

**SUBSTITUTE FOR
HOUSE BILL NO. 4485**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11502, 11503, 11504, 11505, 11506, 11512, 11514, 11516, 11527a, 11529, and 11541 (MCL 324.11502, 324.11503, 324.11504, 324.11505, 324.11506, 324.11512, 324.11514, 324.11516, 324.11527a, 324.11529, and 324.11541), section 11502 as amended by 2004 PA 35, sections 11503 and 11506 as amended by 1998 PA 466, section 11504 as amended by 1996 PA 359, sections 11512 and 11516 as amended by 2004 PA 325, section 11514 as amended by 2005 PA 243, section 11527a as added by 2004 PA 42, and sections 11529 and 11541 as amended by 1996 PA 358, and by adding section 11515a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11502. (1) **"AGREEMENT" MEANS A DULY EXECUTED CONTRACT.**

2 (2) ~~(1)~~—"Applicant" includes any person.

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

6 (4) ~~(3)~~—"Beverage container" means an airtight metal, glass,
7 paper, or plastic container, or a container composed of a
8 combination of these materials, which, at the time of sale,
9 contains 1 gallon or less of any of the following:

10 (a) A soft drink, soda water, carbonated natural or mineral
11 water, or other nonalcoholic carbonated drink.

12 (b) A beer, ale, or other malt drink of whatever alcoholic
13 content.

14 (c) A mixed wine drink or a mixed spirit drink.

15 (5) ~~(4)~~—"Bond" means a financial instrument executed on a form
16 approved by the department, including a surety bond from a surety
17 company authorized to transact business in this state, a
18 certificate of deposit, a cash bond, an irrevocable letter of
19 credit, insurance, a trust fund, an escrow account, or a
20 combination of any of these instruments, in favor of the
21 department. The owner or operator of a disposal area who is
22 required to establish a bond under ~~other~~ **ANOTHER** state **STATUTE** or **A**
23 federal statute may petition the department to allow such a bond to
24 meet the requirements of this part. The department shall approve a
25 bond established under ~~other~~ **ANOTHER** state **STATUTE** or **A** federal
26 statute if the bond provides equivalent funds and access by the
27 department as other financial instruments allowed by this

1 subsection.

2 (6) "CAPTIVE FACILITY" MEANS A LANDFILL THAT ACCEPTS FOR
3 DISPOSAL ONLY NONHAZARDOUS INDUSTRIAL WASTE GENERATED BY THE OWNER
4 OF THE LANDFILL OR A NONHAZARDOUS INDUSTRIAL WASTE LANDFILL THAT IS
5 DESCRIBED IN SECTION 11525(3).

6 (7) ~~(5)~~—"Certificate of deposit" means a negotiable
7 certificate of deposit held by a bank or other financial
8 institution regulated and examined by a state or federal agency,
9 the value of which is fully insured by an agency of the United
10 States government. A certificate of deposit used to fulfill the
11 requirements of this part shall be in the sole name of the
12 department with a maturity date of not less than 1 year and shall
13 be renewed not less than 60 days before the maturity date. An
14 applicant who uses a certificate of deposit as a bond shall receive
15 any accrued interest on that certificate of deposit upon release of
16 the bond by the department.

17 (8) ~~(6)~~—"Certified health department" means a city, county, or
18 district department of health that is specifically delegated
19 authority by the department to perform designated activities as
20 prescribed by this part.

21 (9) ~~(7)~~—"Coal or wood ash" means either or both of the
22 following:

23 (a) The residue remaining after the ignition of coal or wood,
24 or both, ~~and~~ **WHICH** may include noncombustible materials, otherwise
25 referred to as bottom ash.

26 (b) The airborne residues from burning coal or wood, or both,
27 that are finely divided particles entrained in flue gases arising

1 from a combustion chamber, otherwise referred to as fly ash.

2 (10) ~~(8)~~—"Collection center" means a tract of land, building,
3 unit, or appurtenance or **A** combination thereof that is used to
4 collect junk motor vehicles and farm implements under section
5 11530.

6 (11) ~~(9)~~—"Consistency review" means evaluation of the
7 administrative and technical components of an application for a
8 permit ~~—OR~~ license ~~—or~~ ~~for~~ **OF** operating conditions in the course
9 of inspection, for the purpose of determining consistency with the
10 requirements of this part, rules promulgated under this part, ~~and~~
11 approved **ENGINEERING** plans and specifications, **THE APPLICABLE SOLID**
12 **WASTE MANAGEMENT PLAN, AND ANY APPLICABLE ADMINISTRATIVE OR COURT**
13 **ORDERS ENTERED UNDER THIS PART.**

14 (12) ~~(10)~~—"Corrective action" means the investigation,
15 assessment, cleanup, removal, containment, isolation, treatment, or
16 monitoring of constituents, as defined in a facility's approved
17 hydrogeological monitoring plan, released into the environment from
18 a disposal area, or the taking of other actions related to the
19 release as may be necessary to prevent, minimize, or mitigate
20 injury to the public health, safety, or welfare, the environment,
21 or natural resources that is consistent with ~~subtitle D of the~~
22 ~~solid waste disposal act, title II of Public Law 89-272, 42 U.S.C.~~
23 ~~6941 and 6942~~ **42 USC 6941** to 6949a or regulations promulgated
24 ~~pursuant to that act~~ **THEREUNDER.**

25 Sec. 11503. (1) **"DE MINIMIS" REFERS TO A SMALL AMOUNT OF**
26 **MATERIAL OR NUMBER OF ITEMS, AS APPLICABLE, COMMINGLED AND**
27 **INCIDENTALLY DISPOSED OF WITH OTHER SOLID WASTE.**

1 (2) ~~(1)~~—"Department" means the department of environmental
2 quality.

