is~~
5 ~~located. The public septage waste treatment facility may charge~~
6 ~~a disposal fee that does not exceed the actual costs related to~~
7 ~~the treatment and storage of the waste.~~

8 (1) Before 1 year after the effective date of the 2004
9 amendatory act that added this subsection, if a person is engaged
10 in servicing in a receiving facility service area not more than
11 15 road miles from that receiving facility, that person shall
12 dispose of the septage waste at that receiving facility or
13 another receiving facility in whose service area the person is
14 engaged in servicing.

15 (2) Subsection (1) does not apply to a person engaged in
16 servicing who owns a storage facility with a capacity of 50,000
17 gallons or more.

18 (3) Beginning 1 year after the effective date of the 2004
19 amendatory act that added this subsection, if a person is engaged
20 in servicing in a receiving facility service area, that person
21 shall dispose of the septage waste at that receiving facility or
22 any other receiving facility within whose service area the person
23 is engaged in servicing.

24 (4) If a person engaged in servicing owns a storage facility
25 with a capacity of 50,000 gallons or more and the storage
26 facility was constructed, or authorized by the department to be
27 constructed, before the location where the person is engaged in

House Bill No. 5771 as amended September 28, 2004

servicing was included in <a receiving facility service area under an operating plan approved under section 11715b>>, subsection (3) does not apply to that person before the 2025 state fiscal year.

(5) A receiving facility may charge a fee for receiving septage waste. Before 1 year after the effective date of the 2004 amendatory act that added this subsection, the fee shall not exceed the actual costs related to the treatment and storage of the waste. Beginning 1 year after the effective date of the 2004 amendatory act that added this subsection, the fee shall not exceed the actual costs of operating the receiving facility including the reasonable cost of doing business as defined by common accounting practices.

(6) The department may issue an order prohibiting the operation of a wastewater treatment plant or structure as a receiving facility due to excessive hydraulic or organic loading, odor problems, or other environmental or public health concerns.

(7) A person shall not dispose of septage waste at a wastewater treatment plant or structure if the operation of that wastewater treatment plant or structure as a receiving facility is prohibited by an order issued under subsection (6) or section 11715b.

Sec. 11709. ~~—(1) Subject to the limitations contained in sections 11710 and 11711, septage waste that is picked up at a location that is further than 15 road miles from a public septage waste treatment facility may be disposed of on land if the person holding licenses issued pursuant to sections 11703 and 11704 obtains a permit issued by the department pursuant to part 13~~

1 ~~authorizing the disposal of septage waste on land, supplies any~~
2 ~~additional information pertinent to this part as required by the~~
3 ~~department, and sends notice to property owners as provided in~~
4 ~~subsection (2).~~

5 ~~—— (2) An applicant for a permit under subsection (1) shall send~~
6 ~~a notice to each land owner who owns property located within 800~~
7 ~~feet of the proposed disposal location on a form approved by the~~
8 ~~department. Service of the notice shall be made by first class~~
9 ~~mail. The notification shall include the nature of the proposed~~
10 ~~land use, the location of the proposed disposal area, and whom to~~
11 ~~contact if there is an objection to the proposed land use. A~~
12 ~~copy of the notice that is mailed to each property owner shall be~~
13 ~~sent to the certified health department having jurisdiction. If~~
14 ~~no substantiated objections as determined by the department are~~
15 ~~received within 10 business days following the mailing of the~~
16 ~~notification, the department may issue a permit as provided in~~
17 ~~this section.~~

18 (1) A person shall not dispose of septage waste on land
19 except as authorized by a site permit for that site issued by the
20 department pursuant to part 13. A person shall apply for a site
21 permit using an application form provided by the department. The
22 application shall include all of the following for each site:

23 (a) A map identifying the site from a county land atlas and
24 plat book.

25 (b) The site location by latitude and longitude.

26 (c) The name and address of the land owner.

27 (d) The name and address of the manager of the land, if

1 different than the owner.

2 (e) Results of a soil fertility test performed within 1 year
3 before the date of the application for a site permit including
4 analysis of a representative soil sample of each location
5 constituting the site as determined by the Bray P1 (Bray and
6 Kurtz P1), or Mehlich 3 test, for which procedures are described
7 in the publication entitled "Recommended chemical soil test
8 procedures for the north central region". The department shall
9 provide a copy of this publication to any person upon request at
10 no cost. The applicant shall also provide test results from any
11 additional test procedures that were performed on the soil.

