

**SUBSTITUTE FOR
HOUSE BILL NO. 4461**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding subpart 11 to part 115.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SUBPART 11 MATERIALS MANAGEMENT PLANS
2 Sec. 11571. (1) The department shall ensure that each county
3 has an approved materials management plan. The approved solid waste
4 management plan in effect on the effective date of the amendatory
5 act that added this section remains in effect until a materials
6 management plan has been approved for the planning area under this
7 subpart. Before a materials management plan is approved for a
8 county pursuant to section 11575, a solid waste management plan may
9 be amended pursuant to the procedures that applied under section

1 11533 and former sections 11534 to 11537a immediately before the
2 effective date of the amendatory act that added this section.

3 (2) The planning area of a single MMP may include 2 or more
4 counties if the county boards of commissioners of those counties
5 agree to the joint exercise of the powers and performance of the
6 duties under this subpart of the county boards of commissioners and
7 of the county approval agencies. In addition, if the department is
8 responsible for preparing the MMP for 2 or more counties under
9 section 11575, the department may include those counties in the
10 planning area of a single MMP and may exercise its powers and
11 perform its duties under this subpart for those counties jointly.

12 (3) Multicounty MMPs are subject to the same procedure for
13 approval as single-county MMPs, and each county board of
14 commissioners shall take formal action on a multicounty MMP as
15 appropriate. A multicounty MMP shall include a process to ensure
16 that the requirements of section 11578 are met.

17 (4) All of the municipalities of a county shall be included in
18 the planning area of a single MMP. However, a municipality located
19 in 2 counties that are not in the same planning area may request
20 that the entire municipality be included in the planning area for 1
21 of those counties and excluded from the planning area of the other
22 county. A municipality that is adjacent to a county boundary may
23 request that it be included in the planning area of the MMP for the
24 adjacent county. A request under this subsection shall be submitted
25 to and is subject to the approval of the county board of
26 commissioners of each of the affected counties.

27 (5) Within 180 days after the effective date of the amendatory
28 act that added this section, the department shall, in writing,
29 request the county board of commissioners of each county to submit

1 to the department a notice of intent to prepare an MMP. Within 180
2 days after the request is delivered, the county board of
3 commissioners shall submit the notice of intent. If the county
4 board of commissioners declines to prepare an MMP, all of the
5 following apply:

6 (a) The county board of commissioners shall notify the
7 municipalities in the county and the regional planning agency for
8 the county of its decision.

9 (b) All the municipalities in the county, acting jointly, or
10 the regional planning agency may, within the remaining balance of
11 the 180-day time period applicable to the county board of
12 commissioners, submit to the department a notice of intent to
13 prepare an MMP.

14 (c) Upon request of the municipalities or regional planning
15 agency, the department may extend the deadline under subdivision
16 (b) to allow the municipalities and regional planning agency an
17 opportunity to determine which will submit the notice of intent.

18 (6) If a notice of intent is not submitted to the department
19 by the applicable deadline under subsection (5), the department may
20 prepare an MMP for the county, subject to section 11575(11).

21 (7) A notice of intent under subsection (5) shall meet the
22 following requirements, as applicable:

23 (a) State that the county board of commissioners, all the
24 municipalities in the county, acting jointly, or the regional
25 planning agency for the county, whichever submits the notice of
26 intent, will prepare an MMP and will be the county approval agency.

27 (b) For a county with a population of less than 250,000, be
28 accompanied by both of the following:

29 (i) Documentation that the county approval agency consulted

1 with each adjacent county regarding the option of preparing a
2 multicounty MMP pursuant to the urban cooperation act of 1967, 1967
3 (Ex Sess) PA 7, MCL 124.501 to 124.512.

4 (ii) Documentation of the outcome of the consultations,
5 including a copy of any interlocal agreement identifying the
6 process for creating a multicounty MMP.

7 (c) For a county with a population of 250,000 or more, be
8 accompanied by both of the following:

9 (i) Documentation that the county approval agency submitted to
10 the county board of commissioners of each adjacent county a request
11 to respond within 30 days indicating the adjacent county's interest
12 in the option of preparing a multicounty MMP pursuant to the urban
13 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
14 124.512.

15 (ii) Documentation of the outcome of the request, including a
16 copy of any interlocal agreement identifying the process for
17 creating a multicounty MMP.

18 (8) The submittal of a notice of intent under subsection (5)
19 commences the running of a 3-year deadline for municipal approval
20 of the MMP and submission of the MMP to the department under
21 section 11575.

22 (9) Not more than 30 days after the submission of a notice of
23 intent to the department under subsection (5), the CAA shall do all
24 of the following:

25 (a) Submit a copy of the notice of intent to the legislative
26 body of each municipality located within the planning area.

27 (b) Publish the notice of intent in a newspaper or by
28 electronic media having major circulation or viewership in the
29 planning area.

1 (c) Request publication of the notice of intent on websites of
2 local units of government in the planning area and other multimedia
3 outlets as appropriate.

4 (10) The CAA shall also do all of the following:

5 (a) Within 120 days after submitting the notice of intent,
6 designate a planning agency and an individual within the DPA who
7 shall serve as the DPA's contact person for the purposes of this
8 subpart.

9 (b) Appoint a planning committee under section 11572.

10 (c) Oversee the creation and implementation of the DPA's work
11 program under section 11587(4).

12 (d) Upon request of the department, submit a report on
13 progress in the preparation of the MMP.