3 (3) **"DESIGNATED PLANNING AGENCY" MEANS AN AGENCY, OTHER THAN**
4 **THE DEPARTMENT, RESPONSIBLE FOR PREPARING A SOLID WASTE MANAGEMENT**
5 **PLAN UNDER SECTION 11533.**

6 (4) ~~(2)~~—"Director" means the director of the department.

7 (5) ~~(3)~~—"Discharge" includes, but is not limited to, any
8 spilling, leaking, pumping, pouring, emitting, emptying,
9 discharging, injecting, escaping, leaching, dumping, or disposing
10 of a substance into the environment which is or may become
11 injurious to the public health, safety, or welfare, or to the
12 environment.

13 (6) ~~(4)~~—"Disposal area" means 1 or more of the following at a
14 location as defined by the boundary identified in its construction
15 permit or engineering plans approved by the department:

16 (a) A solid waste transfer facility.

17 (b) Incinerator.

18 (c) Sanitary landfill.

19 (d) Processing plant.

20 (e) Other solid waste handling or disposal facility utilized
21 in the disposal of solid waste.

22 (7) ~~(5)~~—"Enforceable mechanism" means a legal method whereby
23 the state, a county, a municipality, or ~~a~~ **ANOTHER** person is
24 authorized to take action to guarantee compliance with an approved
25 county solid waste management plan. Enforceable mechanisms include
26 contracts, intergovernmental agreements, laws, ordinances, rules,
27 and regulations.

1 (8) ~~(6)~~—"Escrow account" means an account managed by a bank or
2 other financial institution whose account operations are regulated
3 and examined by a federal or state agency and which complies with
4 section 11523b.

5 (9) **"EXCESS LANDFILL DISPOSAL CAPACITY" MEANS A MEASURE IN**
6 **YEARS AND CUBIC YARDS OF ANY LANDFILL DISPOSAL CAPACITY IN A COUNTY**
7 **BEYOND THE 10 YEARS OF CAPACITY THAT ARE REQUIRED TO BE SHOWN IN**
8 **THE COUNTY SOLID WASTE MANAGEMENT PLAN EXCLUDING GUARANTEED**
9 **LANDFILL DISPOSAL CAPACITY ALLOCATED TO OUTSIDE COUNTIES.**

10 (10) ~~(7)~~—"Financial assurance" means the mechanisms used to
11 demonstrate that the funds necessary to meet the cost of closure,
12 postclosure maintenance and monitoring, and corrective action will
13 be available whenever they are needed.

14 (11) ~~(8)~~—"Financial test" means a corporate or local
15 government financial test or guarantee approved for type II
16 landfills under ~~subtitle D of the solid waste disposal act, title~~
17 ~~II of Public Law 89-272, 42 U.S.C. 6941 and 6942~~ **42 USC 6941** to
18 6949a. An owner or operator may use a single financial test for
19 more than 1 facility. Information submitted to the department to
20 document compliance with the test shall include a list showing the
21 name and address of each facility and the amount of funds assured
22 by the test for each facility. For purposes of the financial test,
23 the owner or operator shall aggregate the sum of the closure,
24 postclosure, and corrective action costs it seeks to assure with
25 any other environmental obligations assured by a financial test
26 under state or federal law.

27 (12) ~~(9)~~—"Food processing residuals" means any of the

1 following:

2 (a) Residuals of fruits, vegetables, aquatic plants, or field
3 crops.

4 (b) Otherwise unusable parts of fruits, vegetables, aquatic
5 plants, or field crops from the processing thereof.

6 (c) Otherwise unusable food products which do not meet size,
7 quality, or other product specifications and which were intended
8 for human or animal consumption.

9 (13) ~~(10)~~—"Garbage" means rejected food wastes including waste
10 accumulation of animal, fruit, or vegetable matter used or intended
11 for food or that ~~attends~~ **RESULTS FROM** the preparation, use,
12 cooking, dealing in, or storing of meat, fish, fowl, fruit, or
13 vegetable matter.

14 ~~—— (11) "Scrap wood" means wood or wood product that is 1 or more
15 of the following:~~

16 ~~—— (a) Plywood, pressed board, oriented strand board, or any
17 other wood or wood product mixed with glue or filler.~~

18 ~~—— (b) Wood or wood product treated with creosote or
19 pentachlorophenol.~~

20 ~~—— (c) Any other wood or wood product designated as scrap wood in
21 rules promulgated by the department.~~

22 ~~—— (12) "Treated wood" means wood or wood product that has been
23 treated with 1 or more of the following:~~

24 ~~—— (a) Chromated copper arsenate (CCA).~~

25 ~~—— (b) Ammoniacal copper quat (ACQ).~~

26 ~~—— (c) Ammoniacal copper zinc arsenate (ACZA).~~

27 ~~—— (d) Any other chemical designated in rules promulgated by the~~

1 department.

