

SENATE BILL No. 943

April 17, 2018, Introduced by Senator NOFS and referred to the Committee on Government Operations.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11509, 11512, 11521, 11525, 11525a, and 11550 (MCL 324.11509, 324.11512, 324.11521, 324.11525, 324.11525a, and 324.11550), sections 11509 and 11512 as amended by 2004 PA 325, section 11521 as added by 2007 PA 212, section 11525 as amended by 2013 PA 250, section 11525a as amended by 2015 PA 82, and section 11550 as amended by 2003 PA 153.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11509. (1) Except as otherwise provided in section 11529,
2 a person shall not establish a disposal area except as authorized
3 by a construction permit issued by the department pursuant to part
4 13. In addition, a person shall not establish a disposal area
5 contrary to an approved solid waste management plan, or contrary to

1 a permit, license, or final order issued pursuant to this part. A
2 person proposing the establishment of a disposal area shall apply
3 for a construction permit to the department through the health
4 officer. If the disposal area is located in a county or city that
5 does not have a certified health department, the application shall
6 be made directly to the department.

7 (2) The application for a construction permit shall contain
8 the name and residence of the applicant, the location of the
9 proposed disposal area, the design capacity of the disposal area,
10 and other information specified by rule. A person may apply to
11 construct more than 1 type of disposal area at the same facility
12 under a single permit. The application shall be accompanied by an
13 engineering plan and a construction permit application fee. A
14 construction permit application for a landfill shall be accompanied
15 by a fee in an amount that is the sum of all of the following fees,
16 as applicable:

17 (a) For a new sanitary landfill, a fee equal to the following
18 amount:

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

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

21 (iii) For a type III landfill limited to low hazard industrial
22 waste, \$750.00.

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

25 (i) For a municipal solid waste landfill, \$1,000.00.

26 (ii) For an industrial waste landfill, \$750.00.

27 (iii) For a type III landfill limited to low hazard industrial

1 waste, construction and demolition waste, or other nonindustrial
2 waste, \$500.00.

3 (c) For a vertical expansion of an existing sanitary landfill,
4 a fee equal to the following amount:

5 (i) For a municipal solid waste landfill, \$750.00.

6 (ii) For an industrial waste landfill, \$500.00.

7 (iii) For an industrial waste landfill limited to low hazard
8 industrial waste, construction and demolition waste, or other
9 nonindustrial waste, \$250.00.

10 (3) The application for a construction permit for a solid
11 waste transfer facility, a solid waste processing plant, other
12 disposal area **THAT IS NOT A LANDFILL**, or a combination of these,
13 shall be accompanied by a fee in the following amount:

14 (a) For a new facility for municipal solid waste, or a
15 combination of municipal solid waste and waste listed in
16 subdivision (b), \$1,000.00.

17 (b) For a new facility for industrial waste, or construction
18 and demolition waste, \$500.00.

19 (c) For the expansion of an existing facility for any type of
20 waste, \$250.00.

21 (4) If an application is returned to the applicant as
22 administratively incomplete, the department shall refund the entire
23 fee. If a permit is denied or an application is withdrawn, the
24 department shall refund 1/2 the amount specified in subsection (3)
25 to the applicant. An applicant for a construction permit, within 12
26 months after a permit denial or withdrawal, may resubmit the
27 application and the refunded portion of the fee, together with the

1 additional information as needed to address the reasons for denial,
2 without being required to pay an additional application fee.

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

9 (6) A person who applies to permit more than 1 type of
10 disposal area at the same facility shall pay a fee equal to the sum
11 of the applicable fees listed in this section.

12 (7) The department shall deposit permit application fees
13 collected under this section in the ~~solid waste staff account of~~
14 ~~the solid waste management~~**CLEAN MICHIGAN** fund established in
15 section 11550.

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

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

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

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

20 (4) ~~At the time of~~ **AN** application for a license for a disposal
21 area, the applicant shall submit to a health officer or the
22 department a certification under the seal of a licensed
23 professional engineer verifying that the construction of the
24 disposal area has proceeded according to the approved plans. If
25 construction of the disposal area or a portion of the disposal area
26 is not complete, the ~~department shall require~~ **OWNER OR OPERATOR**
27 **SHALL SUBMIT** additional construction certification of that portion

1 of the disposal area during intermediate progression of the
2 operation, as specified in section 11516(5).

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

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

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

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

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

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

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

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

27 (f) Landfills receiving 1,500 tons per day or more, but less

1 than 3,000 tons per day, \$20,000.00.

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

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

10 (a) If a landfill accepts more waste than projected, a
11 supplemental fee equal to the difference shall be submitted with
12 the next license application.