14 (11) All submittals and notices under this section and
15 sections 11572 to 11576 shall be in writing. A written notice may
16 be given by electronic mail if the recipient has indicated that the
17 recipient will receive notice by electronic mail and has specified
18 the electronic mail address to which the notice is to be sent.

19 Sec. 11572. (1) Within 180 days after the CAA submits a notice
20 of intent to the department under section 11571, the CAA shall
21 appoint a planning committee. The planning committee is a permanent
22 body. Initial planning committee members shall be appointed for 5-
23 year terms. Their immediate successors shall be appointed for 2-,
24 3-, 4-, or 5-year terms such that, as nearly as possible, the same
25 number are appointed for each term length. Subsequently, members
26 shall be appointed for terms of 5 years. A member may be
27 reappointed.

28 (2) If a vacancy occurs on the planning committee, the CAA
29 shall make an appointment for the unexpired term in the same manner

1 as the original appointment. The CAA may remove a member of the
2 planning committee for incompetence, dereliction of duty, or
3 malfeasance, misfeasance, or nonfeasance in office.

4 (3) The first meeting of the planning committee shall be
5 called by the designated planning agency. At the first meeting, the
6 planning committee shall elect from among its members a chairperson
7 and other officers as it considers necessary or appropriate. A
8 majority of the members of the planning committee constitute a
9 quorum for the transaction of business at a meeting of the planning
10 committee. For the purposes of determining the quorum, the number
11 of members of the planning committee is the number as established
12 under subsection (4), excluding any unfilled vacancies created in
13 the past 90 days. The affirmative vote of a majority of the number
14 of members of the planning committee as established under
15 subsection (4) is required for official action of the planning
16 committee. A planning committee shall adopt procedures for the
17 conduct of its business.

18 (4) A planning committee shall consist of the following
19 members:

20 (a) A representative of a solid waste disposal facility
21 operator that provides service in the planning area.

22 (b) A representative of a hauler that provides service in the
23 planning area.

24 (c) A representative of a materials recovery facility operator
25 that provides service in the planning area.

26 (d) A representative of a composting facility or anaerobic
27 digester operator that provides service in the planning area.

28 (e) A representative of a waste diversion, reuse, or reduction
29 facility operator that provides service in the planning area.

1 (f) A representative of an environmental interest group that
2 has members residing in the planning area.

3 (g) An elected official of the county.

4 (h) An elected official of a township in the planning area.

5 (i) An elected official of a city or village in the planning
6 area.

7 (j) A representative of a business that generates a managed
8 material in the planning area.

9 (k) A representative of the regional planning agency whose
10 territory includes the planning area.

11 (l) Any additional members appointed under subsections (5) or
12 (6) or section 11578(3), as applicable.

13 (5) The CAA may appoint to the planning committee as an
14 additional regular member 1 representative that does business in or
15 resides in an adjacent municipality outside the planning area.

16 (6) CAAs preparing a multicounty MMP under section 11571 shall
17 appoint a single planning committee. For each county, both of the
18 following additional members may be appointed to the planning
19 committee:

20 (a) An elected official of the county or a municipality in the
21 planning area.

22 (b) A representative from a business that generates managed
23 materials within the planning area.

24 (7) If the CAA has difficulty finding qualified individuals to
25 serve on the planning committee, the department may approve a
26 reduction in the number of members of the planning committee.
27 However, at a minimum, the planning committee shall include all of
28 the following members:

29 (a) A representative of the solid waste disposal industry that

1 provides service in the planning area.

2 (b) A representative of a materials utilization facility that
3 provides service in the planning area.

4 (c) Two individuals, each of whom is either a member of an
5 environmental interest group who resides in the planning area or a
6 representative of the regional planning agency.

7 (d) An elected official of the county.

8 (e) An elected official of a township in the planning area.

9 (f) An elected official of a city or village in the planning
10 area.

11 Sec. 11573. In addition to its other responsibilities under
12 part 115, the planning committee shall do all of the following:

13 (a) Direct the DPA in the preparation of the MMP.

14 (b) Review and approve the DPA's work program under section
15 11587(4).

16 (c) Identify relevant local materials management policies and
17 priorities.

18 (d) Ensure coordination in the preparation of the MMP.

19 (e) Advise counties and municipalities with respect to the
20 MMP.

21 (f) Ensure that the DPA is fulfilling the requirements of part
22 115 as to both the content of the MMP and public participation. The
23 planning committee shall notify the DPA of any deficiencies. If the
24 deficiencies are not addressed by the DPA to the planning
25 committee's satisfaction, the planning committee shall notify the
26 CAA. If the deficiencies are not addressed by the CAA to the
27 planning committee's satisfaction, the planning committee shall
28 notify the department. The department shall address the
29 deficiencies and may prepare the MMP under section 11575(11).

1 Sec. 11574. (1) In addition to its other responsibilities
2 under part 115, a DPA shall do all of the following:

3 (a) Serve as the primary government resource in the planning
4 area for information about the MMP and the MMP development process.

5 (b) Under the direction of the planning committee, prepare an
6 MMP.

7 (c) During the preparation of an MMP, solicit the advice of
8 and consult with all of the following:

9 (i) Periodically, the municipalities, appropriate
10 organizations, and the private sector, including materials
11 management facility operators, in the planning area.

12 (ii) The appropriate county or regional planning agency.

13 (iii) Counties adjacent to the planning area and municipalities
14 in those counties.