2 ~~—— (13) "Wood" means trees, branches, bark, lumber, pallets, wood~~
3 ~~chips, sawdust, or other wood or wood product but does not include~~
4 ~~scrap wood, treated wood, painted wood or painted wood product, or~~
5 ~~any wood or wood product that has been contaminated during~~
6 ~~manufacture or use.~~

7 **(14) "GUARANTEED LANDFILL DISPOSAL CAPACITY" MEANS THE AMOUNT**
8 **OF LANDFILL DISPOSAL CAPACITY AT SPECIFIC LANDFILLS ALLOCATED TO A**
9 **COUNTY, AS ASSURED THROUGH ENFORCEABLE MECHANISMS.**

10 Sec. 11504. (1) "Health officer" means a full-time
11 administrative officer of a certified city, county, or district
12 department of health.

13 (2) "Inert material" means a substance that will not
14 decompose, dissolve, or in any other way form a contaminated
15 leachate upon contact with water, or other liquids determined by
16 the department as likely to be found at the disposal area,
17 percolating through the substance.

18 (3) "Insurance" means insurance that conforms to the
19 requirements of 40 C.F.R. ~~CFR~~ 258.74(d) provided by an insurer who
20 has a certificate of authority from the Michigan commissioner of
21 insurance to sell this line of coverage. An applicant for an
22 operating license shall submit evidence of the required coverage by
23 submitting both of the following to the department:

24 (a) A certificate of insurance that uses wording approved by
25 the department.

26 (b) A certified true and complete copy of the insurance
27 policy.

1 (4) "INTERGOVERNMENTAL AGREEMENT" MEANS AN AGREEMENT BETWEEN 2
2 OR MORE GOVERNMENTS OR LEVELS OF GOVERNMENT.

3 (5) ~~(4)~~"Landfill" means a disposal area that is a sanitary
4 landfill.

5 (6) "LANDFILL DISPOSAL CAPACITY" MEANS THE VOLUME, IN CUBIC
6 YARDS, OF SOLID WASTE THAT CAN BE DISPOSED AT A LANDFILL OR
7 LANDFILLS, AS APPLICABLE, CALCULATED USING THE CONSTRUCTED CAPACITY
8 MINUS WASTE IN PLACE, PLUS THE CAPACITY OF AREAS PERMITTED FOR
9 CONSTRUCTION BUT NOT YET CONSTRUCTED.

10 (7) ~~(5)~~"Letter of credit" means an irrevocable letter of
11 credit that complies with 40 C.F.R. ~~CFR~~ 258.74(c).

12 (8) ~~(6)~~"Medical waste" means that term as it is defined in
13 ~~part 138~~ SECTION 13805 of the public health code, ~~Act No. 378 of~~
14 ~~the Public Acts of 1978, being sections 333.13801 to 333.13831 of~~
15 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.13805.~~

16 (9) ~~(7)~~"Municipal solid waste incinerator" means an
17 incinerator that is owned or operated by any person, and meets all
18 of the following requirements:

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

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

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

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

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

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

10 **(10)** ~~(8)~~—"Municipal solid waste incinerator ash" means the
11 substances remaining after combustion in a municipal solid waste
12 incinerator.

13 **(11)** ~~(9)~~—"Perpetual care fund" means a perpetual care fund
14 provided for in section 11525.

15 ~~—(10) "Trust fund" means a trust fund held by a trustee which~~
16 ~~has the authority to act as a trustee and whose trust operations~~
17 ~~are regulated and examined by a federal or state agency. A trust~~
18 ~~fund shall comply with section 11523b.~~

19 **(12) "PLANNING COMMITTEE" MEANS A PLANNING COMMITTEE PROVIDED**
20 **FOR UNDER SECTION 11534(1).**

21 **(13) "PLANNING ENTITY" MEANS A DESIGNATED PLANNING AGENCY OR**
22 **THE DEPARTMENT, WHICHEVER IS RESPONSIBLE FOR PREPARING A SOLID**
23 **WASTE MANAGEMENT PLAN UNDER SECTION 11533.**

24 Sec. 11505. (1) "Recyclable materials" means source separated
25 materials, site separated materials, high grade paper, glass,
26 metal, plastic, aluminum, newspaper, corrugated paper, yard
27 clippings, and other materials that may be recycled or composted.

1 (2) "Regional solid waste management planning agency" means
2 the regional solid waste planning agency designated by the governor
3 pursuant to ~~section 4006 of subtitle D of the solid waste disposal~~
4 ~~act, title II of Public Law 89 272, 42 U.S.C. 42 USC 6946.~~

5 (3) "REMAINING LANDFILL DISPOSAL CAPACITY" MEANS THE NUMBER OF
6 YEARS OF DISPOSAL CAPACITY REMAINING AT A LANDFILL CALCULATED BY
7 DIVIDING THE LANDFILL DISPOSAL CAPACITY BY THE AVERAGE OF THE
8 AMOUNT OF WASTE RECEIVED FOR EACH OF THE 3 PRIOR YEARS AS REPORTED
9 UNDER SECTION 11507A, OR FOR A LANDFILL THAT HAS NOT BEEN IN
10 OPERATION FOR AT LEAST 3 YEARS, BY DIVIDING THE LANDFILL DISPOSAL
11 CAPACITY BY AN ANNUALIZED ESTIMATE OF THE AMOUNT OF WASTE RECEIVED
12 SINCE THE LANDFILL HAS BEEN IN OPERATION.