12 (f) Other site specific information necessary to determine
13 whether the septage waste disposal will comply with state and
14 federal law.

15 (g) Payment of the site permit fee as provided under section
16 11717b.

17 (2) Upon receipt of an application under subsection (1), the
18 department shall review the application to ensure that it is
19 complete. If the department determines that the application is
20 incomplete, it shall promptly notify the applicant of the
21 deficiencies.

22 (3) An applicant for a site permit shall simultaneously send
23 a notice of the application, including all the information
24 required by subsection (1)(a) to (d), to all of the following:

25 (a) The certified health department having jurisdiction.

26 (b) The clerk of the city, village, or township where the
27 site is located.

1 (c) Each person who owns a lot or parcel that is contiguous
2 to the lot, parcel, or tract on which the proposed site is
3 located or that would be contiguous except for the presence of a
4 highway, road, or street.

5 (d) Each person who owns a lot or parcel that is within 150
6 feet of a location where septage waste is to be disposed of by
7 injection or 800 feet of a location where septage waste is to be
8 disposed of by surface application.

9 (4) If the department finds that the applicant is unable to
10 provide notice as required in ~~this~~ subsection (3), the
11 department may waive the notice requirement or allow the
12 applicant to use a substitute means of providing notice.

13 ~~(3) A permit issued under this section shall expire at the~~
14 ~~same time as a septage waste servicing license issued pursuant to~~
15 ~~section 11703, but is subject to renewal at that time. A permit~~
16 ~~issued under this section may be revoked by the department if~~
17 ~~septage waste disposal or site management is in violation of this~~
18 ~~part or the rules promulgated under this part.~~

19 (5) The department shall issue a site permit if all the
20 requirements of this part and federal law are met. Otherwise,
21 the department shall deny the site permit.

22 (6) A site permit is not transferable and is valid, unless
23 suspended or revoked, until the expiration of the permittee's
24 septage waste servicing license. A site permit may be revoked by
25 the department if the septage waste land application or site
26 management is in violation of this part.

27 Sec. 11710. ~~Except as provided in section 11711, a permit~~

1 ~~issued pursuant to section 11709~~ **A site permit** is subject to all
 2 of the following requirements:

3 (a) The ~~quantity of~~ septage waste disposed of shall be
 4 applied uniformly at ~~a rate no greater than 15,000 gallons per~~
 5 ~~acre per month and not greater than 60,000 gallons per acre per~~
 6 ~~year~~ **agronomic rates**. ~~Land may be utilized as a septage waste~~
 7 ~~disposal site for a period not to exceed 20 years.~~

8 (b) Not more than 1 person licensed under this part may use a
 9 site for the disposal of septage waste during any year.

10 ~~(c) Septage waste shall be mixed into the soil within 48~~
 11 ~~hours of any surface application unless the soil is frozen and~~
 12 ~~the requirements of section 11711 are met.~~

13 (c) ~~(d)~~ Septage waste may be disposed of by ~~surface or~~
 14 ~~injection~~ **land** application only if the horizontal distance from
 15 the applied septage waste and the ~~items~~ **features** listed in
 16 ~~subdivisions~~ **subparagraphs** (i) to ~~(iv)~~ **(ix)** equals or exceeds
 17 the following isolation distances:

		<u>TYPE OF APPLICATION</u>	
		<u>Surface</u>	<u>Injection</u>
20	(i) Homes or commercial buildings	800 feet	150 feet
21	(ii) Private drinking water wells	800 feet	150 feet
22	(iii) Surface water	500 feet	150 feet
23	(iv) Roads or property lines	200 feet	150 feet
24	(i) Type I public water supply wells	2,000 feet	2,000 feet
25	(ii) Type IIa public water supply wells	2,000 feet	2,000 feet
26	(iii) Type IIb public water supply wells	800 feet	800 feet
27	(iv) Type III public water supply wells	800 feet	150 feet

1	(v)	Private drinking water wells	800 feet	150 feet
2	(vi)	Other water wells	800 feet	150 feet
3	(vii)	Homes or commercial buildings	800 feet	150 feet
4	(viii)	Surface water	500 feet	150 feet
5	(ix)	Roads or property lines	200 feet	150 feet

6 (d) Septage waste disposed of by land application shall be
 7 disposed of either by surface application, subject to subdivision
 8 (g), or injection.