15 (d) Not less than 10 days before each public meeting at which
16 the DPA will discuss the MMP, give notice of the meeting to the
17 chief elected official of each municipality within the planning
18 area and any other person within the planning area that requests
19 notice. The notice shall indicate as precisely as possible the
20 subject matter being discussed.

21 (e) Obtain written approval of the MMP from the planning
22 committee.

23 (f) Submit a copy of the MMP as approved by the planning
24 committee to all of the following with a notice specifying the end
25 of the public comment period under subdivision (h):

26 (i) The department.

27 (ii) The legislative body of each municipality within the
28 planning area.

29 (iii) The legislative body of each county or municipality

1 adjacent to the planning area that has requested the opportunity to
2 review the MMP.

3 (iv) The regional planning agency for each county included in
4 the planning area.

5 (g) Publish a notice in a newspaper or by electronic media
6 having major circulation or viewership in the planning area. The
7 notice shall indicate a location where copies of the proposed MMP
8 are available for public inspection or copying at cost, specify the
9 end of the public comment period under subdivision (h), and solicit
10 public comment. Notice posted in electronic media shall remain
11 posted until the end of the public comment period.

12 (h) Receive public comments on the MMP for not less than 60
13 days after the publication of the notice under subdivision (g).

14 (i) During the public comment period under subdivision (h),
15 conduct a public hearing on the MMP. Not less than 30 days before
16 the hearing, the planning committee shall publish a notice of the
17 hearing in a newspaper or by electronic media having major
18 circulation or viewership in the planning area. Notice posted in
19 electronic media shall remain posted until the end of the public
20 hearing. The notice shall indicate a location where copies of the
21 proposed MMP are available for public inspection or copying at cost
22 and shall indicate the time and place of the public hearing. The
23 same notice may be used to satisfy the requirements of this
24 subdivision and subdivision (g). The planning committee shall
25 submit to the department proof of publication of notice under this
26 subdivision and subdivision (g).

27 (j) Submit to the planning committee a summary of the comments
28 received during the public comment period.

29 (2) The DPA, or the department if the department prepares an

1 MMP, shall use a standard format in preparing the MMP. The
2 department shall prepare the standard format and provide a copy of
3 the standard format to each DPA that the department knows will
4 prepare an MMP. The department shall provide the standard format to
5 any other person upon request.

6 (3) The planning committee shall consider the comment summary
7 received from the DPA under subsection (1)(j) and may direct the
8 DPA to revise the MMP. The DPA shall revise the MMP as directed by
9 the planning committee. Not more than 30 days after the end of the
10 public comment period, the DPA shall submit the proposed MMP, as
11 revised, if applicable, to the planning committee.

12 (4) Not more than 30 days after the MMP is submitted to the
13 planning committee under subsection (3), the planning committee
14 shall take formal action on the MMP and, if the planning committee
15 approves the MMP in compliance with section 11572(3), the DPA shall
16 submit the MMP to the CAA.

17 Sec. 11575. (1) Not more than 60 days after the MMP is
18 submitted to the CAA under section 11574(4), the CAA shall approve
19 or reject the MMP and notify the planning committee. A notice that
20 the CAA rejects the MMP shall state the specific reasons for the
21 rejection.

22 (2) Not more than 30 days after notice of the rejection of the
23 MMP is sent under subsection (1), the planning committee may revise
24 the MMP and submit the revised MMP to the CAA. After a revised MMP
25 is timely submitted to the CAA under this subsection or the 30-day
26 period expires and a revised MMP is not submitted, the CAA shall
27 approve or reject the revised MMP or original MMP, respectively,
28 and notify the planning committee.

29 (3) If the CAA rejects the MMP under subsection (2), the CAA

1 shall prepare and approve an MMP, subject to the continued running
2 of the 3-year period under section 11571(8).

3 (4) Not more than 10 business days after the CAA approves an
4 MMP under subsection (1), (2), or (3), the DPA shall submit a copy
5 of the MMP to the legislative body of each municipality located
6 within the planning area.

7 (5) Not more than 120 days after the MMP is submitted to the
8 legislative body of a municipality, the legislative body may
9 approve or reject the MMP. The legislative body shall notify the
10 DPA of an approval or rejection.

11 (6) Within 30 days after the deadline for municipal
12 notification to the DPA under subsection (5), the DPA shall notify
13 the department which municipalities timely approved the MMP, which
14 timely rejected the MMP, and which did not timely notify the DPA of
15 approval or rejection. The notice shall be accompanied by a copy of
16 the MMP. If the MMP is not approved by at least 2/3 of the
17 municipalities that timely notify the DPA of their approval or
18 rejection under subsection (5), then the department shall proceed
19 under subsection (7) or (9). If the MMP is approved by at least 2/3
20 of the municipalities that timely notify the DPA of their approval
21 or rejection under subsection (5), then subsection (9) applies.

22 (7) The department may approve an extension of a deadline
23 under subsections (2) to (6) if the extension is requested by the
24 entity subject to the deadline within a reasonable time after the
25 issues giving rise to the need for an extension arise.

26 (8) If the MMP is neither approved nor rejected by a deadline
27 established in this subpart, subject to any extension under
28 subsection (7), the MMP is considered automatically approved at
29 that step in the approval process, and the approval process shall

1 continue at the next step. This subsection does not apply to
2 failure of an individual municipality to approve or disapprove the
3 MMP under subsection (5).

4 (9) Within 180 days after the MMP is submitted to the
5 department under subsection (6), the department shall approve or
6 reject the MMP. The department shall approve the MMP if the MMP
7 complies with part 115. If the department approves the MMP, the MMP
8 is final. If the department rejects the MMP, subsection (11)
9 applies.