13 (b) If a landfill accepts less waste than projected, the
14 department shall credit the applicant an amount equal to the
15 difference with the next license application.

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

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

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

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

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

3 (10) The operating license application for a solid waste
4 processing plant, solid waste transfer facility, other disposal
5 area **THAT IS NOT A LANDFILL**, or combination of these entities shall
6 be accompanied by a fee equal to \$500.00.

7 (11) The department shall deposit operating license
8 application fees collected under this section in the ~~perpetual-care~~
9 ~~account of the solid waste management~~ **CLEAN MICHIGAN** fund
10 established in section 11550.

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

15 Sec. 11521. (1) Yard clippings shall be managed by 1 of the
16 following means:

17 (a) Composted on the property where the yard clippings are
18 generated.

19 (b) Temporarily accumulated under subsection (2).

20 (c) Composted at a composting facility containing not more
21 than 200 cubic yards of yard clippings if decomposition occurs
22 without creating a nuisance.

23 (d) Composted on a farm as described by subsection (3).

24 (e) Composted at site that qualifies as a registered
25 composting facility under subsection (4).

26 (f) Decomposed in a controlled manner using a closed container
27 to create and maintain anaerobic conditions if in compliance with

1 part 55 and otherwise approved by the director under this part.

2 (g) Composted and used as part of normal operations by a
3 municipal solid waste landfill if the composting and use meet all
4 of the following requirements:

5 (i) Take place on property described in the landfill
6 construction permit.

7 (ii) Are described in and consistent with the landfill
8 operation plans.

9 (iii) Are otherwise in compliance with this act.

10 (h) Processed at a processing plant in accordance with this
11 part and the rules promulgated under this part.

12 (i) Disposed of in a landfill or an incinerator, but only if
13 the yard clippings ~~are~~ **MEET ALL OF THE FOLLOWING REQUIREMENTS:**

14 **(A) ARE** diseased or infested or are composed of invasive
15 plants, such as garlic mustard, purple loosestrife, or spotted
16 knapweed, that were collected through an eradication or control
17 program. ~~include~~

18 **(B) INCLUDE** no more than a de minimis amount of other yard
19 clippings. ~~and are~~

20 **(C) ARE** inappropriate to compost.

21 (2) A person may temporarily accumulate yard clippings at a
22 site not designed for composting if all of the following
23 requirements are met:

24 (a) The accumulation does not create a nuisance or otherwise
25 result in a violation of this act.

26 (b) The yard clippings are not mixed with other compostable
27 materials.

1 (c) No more than 1,000 cubic yards are placed on site unless a
2 greater volume is approved by the department.

3 (d) Yard clippings placed on site on or after April 1 but
4 before December 1 are moved to another location and managed as
5 provided in subsection (1) within 30 days after being placed on
6 site. The director may approve a longer time period based on a
7 demonstration that additional time is necessary.

8 (e) Yard clippings placed on site on or after December 1 but
9 before the next April 1 are moved to another location and managed
10 as provided in subsection (1) by the next April 10 after the yard
11 clippings are placed on site.

12 (f) The owner or operator of the site maintains and makes
13 available to the department records necessary to demonstrate that
14 the requirements of this subsection are met.

15 (3) A person may compost yard clippings on a farm if
16 composting does not otherwise result in a violation of this act and
17 is done in accordance with generally accepted agricultural and
18 management practices under the Michigan right to farm act, 1981 PA
19 93, MCL 286.471 to 286.474, and if 1 or more of the following
20 apply:

21 (a) Only yard clippings generated on the farm are composted.

22 (b) There are not more than 5,000 cubic yards of yard
23 clippings on the farm.

24 (c) If there are more than 5,000 cubic yards of yard clippings
25 on the farm at any time, all of the following requirements are met:

26 (i) The farm operation accepts yard clippings generated at a
27 location other than the farm only to assist in management of waste

1 material generated by the farm operation.

2 (ii) The farm operation does not accept yard clippings
3 generated at a location other than the farm for monetary or other
4 valuable consideration.

5 (iii) The owner or operator of the farm registers with the
6 department of agriculture **AND RURAL DEVELOPMENT** on a form provided
7 by the department of agriculture **AND RURAL DEVELOPMENT** and
8 certifies that the farm operation meets and will continue to meet
9 the requirements of subparagraphs (i) and (ii).