13 (4) ~~(3)~~"Resource recovery facility" means machinery,
14 equipment, structures, or any parts or accessories of machinery,
15 equipment, or structures, installed or acquired for the primary
16 purpose of recovering materials or energy from the waste stream.

17 (5) ~~(4)~~"Response activity" means an activity that is
18 necessary to protect the public health, safety, welfare, or the
19 environment, and includes, but is not limited to, evaluation,
20 cleanup, removal, containment, isolation, treatment, monitoring,
21 maintenance, replacement of water supplies, and temporary
22 relocation of people.

23 (6) ~~(5)~~"Rubbish" means nonputrescible solid waste, excluding
24 ashes, consisting of both combustible and noncombustible waste,
25 including paper, cardboard, metal containers, yard clippings, wood,
26 glass, bedding, crockery, demolished building materials, or litter
27 of any kind that may be a detriment to the public health and

1 safety.

2 (7) ~~(6)~~—"Salvaging" means the lawful and controlled removal of
3 reusable materials from solid waste.

4 (8) "SCRAP WOOD" MEANS WOOD OR WOOD PRODUCT THAT IS 1 OR MORE
5 OF THE FOLLOWING:

6 (A) PLYWOOD, PRESSED BOARD, ORIENTED STRAND BOARD, OR ANY
7 OTHER WOOD OR WOOD PRODUCT MIXED WITH GLUE OR FILLER.

8 (B) WOOD OR WOOD PRODUCT TREATED WITH CREOSOTE OR
9 PENTACHLOROPHENOL.

10 (C) ANY OTHER WOOD OR WOOD PRODUCT DESIGNATED AS SCRAP WOOD IN
11 RULES PROMULGATED BY THE DEPARTMENT.

12 (9) ~~(7)~~—"Site separated material" means glass, metal, wood,
13 paper products, plastics, rubber, textiles, garbage, yard
14 clippings, or any other material approved by the department that is
15 separated from solid waste for the purpose of conversion into raw
16 materials or new products. Site separated material does not include
17 the residue remaining after glass, metal, wood, paper products,
18 plastics, rubber, textiles, or any other material approved by the
19 department is separated from solid waste.

20 (10) ~~(8)~~—"Slag" means the nonmetallic product resulting from
21 melting or smelting operations for iron or steel.

22 Sec. 11506. (1) "Solid waste" means garbage, rubbish, ashes,
23 incinerator ash, incinerator residue, street cleanings, municipal
24 and industrial sludges, solid commercial and solid industrial
25 waste, and animal waste other than organic waste generated in the
26 production of livestock and poultry. Solid waste does not include
27 the following:

1 (a) Human body waste.

2 (b) Medical waste. ~~as it is defined in part 138 of the public~~
3 ~~health code, 1978 PA 368, MCL 333.13801 to 333.13831, and regulated~~
4 ~~under that part and part 55.~~

5 (c) Organic waste generated in the production of livestock and
6 poultry.

7 (d) Liquid waste.

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

10 (f) Slag or slag products directed to a slag processor or to a
11 reuser of slag or slag products.

12 (g) Sludges and ashes managed as recycled, or nondetrimental
13 materials appropriate for agricultural or silvicultural use
14 pursuant to a plan approved by the department. Food processing
15 residuals, ~~+~~wood ashes resulting solely from a source that burns
16 only wood that is untreated and inert, ~~+~~lime from kraft pulping
17 processes generated prior to bleaching, ~~+~~or aquatic plants may be
18 applied on, or composted and applied on, farmland or forestland for
19 an agricultural or silvicultural purpose, or used as animal feed,
20 as appropriate, and such an application or use does not require a
21 plan described in this subdivision or a permit or license under
22 this part. In addition, source separated materials approved by the
23 department for land application for agricultural and silvicultural
24 purposes and compost produced from those materials may be applied
25 to the land for agricultural and silvicultural purposes, and such
26 an application does not require a plan described in this
27 subdivision or permit or license under this part. Land application

1 authorized under this subdivision for an agricultural or
2 silvicultural purpose, or use as animal feed ~~as provided for in~~
3 this subdivision, shall occur in a manner that prevents losses from
4 runoff and leaching. ~~and if applied to land, the land~~ **LAND**
5 application shall be at an agronomic rate consistent with generally
6 accepted agricultural and management practices under the Michigan
7 right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

8 (h) Materials approved for emergency disposal by the
9 department.

10 (i) Source separated materials.

11 (j) Site separated material.

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

14 (i) With a maximum of 6% of unburned carbon, **IF USED** as a
15 component of concrete, grout, mortar, or casting molds.

16 (ii) With a maximum of 12% unburned carbon passing M.D.O.T.
17 test method MTM 101, ~~when~~ **IF** used as a raw material in asphalt for
18 road construction.