10 (10) Before approving or rejecting an MMP under subsection
11 (9), the department may return the MMP to the CAA with a written
12 request for modifications necessary for approval under subsection
13 (9) or to clarify the MMP. If the department returns the MMP for
14 modifications, the running of the 180-day period under subsection
15 (9) is tolled for 90 days or until the CAA responds to the
16 department's request, whichever occurs first. If the CAA does not
17 approve the modifications requested by the department, subsection
18 (11) applies.

19 (11) Subject to subsection (9), if a CAA does not prepare an
20 MMP or the MMP does not timely obtain an approval required by part
21 115, the department may prepare and approve an MMP for the county.
22 An MMP prepared and approved by the department is final. Once the
23 MMP is final, the county shall implement the MMP.

24 Sec. 11576. (1) Amendments to an MMP shall be made only as
25 provided in subsection (2), (3), or (4).

26 (2) The department shall initiate the adoption of 1 or more
27 amendments to MMPs if the department determines that the guidance
28 provided by legislation, by this state's solid waste policy, or by
29 reports and initiatives of the department has significantly changed

1 the required contents of MMPs. The procedure for adopting an
2 amendment to the MMP under this subsection is the same as the
3 procedure for adoption of an initial MMP.

4 (3) The CAA may initiate 1 or more amendments to an MMP by
5 filing a notice of intent with the department. Except as provided
6 in subsection (4), the procedure for adopting an amendment to the
7 MMP under this subsection is the same as the procedure for adoption
8 of an initial MMP except as follows:

9 (a) The county submits a notice of intent on its own
10 initiative rather than in response to a request from the department
11 under section 11571.

12 (b) If the CAA rejects a revised amendment under section
13 11575(2), the amendment process terminates.

14 (c) Section 11575(11) does not apply. Instead, if any required
15 approval is not timely granted, the amendment process terminates
16 and the amendments are not adopted.

17 (4) If, after a notice of intent is filed under subsection
18 (3), the department determines that the amendment will increase
19 materials utilization or the recovery of managed material and
20 complies with part 115, the department may authorize the CAA to
21 amend the MMP. To amend the MMP, the CAA shall do all of the
22 following:

23 (a) Submit a copy of the amendment to all of the following
24 with a notice specifying the end of the public comment period under
25 subdivision (c):

26 (i) The department.

27 (ii) The legislative body of each municipality within the
28 planning area.

29 (iii) The legislative body of each county or municipality

1 adjacent to the planning area that requested the opportunity to
2 review the MMP under section 11574(1)(f).

3 (iv) The regional planning agency for each county included in
4 the planning area.

5 (b) Publish a notice in a newspaper or by electronic media
6 having major circulation or viewership in the planning area. The
7 notice shall indicate a location where copies of the amendment are
8 available for public inspection or copying at cost, specify the end
9 of the public comment period under subdivision (c), and solicit
10 public comment. Notice posted in electronic media shall remain
11 posted until the end of the public comment period.

12 (c) Receive public comments on the amendment for not less than
13 30 days after the publication of the notice under subdivision (b).

14 (d) If timely requested, conduct a public meeting on the
15 amendment during the public comment period under subdivision (c).
16 Not less than 15 days before the public meeting, the planning
17 committee shall publish a notice of the meeting in a newspaper or
18 by electronic media having major circulation or viewership in the
19 planning area. Notice posted in electronic media shall remain
20 posted until the end of the public meeting. The notice shall
21 indicate a location where copies of the proposed amendment are
22 available for public inspection or copying at cost and shall
23 indicate the time and place of the public meeting. The same notice
24 may be used to satisfy the requirements of this subdivision and
25 subdivision (b). The planning committee shall submit to the
26 department proof of notice publication under this subdivision and
27 subdivision (b).

28 (e) Prepare and consider a summary of the comments received
29 during the public comment period. The CAA may revise the amendment

1 in response to the public comments.

2 (f) Submit the amendment to the department in writing. The
3 department shall provide the CAA with written approval of the
4 submitted amendment.

5 (5) A county shall keep its MMP current. The following changes
6 do not require an amendment if made in a supplement to the MMP
7 provided for by the department under section 11574(2) for the
8 purpose of changes not requiring an amendment:

9 (a) Transportation infrastructure.

10 (b) Population density.

11 (c) Materials management facility inventory.

12 (d) Local ordinances, to the extent that the ordinances
13 regulate noise, litter, odor, dust, and other site nuisances at a
14 materials management facility, in addition to landscaping,
15 screening, other ancillary construction details, and hours of
16 operation at a materials utilization facility; do not regulate the
17 development or other operational aspects of a materials management
18 facility or the location of a disposal area; and are not more
19 stringent than the requirements of part 115.

20 (6) Changes made without amendment under subsection (5) shall
21 be incorporated in the next amendment made under subsection (2) or
22 (3).

23 (7) By every fifth anniversary date of the approval of the
24 initial MMP, the CAA shall do both of the following:

25 (a) Obtain from the planning committee an MMP review. The CAA
26 shall timely direct the planning committee to prepare and submit
27 the review. The purpose of the review is to ensure that the MMP
28 complies with part 115 and to evaluate the progress that has been
29 made in meeting the MMP's materials management goals, including the

1 benchmark recycling standards.

2 (b) After considering the MMP review under subdivision (a),
3 submit to the department 1 of the following, as appropriate:

4 (i) A notice of intent to prepare an MMP amendment.