10 (4) A site qualifies as a registered composting facility if
11 all of the following requirements are met:

12 (a) The owner or operator of the site registers as a
13 composting facility with the department and reports to the
14 department within 30 days after the end of each state fiscal year
15 the amount of yard clippings and other compostable material
16 composted in the previous state fiscal year. The registration and
17 reporting shall be done on forms provided by the department. The
18 registration shall be accompanied by a fee of \$600.00. The
19 registration is for a term of 3 years. Registration fees collected
20 under this subdivision shall be forwarded to the state treasurer
21 for deposit in the ~~solid waste staff account of the solid waste~~
22 ~~management~~ **CLEAN MICHIGAN** fund established in section 11550.

23 (b) The site is operated in compliance with the following
24 location restrictions:

25 (i) If the site is in operation on December 1, 2007, the
26 management or storage of yard clippings, compost, and residuals
27 does not expand from its location on that date to an area that is

1 within the following distances from any of the following features:

2 (A) 50 feet from a property line.

3 (B) 200 feet from a residence.

4 (C) 100 feet from a body of surface water, including a lake,
5 stream, or wetland.

6 (ii) If the site begins operation after December 1, 2007, the
7 management or storage of yard clippings, compost, and residuals
8 occurs in an area that is not in the 100-year floodplain and is at
9 least the following distances from each of the following features:

10 (A) 50 feet from a property line.

11 (B) 200 feet from a residence.

12 (C) 100 feet from a body of surface water, including a lake,
13 stream, or wetland.

14 (D) 2,000 feet from a type I or type IIA water supply well.

15 (E) 800 feet from a type IIB or type III water supply well.

16 (F) 500 feet from a church or other house of worship,
17 hospital, nursing home, licensed day care center, or school, other
18 than a home school.

19 (G) 4 feet above groundwater.

20 (c) Composting and management of the site occurs in a manner
21 that meets all of the following requirements:

22 (i) Does not violate this act or create a facility as defined
23 in section 20101.

24 (ii) Unless approved by the department, does not result in
25 more than 5,000 cubic yards of yard clippings and other compostable
26 material, compost, and residuals present on any acre of property at
27 the site.

1 (iii) Does not result in an accumulation of yard clippings for
2 a period of over 3 years unless the site has the capacity to
3 compost the yard clippings and the owner or operator of the site
4 can demonstrate, beginning in the third year of operation and each
5 year thereafter, unless a longer time is approved by the director,
6 that the amount of yard clippings and compost that is transferred
7 off-site in a calendar year is not less than 75% by weight or
8 volume, accounting for natural volume reduction, of the amount of
9 yard clippings and compost that was on-site at the beginning of the
10 calendar year.

11 (iv) Results in finished compost with not more than 1%, by
12 weight, of foreign matter that will remain on a 4 millimeter
13 screen.

14 (v) If yard clippings are collected in bags other than paper
15 bags, debags the yard clippings by the end of each business day.

16 (vi) Prevents the pooling of water by maintaining proper
17 slopes and grades.

18 (vii) Properly manages storm water runoff.

19 (viii) Does not attract or harbor rodents or other vectors.

20 (d) The owner or operator maintains, and makes available to
21 the department, all of the following records:

22 (i) Records identifying the volume of yard clippings and other
23 compostable material accepted by the facility and the volume of
24 yard clippings and other compostable material and of compost
25 transferred off-site each month.

26 (ii) Records demonstrating that the composting operation is
27 being performed in a manner that prevents nuisances and minimizes

1 anaerobic conditions. Unless other records are approved by the
2 department, these records shall include records of carbon-to-
3 nitrogen ratios, the amount of leaves and the amount of grass in
4 tons or cubic yards, temperature readings, moisture content
5 readings, and lab analysis of finished products.

6 (5) A site at which yard clippings are managed in accordance
7 with this section, other than a site described in subsection
8 (1)(g), (h) or (i), is not a disposal area, notwithstanding section
9 11503(5).

10 (6) Except with respect to subsection (1)(h) and (i),
11 management of yard clippings in accordance with this section is not
12 considered disposal for purposes of section 11538(6).

13 Sec. 11525. (1) The owner or operator of a landfill shall
14 establish and maintain a perpetual care fund for a period of 30
15 years after final closure of the landfill as specified in this
16 section. A perpetual care fund may be established as a trust, an
17 escrow account, or a perpetual care fund bond and may be used to
18 demonstrate financial assurance for type II landfills under section
19 11523 and section 11523a.