19 (iii) As aggregate, road, or building material ~~which~~ **THAT** in
20 ultimate use will be stabilized or bonded by cement, limes, or
21 asphalt.

22 (iv) As a road base or construction fill that is covered with
23 asphalt, concrete, or other material approved by the department and
24 ~~which~~ **THAT** is placed at least 4 feet above the seasonal groundwater
25 table.

26 (v) As the sole material in a depository designed to reclaim,
27 develop, or otherwise enhance land, subject to the approval of the

1 department. In evaluating the site, the department shall consider
2 the physical and chemical properties of the ash, including, **BUT NOT**
3 **LIMITED TO**, leachability, and the engineering of the depository,
4 including, but not limited to, ~~the~~ compaction, control of surface
5 water and groundwater that may threaten to infiltrate the site, and
6 evidence that the depository is designed to prevent water
7 percolation through the material.

8 (1) Other wastes regulated by statute.

9 (2) "SOLID WASTE DIVERSION" MEANS ANY OF THE FOLLOWING:

10 (A) THE RECOVERY OF RESOURCES FROM SOLID WASTE THROUGH REUSE,
11 RECYCLING, OR COMPOSTING.

12 (B) RESOURCE CONSERVATION MEASURES THAT REDUCE THE AMOUNT OF
13 SOLID WASTE GENERATED.

14 (3) ~~(2)~~—"Solid waste hauler" means a person who owns or
15 operates a solid waste transporting unit.

16 (4) "SOLID WASTE MANAGEMENT PLAN" OR "PLAN" MEANS A PLAN
17 PREPARED, APPROVED, AND UPDATED AS PROVIDED IN SECTIONS 11533 TO
18 11539, INCLUDING ANY AMENDMENTS TO THAT PLAN.

19 (5) ~~(3)~~—"Solid waste processing plant" means a tract of land,
20 building, unit, or appurtenance of a building or unit or a
21 combination of land, buildings, and units that is used or intended
22 for use for the processing of solid waste or the separation of
23 material for salvage or disposal, or both, but does not include a
24 plant engaged primarily in the acquisition, processing, and
25 shipment of ferrous or nonferrous metal scrap, or a plant engaged
26 primarily in the acquisition, processing, and shipment of slag or
27 slag products.

1 (6) ~~(4)~~—"Solid waste transporting unit" means a container,
2 ~~that~~ **WHICH** may be an integral part of a truck or other piece of
3 equipment, used for the transportation of solid waste.

4 (7) ~~(5)~~—"Solid waste transfer facility" means a tract of land,
5 a building and any appurtenances, or a container, or any
6 combination of land, buildings, or containers that is used or
7 intended for use in the rehandling or storage of solid waste
8 incidental to the transportation of the solid waste, but is not
9 located at the site of generation or the site of disposal of the
10 solid waste.

11 (8) ~~(6)~~—"Source separated material" means glass, metal, wood,
12 paper products, plastics, rubber, textiles, garbage, yard
13 clippings, or any other material approved by the department that is
14 separated at the source of generation for the purpose of conversion
15 into raw materials or new products including, but not limited to,
16 compost.

17 (9) **"TOTAL LANDFILL PLANNING CAPACITY" MEANS THE VOLUME, IN**
18 **CUBIC YARDS, OF SOLID WASTE THAT CAN BE DISPOSED OF AT A LANDFILL**
19 **CALCULATED BY ADDING THE CONSTRUCTED CAPACITY, THE CAPACITY OF**
20 **AREAS PERMITTED FOR CONSTRUCTION BUT NOT YET CONSTRUCTED, AND**
21 **CAPACITY PROPOSED TO BE PERMITTED IN THE FUTURE.**

22 (10) **"TREATED WOOD" MEANS WOOD OR WOOD PRODUCT THAT HAS BEEN**
23 **TREATED WITH 1 OR MORE OF THE FOLLOWING:**

24 (A) **CHROMATED COPPER ARSENATE (CCA).**

25 (B) **AMMONIACAL COPPER QUAT (ACQ).**

26 (C) **AMMONIACAL COPPER ZINC ARSENATE (ACZA).**

27 (D) **ANY OTHER CHEMICAL DESIGNATED IN RULES PROMULGATED BY THE**

1 DEPARTMENT.

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

6 (12) "WOOD" MEANS TREES, BRANCHES, BARK, LUMBER, PALLETS, WOOD
7 CHIPS, SAWDUST, OR OTHER WOOD OR WOOD PRODUCT BUT DOES NOT INCLUDE
8 SCRAP WOOD, TREATED WOOD, PAINTED WOOD OR PAINTED WOOD PRODUCT, OR
9 ANY WOOD OR WOOD PRODUCT THAT HAS BEEN CONTAMINATED DURING
10 MANUFACTURE OR USE.

11 (13) ~~(7)~~"Yard clippings" means leaves, grass clippings,
12 vegetable or other garden debris, shrubbery, or brush or tree
13 trimmings, less than 4 feet in length and 2 inches in diameter,
14 that can be converted to compost humus. Yard clippings do not
15 include stumps, agricultural wastes, animal waste, roots, sewage
16 sludge, or garbage.