5 (ii) A statement indicating that an amendment is not needed to
6 advance the materials management goals.

7 (8) The department may review an MMP periodically and
8 determine if any amendments are necessary to comply with part 115.
9 If the department determines that an amendment to a specific MMP is
10 necessary, all of the following apply:

11 (a) The department, after notice and opportunity for a public
12 hearing held pursuant to the administrative procedures act of 1969,
13 1969 PA 306, MCL 24.201 to 24.328, may withdraw approval of the MMP
14 or the noncompliant portion of the MMP.

15 (b) The department shall establish a schedule for compliance
16 with part 115.

17 (c) If the planning area does not amend its MMP within the
18 schedule established under subdivision (b), the department shall
19 amend the MMP to address the deficiencies.

20 Sec. 11577. The goals of an MMP are all of the following:

21 (a) To prevent adverse effects on the environment, natural
22 resources, or the public health, safety, or welfare resulting from
23 improper collection, processing, recovery, or disposal of managed
24 materials, including protection of surface water and groundwater,
25 air, and land.

26 (b) To ensure managed materials are sustainably managed to
27 achieve benefits to the economy, communities, and the environment.

28 (c) To ensure that all managed material generated in the
29 planning area is collected and recovered, processed, or disposed at

1 materials management facilities that comply with state statutes and
2 rules or managed appropriately at out-of-state facilities.

3 Sec. 11578. (1) An MMP shall meet all of the following
4 requirements:

5 (a) Include measurable, objective, and specific goals for the
6 planning area for solid waste diversion from disposal areas,
7 including, but not limited to, the municipal solid waste recycling
8 rate goal under section 11507, the benchmark recycling standards,
9 and the material utilization and reduction activities identified by
10 the MMP.

11 (b) Include an implementation strategy for the county to
12 demonstrate progress toward or meet the materials management goals
13 by the time of the 5-year MMP review under section 11576(7). The
14 implementation strategy shall include, but is not limited to, all
15 of the following:

16 (i) How progress will be made to reduce the amount of organic
17 material being disposed of, through food waste reduction,
18 composting, and anaerobic digestion.

19 (ii) How progress will be made to reduce the amount of
20 recyclable materials being disposed of, through increased
21 recycling, including expanding convenient access and recycling at
22 single and multifamily dwellings, businesses, and institutions.

23 (iii) A process whereby each of a planning area's materials
24 utilization facilities are evaluated based on information contained
25 in reports submitted to the department on an annual basis.

26 (iv) A description of the resources needed for meeting the
27 materials management goals and how the development of necessary
28 materials utilization facilities and activities will be promoted.

29 (v) A description of how the benchmark recycling standards

1 will be met.

2 (vi) A timetable for implementation.

3 (c) Identify by type and tonnage all managed material
4 generated in the planning area, to determine the planning area's
5 managed material capacity need and all managed material that is
6 included in the planning area's materials management goals. Amounts
7 of material may be estimated using a formula provided by the
8 department.

9 (d) Require that a proposed materials management facility meet
10 the requirements of part 115 and be consistent with the materials
11 management goals.

12 (e) To the extent practicable, identify and evaluate current
13 and planned materials management infrastructure and systems that
14 contribute or will contribute to meeting the goal under section
15 11577(c) and other options to meet that goal.

16 (f) Include an inventory of the names and addresses of all of
17 the following, subject to subdivision (g):

18 (i) Existing disposal areas.

19 (ii) Materials utilization facilities that meet both of the
20 following requirements:

21 (A) Are in operation on the effective date of the amendatory
22 act that added this section.

23 (B) On the effective date of the amendatory act that added
24 this section, comply with part 115 or, within 1 year after that
25 date, are in the process of becoming compliant.

26 (iii) Waste diversion centers for which notification has been
27 given to the department under section 11521b.

28 (g) Include a materials management facility in the inventory
29 under subdivision (f) only if the owner or operator of the facility

1 has submitted to the county a written acknowledgment indicating
2 that the owner or operator is aware of the proposed inclusion of
3 the facility in the MMP relative to the materials capacity needs
4 identified in subdivision (c) and that the facility has the
5 indicated capacity to manage the materials identified under
6 subdivision (h). The MMP shall include a statement that the owner
7 or operator of each facility listed in the MMP has submitted such
8 an acknowledgment to the county. If the submitted acknowledgments
9 do not document sufficient capacity for disposal or utilization of
10 the identified managed materials to reach the MMP's materials
11 management capacity requirements, including the materials
12 management goals, the MMP shall identify specific strategies,
13 including a schedule and approach to develop and fund capacity.

14 (h) Describe the facilities inventoried pursuant to
15 subdivision (f), including a summary of the deficiencies, if any,
16 of the facilities in meeting current materials management needs.
17 The description shall, at a minimum, include all of the following
18 information:

- 19 (i) The facility latitude and longitude.
20 (ii) The estimated facility acreage.
21 (iii) A description of the materials managed.
22 (iv) The processes for handling materials at the facility.
23 (v) The total authorized capacity of the facility.
- 24 (i) Ensure that the materials management facilities that are
25 identified as necessary to be sited can be developed in compliance
26 with state law pertaining to protection of the public health and
27 the environment, considering the available land in the planning
28 area and the technical feasibility of, and economic costs
29 associated with, the facilities.