20 (2) Except as otherwise provided in this section, the owner or
21 operator of a landfill shall increase the amount of ~~his or her~~ **THE**
22 perpetual care fund 75 cents for each ton or portion of a ton or 25
23 cents for each cubic yard or portion of a cubic yard of solid waste
24 that is disposed of in the landfill after June 17, 1990 until the
25 fund reaches the maximum required fund amount. As of July 1, 1996,
26 the maximum required fund amount is \$1,156,000.00. This amount
27 shall be annually adjusted for inflation and rounded to the nearest

1 thousand **DOLLARS**. The department shall adjust the maximum required
2 fund amount for inflation annually by multiplying the amount by an
3 inflation factor derived from the most recent ~~bureau of reclamation~~
4 **BUREAU OF RECLAMATION** composite index published by the United
5 States ~~department of commerce~~ **DEPARTMENT OF COMMERCE** or another
6 index more representative of the costs of closure and postclosure
7 monitoring and maintenance as determined appropriate by the
8 department. Increases to the amount of a perpetual care fund
9 required under this subsection shall be calculated based on solid
10 waste disposed of in the landfill as of the end of the state fiscal
11 year and shall be made within 30 days after the end of each state
12 fiscal year.

13 (3) The owner or operator of a landfill that is used for the
14 disposal of the following materials shall increase the amount of
15 the perpetual care fund 7.5 cents for each ton or cubic yard or
16 portion of a ton or cubic yard of the following materials that are
17 disposed of in the landfill: ~~after June 17, 1990.~~

18 (a) Coal ash, wood ash, or cement kiln dust that is disposed
19 of in a landfill that is used only for the disposal of coal ash,
20 wood ash, or cement kiln dust, or a combination of these materials,
21 or that is permanently segregated in a landfill.

22 (b) Wastewater treatment sludge or sediments from wood pulp or
23 paper producing industries that is disposed of in a landfill that
24 is used only for the disposal of wastewater treatment sludge and
25 sediments from wood pulp or paper producing industries, or that is
26 permanently segregated in a landfill.

27 (c) Foundry sand or other material that is approved by the

1 department for use as daily cover at an operating landfill, that is
2 disposed of in a landfill that is used only for the disposal of
3 foundry sand, or that is permanently segregated in a landfill.

4 (4) The owner or operator of a landfill that is used only for
5 the disposal of a mixture of 2 or more of the materials described
6 in subsection (3)(a) to (c) or in which a mixture of 2 or more of
7 these materials are permanently segregated shall increase the
8 amount of the perpetual care fund 7.5 cents for each ton or cubic
9 yard or portion of a ton or cubic yard of these materials that are
10 disposed of in the landfill. ~~after July 1, 1996.~~

11 (5) The amount of a perpetual care fund is not required to be
12 increased for materials that are regulated under part 631.

13 (6) The owner or operator of a landfill may increase the
14 amount of the perpetual care fund above the amount otherwise
15 required by this section at his or her discretion.

16 (7) The custodian of a perpetual care fund trust or escrow
17 account shall be a bank or other financial institution that has the
18 authority to act as a custodian and whose account operations are
19 regulated and examined by a federal or state agency. Until the
20 perpetual care fund trust or escrow account reaches the maximum
21 required fund amount, the custodian of a perpetual care fund trust
22 or escrow account shall credit any interest and earnings of the
23 perpetual care fund trust or escrow account to the perpetual care
24 fund trust or escrow account. After the perpetual care fund trust
25 or escrow account reaches the maximum required fund amount, any
26 interest and earnings shall be distributed as directed by the owner
27 or operator. The agreement governing the operation of the perpetual

1 care fund trust or escrow account shall be executed on a form
2 consistent with this part and provided by the department. The
3 custodian may be compensated from the fund for reasonable fees and
4 costs incurred for his or her responsibilities as custodian. The
5 custodian of a perpetual care fund trust or escrow account shall
6 make an accounting to the department within 30 days following the
7 close of each state fiscal year.

8 (8) The custodian of a perpetual care fund shall not disburse
9 any funds to the owner or operator of a landfill for the purposes
10 of the perpetual care fund except upon the prior written approval
11 of the department. However, the custodian shall ensure the filing
12 of all required tax returns for which the perpetual care fund is
13 liable and shall disburse funds to pay lawfully due taxes owed by
14 the perpetual care fund without permission of the department. The
15 owner or operator of the landfill shall provide notice of requests
16 for disbursement and denials and approvals to the custodian of the
17 perpetual care fund. Requests for disbursement from a perpetual
18 care fund shall be submitted not more frequently than semiannually.
19 The owner or operator of a landfill may request disbursement of
20 funds from a perpetual care fund whenever the amount of money in
21 the fund exceeds the maximum required fund amount. The department
22 shall approve the disbursement if the total amount of financial
23 assurance maintained meets the requirements of sections 11523 and
24 11523a. As used in this subsection, "maximum required fund amount"
25 means:

26 (a) For those landfills containing only those materials
27 specified in subsection (3), an amount equal to 1/2 of the maximum

1 required fund amount specified in subsection (2).