17 Sec. 11512. (1) A person shall dispose of solid waste at a
18 disposal area licensed under this part unless ~~a~~**THE** person is
19 permitted by state law or rules promulgated by the department to
20 dispose of the solid waste at the site of generation.

21 (2) Except as otherwise provided in this section or in section
22 11529, a person shall not conduct, manage, maintain, or operate a
23 disposal area within this state except as authorized by an
24 operating license issued by the department pursuant to part 13. In
25 addition, a person shall not conduct, manage, maintain, or operate
26 a disposal area contrary to an approved solid waste management
27 plan, or contrary to a permit, license, or final order issued under

1 this part. A person who intends to conduct, manage, maintain, or
2 operate a disposal area shall submit a license application to the
3 department through a certified health department. If the disposal
4 area is located in a county or city that does not have a certified
5 health department, the application shall be ~~made~~**SUBMITTED** directly
6 to the department. A person authorized by this part to operate more
7 than 1 type of disposal area at the same facility may apply for a
8 single license.

9 (3) The application for a license shall contain the name and
10 residence of the applicant, the location of the proposed or
11 existing disposal area, the type or types of disposal area
12 proposed, evidence of bonding, and other information required by
13 rule. In addition, an applicant for a type II landfill shall submit
14 evidence of financial assurance adequate to meet the requirements
15 of section 11523a, the maximum waste slope in the active portion,
16 an estimate of ~~remaining permitted~~**LANDFILL DISPOSAL** capacity, and
17 documentation on the amount of waste received at the disposal area
18 during the **TERM OF THE** previous license ~~period~~ or expected to be
19 received **DURING THE TERM OF THE LICENSE FOR WHICH THE APPLICATION**
20 **IS BEING FILED**, whichever is greater. The application shall be
21 accompanied by a fee as specified in subsections (7) ~~,~~(9)~~,~~ and **TO**
22 (10).

23 (4) ~~At the time of application~~**WHEN APPLYING** for a license for
24 a disposal area, the applicant shall submit to a health officer or
25 the department a certification under the seal of a licensed
26 professional engineer verifying that the construction of the
27 disposal area has proceeded according to the approved plans. If

1 construction of the disposal area or a portion of the disposal area
2 is not complete, the department shall require additional
3 construction certification of that portion of the disposal area
4 during intermediate progression of the operation, as specified in
5 section ~~11516(5)~~ **11516(4)**.

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

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

17 (7) The application for a type II landfill operating license
18 shall be accompanied by the following fee for the 5-year term of
19 the operating license, ~~calculated in accordance with~~ **SUBJECT TO**
20 subsection (8):

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

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

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

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

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

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

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

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

13 (a) If a landfill accepts more ~~waste than projected~~ **THAN THE**
14 **AMOUNT OF WASTE ON WHICH THE FEE WAS BASED**, a supplemental fee
15 equal to the difference shall be submitted with the next license
16 application.

17 (b) If a landfill accepts less ~~waste than projected~~ **THAN THE**
18 **AMOUNT OF WASTE ON WHICH THE FEE WAS BASED**, the department shall
19 credit the applicant an amount equal to the difference with the
20 next license application.

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

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

26 ~~——(e) If an application is submitted to renew a license more~~
27 ~~than 1 year prior to license expiration, the department shall~~

1 ~~credit the applicant an amount equal to 1/2 the application fee.~~

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

6 (9) The operating license application for a type III landfill
7 shall be accompanied by a fee ~~equal to~~ **OF** \$2,500.00.

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

12 (11) The department shall deposit operating license
13 application fees collected under this section in the perpetual care
14 account of the solid waste management fund established in section
15 11550.

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

20 Sec. 11514. (1) Optimizing recycling opportunities and the
21 reuse of materials shall be a principal objective of the state's
22 solid waste management plan. Recycling and reuse of materials are
23 in the best interest of ~~promoting~~ the public health and welfare.
24 The state shall develop policies and practices that promote
25 recycling and reuse of materials and, to the extent practical,
26 minimize the use of landfilling as a method for disposal of its
27 waste.

1 (2) A person shall not knowingly deliver to a landfill **OR**
2 **MUNICIPAL SOLID WASTE INCINERATOR** for disposal, or, if the person
3 is an owner or operator of a landfill **OR MUNICIPAL SOLID WASTE**
4 **INCINERATOR**, knowingly permit disposal in the landfill **OR MUNICIPAL**
5 **SOLID WASTE INCINERATOR** of, any of the following:

6 (a) Medical waste, unless that medical waste has been
7 decontaminated or is not required to be decontaminated but is
8 packaged in the manner required under part 138 of the public health
9 code, 1978 PA 368, MCL 333.13801 to 333.13831.

10 (b) More than a de minimis amount of open, empty, or otherwise
11 used beverage containers.

12 (c) More than a de minimis number of whole motor vehicle
13 tires.

14 (d) More than a de minimis amount of yard clippings, unless
15 they are diseased or infested.

16 (3) A person shall not deliver to a landfill **OR MUNICIPAL**
17 **SOLID WASTE INCINERATOR** for disposal, or, if the person is an owner
18 or operator of a landfill **OR MUNICIPAL SOLID WASTE INCINERATOR**,
19 permit disposal in the landfill **OR MUNICIPAL SOLID WASTE**
20 **INCINERATOR** of, any of the following:

21 (a) Used oil as defined in section 16701.