9 (e) ~~The slope of any lands on which~~ If septage waste is
 10 applied to the surface of ~~that~~ land, ~~does~~ the slope of that
 11 land shall not exceed 6%. ~~and the slope of land on which septage~~
 12 ~~waste is injected does~~ If septage waste is injected into land,
 13 the slope of that land shall not exceed 12%.

14 (f) Septage waste shall not be applied to ~~any~~ land unless
 15 the water table is at least 30 inches below any applied septage
 16 waste.

17 (g) If septage waste is applied to the surface of the land, 1
 18 of the following requirements is met:

19 (i) The septage waste shall be mechanically incorporated
 20 within 6 hours after application.

21 (ii) ~~(g) Septage waste shall be~~ The septage waste shall
 22 have been treated to reduce pathogens prior to land disposal by
 23 aerobic or anaerobic digestion, lime stabilization, composting,
 24 air drying, or other process or method approved by the department
 25 and, if applied to fallow land, is mechanically incorporated
 26 within 48 hours after application, unless public access to the
 27 site is restricted for 12 months and no animals whose products

1 are consumed by humans are allowed to graze on the site for at
2 least 1 month following disposal.

3 (h) Septage waste shall be treated to reduce pathogens by
4 composting, heat drying or treatment, thermophilic aerobic
5 digestion, or other process or method approved by the department
6 prior to disposal on lands where crops for direct human
7 consumption are grown, if contact between the septage waste and
8 the edible portion of the crop is possible.

9 (i) Vegetation shall be grown on a septage waste disposal
10 site ~~each~~ within 1 year ~~that~~ after septage waste is disposed
11 of on that site.

12 (j) Food establishment septage shall not be applied to land
13 unless it has been combined with other septage waste in no
14 greater than a 1 to 3 ratio and blended into a uniform mixture.

15 (k) The permittee shall not apply septage waste to a location
16 on the site unless the permittee has conducted a soil fertility
17 test of that location as described in section 11709 within 1 year
18 before the date of the land application. The permittee shall not
19 apply food establishment septage to a location on the site unless
20 the permittee has conducted testing of soil in that location
21 within 1 year before the date of application in accordance with
22 requirements in 40 CFR 257.3 to 257.5 or a single test of mixed
23 septage waste contained in a storage facility.

24 (l) Beginning 2 years after the effective date of the 2004
25 amendatory act that amended this section, before land
26 application, domestic septage shall be screened through a screen
27 of not greater than 1/2-inch mesh or through slats separated by a

1 gap of not greater than 3/8 inch. Screenings shall be handled as
2 solid waste under part 115. Instead of screening, the domestic
3 septage may be processed through a sewage grinder designed to not
4 pass solids larger than 1/2 inch in diameter.

5 Sec. 11711. ~~—(1) The department may approve of surface~~
6 ~~application of septage waste when the soil is frozen and~~
7 **Beginning 2 years after the effective date of the 2004 amendatory**
8 **act that amended this section, a person shall not surface apply**
9 **septage waste to frozen ground. Before that time, a person shall**
10 **not surface apply septage waste to frozen ground unless all of**
11 **the following requirements are met:**

12 (a) Melting snow **or precipitation** does not result in the
13 runoff of septage waste from the site.