2 (b) For all other landfills, an amount equal to the maximum
3 required fund amount specified in subsection (2).

4 (9) If the owner or operator of a landfill ~~refuses or fails to~~
5 conduct closure, postclosure monitoring and maintenance, or
6 corrective action as necessary to protect the public health,
7 safety, or welfare, or the environment, ~~or fails to request the~~
8 ~~disbursement of money from a perpetual care fund when necessary to~~
9 ~~protect the public health, safety, or welfare, or the environment,~~
10 ~~or fails to pay the solid waste management program administration~~
11 ~~fee or the surcharge required under section 11525a,~~ then the
12 department may draw on the perpetual care fund and may expend the
13 money for closure, postclosure monitoring and maintenance, and
14 corrective action, as necessary. The department may draw on a
15 perpetual care fund for administrative costs associated with
16 actions taken under this subsection.

17 (10) Upon approval by the department of a request to terminate
18 financial assurance for a landfill under section 11525b, any money
19 in the perpetual care fund for that landfill shall be disbursed by
20 the custodian to the owner of the landfill unless a contract
21 between the owner and the operator of the landfill provides
22 otherwise.

23 (11) The owner of a landfill shall provide notice to the
24 custodian of the perpetual care fund for that landfill if there is
25 a change of ownership of the landfill. The custodian shall maintain
26 records of ownership of a landfill during the period of existence
27 of the perpetual care fund.

1 (12) This section does not relieve an owner or operator of a
2 landfill of any liability that he or she may have under this part
3 or as otherwise provided by law.

4 (13) This section does not create a cause of action at law or
5 in equity against a custodian of a perpetual care fund other than
6 for errors or omissions related to investments, accountings,
7 disbursements, filings of required tax returns, and maintenance of
8 records required by this section or the applicable perpetual care
9 fund.

10 (14) As used in this section, "custodian" means the trustee or
11 escrow agent of any of the following:

12 (a) A perpetual care fund that is established as a trust or
13 escrow account.

14 (b) A standby trust or escrow account for a perpetual care
15 fund bond.

16 (15) A perpetual care fund that is established as a trust or
17 escrow account may be replaced with a perpetual care fund that is
18 established as a perpetual care fund bond that complies with this
19 section. Upon such replacement, the director shall authorize the
20 custodian of the trust or escrow account to disburse the money in
21 the trust or escrow account to the owner of the landfill unless a
22 contract between the owner and operator of the landfill specifies
23 otherwise.

24 (16) An owner or operator of a landfill who uses a perpetual
25 care fund bond to satisfy the requirements of this section shall
26 also establish a standby trust or escrow account. All payments made
27 under the terms of the perpetual care fund bond shall be deposited

1 by the custodian directly into the standby trust or escrow account
 2 in accordance with instructions from the director. The standby
 3 trust or escrow account must meet the requirements for a trust or
 4 escrow account established as a perpetual care fund under
 5 subsection (1), except that until the standby trust or escrow
 6 account is funded pursuant to the requirements of this subsection,
 7 the following are not required:

8 (a) Payments into the standby trust or escrow account as
 9 specified in subsection (2).

10 (b) Annual ~~accounting valuations~~ **ACCOUNTINGS** as required in
 11 subsection (7).

12 Sec. 11525a. (1) The owner or operator of a landfill shall pay
 13 a ~~surcharge~~ **FEE** as follows:

14 (a) Except as provided in subdivision (b) **AND SUBJECT TO**
 15 **SUBSECTION (3)**, ~~12 cents~~ **\$4.44** for each ~~cubic yard~~ **TON** or portion
 16 of a ~~cubic yard~~ **TON** of solid waste or municipal solid waste
 17 incinerator ash that is disposed of in the landfill. ~~before October~~
 18 ~~1, 2019.~~

19 (b) For type III landfills that are captive facilities, the
 20 following annual amounts:

21 (i) For a captive facility that receives 100,000 or more cubic
 22 yards of waste, \$3,000.00.

23 (ii) For a captive facility that receives 75,000 or more but
 24 less than 100,000 cubic yards of waste, \$2,500.00.

25 (iii) For a captive facility that receives 50,000 or more but
 26 less than 75,000 cubic yards of waste, \$2,000.00.

27 (iv) For a captive facility that receives 25,000 or more but

1 less than 50,000 cubic yards of waste, \$1,000.00.

