

HOUSE BILL No. 5771

April 1, 2004, Introduced by Reps. Ruth Johnson, LaJoy, Farrah, Ward and Koetje and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11701, 11702, 11703, 11704, 11705, 11706,
11707, 11708, 11709, 11710, 11711, 11712, 11713, 11714, 11715,
11716, 11717, 11718, and 11719 (MCL 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) and by
adding sections 11715b, 11715d, 11717b, and 11720.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 11701. As used in this part:

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

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

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

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

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

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

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

24 (h) "Domestic treatment plant septage" means biosolids
25 generated during the treatment of domestic sewage in a treatment
26 works and transported to a receiving facility or managed in
27 accordance with a residuals management program approved by the

1 department.

2 (i) "Food establishment septage" means material pumped from a
3 grease interceptor, grease trap, or other appurtenance used to
4 retain grease or other fatty substances contained in restaurant
5 wastes and which is blended into a uniform mixture, consisting of
6 not more than 1 part of that restaurant-derived material per 2
7 parts of domestic septage, prior to land application or disposed
8 of at a receiving facility.

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

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

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

15 (m) "Industrial pretreatment program" means a program
16 developed by a municipality to regulate the industrial waste and
17 wastewater entering its sanitary sewage system.

18 (n) ~~-(d)-~~ "Injection" means the pressurized placement of
19 septage waste below the surface of soil.

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

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

25 (p) ~~-(f)-~~ "Peace officer" means ~~every~~ a sheriff or
26 sheriff's deputy, a village or township marshal, an officer of
27 the police department of any city, village, or township, any

1 officer of the Michigan state police, any peace officer who is
 2 trained and certified pursuant to the ~~Michigan law enforcement~~
 3 ~~officers training council act of 1965, Act No. 203 of the Public~~
 4 ~~Acts of 1965, being sections 28.601 to 28.616 of the Michigan~~
 5 ~~Compiled Laws~~ **commission on law enforcement standards act, 1965**
 6 **PA 203, MCL 28.601 to 28.616**, or any conservation officer
 7 appointed by the department **or the department of natural**
 8 **resources** pursuant to section ~~6 of Act No. 192 of the Public~~
 9 ~~Acts of 1929, being section 300.16 of the Michigan Compiled Laws~~
 10 **1606.**

11 **(q)** ~~(g)~~ "Portable toilet" means a receptacle for human
 12 waste temporarily in a location for human use.

13 ~~(h) "Public septage waste treatment facility" means a~~
 14 ~~septage waste or other wastewater treatment facility owned and~~
 15 ~~operated by a governmental unit and approved by the department~~
 16 ~~for treating septage waste.~~

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

20 ~~(j) "Septage waste" means any human excrement, other domestic~~
 21 ~~or restaurant waste, or other material or substance removed from~~
 22 ~~a portable toilet, septic tank, seepage pit, cesspool, sewage~~
 23 ~~lift station, or other enclosure as determined by the department~~
 24 ~~under section 11718, but does not include liquid industrial waste~~
 25 ~~regulated under part 121.~~

26 **(r) "Receiving facility" means a structure or wastewater**
 27 **treatment plant that receives septage waste waste for treatment.**

1 Receiving facility does not include either of the following:

2 (i) A septic tank.

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

6 (s) "Septage waste" means the fluid mixture of untreated and
7 partially treated sewage solids, liquids, and sludge of human or
8 domestic origin which is removed from a wastewater system.

9 Septage waste consists only of food establishment septage,
10 domestic septage, or domestic treatment plant septage, or any
11 combination of these.

12 (t) "Septage waste servicing license" means a septage waste
13 servicing license as provided for under sections 11703 and
14 11706.

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

20 (v) "Septage waste vehicle license" means a septage waste
21 vehicle license as provided for under sections 11704 and 11706.

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

25 (x) ~~-(l)-~~ "Service" or "servicing" means cleaning, removing,
26 transporting, or disposing, ~~of~~ by application to land or
27 otherwise, of septage waste. ~~from a portable toilet, septic~~

1 ~~tank, seepage pit, cesspool, sewage lift station, or other~~
2 ~~enclosure as determined by the department under section 11718.~~

3 (y) ~~-(m)-~~ "Sewage lift station" means a pumping facility that
4 lifts septage waste to a higher elevation.

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

10 (aa) "Site permit" means a permit issued under section 11709
11 authorizing the application of septage waste to a site.