14 (b) The slope of the land is less than 2%. ~~—or less than 4%~~
15 ~~if the land is internally drained.~~

16 ~~——(c) Less than 10,000 gallons per acre per year is applied.~~

17 ~~——(d) The United States department of agriculture defines the~~
18 ~~soil as well drained, moderately well drained, somewhat~~
19 ~~poorly drained, or poorly drained if the department finds that~~
20 ~~the poorly drained soil is systematically tiled or specifies~~
21 ~~other reasons for approving surface application.~~

22 ~~——(2) The department may grant a variance from the requirements~~
23 ~~of section 11710(d), (e), or (f) or subsection (1) if the~~
24 ~~department finds that the conditions of the variance provide the~~
25 ~~same or a higher degree of protection to the environment and the~~
26 ~~public health as provided in subsection (1) or section 11710(d),~~
27 ~~(e), or (f).~~

~~1 (3) The department may grant a variance to the requirements~~
~~2 of section 11710(a) if it can be demonstrated that no adverse~~
~~3 impact will affect the soil, groundwater, surface water, or~~
~~4 public health and safety as a result of the variance.~~

~~5 (4) The department may grant a variance to the requirements~~
~~6 of section 11710(c) if all the following conditions are present:~~

~~7 (a) Septage waste is applied at a rate no greater than 10,000~~
~~8 gallons per acre per month and not greater than 60,000 gallons~~
~~9 per acre per year.~~

~~10 (b) The site of the septage waste disposal has a permanent~~
~~11 vegetative cover and the disposal does not have a detrimental~~
~~12 impact on products grown on the land or on animals being fed~~
~~13 these products.~~

~~14 (c) The slope of any lands on which septage waste is applied~~
~~15 is less than 2% or less than 4% if the land is internally~~
~~16 drained.~~

(c) The pH of septage waste is raised to 12.0 (at 25 degrees
18 Celsius) or higher by alkali addition and, without the addition
19 of more alkali, remains at 12.0 or higher for 30 minutes. Other
20 combinations of pH and temperature may be approved by the
21 department.

(d) The septage waste is mechanically incorporated within
23 20 days following the end of the frozen ground conditions.

(e) The department approves the surface application and
25 subsequent mechanical incorporation.

(f) Less than 10,000 gallons per acre are applied to the
27 surface during the period that the septage waste cannot be

House Bill No. 5771 as amended September 28, 2004

1 mechanically incorporated due to frozen ground.

2 (g) ~~—(d)—~~ The septage waste is applied in a manner that
3 prevents the accumulation and ponding of **the** septage waste.

4 ~~—(e) The soil is properly tilled at least once every 2 years~~
5 ~~to prevent an accumulation of solids forming at the soil~~
6 ~~surface.~~

7 ~~—(f) The application area is located no closer than 1,000 feet~~
8 ~~to homes or commercial buildings, except for homes located on the~~
9 ~~same property as the septage disposal site and occupied by the~~
10 ~~owner of the septage waste disposal site.~~

11 ~~—(g) All other provisions and isolation distances stated in~~
12 ~~section 11710(d) are complied with.~~

13 (h) Any other applicable requirement under this part or
14 federal law is met.

15 Sec. 11712. ~~—The standards provided for in sections 11710~~
16 ~~and 11711 may be modified by rules promulgated by the department,~~
17 ~~provided that if the rules provide the same or a higher degree of~~
18 ~~protection to the environment and the public health as provided~~
19 ~~in sections 11710 and 11711.—~~ Persons subject to this part shall
20 comply with applicable provisions of subparts A, B, and D of part
21 503 of title 40 of the code of federal regulations.

22 Sec. 11713. ~~<(1) The department shall inspect a septage~~
23 ~~waste disposal site at least once each year. At any reasonable~~
24 **time, a representative of the department may enter in or upon any**
25 **private or public property for the purpose of inspecting and**
26 **investigating conditions relating to compliance with this part.**
27 **However, an investigation or inspection under this subsection shall**

House Bill No. 5771 as amended September 28, 2004

1 **comply with the United States constitution, the state constitution**
2 **of 1963, and this section.>>**

3 (2) The department shall inspect septage waste vehicles at
4 least annually.

5 (3) The department shall inspect a site at least annually.

6 (4) The department shall inspect a receiving facility within
7 1 year after that receiving facility begins operation and at
8 least annually thereafter.

9 Sec. 11714. A person shall not dispose of septage waste
10 directly or indirectly in a lake, pond, stream, river, or other
11 body of water.

12 Sec. 11715. (1) This part does not preempt an ordinance of
13 a governmental unit that prohibits the application of septage
14 waste to land within that governmental unit or otherwise imposes
15 stricter requirements than this part.