2 (v) For a captive facility that receives less than 25,000
3 cubic yards of waste, \$500.00.

4 (2) The owner or operator of a landfill shall pay the
5 ~~surcharge-FEE~~ under subsection (1)(a) within 30 days after the end
6 of each quarter of the state fiscal year. The owner or operator of
7 a type III landfill that is a captive facility shall pay the
8 ~~surcharge-FEE~~ under subsection (1)(b) by January 31 of each year.

9 (3) **THE STATE TREASURER SHALL ADJUST THE FEE UNDER SUBSECTION**
10 **(1)(A) DUE BEGINNING IN 2024, AND EVERY FIFTH YEAR THEREAFTER, BY**
11 **AN AMOUNT DETERMINED BY THE STATE TREASURER TO REFLECT THE**
12 **CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FROM**
13 **OCTOBER 1, 2018 THROUGH SEPTEMBER 30, 2023, AND EVERY FIFTH YEAR**
14 **THEREAFTER. AS USED IN THIS SUBSECTION, "CONSUMER PRICE INDEX"**
15 **MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR**
16 **THIS STATE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES**
17 **DEPARTMENT OF LABOR.**

18 (4) ~~(3)~~The owner or operator of a landfill who is required to
19 pay the ~~surcharge-FEE~~ under subsection (1) shall pass through and
20 collect the ~~surcharge-FEE~~ from any person who generated the solid
21 waste or who arranged for its delivery to the solid waste hauler or
22 transfer facility notwithstanding the provisions of any contract or
23 agreement to the contrary or the absence of any contract or
24 agreement.

25 (5) ~~(4)~~ ~~Surcharges-FEES~~ collected under this section shall be
26 forwarded to the state treasurer for deposit in the ~~solid waste~~
27 ~~staff account of the solid waste management~~ **CLEAN MICHIGAN** fund

1 established in section 11550.

2 (6) ~~(5)~~ As used in this section, "captive facility" means a
3 landfill that accepts for disposal only nonhazardous industrial
4 waste generated only by the owner of the landfill or a nonhazardous
5 industrial waste landfill that is described in section 11525(3).

6 Sec. 11550. ~~(1) The solid waste management fund is created
7 within the state treasury. The state treasurer may receive money
8 from any source for deposit into the fund. The state treasurer
9 shall direct the investment of the fund. The state treasurer shall
10 credit to the fund interest and earnings from fund investments.~~

11 ~~—— (2) Money in the solid waste management fund at the close of
12 the fiscal year shall remain in the fund and shall not lapse to the
13 general fund.~~

14 ~~—— (3) The state treasurer shall establish, within the solid
15 waste management fund, a solid waste staff account and a perpetual
16 care account.~~

17 ~~—— (4) Money shall be expended from the solid waste staff
18 account, upon appropriation, only for the following purposes:~~

19 ~~—— (a) Preparing generally applicable guidance regarding the
20 solid waste permit and license program or its implementation or
21 enforcement.~~

22 ~~—— (b) Reviewing and acting on any application for a permit or
23 license, permit or license revision, or permit or license renewal,
24 including the cost of public notice and public hearings.~~

25 ~~—— (c) Performing an advisory analysis under section 11510(1).~~

26 ~~—— (d) General administrative costs of running the permit and
27 license program, including permit and license tracking and data~~

1 entry.

2 ~~—— (e) Inspection of licensed disposal areas and open dumps.~~

3 ~~—— (f) Implementing and enforcing the conditions of any permit or~~
4 ~~license.~~

5 ~~—— (g) Groundwater monitoring audits at disposal areas which are~~
6 ~~or have been licensed under this part.~~

7 ~~—— (h) Reviewing and acting upon corrective action plans for~~
8 ~~disposal areas which are or have been licensed under this part.~~

9 ~~—— (i) Review of certifications of closure.~~

10 ~~—— (j) Postclosure maintenance and monitoring inspections and~~
11 ~~review.~~

12 ~~—— (k) Review of bonds and financial assurance documentation at~~
13 ~~disposal areas which are or have been licensed under this part.~~

14 ~~—— (5) Money shall be expended from the perpetual care account~~
15 ~~only for the purpose of conducting the following activities at~~
16 ~~disposal areas which are or have been licensed under this part:~~

17 ~~—— (a) Postclosure maintenance and monitoring at a disposal area~~
18 ~~where the owner or operator is no longer required to do so.~~