12 (bb) "Storage facility" means a structure that receives
13 septage waste for storage but not for treatment.

14 (cc) ~~-(o)-~~ "Tank" means ~~a~~ an enclosed container placed on a
15 ~~motor~~ septage waste vehicle to carry or transport septage
16 waste.

17 (dd) "Type III marine sanitation device" means that term as
18 defined in 33 CFR 159.3.

19 Sec. 11702. (1) ~~Except as otherwise provided in this~~
20 ~~section, a person shall not engage in the business of servicing,~~
21 ~~or contract with a person to service, a portable toilet, septic~~
22 ~~tank, seepage pit, cesspool, or other enclosure as determined by~~
23 ~~the department under section 11718, unless the person who will~~
24 ~~perform the servicing is licensed as provided in sections 11703~~
25 ~~and 11704.~~ A person shall not engage in servicing or contract to
26 engage in servicing unless the person has a septage waste
27 servicing license and a septage waste vehicle license. A person

1 shall not contract for another person to engage in servicing
2 unless the person who is to perform the servicing has a septage
3 waste servicing license and a septage waste vehicle license.

4 (2) ~~Licensure, as provided in this part, is not required for~~
5 ~~a real property owner who services his or her own portable~~
6 ~~toilet, septic tank, seepage pit, cesspool, sewage lift station,~~
7 ~~or other enclosure as determined by the department under~~
8 ~~section 11718 located on that person's property. Septage waste~~
9 ~~removed by a real property owner pursuant to this subsection may~~
10 ~~be disposed of on the real property from which it originates, if~~
11 ~~the real property is at least 20 acres in size, and if the~~
12 ~~disposal is in compliance with sections 11710, 11711, and 11714,~~
13 ~~and any rules promulgated under this part pertaining to the~~
14 ~~disposal of septage waste. A person shall not apply septage~~
15 **waste to land unless the person has a site permit for that land.**

16 (3) The **septage waste servicing license and septage waste**
17 **vehicle** license requirements provided in this part are not
18 applicable to a ~~public septage waste treatment facility~~
19 **publicly owned receiving facility subject to a permit issued**
20 **under part 31.**

21 Sec. 11703. (1) A person ~~engaged in the business of~~
22 ~~servicing~~ shall apply for a septage waste servicing license ~~on~~
23 **using** an application form provided by the department. The
24 ~~department shall provide an application form that includes~~
25 **shall include** all of the following:

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

27 (b) The location or locations where the business is operated,

1 if the applicant is engaged in the business of servicing.

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

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

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

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

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

16 (d) **The locations of the sites** where the applicant plans to
17 ~~dispose of septage waste upon receiving the department's~~
18 ~~approval,~~ **apply septage waste to land** and either proof ~~of~~
19 ~~ownership of the proposed disposal location~~ **that the applicant**
20 **owns the site** or written approval from the ~~site~~ owner.

21 (e) A written plan for disposal of septage waste obtained in
22 the winter, if the disposal will be by a method other than
23 delivery to a receiving facility or application to land.

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

26 (g) Any other information pertinent to this part and required
27 by the department.

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

3 (2) During the 2-year period before initially applying for a
4 servicing license, a person shall successfully complete not less
5 than 10 hours of continuing education. Before renewing a
6 servicing license, a licensee shall successfully complete not
7 less than 30 hours of continuing education per 5-year license
8 cycle.

9 (3) Before offering or conducting a course of study
10 represented to meet the educational requirements of subsection
11 (2), a person shall obtain approval from the department. The
12 department may suspend or revoke the approval of a person to
13 offer or conduct a course of study to meet the requirements of
14 subsection (2) for a violation of this part or of the rules
15 promulgated under this part.

16 (4) ~~-(3)-~~ A person ~~who holds a septage waste servicing~~
17 ~~license~~ engaged in servicing shall maintain at all times at his
18 or her place of business a complete record of the amount of
19 septage waste that the person has transported ~~and~~ or disposed
20 of, ~~and~~ the location at which ~~the disposal of septage waste~~
21 ~~has occurred~~ septage waste was disposed of, and any complaints
22 received concerning disposal of the septage waste. ~~The person~~
23 ~~shall display these records upon the request of the director, a~~
24 ~~peace officer, or an official of a certified health department.~~
25 The person shall also report this information to the department
26 on a quarterly basis in a manner required by the department.