22 (b) A lead acid battery as defined in section 17101.

23 (c) Low-level radioactive waste as defined in section 2 of the
24 low-level radioactive waste authority act, 1987 PA 204, MCL
25 333.26202.

26 (d) Regulated hazardous waste as defined in R 299.4104 of the
27 Michigan administrative code.

1 (e) Bulk or noncontainerized liquid waste or waste that
2 contains free liquids, unless the waste is 1 of the following:

3 (i) Household waste other than septage waste.

4 (ii) Leachate or gas condensate that is approved for
5 recirculation.

6 (iii) Septage waste or other liquids approved for beneficial
7 addition under section 11511b.

8 (f) Sewage.

9 (g) PCBs as defined in 40 CFR 761.3.

10 (h) Asbestos waste, unless the landfill complies with 40 CFR
11 61.154.

12 ~~—— (4) A person shall not knowingly deliver to a municipal solid~~
13 ~~waste incinerator for disposal, or, if the person is an owner or~~
14 ~~operator of a municipal solid waste incinerator, knowingly permit~~
15 ~~disposal in the incinerator of, more than a de minimis amount of~~
16 ~~yard clippings, unless they are diseased or infested. The~~
17 ~~department shall post, and a solid waste hauler that disposes of~~
18 ~~solid waste in a municipal solid waste incinerator shall provide~~
19 ~~its customers with, notice of the prohibitions of this subsection~~
20 ~~in the same manner as provided in section 11527a.~~

21 (4) ~~(5)~~—If the department determines that a safe, sanitary,
22 and feasible alternative does not exist for the disposal in a
23 landfill or municipal solid waste incinerator of any items
24 described in subsection (2), ~~or (4), respectively,~~ the department
25 shall submit a report setting forth that determination and the
26 basis for the determination to the standing committees of the
27 senate and house of representatives with primary responsibility for

1 solid waste issues.

2 ~~—— (6) As used in this section, "de minimis" means incidental~~
3 ~~disposal of small amounts of these materials that are commingled~~
4 ~~with other solid waste.~~

5 **SEC. 11515A. THE DEPARTMENT OR A HEALTH OFFICER OR AUTHORIZED**
6 **REPRESENTATIVE OF A HEALTH OFFICER MAY ENTER AT ANY REASONABLE TIME**
7 **IN OR UPON PRIVATE OR PUBLIC PROPERTY REQUIRED TO BE LICENSED UNDER**
8 **THIS PART, PUBLIC OR PRIVATE PROPERTY OR A FACILITY EXEMPT FROM THE**
9 **CONSTRUCTION PERMIT AND OPERATING LICENSE REQUIREMENTS OF THIS PART**
10 **PURSUANT TO SECTION 11529, OR ANY OTHER FACILITY REGULATED UNDER**
11 **THIS PART, FOR THE PURPOSE OF INSPECTING OR INVESTIGATING**
12 **CONDITIONS RELATING TO THE STORAGE, TRANSFER, PROCESSING, OR**
13 **DISPOSAL OF SOLID WASTE.**

14 Sec. 11516. (1) The department shall conduct a consistency
15 review before making a final decision on a license application. The
16 department shall notify the clerk of the municipality in which the
17 disposal area is located and the applicant of its approval or
18 denial of a license application within 10 days after the final
19 decision is made.

20 (2) An operating license shall expire 5 years after the date
21 of issuance. An operating license may be renewed before expiration
22 upon payment of a renewal application fee specified in section
23 ~~11512(8)~~ **11512** if the licensee is in compliance with this part and
24 the rules promulgated under this part.

25 ~~—— (3) The issuance of the operating license under this part~~
26 ~~empowers the department or a health officer or an authorized~~
27 ~~representative of a health officer to enter at any reasonable time,~~

1 ~~pursuant to law, in or upon private or public property licensed~~
2 ~~under this part for the purpose of inspecting or investigating~~
3 ~~conditions relating to the storage, processing, or disposal of any~~
4 ~~material.~~

5 (3) ~~(4)~~—Except as otherwise provided in this subsection, the
6 department shall not issue an operating license for a new disposal
7 area within a planning area unless a solid waste management plan
8 for that planning area has been approved pursuant to sections 11536
9 and 11537 and unless the disposal area complies with and is
10 consistent with the approved solid waste management plan. The
11 department may issue an operating license for a disposal area
12 designed to receive ashes produced in connection with the
13 combustion of fossil fuels for electrical power generation in the
14 absence of an approved county solid waste management plan, upon
15 receipt of a letter of approval from whichever county or counties,
16 group of municipalities, or regional planning agency has prepared
17 or is preparing the county solid waste management plan for that
18 planning area under section 11533 and from the municipality in
19 which the disposal area is to be located.