19 ~~—— (b) To conduct closure, or postclosure maintenance and~~
20 ~~monitoring and corrective action if necessary, at a disposal area~~
21 ~~where the owner or operator has failed to do so. Money shall be~~
22 ~~expended from the account only after funds from any perpetual care~~
23 ~~fund or other financial assurance mechanisms held by the owner or~~
24 ~~operator have been expended and the department has used reasonable~~
25 ~~efforts to obtain funding from other sources.~~

26 ~~—— (6) By March 1 annually, the department shall prepare and~~
27 ~~submit to the governor, the legislature, the chairs of the standing~~

~~1 committees of the senate and house of representatives with primary
2 responsibility for issues related to natural resources and the
3 environment, and the chairs of the subcommittees of the senate and
4 house appropriations committees with primary responsibility for
5 appropriations to the department a report that details the
6 activities of the previous fiscal year funded by the staff account
7 of the solid waste management fund established in this section.
8 This report shall include, at a minimum, all of the following as it
9 relates to the department:~~

~~10 — (a) The number of full time equated positions performing solid
11 waste management permitting, compliance, and enforcement
12 activities.~~

~~13 — (b) All of the following information related to the
14 construction permit applications received under section 11509:~~

~~15 — (i) The number of applications received by the department,
16 reported as the number of applications determined to be
17 administratively incomplete and the number determined to be
18 administratively complete.~~

~~19 — (ii) The number of applications determined to be
20 administratively complete for which a final action was taken by the
21 department. The number of final actions shall be reported as the
22 number of applications approved, the number of applications denied,
23 and the number of applications withdrawn by the applicant.~~

~~24 — (iii) The percentage and number of applications determined to
25 be administratively complete for which a final decision was made
26 within 120 days of receipt as required by section 11511.~~

~~27 — (c) All of the following information related to the operating~~

- 1 ~~license applications received under section 11512:~~
- 2 ~~—— (i) The number of applications received by the department,~~
3 ~~reported as the number of applications determined to be~~
4 ~~administratively incomplete and the number determined to be~~
5 ~~administratively complete.~~
- 6 ~~—— (ii) The number of applications determined to be~~
7 ~~administratively complete for which a final action was taken by the~~
8 ~~department. The number of final actions shall be reported as the~~
9 ~~number of applications approved, the number of applications denied,~~
10 ~~and the number of applications withdrawn by the applicant.~~
- 11 ~~—— (iii) The percentage and number of applications determined to~~
12 ~~be administratively complete for which a final decision was made~~
13 ~~within 90 days of receipt as required by section 11516.~~
- 14 ~~—— (d) The number of inspections conducted at licensed disposal~~
15 ~~areas as required by section 11519.~~
- 16 ~~—— (e) The number of letters of warning sent to licensed disposal~~
17 ~~areas.~~
- 18 ~~—— (f) The number of contested case hearings and civil actions~~
19 ~~initiated and completed, the number of voluntary consent orders and~~
20 ~~administrative orders entered or issued, and the amount of fines~~
21 ~~and penalties collected through such actions or orders.~~
- 22 ~~—— (g) For each enforcement action that includes a penalty, a~~
23 ~~description of what corrective actions were required by the~~
24 ~~enforcement action.~~
- 25 ~~—— (h) The number of solid waste complaints received,~~
26 ~~investigated, resolved, and not resolved by the department.~~
- 27 ~~—— (i) The amount of revenue in the staff account of the solid~~

1 ~~waste management fund at the end of the fiscal year.~~

2 (1) THE CLEAN MICHIGAN FUND IS CREATED WITHIN THE STATE
3 TREASURY.

4 (2) THE STATE TREASURER SHALL PROMPTLY TRANSFER TO THE CLEAN
5 MICHIGAN FUND ANY REVENUE IN THE SOLID WASTE MANAGEMENT FUND AND
6 SHALL CLOSE THE SOLID WASTE MANAGEMENT FUND. THE STATE TREASURER
7 MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO
8 THE CLEAN MICHIGAN FUND. THE STATE TREASURER SHALL DIRECT THE
9 INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE
10 FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

11 (3) MONEY IN THE CLEAN MICHIGAN FUND AT THE CLOSE OF THE
12 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE
13 GENERAL FUND.

14 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE CLEAN
15 MICHIGAN FUND FOR AUDITING PURPOSES.