27 (5) A person engaged in servicing shall maintain records

1 required under subsection (4) or 40 CFR part 503 for at least 5
2 years. A person engaged in servicing or an individual who
3 actually applies septage waste to land, as applicable, shall
4 display these records upon the request of the director, a peace
5 officer, or an official of a certified health department.

6 Sec. 11704. (1) A person ~~who is required to be licensed~~
7 ~~pursuant to section 11703 is required to have a septage waste~~
8 ~~motor vehicle license issued by the department for each vehicle~~
9 ~~that is used to transport septage waste. A septage waste motor~~
10 ~~vehicle license application form shall be provided by the~~
11 ~~department and shall be submitted to the department with a~~
12 ~~license fee of \$75.00 for each vehicle required to be licensed~~
13 ~~under this part.~~ **shall apply for a septage waste vehicle license**
14 **using an application form provided by the department.** A ~~motor~~
15 **septage waste** vehicle license application ~~is to~~ **shall** include
16 all of the following: ~~information:~~

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

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

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

22 (d) **Whether the vehicle or any other vehicle owned by the**
23 **person applying for the septage waste vehicle license will be**
24 **used at any time during the license period for land application**
25 **of septage waste.**

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

1 (f) A septage waste vehicle license fee as provided by
2 section 11717b for each septage waste vehicle.

3 (2) A person who is issued a septage waste ~~motor~~ vehicle
4 license ~~issued pursuant to this section~~ shall carry ~~that~~ a
5 copy of the vehicle license at all times in ~~the motor~~ each
6 vehicle that is described in that **vehicle** license and display the
7 **vehicle** license upon the request of the department, a peace
8 officer, or an official of a certified health department.

9 ~~(3) Without the express permission of the department, a~~
10 ~~person shall not use a vehicle used to transport septage waste to~~
11 ~~transport hazardous waste regulated under part 111 or liquid~~
12 ~~industrial waste regulated under part 121.~~

13 (3) A septage waste vehicle shall not be used to transport
14 hazardous waste regulated under part 111 or liquid industrial
15 waste regulated under part 121, without the express written
16 permission of the department.

17 Sec. 11705. A tank upon a **septage waste** vehicle ~~licensed~~
18 ~~pursuant to section 11704~~ shall be closed in transit to prevent
19 the release of septage waste and odor. The ~~motor~~ **septage waste**
20 vehicle ~~, tank,~~ and accessory equipment shall be **kept** clean and
21 maintained in a manner that prevents environmental damage or harm
22 to the public health.

23 Sec. 11706. (1) Upon receipt of **an** application ~~forms~~
24 ~~complying with sections 11703 and 11704~~ for a **septage waste**
25 **servicing license or a septage waste vehicle license**, the
26 department shall review ~~each~~ **the** application to ensure that it
27 is complete. **If the department determines that the application**

1 **is incomplete, the department shall promptly notify the applicant**
2 **of the deficiencies.** If the department determines that the
3 application ~~forms are~~ **is** complete, the department shall
4 promptly provide the ~~applicable~~ **appropriate** certified health
5 department with ~~copies~~ **a copy** of all application materials.
6 Upon receipt of the application materials, a certified health
7 department shall conduct ~~all necessary~~ **investigations necessary**
8 to verify that the ~~locations to be used for disposal~~ **sites**, the
9 servicing methods, and the ~~motor~~ **septage waste** vehicles ~~and~~
10 ~~tanks~~ are in compliance with this part. ~~and the rules~~
11 ~~promulgated under this part. Upon approving of the applicant, If~~
12 **so**, the department shall **approve the application and** issue ~~a~~
13 ~~license as provided in sections 11703 and 11704~~ **the license**
14 **applied for in that application.** If a certified health
15 department does not exist, the department may perform the
16 functions of a certified health department as necessary.

17 (2) A **septage waste servicing** license ~~issued pursuant to~~
18 ~~section 11703 or 11704~~ is not transferable and is valid, **unless**
19 **suspended or revoked**, for ~~3~~ **5** years. ~~unless revoked or~~
20 ~~suspended by the department.~~ **A septage waste vehicle license is**
21 **not transferable and is valid, unless suspended or revoked, for**
22 **the same 5-year period as the licensee's septage waste servicing**
23 **license.**

24 Sec. 11707. Each ~~motor vehicle licensed pursuant to~~
25 ~~section 11704~~ **septage waste vehicle for which a septage waste**
26 **vehicle license has been issued** shall display on both sides of
27 the ~~motor~~ **septage waste** vehicle in letters not less than 2

1 inches high the words "licensed septage hauler", the ~~motor~~
2 vehicle license number issued by the department, and a seal
3 furnished by the department that designates the year the **septage**
4 **waste vehicle** license was issued.