16 (2) ~~—(1)—~~ If a governmental unit requires that all septage
17 waste collected in that governmental unit be disposed of in a
18 ~~septage waste treatment~~ **receiving** facility or prohibits, or
19 effectively prohibits, the application of septage waste to land
20 within that governmental unit, the governmental unit shall make
21 available a ~~public septage waste treatment~~ **receiving** facility
22 that can lawfully accept all septage waste generated within that
23 governmental unit that is not lawfully applied to land.

24 (3) ~~—(2)—~~ The owner or operator of a ~~public septage waste~~
25 ~~treatment facility shall not~~ **receiving facility may** require the
26 posting of a surety, including cash in an escrow account or a
27 performance bond, **not exceeding \$25,000.00** to dispose of septage

1 waste in the ~~public-septage-waste-treatment~~ receiving
2 facility.

3 Sec. 11715b. (1) The department shall promulgate rules
4 establishing design and operating requirements for receiving
5 facilities and the control of nuisance conditions.

6 (2) A person shall not commence construction of a receiving
7 facility on or after the date on which rules are promulgated
8 under subsection (1) unless the owner has a permit from the
9 department authorizing the construction of the receiving
10 facility. The application for a permit shall include a basis of
11 design for the receiving facility, engineering plans for the
12 receiving facility sealed by an engineer licensed to practice in
13 Michigan, and any other information required by the department.
14 If the proposed receiving facility will be part of a sewerage
15 system whose construction is required to be permitted under part
16 41, the permit issued under part 41 satisfies the permitting
17 requirement of this subsection.

18 (3) Subject to subsection (4), a person shall not operate a
19 receiving facility contrary to an operating plan approved by the
20 department.

21 (4) If the operation of a receiving facility commenced before
22 the effective date of this section, subsection (3) applies to
23 that receiving facility beginning 1 year after the effective date
24 of this section.

25 (5) Before submitting a proposed operating plan to the
26 department for approval, a person shall do all of the following:

27 (a) Publish notice of the proposed operating plan in a

1 newspaper of general circulation in the area where the receiving
2 facility is located.

3 (b) If the person maintains a website, post notice of the
4 proposed operating plan on its website.

5 (c) Submit notice of the proposed operating plan by
6 first-class mail to the county health department and the
7 legislative body of each city, village, and township located in
8 whole or in part within the service area of the wastewater
9 treatment plant to which the receiving facility is connected.

10 (6) Notice of a proposed operating plan under subsection (5)
11 shall contain all of the following:

12 (a) A statement that the receiving facility proposes to
13 receive or, in the case of a receiving facility described in
14 subsection (4), to continue to receive septage waste for
15 treatment.

16 (b) A copy of the proposed operating plan or a statement
17 where the operating plan is available for review during normal
18 business hours.

19 (c) A request for written comments on the proposed operation
20 of the receiving facility and the deadline for receipt of such
21 comments, which shall be not less than 30 days after publication,
22 posting, or mailing of the notice.

23 (7) After the deadline for receipt of comments under
24 subsection (6), the person proposing to operate a receiving
25 facility may modify the plan in response to any comments received
26 and shall submit a summary of the comments and the current
27 version of the proposed operating plan to the department for

1 approval.

2 (8) The operator of a receiving facility may modify an
3 approved operating plan if the modifications are approved by the
4 department. Subsections (5) to (7) do not apply to the
5 modification of the operating plan.

6 (9) If the owner or operator of a receiving facility violates
7 this section or rules promulgated under this section, after
8 providing an opportunity for a hearing, the department may order
9 that a receiving facility cease operation as a receiving
10 facility.

11 (10) The department shall post on its website both of the
12 following:

13 (a) Approved operating plans, including any modifications
14 under subsection (8).

15 (b) Notice of any orders under subsection (9).

16 (11) If construction of a receiving facility commenced before
17 the date on which rules are promulgated under subsection (1), all
18 of the following apply:

19 (a) Within 1 year after the date on which rules are
20 promulgated under subsection (1), the owner of the receiving
21 facility shall submit to the department and obtain department
22 approval of a report prepared by a professional engineer licensed
23 to practice in Michigan describing the receiving facility's state
24 of compliance with the rules and proposing any modifications to
25 the receiving facility necessary to comply with the rules.