1 (j) Include an enforceable mechanism to meet the goal of
2 section 11577(c) and otherwise implement the MMP, and identify the
3 party responsible to ensure compliance with part 115. The MMP may
4 contain a mechanism for the county and municipalities in the
5 planning area to assist the department and the department of state
6 police in conducting the inspection program established in section
7 11526(2) and (3). This subdivision does not preclude the private
8 sector's participation in providing materials management services
9 consistent with the MMP for the planning area.

10 (k) Calculate the municipal solid waste recycling rate for the
11 planning area.

12 (l) Describe the materials management transportation
13 infrastructure.

14 (m) Include current and projected population densities and
15 identify population centers and centers of managed material
16 generation in the planning area, using a formula provided by the
17 department, to demonstrate that the capacity required for managed
18 material is met.

19 (n) Describe the mechanisms by which municipalities in the
20 planning area will ensure convenient recycling access, such as 1 or
21 more of the following:

22 (i) Assignment of the responsibility to the county or an
23 authority.

24 (ii) A franchise agreement.

25 (iii) An intergovernmental agreement.

26 (iv) Municipal service.

27 (v) Licensing under an ordinance.

28 (vi) A public-private partnership.

29 (o) Specify a recommended minimum level of recycling service

1 that incorporates the access requirements of the benchmark
2 recycling standards. The county or a municipality within the
3 planning area may, through an appropriate enforceable mechanism,
4 require haulers operating in its jurisdiction to provide the
5 recommended level or a different minimum level of recycling
6 service.

7 (p) Identify the DPA and the entity or entities responsible
8 for each of the following and document the appropriateness of the
9 DPA and other identified entities to carry out their respective
10 responsibilities:

11 (i) Implementing the access requirements of the benchmark
12 recycling standards.

13 (ii) Identifying the materials utilization framework and the
14 achievement of the materials management goals.

15 (iii) Otherwise monitoring, implementing, and enforcing the MMP
16 and providing any required reports to the department.

17 (iv) Administering the funding mechanisms identified in section
18 11581 that will be used to implement the MMP.

19 (v) Ensuring compliance with part 115.

20 This state may serve as a responsible party under this
21 subdivision on behalf of a municipality if the municipality is
22 under a financial consent order or in receivership.

23 (q) With respect to education and outreach for residents and
24 businesses in the planning area, do both of the following:

25 (i) Provide a strategic plan that identifies roles,
26 responsibilities, funding sources, and methods for persons
27 providing the education and outreach services.

28 (ii) Describe the county or regional role in providing
29 continuing recycling education. The recycling education shall

1 include, but is not limited to, providing a recycling guide, in
2 hard copy at select public locations and electronically on a cell
3 phone-friendly website. The recycling guide shall do all of the
4 following:

5 (A) Identify recycling locations.

6 (B) Identify recyclable materials.

7 (C) Explain how to prepare recyclable materials for
8 collection.

9 (D) Describe other best practices.

10 (E) Include a listed telephone number for additional
11 information.

12 (r) Include a siting process under section 11579 and a copy of
13 any ordinance, law, rule, or regulation of a municipality, county,
14 or governmental authority within the planning area that applies to
15 the siting process.

16 (s) Take into consideration the MMPs of counties adjacent to
17 the planning area as they relate to the planning area's needs.

18 (t) Document all opportunities for participation and
19 involvement of the public, all affected agencies and parties, and
20 the private sector in the preparation of the MMP.

21 (2) An MMP may include management plans for debris from
22 environmental damage, for debris from disasters, or for other
23 materials, such as construction or demolition waste, not otherwise
24 required to be covered by an MMP. A management plan for debris from
25 disasters in an MMP may include recommendations for incorporation
26 of disaster debris management plans into municipal, county, or
27 regional emergency management plans.

28 (3) If a solid waste landfill is proposed to be developed in
29 the planning area within 2 miles of a municipality that is located

1 adjacent to the planning area, or if a solid waste processing and
2 transfer facility or materials utilization facility is proposed to
3 be developed in the planning area within 1 mile of such a
4 municipality, **both** of the following apply:

5 (a) The CAA shall notify the legislative body of the adjacent
6 municipality of the proposed development in writing. The notice
7 shall include a copy of this subsection.

8 (b) The planning committee shall provide the adjacent
9 municipality an opportunity to comment on the proposed development.

10 Sec. 11579. (1) An MMP shall include a siting process with a
11 set of minimum criteria for the purposes of section 11585(3).

12 (2) A materials utilization facility need not be sited if the
13 CAA or DPA demonstrates to the department that the planning area
14 has available capacity sufficient to address the managed materials
15 identified by the MMP as being generated in the planning area.

16 (3) The siting process shall not include siting criteria that
17 are more restrictive than state law if a materials utilization
18 facility could not be developed anywhere in the planning area under
19 those criteria.

20 Sec. 11580. (1) In addition to the other requirements of part
21 115, if the county board of commissioners, municipalities, and
22 regional planning agency do not timely submit a notice of intent to
23 prepare an MMP and the department prepares an MMP as authorized
24 under section 11571, the MMP prepared by the department shall
25 comply with all of the following:

26 (a) Automatically find all materials utilization facilities or
27 solid waste processing and transfer facilities that are exempt from
28 permit and license requirements, that comply with local zoning
29 requirements, and that are identified in the MMP to be consistent

1 with the MMP.

2 (b) Not allow approval of additional solid waste landfill
3 disposal capacity unless the county board of commissioners has made
4 the demonstration required under section 11509(9).

5 (c) Require all haulers serving the planning area to provide
6 recycling access consistent with the access requirements of the
7 benchmark recycling standards.