5 Sec. 11708. (1) ~~A person licensed under this part shall~~
6 ~~deposit all septage waste in a public septage waste treatment~~
7 ~~facility if a facility is available to receive that septage waste~~
8 ~~and is located within 15 road miles of the location where the~~
9 ~~septage waste is received. This section does not restrict a~~
10 ~~licensed person from taking septage waste to any public septage~~
11 ~~waste treatment facility, regardless of where that facility is~~
12 ~~located. The public septage waste treatment~~ **Except as provided**
13 **in subsection (2), if a publicly owned receiving facility subject**
14 **to a permit under part 31 is located within 25 radial miles of**
15 **the location where a person engaged in servicing obtains septage**
16 **waste, the person shall dispose of the septage waste in that or**
17 **another receiving facility.**

18 (2) Subsection (1) does not apply if both of the following
19 requirements are met:

20 (a) The person engaged in servicing disposes of the septage
21 waste at a site located within 25 radial miles of the location
22 where the person obtained the septage waste.

23 (b) The person has had a site permit or site permits for that
24 site since the effective date of the 2004 amendatory act that
25 added this subsection or an earlier date.

26 (3) **A receiving facility may charge a** ~~disposal fee that does~~
27 ~~not exceed the actual costs related to the treatment and storage~~

1 ~~of the waste fee for the disposal of the septage waste.~~

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

6 (5) A person shall not dispose of septage waste at a
7 wastewater treatment plant or structure if the operation of that
8 wastewater treatment plant or structure as a receiving facility
9 is prohibited by an order issued under subsection (4) or section
10 11715b.

11 Sec. 11709. ~~-(1) Subject to the limitations contained in~~
12 ~~sections 11710 and 11711, septage waste that is picked up at a~~
13 ~~location that is further than 15 road miles from a public septage~~
14 ~~waste treatment facility, or where a public waste treatment~~
15 ~~facility is not available, may be disposed of on land if the~~
16 ~~person holding licenses issued pursuant to sections 11703 and~~
17 ~~11704 applies to the department for a permit authorizing the~~
18 ~~disposal of septage waste on land, supplies any additional~~
19 ~~information pertinent to this part as required by the department,~~
20 ~~and sends notice to property owners as provided in~~
21 ~~subsection (2).~~

22 ~~-(2) An applicant for a permit under subsection (1) shall~~
23 ~~send a notice to each land owner who owns property located within~~
24 ~~800 feet of the proposed disposal location on a form approved by~~
25 ~~the department. Service of the notice shall be made by~~
26 ~~first class mail. The notification shall include the nature of~~
27 ~~the proposed land use, the location of the proposed disposal~~

1 ~~area, and whom to contact if there is an objection to the~~
2 ~~proposed land use. A copy of the notice that is mailed to each~~
3 ~~property owner shall be sent~~

4 (1) A person shall apply for a site permit using an
5 application form provided by the department. The application
6 shall include all of the following for each site:

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

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

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

11 (d) The name and address of the manager of the land, if
12 different than the owner.

13 (e) Soil fertility test results including analysis of a
14 representative soil sample of the site as determined by the bray
15 P1 (bray and kurtz P1), or Mehlich 3 test, for which procedures
16 are described in the publication entitled "Recommended chemical
17 soil test procedures for the north central region". The
18 department shall provide a copy of this publication to any person
19 upon request at no cost. The applicant shall also provide test
20 results from any additional test procedures that were performed
21 on the soil.

22 (f) Payment of the site permit fee as provided under section
23 11717b.

24 (2) Upon receipt of an application under subsection (1), the
25 department shall review the application to ensure that it is
26 complete. If the department determines that the application is
27 incomplete, it shall promptly notify the applicant of the

1 deficiencies.

2 (3) An applicant for a site permit shall send notice of the
3 application by first-class mail to the certified health
4 department having jurisdiction and the clerk of the city,
5 village, or township where the site is located. ~~If no~~
6 substantiated objections as determined by the department are
7 received within 10 business days following the mailing of the
8 notification, the department may issue a permit as provided in
9 this section. The notice shall include the information required
10 by subsection (1)(a) to (d).