26 (b) If, according to the report approved under
27 subdivision (a), modifications to the receiving facility are

House Bill No. 5771 as amended September 29, 2004

1 necessary to comply with the rules promulgated under
2 subsection (1), within 18 months after the <<report is approved
3 under subdivision (a)>>, the owner of the receiving facility shall
4 submit to the department engineering plans for modifying the
5 receiving facility and shall obtain a construction permit from
6 the department for modifying the receiving facility.

7 (c) Within 3 years after the <<report is approved under
8 subdivision (a)>>, the owner of the receiving
9 facility shall complete construction modifying the receiving
10 facility so that it complies with those rules.

11 (12) After a hearing, the department may order that a
12 receiving facility whose owner fails to comply with this section
13 cease operating as a receiving facility.

14 Sec. 11715d. (1) Within 60 days after the effective date of
15 the amendatory act that added this section, the department shall
16 convene an advisory committee to make recommendations on septage
17 waste storage facility management practices, including, but not
18 limited to, storage facility inspections. The advisory committee
19 shall include at least all of the following:

- 20 (a) A storage facility operator.
21 (b) A receiving facility operator.
22 (c) A generator of septage waste.
23 (d) A representative of township government.
24 (e) A representative of an environmental protection
25 organization.
26 (f) A licensed Michigan septage waste hauler.
27 (2) Within 18 months after the effective date of this

1 section, the department shall establish generally accepted
2 septage storage facility management practices and post the
3 management practices on the department's website.

4 (3) A person shall not construct a septage waste storage
5 facility without written approval from the department.

6 Sec. 11716. (1) The department ~~shall~~ **may** certify a city,
7 county, ~~and district departments of health~~ **or district health**
8 **department** to carry out certain ~~responsibilities~~ **powers and**
9 **duties of the department** under this part. ~~Except as provided in~~
10 ~~subsection (2) and in section 11717, the department shall provide~~
11 ~~for the payment of all fees collected under this part to~~
12 ~~certified health departments that carry out responsibilities~~
13 ~~under this part.~~

14 ~~(2) A certified health department that carries out~~
15 ~~responsibilities under this part may assess a fee to cover the~~
16 ~~actual costs incurred by the certified health department in~~
17 ~~fulfilling its responsibilities under this part.~~

18 (2) ~~(3)~~ If a certified health department does not exist in
19 a city, county, or district or does not fulfill its
20 responsibilities ~~pursuant to~~ **under** this part, the department
21 may ~~carry out those responsibilities it considers necessary~~
22 **contract with qualified third parties to carry out certain**
23 **responsibilities of the department under this part in that city,**
24 **county, or district.** ~~The department shall retain the fees~~
25 ~~collected under this part that would have been paid to the~~
26 ~~certified health department had it existed or fulfilled its~~
27 ~~responsibilities pursuant to this part.~~

1 (3) The department and each certified health department or
2 third party that will carry out powers or duties of the
3 department under this part shall enter a memorandum of
4 understanding or contract describing those powers and duties and
5 providing for compensation to be paid by the department from the
6 fund to the certified health department or third party.

7 Sec. 11717. (1) There is created in the state treasury a
8 septage waste site contingency fund. ~~The contingency fund shall~~
9 ~~be financed by a \$100.00 fee collected from each person who holds~~
10 ~~a septage waste servicing license under this part. The fee shall~~
11 ~~be collected from a person holding a license under section 11703~~
12 ~~with the first application and shall not be collected with~~
13 ~~subsequent renewal licenses. The fees shall be deposited in the~~
14 ~~state treasury to the credit of the septage waste site~~
15 ~~contingency fund. The department shall administer the fund and~~
16 ~~authorize expenditures to remove or treat septage waste which has~~
17 ~~been disposed of in violation of this part. Following an~~
18 ~~expenditure from the fund, the department immediately shall~~
19 ~~request that the attorney general begin proceedings to recover~~
20 ~~the expenditure from the fund from the person responsible for the~~
21 ~~damage.~~ Interest earned by the **septage waste contingency fund**
22 shall remain in the **septage waste contingency fund** unless
23 expended as provided in ~~this section~~ **subsection (2)**.