8 (2) If the department prepares an MMP, the MMP need not
9 contain a requirement for a proposed materials management facility
10 to meet additional siting criteria or obtain host community
11 approval under section 11585(3)(c).

12 Sec. 11581. (1) In addition to the materials management
13 planning grants under section 11587, a municipality or county may
14 fund the implementation of an MMP through any of the following
15 methods, if applicable and to the extent authorized by the
16 mechanism:

17 (a) A millage under 1917 PA 298, MCL 123.261.

18 (b) A municipal utility service fee.

19 (c) Special assessments under 1957 PA 185, MCL 123.731 to
20 123.786; 1954 PA 188, MCL 41.721 to 41.738; or the township and
21 village public improvement and public service act, 1923 PA 116, MCL
22 41.411 to 41.419.

23 (d) A service provider franchise agreement.

24 (e) Hauler licensing fees.

25 (f) A voter-approved millage.

26 (g) A general fund appropriation.

27 (h) Supplemental fees for service.

28 (i) A surcharge under section 8a of the urban cooperation act
29 of 1967, 1967 (Ex Sess) PA 7, MCL 124.508a.

1 (j) A landfill surcharge.

2 (k) A flow control fee structure.

3 (l) Any other lawful mechanism.

4 (2) Appropriate uses for funding described in subsection (1)

5 may include, but are not limited to, the following:

6 (a) Recycling programs.

7 (b) Organic materials management.

8 (c) Education and outreach regarding recycling and materials
9 utilization.

10 (d) Relevant market development.

11 (e) Materials reduction and reuse initiatives.

12 Sec. 11582. (1) The CAA shall certify to the department the
13 CAA's progress toward meeting all components of its materials
14 management goals. The first certification shall be submitted by the
15 first June 30 that is more than 2 years after the department's
16 approval of the initial MMP or MMP amendment. Subsequent
17 certifications shall be submitted by June 30 every 2 years after
18 the first certification.

19 (2) If a county does not make progress toward meeting its
20 benchmark recycling standards and ultimately the municipal solid
21 waste recycling rate goal under section 11507, the county is
22 ineligible for assistance from the recycling access and voluntary
23 participation program under section 11550(9) until both of the
24 following requirements are met:

25 (a) The county adopts an ordinance or other enforceable
26 mechanism to ensure that any solid waste hauler providing curbside
27 solid waste hauling service also offers curbside recycling service
28 to dwellings of 4 or fewer units in the planning area.

29 (b) Any remaining deficiencies in a county's progress toward

1 meeting its materials management goals are addressed.

2 Sec. 11583. An ordinance, law, rule, regulation, policy, or
3 practice of a municipality, county, or governmental authority
4 created by statute **is not enforceable if any of the following**
5 **apply:**

6 (a) **It conflicts with part 115.**

7 (b) **It prohibits or regulates the location or development of a**
8 **materials management facility and is not part of or not consistent**
9 **with the materials management plan for the county.**

10 (c) It violates section 207 of the Michigan zoning enabling
11 act, 2006 PA 110, MCL 125.3207, with respect to a materials
12 management facility.

13 Sec. 11584. (1) A county, municipality, authority, or regional
14 planning agency that owns or operates a materials management
15 facility may adopt requirements controlling the flow of solid waste
16 or managed material to the materials management facility, to the
17 extent allowed by the interstate commerce clause, clause 3 of
18 section 8 of article I of the Constitution of the United States.

19 (2) The county board of commissioners may ensure that the
20 necessary materials management authorizations or fees or any other
21 regulatory ordinances or agreements needed to achieve the materials
22 management goals are in effect.

23 (3) The department shall do all of the following:

24 (a) Maintain a database for materials management facilities to
25 report to the department information, as determined by the
26 department, required under part 115.

27 (b) Provide materials management facilities with instructions
28 necessary to add information to the database.

29 (c) Provide CAAs access to information in the database.

1 Sec. 11585. (1) If a disposal area that does not require a
2 license or permit under part 115 or a materials utilization
3 facility is proposed to be located in a local unit of government
4 that has a zoning ordinance, the disposal area or materials
5 utilization facility is consistent with the MMP if it complies with
6 the zoning ordinance and the owner or operator of the proposed
7 disposal area or materials utilization facility presents
8 documentation to the department and the CAA from the local unit of
9 government exercising zoning authority demonstrating that the
10 disposal area complies with local zoning.

11 (2) A disposal area or materials utilization facility is
12 automatically consistent with the MMP if the specific facility or
13 type of facility is identified in the MMP as being automatically
14 consistent.

15 (3) A materials management facility that is not automatically
16 consistent with the MMP is considered consistent if, as determined
17 by the CAA or other entity specified by the MMP and by the
18 department, all of the following requirements are met:

19 (a) The MMP authorizes that type of materials management
20 facility to be sited by following the siting procedure and meeting
21 the minimum siting criteria included in the MMP under section
22 11579, or the facility is a captive type III landfill and both of
23 the following apply:

24 (i) The landfill accepts only waste generated by the owner or
25 operator of the landfill.

26 (ii) The landfill met local land use requirements when
27 initially sited.

28 (b) The materials management facility follows the siting
29 procedure and meets minimum siting criteria in the MMP.

1 (c) The materials management facility meets either of the
2 following requirements:

3 (i) Has host community approval.

4 (ii) Meets any supplemental siting criteria in the MMP for
5 materials management facilities that do not have host community
6 approval.