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

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

21 (5) The department shall issue a site permit unless the site
22 fails to meet standards under this part, in which case the
23 department shall deny the site permit.

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

1 management is in violation of this part.

2 Sec. 11710. ~~Except as provided in section 11711, a permit~~
 3 ~~issued pursuant to section 11709~~ A site permit is subject to all
 4 of the following requirements:

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

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

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

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

	<u>TYPE OF APPLICATION</u>
	<u>Surface</u> <u>Injection</u>
(i) Homes or commercial buildings	800 feet 150 feet
(ii) Private drinking water wells	800 feet 150 feet
(iii) Surface water	500 feet 150 feet
(iv) Roads or property lines	200 feet 150 feet

26 (d) ~~(e) The slope of any lands on which~~ If septage waste is
 27 applied to the surface of ~~that~~ land, ~~does~~ **the slope of that**

1 **land shall** not exceed 6%. ~~and the slope of land on which septage~~
2 ~~waste is injected does~~ **If septage waste is injected into land,**
3 **the slope of that land shall** not exceed 12%.

4 **(e)** ~~-(f)-~~ Septage waste shall not be applied to ~~any~~ land
5 unless the water table is at least 30 inches below any applied
6 septage waste.

7 **(f)** **If septage waste is applied to the surface of the land, 1**
8 **of the following requirements is met:**

9 **(i)** **The septage waste shall be mechanically incorporated**
10 **within 48 hours after application.**

11 **(ii)** ~~-(g)- Septage waste shall be~~ **The septage waste shall**
12 **have been** treated to reduce pathogens prior to land disposal by
13 aerobic or anaerobic digestion, lime stabilization, composting,
14 air drying, or other process or method approved by the
15 department, unless public access to the site is restricted for 12
16 months and no animals whose products are consumed by humans are
17 allowed to graze on the site for at least 1 month following
18 disposal.

19 **(g)** ~~-(h)-~~ Septage waste shall be treated to reduce pathogens
20 by composting, heat drying or treatment, thermophilic aerobic
21 digestion, or other process or method approved by the department
22 prior to disposal on lands where crops for direct human
23 consumption are grown, if contact between the septage waste and
24 the edible portion of the crop is possible.

25 **(h)** ~~-(i)-~~ Vegetation shall be grown on a septage waste
26 disposal site each year that septage waste is disposed of on that
27 site.

1 (i) Beginning 2 years after the effective date of the 2004
 2 amendatory act that amended this section, before land
 3 application, domestic septage shall be screened through a screen
 4 of not greater than 1/2-inch mesh or through slats separated by a
 5 gap of not greater than 3/8 inch. Screenings shall be handled as
 6 solid waste under part 115. Instead of screening, the domestic
 7 septage may be processed through a sewage grinder designed to not
 8 pass solids larger than 1/2 inch in diameter.

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

15 (a) Melting snow or precipitation does not result in the
 16 runoff of septage waste from the site.

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

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

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

25 ~~—— (2) The department may grant a variance from the~~
 26 ~~requirements of section 11710(d), (e), or (f) or subsection (1)~~
 27 ~~if the department finds that the conditions of the variance~~

1 ~~provide the same or a higher degree of protection to the~~
2 ~~environment and the public health as provided in subsection (1)~~
3 ~~or section 11710(d), (e), or (f).~~

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

8 ~~—— (4) The department may grant a variance to the requirements~~
9 ~~of section 11710(e) if all the following conditions are present:~~

10 ~~—— (a) Septage waste is applied at a rate no greater than~~
11 ~~10,000 gallons per acre per month and not greater than 60,000~~
12 ~~gallons per acre per year.~~

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

17 ~~—— (c) The slope of any lands on which septage waste is applied~~
18 ~~is less than 2% or less than 4% if the land is internally~~
19 ~~drained.~~

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

25 (d) Beginning 2 years after the effective date of the 2004
26 amendatory act that amended this section, the septage waste is
27 injected below the surface of the land.

1 (e) If the septage waste is injected below the surface of
2 the land, there will be substantial soil coverage of the applied
3 septage waste.

4 (f) Subject to subdivision (d), if the septage waste is
5 applied to the surface with subsequent mechanical incorporation,
6 all of the following requirements are met:

7 (i) The department approves the surface application and
8 subsequent incorporation.