24 (2) The department shall expend money from the septage waste
25 contingency fund, upon appropriation, only to defray costs of the
26 continuing education courses under section 11703 that would
27 otherwise be paid by persons taking the courses.

1 (3) The septage waste program fund is created within the
2 state treasury.

3 (4) Fees and interest on fees collected under this part shall
4 be deposited in the fund. In addition, promptly after the
5 effective date of the 2004 amendatory act that amended this
6 section, the state treasurer shall transfer to the septage waste
7 program fund all the money in the septage waste compliance fund.
8 The state treasurer may receive money or other assets from any
9 other 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 (5) Money in the fund at the close of the fiscal year shall
14 remain in the fund and shall not lapse to the general fund.

15 (6) The department shall expend money from the fund, upon
16 appropriation, only for the enforcement and administration of
17 this part, including, but not limited to, compensation to
18 certified health departments or third parties carrying out
19 certain powers and duties of the department under section 11716.

20 Sec. 11717b. (1) The cost of administering this part shall
21 be recovered by collecting fees from persons engaged in
22 servicing. Fee categories and, subject to subsection (2), rates
23 are as follows:

24 (a) The fee for a septage waste servicing license is \$200.00
25 per year.

26 (b) The fee for a septage waste vehicle license is as
27 follows:

1 (i) If none of the vehicles owned by the person applying for
2 the septage waste vehicle license will be used at any time during
3 the license period for disposal of septage waste by land
4 application, \$350.00 per year for each septage waste vehicle.

5 (ii) If any of the vehicles owned by the person applying for
6 the septage waste vehicle license will be used at any time during
7 the license period for disposal of septage waste by land
8 application, \$480.00 per year for each septage waste vehicle.

9 (c) The fee for a site permit is \$500.00. However, a person
10 shall not be charged a fee to renew a site permit.

11 (2) If a fee under subsection (1) is paid for a license,
12 permit, or approval but the application for the license or permit
13 or the request for the approval is denied, the department shall
14 promptly refund the fee.

15 (3) For each state fiscal year, a person possessing a septage
16 waste servicing license and septage waste vehicle license as of
17 January 1 of that fiscal year shall be assessed a septage waste
18 servicing license fee and septage waste vehicle license fee as
19 specified in this section. The department shall notify those
20 persons of their fee assessments by February 1 of that fiscal
21 year. Payment shall be postmarked by March 15 of that fiscal
22 year. Fees assessed in the 2005 calendar year for a septage
23 waste servicing license or a septage waste vehicle license shall
24 be reduced by the amount of the fee paid by the applicant for a
25 septage waste vehicle license for the same vehicle or for a
26 septage waste servicing license, respectively, in effect on
27 January 1, 2005, prorated based on the portion of the 3-year term

1 of that license remaining after December 31, 2004.

2 (4) The department shall assess interest on all fee payments
3 received after the due date. The amount of interest shall equal
4 0.75% of the payment due, for each month or portion of a month
5 the payment remains past due. The failure by a person to timely
6 pay a fee imposed by this section is a violation of this part.

7 (5) If a person fails to pay a fee required under this
8 section in full, plus any interest accrued, by October 1 of the
9 year following the date of notification of the fee assessment,
10 the department may issue an order that revokes the license or
11 permit held by that person for which the fee was to be paid.

12 (6) Fees and interest collected under this section shall be
13 deposited in the fund.

14 Sec. 11718. (1) The department ~~may~~ shall promulgate rules
15 ~~to implement this part. The rules may include rules~~
16 ~~establishing~~ that establish both of the following:

17 (a) Continuing education requirements under section 11706.

18 (b) Design and operating requirements for receiving
19 facilities, as provided in section 11715b.

20 (2) The department may, in addition, promulgate rules that do
21 1 or more of the following:

22 (a) Add other materials and substances ~~that are included in~~
23 to the definition of septage waste. ~~and other~~

24 (b) Add enclosures ~~for septage waste that require licenses~~
25 ~~to service~~ to the list of enclosures in the definition of
26 septage waste under section 11701 the servicing of which requires
27 a septage waste servicing license under this part.

1 (c) Specify information required on an application for a
2 septage waste servicing license, septage waste vehicle license,
3 or site permit.