20 (4) ~~(5)~~—Issuance of an operating license by the department
21 authorizes the licensee to accept waste for disposal in certified
22 portions of the disposal area for which a bond was established
23 under section 11523 and, for type II landfills, for which financial
24 assurance was demonstrated under section 11523a. If the
25 construction of a portion of a landfill licensed under this section
26 is not complete at the time of license application, the owner or
27 operator of the landfill shall submit a certification under the

1 seal of a licensed professional engineer verifying that the
2 construction of that portion of the landfill has proceeded
3 according to the approved plans at least 60 days prior to the
4 anticipated date of waste disposal in that portion of the landfill.
5 If the department does not deny the certification within 60 days of
6 receipt, the owner or operator may accept waste for disposal in the
7 certified portion. ~~In the case of a denial~~ **IF THE DEPARTMENT DENIES**
8 **THE CERTIFICATION**, the department shall issue a written statement
9 stating the reasons why the construction or certification is not
10 consistent with this part or rules promulgated under this part or
11 the approved plans.

12 Sec. 11527a. (1) The department shall post on its website a
13 list of materials prohibited from disposal in a landfill **OR**
14 **MUNICIPAL SOLID WASTE INCINERATOR** under section 11514 and
15 appropriate disposal options for those materials.

16 (2) A solid waste hauler that disposes of solid waste in a
17 landfill **OR MUNICIPAL SOLID WASTE INCINERATOR** shall annually notify
18 each of its customers of each of the following:

19 (a) The materials that are prohibited from disposal in a
20 landfill **OR MUNICIPAL SOLID WASTE INCINERATOR** under section 11514.

21 (b) The appropriate disposal options for those materials as
22 described on the department's website.

23 (c) The department's website address where the disposal
24 options are described.

25 Sec. 11529. (1) A ~~disposal area that is a~~ solid waste transfer
26 facility **THAT IS CONSTRUCTED ON OR AFTER THE EFFECTIVE DATE OF THE**
27 **2007 AMENDATORY ACT THAT AMENDED THIS SECTION** is not subject to the

House Bill No. 4485 (H-2) as amended May 3, 2007

1 construction permit and operating license requirements of this
2 part, **AND A SOLID WASTE TRANSFER FACILITY THAT WAS CONSTRUCTED**
3 **BEFORE THE EFFECTIVE DATE OF THE 2007 AMENDATORY ACT THAT AMENDED**
4 **THIS SECTION IS NOT SUBJECT TO THE [OPERATING LICENSE] REQUIREMENTS**
5 **OF THIS PART, if either BOTH of the following circumstances exists**
6 **APPLY:**

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

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

11 (2) A solid waste transfer facility that is exempt from the
12 construction permit and operating license requirements of this part
13 under subsection (1) shall comply with the operating requirements
14 of this part and the rules promulgated under this part **AND BE**
15 **CONSISTENT WITH THE SOLID WASTE MANAGEMENT PLAN FOR THE COUNTY**
16 **WHERE THE SOLID WASTE TRANSFER FACILITY IS LOCATED.**

17 (3) **IF A SOLID WASTE TRANSFER FACILITY WAS CONSTRUCTED BEFORE**
18 **THE EFFECTIVE DATE OF THE 2007 AMENDATORY ACT THAT AMENDED THIS**
19 **SECTION AND, PURSUANT TO SUBSECTION (1), IS SUBJECT TO THE**
20 **OPERATING LICENSE REQUIREMENTS OF THIS PART, THE SOLID WASTE**
21 **TRANSFER FACILITY SHALL OBTAIN AN OPERATING LICENSE BY JANUARY 1,**
22 **2008. TO QUALIFY FOR AN OPERATING LICENSE, THE SOLID WASTE TRANSFER**
23 **FACILITY SHALL MEET THE REQUIREMENTS OF THIS PART AND RULES**
24 **PROMULGATED UNDER THIS PART AND BE CONSISTENT WITH THE SOLID WASTE**
25 **MANAGEMENT PLAN FOR THE COUNTY WHERE THE SOLID WASTE TRANSFER**
26 **FACILITY IS LOCATED.**

27 (4) ~~(3)~~—Except as provided in subsection ~~(5)~~—(6), a disposal

1 area that is an incinerator may, but is not required to, comply
 2 with the construction permit and operating license requirements of
 3 this part if both of the following ~~conditions are met~~ **APPLY**:

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

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

7 (5) ~~(4)~~ A disposal area that is an incinerator that, **PURSUANT**
 8 **TO SUBSECTION (4)**, does not comply with the construction permit and
 9 operating license requirements of this part ~~as permitted in~~
 10 ~~subsection (3)~~ is subject to the planning provisions of this part
 11 and must be included in the county solid waste management plan for
 12 the county in which the incinerator is located.

13 (6) ~~(5)~~ A disposal area that is a municipal solid waste
 14 incinerator that is designed to burn at a temperature in excess of
 15 2500 degrees Fahrenheit is not subject to the construction permit
 16 requirements of this part.

17 Sec. 11541. (1) The state solid waste management plan shall
 18 consist of the state solid waste ~~plan~~ **POLICY** and all county plans
 19 approved or prepared by the department.

20 (2) The department shall consult and assist in the preparation
 21 and implementation of the county solid waste management plans.

22 (3) The department may undertake or contract for studies or
 23 reports necessary or useful in the preparation of the state solid
 24 waste management plan.

25 (4) The department shall promote policies that encourage
 26 resource recovery. ~~and establishment of waste to energy facilities.~~

27 Enacting section 1. This amendatory act does not take effect

1 unless House Bill No. 4486 of the 94th Legislature is enacted into
2 law.