9 (ii) Less than 10,000 gallons per acre are applied to the
10 surface during the period that the septage waste cannot be
11 incorporated due to frozen ground.

12 (iii) The septage waste is incorporated within 20 days
13 following the end of the frozen ground conditions.

14 (iv) ~~—(d)—~~ The septage waste is applied in a manner that
15 prevents the accumulation and ponding of **the** septage waste.

16 ~~(e) The soil is properly tilled at least once every 2 years~~
17 ~~to prevent an accumulation of solids forming at the soil~~
18 ~~surface.~~

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

23 ~~(g) All other provisions and isolation distances stated in~~
24 ~~section 11710(d) are complied with.~~ **Any other applicable**
25 **requirement under this part.**

26 Sec. 11712. ~~The standards provided for in sections 11710~~
27 ~~and 11711 may be modified by rules promulgated by the department,~~

1 ~~provided that if the rules provide the same or a higher degree of~~
2 ~~protection to the environment and the public health as provided~~
3 ~~in sections 11710 and 11711.~~ **Persons subject to this part shall**
4 **comply with applicable provisions of subparts A, B, and D of part**
5 **503 of title 40 of the code of federal regulations.**

6 Sec. 11713. (1) ~~The department shall inspect a septage~~
7 ~~waste disposal site at least once each year.~~ **At any reasonable**
8 **time, a representative of the department may enter in or upon any**
9 **private or public property for the purpose of inspecting and**
10 **investigating conditions relating to compliance with this part.**

11 (2) **The department shall inspect septage waste vehicles at**
12 **least annually.**

13 (3) **The department shall inspect a site at least quarterly.**

14 (4) **The department shall inspect a receiving facility within**
15 **1 year after that receiving facility begins operation and at**
16 **least annually thereafter.**

17 Sec. 11714. **A person shall not dispose of septage waste**
18 **directly or indirectly in a lake, pond, stream, river, or other**
19 **body of water.**

20 Sec. 11715. (1) **If a governmental unit requires that all**
21 **septage waste collected in that governmental unit be disposed of**
22 **in a ~~septage waste treatment~~ receiving facility or prohibits,**
23 **or effectively prohibits, the application of septage waste to**
24 **land within that governmental unit, the governmental unit shall**
25 **make available a ~~public septage waste treatment~~ receiving**
26 **facility that can lawfully accept all septage waste generated**
27 **within that governmental unit that is not lawfully applied to**

1 land.

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

8 **Sec. 11715b. (1) The department shall promulgate rules**
9 **establishing design and operating requirements for receiving**
10 **facilities, including criteria for septage waste storage and the**
11 **control of nuisance conditions.**

12 (2) A person shall not commence construction of a receiving
13 facility on or after the date on which rules are promulgated
14 under subsection (1) unless the owner has a permit from the
15 department authorizing the construction of the receiving
16 facility. The application for a permit shall include a basis of
17 design for the receiving facility, engineering plans for the
18 receiving facility sealed by an engineer licensed to practice in
19 Michigan, and any other information required by the department.
20 If the proposed receiving facility will be part of a sewerage
21 system whose construction is required to be permitted under part
22 41, the permit issued under part 41 satisfies the permitting
23 requirement of this subsection.

24 (3) A person shall not operate a receiving facility whose
25 construction commenced on or after the date on which rules are
26 promulgated under subsection (1) unless the owner of the
27 receiving facility has submitted to the department and obtained

1 the department's approval of an operating plan for the receiving
2 facility.

3 (4) If construction of a receiving facility commenced before
4 the date on which rules are promulgated under subsection (1), all
5 of the following apply:

6 (a) Within 1 year after the date on which rules are
7 promulgated under subsection (1), the owner of the receiving
8 facility shall submit to the department and obtain department
9 approval of a report prepared by a professional engineer licensed
10 to practice in Michigan describing the receiving facility's state
11 of compliance with the rules and proposing any modifications to
12 the receiving facility necessary to comply with the rules.

13 (b) If, according to the report approved under
14 subdivision (a), modifications to the receiving facility are
15 necessary to comply with the rules promulgated under
16 subsection (1), within 18 months after the date on which those
17 rules are promulgated, the owner of the receiving facility shall
18 submit to the department engineering plans for modifying the
19 receiving facility and shall obtain a construction permit from
20 the department for modifying the receiving facility.

21 (c) Within 3 years after the date on which rules are
22 promulgated under subsection (1), the owner of the receiving
23 facility shall complete construction modifying the receiving
24 facility so that it complies with those rules.