7 (4) The CAA or other entity specified by the MMP shall
8 promptly notify the owner or operator of the materials management
9 facility in writing of its determination under subsection (3)
10 whether the materials management facility is consistent with the
11 MMP.

12 (5) The department shall determine whether a materials
13 management facility is consistent with the MMP through an
14 independent evaluation as part of the review process for an
15 application for a registration, for approval under a general
16 permit, or for a construction permit or operating license. The
17 applicant for a permit for a materials management facility shall
18 include in the application documentation of the facility's
19 consistency with the MMP.

20 (6) A landfill, other than a captive type III landfill, or a
21 municipal solid waste incinerator need not be sited if the CAA
22 demonstrates to the department through its materials management
23 plan that the planning area has at least 66 months of available
24 solid waste disposal capacity.

25 (7) A captive facility that is an existing coal ash landfill
26 or existing coal ash impoundment is considered consistent with and
27 included in the MMP if the disposal area continues to accept waste
28 generated only by the owner of the disposal area and meets either
29 or both of the following requirements:

1 (a) Was issued a construction permit and licensed for
2 operation under this part.

3 (b) Met local land use law requirements when initially sited
4 or constructed.

5 (8) A coal ash impoundment permitted, licensed, or otherwise
6 in existence on the date of approval of the solid waste management
7 plan for the planning area where the coal ash impoundment is
8 located shall be considered to be consistent with the plan and
9 included in the plan.

10 Sec. 11586. (1) The state solid waste management plan consists
11 of the state solid waste plan and all MMPs approved by the
12 department.

13 (2) The department shall consult and assist in the preparation
14 and implementation of MMPs.

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

18 (4) The department shall promote policies that encourage
19 resource recovery and establishment of materials utilization
20 facilities.

21 Sec. 11587. (1) Subject to appropriations, a materials
22 management planning grant program is established to provide grants,
23 to be known as materials management planning grants, to county
24 boards of commissioners for the use of CAAs. If a county board of
25 commissioners is not the CAA, the county board of commissioners
26 shall make awarded grant money available to the CAA within 60 days
27 after receipt. The department may promulgate rules for the
28 implementation of the grant program. Grant funds shall be awarded
29 pursuant to a grant agreement. If the department prepares the MMP,

1 grant funds appropriated for local planning may be used by the
2 department for MMP preparation.

3 (2) Grants shall be used for administrative costs for
4 preparing, implementing, and maintaining an MMP, including, but not
5 limited to, the following:

6 (a) Development of a work program as described in subsection
7 (4) (b) and R 299.4704 and R 299.4705 of the MAC, including a prior
8 work program.

9 (b) Developing an initial MMP and amending the MMP.

10 (c) Ensuring public participation.

11 (d) Determining whether new materials management facilities
12 are consistent with the MMP.

13 (e) Collecting and submitting data for the database utilized
14 by the department for materials management facility reporting
15 purposes, and evaluating data in the database for the planning
16 area.

17 (f) Recycling education and outreach.

18 (g) Recycling and materials utilization programs.

19 (h) Preparation of required reports to the department.

20 (i) MMP implementation.

21 (j) Efforts to obtain support for the MMP and planning process
22 from local units of government.

23 (3) Materials management planning grants shall cover 100% of
24 eligible costs up to the authorized maximum amount as specified by
25 rule.

26 (4) Materials management planning grants shall be awarded
27 annually. To be eligible for grants in the first 3 years of the
28 grant program, the CAA must do both of the following:

29 (a) Submit a notice of intent to prepare an MMP under section

1 11571.

2 (b) Within 180 days after submitting the notice of intent to
3 prepare an MMP, submit to and obtain department approval of a work
4 program for preparing the MMP. The work program shall be prepared
5 by the DPA and reviewed and approved by the planning committee. The
6 work program shall describe the activities for developing and
7 implementing the MMP and associated costs to be covered by the
8 county and the grant.

9 (5) In each of the first 3 years of the grant program, the
10 amount of a grant shall equal the sum of the following:

11 (a) \$60,000.00 for each county in the planning area.

12 (b) An additional \$10,000.00 for each county in the planning
13 area if the planning area includes more than 1 county.

14 (c) Fifty cents for each resident of the planning area, up to
15 600,000 residents.

16 (6) To be eligible for grants in the fourth and subsequent
17 years of the grant program, the county must have an approved work
18 program under subsection (4) or an approved MMP. In the fourth and
19 subsequent years of the grant program, the amount of a grant to the
20 CAA shall equal the sum of the following, as applicable:

21 (a) \$60,000.00 for each county in the planning area.

22 (b) An additional \$10,000.00 for each county in the planning
23 area if the planning area includes more than 1 county and the CAAs
24 were responsible for preparing the MMP.

25 (7) A grantee under this section shall keep records, subject
26 to audit, documenting use of the grant for MMP development and
27 implementation.

28 (8) For the purpose of determining the number of counties in a
29 planning area under this section, the inclusion or exclusion of a

1 **municipality under section 11571(4) shall not be considered.**

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

4 Enacting section 2. This amendatory act does not take effect
5 unless all of the following bills of the 101st Legislature are
6 enacted into law:

- 7 (a) House Bill No. 4454.
- 8 (b) House Bill No. 4455.
- 9 (c) House Bill No. 4456.
- 10 (d) House Bill No. 4457.
- 11 (e) House Bill No. 4458.
- 12 (f) House Bill No. 4459.
- 13 (g) House Bill No. 4460.