4 (d) Establish standards or procedures for a department
5 declaration under section 11708 that a wastewater treatment plant
6 or structure is unavailable as a receiving facility because of
7 excessive hydraulic or organic loading, odor problems, or other
8 factors.

9 Sec. 11719. (1) A person who violates ~~this part, a~~
10 ~~condition of a license or permit issued under this part, or who~~
11 ~~makes false statements to obtain a license under this part~~
12 **section 11704, 11705, 11708, 11709, 11710, or 11711 is guilty of**
13 **a misdemeanor punishable by imprisonment for not more than** ~~10~~
14 **90 days or a fine of not more than** ~~\$500.00~~ **\$5,000.00, or both.**
15 ~~If the violation is of a continuing nature, each day the~~
16 ~~violation occurs is a separate offense. A peace officer may~~
17 **issue an appearance ticket to a person for a violation of any of**
18 **these sections.**

19 (2) ~~If the department finds that a person is in violation of~~
20 ~~a license, permit, or a requirement of this part, pursuant to the~~
21 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
22 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
23 ~~Compiled Laws, the department may revoke, suspend, or modify the~~
24 ~~license or permit. A person who knowingly makes or causes to be~~
25 **made a false statement or entry in a license application or a**
26 **record required in section 11703 is guilty of a felony punishable**
27 **by imprisonment for not more than 2 years, or a fine of not less**

1 than \$2,500.00 or more than \$25,000.00, or both.

2 (3) A person who violates this part or a license or permit
3 issued under this part, except as provided in subsections (1) and
4 (2), is guilty of a misdemeanor punishable by imprisonment for
5 not more than 30 days or a fine of not less than \$1,000.00 and
6 not more than \$2,500.00, or both.

7 (4) Each day that a violation described in subsection (1),
8 (2), or (3) continues constitutes a separate violation.

9 (5) ~~—(3)—~~ Upon receipt of information that the servicing of
10 septage waste regulated by this part presents an imminent or
11 substantial threat to the public health, safety, welfare, or the
12 environment, after consultation with the director or a designated
13 representative of the department of ~~public~~ **community** health,
14 the department, or a peace officer if authorized by law, shall do
15 1 or more of the following:

16 (a) ~~Summarily suspend a license pursuant to the~~ **Pursuant** to the
17 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
18 ~~Acts of 1969~~ **1969 PA 306, MCL 24.201 to 24.328, summarily**
19 **suspend a license issued under this part** and afford the holder of
20 the license an opportunity for a hearing within 7 days.

21 (b) Request that the attorney general commence an action to
22 enjoin the act or practice and obtain injunctive relief upon a
23 showing that a person is or has removed, transported, or disposed
24 of septage waste in a manner that is or may become injurious to
25 the public health, safety, welfare, or the environment.

26 ~~(c) Seize a vehicle, equipment, or other property used or~~
27 ~~operated in a manner or for a purpose contrary to this part or~~

1 ~~contrary to a license or permit issued under this part. A holder~~
2 ~~of a license or permit whose property is seized pursuant to this~~
3 ~~section shall be afforded an opportunity for a hearing within 7~~
4 ~~days pursuant to the administrative procedures act of 1969, Act~~
5 ~~No. 306 of the Public Acts of 1969.~~

6 ~~—— (4) If the department determines that hazardous or nuisance~~
7 ~~conditions or unlawful pollution of the waters of the state has~~
8 ~~resulted or may result from the activities of a person who holds~~
9 ~~a license, the department shall notify the holder of that license~~
10 ~~and afford the license holder the opportunity to take corrective~~
11 ~~action to abate or prevent the pollution.~~

12 Sec. 11720. (1) The director may grant a temporary variance
13 from a requirement of this part added by the 2004 amendatory act
14 that amended this part if all of the following requirements are
15 met:

16 (a) The variance is requested in writing.

17 (b) The requirements of this part cannot otherwise be met.

18 (c) The variance will not create or increase the potential
19 for a health hazard, nuisance condition, or pollution of surface
20 water or groundwater.

21 (d) The activity or condition for which the variance is
22 proposed will not violate any other part of this act.

23 (2) A variance granted under subsection (1) shall be in
24 writing and shall be posted on the department's website.