25 (d) Within 1 year after receiving the department's approval
26 of the report under subdivision (a), the owner of the receiving
27 facility shall submit to the department and obtain the

1 department's approval of an operating plan for the receiving
2 facility.

3 (5) A person shall not operate a receiving facility contrary
4 to a plan approved by the department under this section.

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

8 Sec. 11715d. (1) Within 60 days after the effective date of
9 the amendatory act that added this section, the department shall
10 convene a task force to make recommendations on ~~the~~ **storage**
11 **facility** development and regulation, ~~of storage facilities~~
12 **including, but not limited to, storage facility inspections.**

13 (2) The task force shall include at least all of the
14 following:

15 (a) A storage facility operator.

16 (b) A receiving facility operator.

17 (c) A generator of septage waste.

18 (d) A representative of township government.

19 (e) A representative of an environmental protection
20 organization.

21 (3) Within 18 months after the effective date of the
22 amendatory act that added this section, the task force shall
23 submit a report on its recommendations to the committees of the
24 senate and house of representatives with primary responsibility
25 for environmental protection matters.

26 Sec. 11716. (1) The department ~~shall~~ **may** certify a city,
27 county, ~~and district departments of health~~ **or district health**

1 **department** to carry out certain ~~responsibilities~~ **powers and**
2 **duties of the department** under this part. ~~Except as provided in~~
3 ~~subsection (2) and in section 11717, the department shall provide~~
4 ~~for the payment of all fees collected under this part to~~
5 ~~certified health departments that carry out responsibilities~~
6 ~~under this part.~~

7 ~~(2) A certified health department that carries out~~
8 ~~responsibilities under this part may assess a fee to cover the~~
9 ~~actual costs incurred by the certified health department in~~
10 ~~fulfilling its responsibilities under this part.~~

11 **(2)** ~~(3)~~ If a certified health department does not exist in
12 a city, county, or district or does not fulfill its
13 responsibilities ~~pursuant to~~ **under** this part, the department
14 may ~~carry out those responsibilities it considers necessary~~
15 **contract with qualified third parties to carry out certain**
16 **responsibilities of the department under this part in that city,**
17 **county, or district.** ~~The department shall retain the fees~~
18 ~~collected under this part that would have been paid to the~~
19 ~~certified health department had it existed or fulfilled its~~
20 ~~responsibilities pursuant to this part.~~

21 **(3)** The department and each certified health department or
22 third party that will carry out powers or duties of the
23 department under this part shall enter a memorandum of
24 understanding or contract describing those powers and duties and
25 providing for compensation to be paid by the department from the
26 fund to the certified health department or third party.

27 Sec. 11717. **(1)** There is created in the state treasury a

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

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

21 (3) The septage waste program fund is created within the
22 state treasury.

23 (4) The state treasurer may receive money or other assets
24 from any source for deposit into the fund. The state treasurer
25 shall direct the investment of the fund. The state treasurer
26 shall credit to the fund interest and earnings from fund
27 investments.

1 (5) Money in the fund at the close of the fiscal year shall
2 remain in the fund and shall not lapse to the general fund.

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

8 Sec. 11717b. (1) The cost of administering this part shall
9 be recovered by collecting fees from persons engaged in servicing
10 or engaged in operating a receiving facility. Fee categories and
11 rates are as follows:

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

14 (b) The fee for a septage waste vehicle license is as
15 follows:

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

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

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

26 (d) The fee for approval of a request to apply septage waste
27 on frozen ground under section 11711 is \$500.00.

1 (2) If a fee described under subsection (1) is paid for a
2 license, permit, or approval but the application for the license
3 or permit or the request for the approval is denied, the
4 department shall promptly refund the fee.

5 (3) For each state fiscal year, a person possessing a septage
6 waste servicing license and septage waste vehicle license as of
7 January 1 of that fiscal year shall be assessed a septage waste
8 servicing license and septage waste vehicle license fee as
9 defined in this section. The department shall notify those
10 persons of their fee assessments by February 1 of that fiscal
11 year. Payment shall be postmarked by March 15 of that fiscal
12 year.

13 (4) The department shall assess interest on all fee payments
14 received after the due date. The amount of interest shall equal
15 0.75% of the payment due, for each month or portion of a month
16 the payment remains past due. The failure by a person to timely
17 pay a fee imposed by this section is a violation of this part.