16 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE CLEAN MICHIGAN
17 FUND, UPON APPROPRIATION, ONLY FOR THE FOLLOWING PURPOSES:

18 (A) THE GREATER OF \$45,000,000.00 OR 60% OF THE CURRENT FISCAL
19 YEAR REVENUE SHALL BE USED FOR ENVIRONMENTAL CLEANUP AND
20 REDEVELOPMENT, INCLUDING, BUT NOT LIMITED TO, ADDRESSING
21 CONTAMINATED SITES AND EMERGING ISSUES THAT HAVE KNOWN OR SUSPECTED
22 POTENTIAL TO CAUSE ADVERSE ENVIRONMENTAL OR HUMAN HEALTH EFFECTS.
23 CRITERIA TO DETERMINE WHICH SITES WILL BE ADDRESSED EACH YEAR MAY
24 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

25 (i) POPULATION RISK, SUCH AS THE NUMBER OF PEOPLE EXPOSED,
26 WHETHER SENSITIVE POPULATIONS ARE EXPOSED, AND WHETHER THE EXPOSURE
27 OCCURS IN A RESIDENTIAL SETTING.

1 (ii) CHEMICAL RISK, INCLUDING THE TYPE AND CONCENTRATION OF
2 CHEMICALS AND THE PUBLIC HEALTH RISK ASSOCIATED WITH THE CHEMICALS.

3 (B) THE GREATER OF \$9,000,000.00 OR 12% OF THE CURRENT FISCAL
4 YEAR REVENUE SHALL BE USED FOR WASTE MANAGEMENT, INCLUDING, BUT NOT
5 LIMITED TO, OVERSIGHT OF ACTIVE LANDFILLS, ASBESTOS LANDFILL GAS
6 MONITORING, AND DEPARTMENT EXPENDITURES FOR CLOSURE, POSTCLOSURE
7 MONITORING OR MAINTENANCE, OR CORRECTIVE ACTION FOR DISPOSAL AREAS
8 THAT HAVE BEEN LICENSED UNDER THIS PART.

9 (C) 75% OF THE REVENUE REMAINING AFTER SUBDIVISIONS (A) AND
10 (B) HAVE BEEN ACCOUNTED FOR SHALL BE USED FOR RECYCLING, INCLUDING,
11 BUT NOT LIMITED TO, THE FOLLOWING:

12 (i) MATERIALS MANAGEMENT PLANNING, INCLUDING GRANTS TO
13 COUNTIES, REGIONAL PLANNING AGENCIES, MUNICIPALITIES, AND OTHER
14 ENTITIES RESPONSIBLE FOR PREPARING, IMPLEMENTING, AND MAINTAINING
15 MATERIALS MANAGEMENT PLANS.

16 (ii) LOCAL RECYCLING PROGRAMS, INCLUDING GRANTS TO LOCAL UNITS
17 OF GOVERNMENT AND NONPROFIT AND FOR-PROFIT ENTITIES FOR RECYCLING
18 INFRASTRUCTURE, LOCAL RECYCLING OUTREACH CAMPAIGNS, AND OTHER COSTS
19 NECESSARY TO SUPPORT INCREASED RECYCLING. GRANTS UNDER THIS
20 SUBPARAGRAPH SHALL BE DISPERSED ON A COMPETITIVE BASIS.

21 (iii) MARKET DEVELOPMENT, INCLUDING GRANTS TO LOCAL UNITS OF
22 GOVERNMENT AND NONPROFIT AND FOR-PROFIT ENTITIES FOR PURCHASING
23 EQUIPMENT, RESEARCH AND DEVELOPMENT, OR ASSOCIATED ACTIVITIES TO
24 PROVIDE NEW OR INCREASED USE OF RECYCLED MATERIALS TO SUPPORT THE
25 DEVELOPMENT OF RECYCLING MARKETS.

26 (D) 25% OF THE REVENUE REMAINING AFTER SUBDIVISIONS (A) AND
27 (B) HAVE BEEN ACCOUNTED FOR SHALL BE USED FOR WATER QUALITY

1 MONITORING, INCLUDING, BUT NOT LIMITED TO, BEACH MONITORING,
2 MONITORING FOR ALGAL BLOOMS IN INLAND WATERS AND ALONG GREAT LAKES
3 SHORELINES, AND SOURCE TRACKING.

4 (6) BY DECEMBER 31 ANNUALLY, THE DEPARTMENT SHALL PREPARE AND
5 SUBMIT TO THE SENATE AND HOUSE APPROPRIATIONS COMMITTEES A REPORT
6 DETAILING THE AMOUNT OF REVENUE RECEIVED BY AND EXPENDITURES FROM
7 THE CLEAN MICHIGAN FUND DURING THE PRIOR FISCAL YEAR AND THE FUND
8 BALANCE AT THE END OF THE PRIOR FISCAL YEAR.

9 (7) THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT THIS
10 SECTION.

11 Enacting section 1. This amendatory act takes effect 90 days
12 after the date it is enacted into law.