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

23 Sec. 11718. The department ~~may~~ **shall** promulgate rules ~~to~~
24 ~~implement this part. The rules may include rules establishing~~
25 ~~that establish both of the following:~~

26 (a) Continuing education requirements under section 11706.

27 (b) Design and operating requirements for receiving

1 facilities, as provided in section 11715b, and for storage
2 facilities.

3 (2) The department may, in addition, promulgate rules that do
4 1 or more of the following:

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

7 (b) Add enclosures ~~for septage waste that require licenses~~
8 ~~to service~~ to the list of enclosures in the definition of
9 septage waste under section 11701 the servicing of which requires
10 a septage waste servicing license under this part.

11 (c) Specify information required on an application for a
12 septage waste servicing license.

13 (d) Establish design criteria for receiving facilities.

14 (e) Establish standards or procedures for a department
15 declaration under section 11708 that a wastewater treatment plant
16 or structure is unavailable as a receiving facility because of
17 excessive hydraulic or organic loading, odor problems, or other
18 factors.

19 Sec. 11719. (1) A person who violates ~~this part, a~~
20 ~~condition of a license or permit issued under this part, or who~~
21 ~~makes false statements to obtain a license under this part~~
22 section 11704, 11705, 11708, 11709, 11710, or 11711 is guilty of
23 a misdemeanor punishable by imprisonment for not more than ~~10~~
24 90 days or a fine of not more than ~~\$500.00~~ \$5,000.00, or both.
25 ~~If the violation is of a continuing nature, each day the~~
26 ~~violation occurs is a separate offense. A peace officer may~~
27 issue an appearance ticket to a person for a violation of any of

1 these sections.

2 (2) ~~If the department finds that a person is in violation of~~
 3 ~~a license, permit, or a requirement of this part, pursuant to the~~
 4 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
 5 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
 6 ~~Compiled Laws, the department may revoke, suspend, or modify the~~
 7 ~~license or permit.~~ A person who knowingly makes or causes to be
 8 made a false statement or entry in a license application or a
 9 record required in section 11703 is guilty of a felony punishable
 10 by imprisonment for not more than 2 years, or a fine of not less
 11 than \$2,500.00 or more than \$25,000.00, or both.

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

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

19 (5) ~~(3)~~ Upon receipt of information that the servicing of
 20 septage waste regulated by this part presents an imminent or
 21 substantial threat to the public health, safety, welfare, or the
 22 environment, after consultation with the director or a designated
 23 representative of the department of ~~public~~ community health,
 24 the department, or a peace officer if authorized by law, shall do
 25 1 or more of the following:

26 (a) ~~Summarily suspend a license pursuant~~ Pursuant to the
 27 administrative procedures act of 1969, ~~Act No. 306 of the Public~~

1 ~~Acts of 1969~~ 1969 PA 306, MCL 24.201 to 24.328, summarily
2 suspend a license issued under this part and afford the holder of
3 the license an opportunity for a hearing within 7 days.

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

9 ~~(c) Seize a vehicle, equipment, or other property used or~~
10 ~~operated in a manner or for a purpose contrary to this part or~~
11 ~~contrary to a license or permit issued under this part. A holder~~
12 ~~of a license or permit whose property is seized pursuant to this~~
13 ~~section shall be afforded an opportunity for a hearing within 7~~
14 ~~days pursuant to the administrative procedures act of 1969, Act~~
15 ~~No. 306 of the Public Acts of 1969.~~

16 ~~—— (4) If the department determines that hazardous or nuisance~~
17 ~~conditions or unlawful pollution of the waters of the state has~~
18 ~~resulted or may result from the activities of a person who holds~~
19 ~~a license, the department shall notify the holder of that license~~
20 ~~and afford the license holder the opportunity to take corrective~~
21 ~~action to abate or prevent the pollution.~~

22 Sec. 11720. The director may grant a temporary variance
23 from a requirement of this part added by the 2004 amendatory act
24 that amended this part if the requirement would result in a
25 practical difficulty or unnecessary hardship and the variance is
26 not inequitable or inconsistent with the purposes of this part to
27 protect human health and the environment. Any variance shall be

1 in writing and shall be posted on the department's website.

2 Enacting section 1. Section 11710 of the natural resources
3 and environmental protection act, 1994 PA 451, MCL 324.11710, as
4 amended by this amendatory act, takes effect 2 years after the
5 effective date of this amendatory act.