

HOUSE BILL No. 4037

January 8, 1997, Introduced by Rep. Middaugh and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11502, 11504, 11506, 11507a, 11509, 11511, 11512, 11516, 11517, 11519, 11529, 11532, 11533, 11534, 11535, 11536, and 11538 (MCL 324.11502, 324.11504, 324.11506, 324.11507a, 324.11509, 324.11511, 324.11512, 324.11516, 324.11517, 324.11519, 324.11529, 324.11532, 324.11533, 324.11534, 324.11535, 324.11536, and 324.11538), sections 11502 and 11504 as amended and section 11507a as added by 1996 PA 359, section 11506 as amended by 1996 PA 392, and sections 11509, 11511, 11512, 11516, 11517, 11519, and 11529 as amended by 1996 PA 358, and by adding sections 11508a, 11511a, 11511b, 11511c, 11511d, 11531a, 11531b, 11534a, and 11551; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11502. (1) "Applicant" includes any person.

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

5 (3) "Bond" means a financial instrument executed on a form
6 approved by the department, including a surety bond from a surety
7 company authorized to transact business in this state, a certifi-
8 cate of deposit, a cash bond, an irrevocable letter of credit,
9 insurance, a trust fund, an escrow account, or a combination of
10 any of these instruments in favor of the department. The owner
11 or operator of a disposal area who is required to establish a
12 bond under other state or federal statute may petition the
13 department to allow such a bond to meet the requirements of this
14 part. The department shall approve a bond established under
15 other state or federal statute if the bond provides equivalent
16 funds and access by the department as other financial instruments
17 allowed by this subsection.

18 (4) "Certificate of deposit" means a negotiable certificate
19 of deposit held by a bank or other financial institution regu-
20 lated and examined by a state or federal agency, the value of
21 which is fully insured by an agency of the United States
22 government. A certificate of deposit used to fulfill the
23 requirements of this part shall be in the sole name of the
24 department with a maturity date of not less than 1 year and shall
25 be renewed not less than 60 days before the maturity date. An
26 applicant who uses a certificate of deposit as a bond shall

1 receive any accrued interest on that certificate of deposit upon
2 release of the bond by the department.

3 (5) "Certified health department" means a city, county, or
4 district department of health that is specifically delegated
5 authority by the department to perform designated activities as
6 prescribed by this part.

7 (6) "Coal or wood ash" means either or both of the
8 following:

9 (a) The residue remaining after the ignition of coal or
10 wood, or both, and may include noncombustible materials, other-
11 wise referred to as bottom ash.

12 (b) The airborne residues from burning coal or wood, or
13 both, that are finely divided particles entrained in flue gases
14 arising from a combustion chamber, otherwise referred to as fly
15 ash.

16 (7) "Collection center" means a tract of land, building,
17 unit, or appurtenance or combination thereof that is used to col-
18 lect junk motor vehicles and farm implements under section
19 11530.

20 (8) "COMMERCIAL TYPE III LANDFILL" MEANS A TYPE III LANDFILL
21 THAT ACCEPTS WASTE GENERATED BY PERSONS OTHER THAN THE OWNER OF
22 THE LANDFILL.

23 (9) ~~-(8)-~~ "Consistency review" means evaluation of the
24 administrative and technical components of an application for a
25 permit, license, or for operating conditions in the course of
26 inspection, for the purpose of determining consistency with the

1 requirements of this part, rules promulgated under this part, and
2 approved plans and specifications.

3 (10) ~~(9)~~ "Corrective action" means the investigation,
4 assessment, cleanup, removal, containment, isolation, treatment,
5 or monitoring of constituents, as defined in a facility's
6 approved hydrogeological monitoring plan, released into the envi-
7 ronment from a disposal area, or the taking of other actions
8 related to the release as may be necessary to prevent, minimize,
9 or mitigate injury to the public health, safety, or welfare, the
10 environment, or natural resources that is consistent with subti-
11 tle D of the solid waste disposal act, title II of Public Law
12 89-272, 42 U.S.C. 6941 and 6942 to 6949a or regulations promul-
13 gated pursuant to that act.

14 Sec. 11504. (1) "Health officer" means a full-time adminis-
15 trative officer of a certified city, county, or district depart-
16 ment of health.

17 (2) "HOST COMMUNITY" MEANS EITHER OF THE FOLLOWING:

18 (A) FOR PURPOSES OF A HOST COMMUNITY AGREEMENT ENTERED INTO
19 BEFORE THE EFFECTIVE DATE OF THE 1997 AMENDMENTS TO THIS SECTION,
20 THE COUNTY OR MUNICIPALITY IN WHICH THE LANDFILL OR INCINERATOR
21 IS LOCATED.

22 (B) SUBJECT TO SUBSECTION (3), FOR PURPOSES OF A HOST COMMU-
23 NITY AGREEMENT ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THE
24 1997 AMENDMENTS TO THIS SECTION, 1 OF THE FOLLOWING:

25 (i) THE CITY OR VILLAGE IN WHICH A MUNICIPAL SOLID WASTE
26 LANDFILL OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS
27 PROPOSED TO BE LOCATED IF THAT CITY OR VILLAGE HAS ADOPTED ZONING

1 ORDINANCES PURSUANT TO 1921 PA 207, MCL 125.581 TO 125.592, FOR
2 DEVELOPMENTS OTHER THAN THOSE REGULATED BY THIS PART.

3 (ii) THE TOWNSHIP IN WHICH A MUNICIPAL SOLID WASTE LANDFILL
4 OR COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PROPOSED TO BE
5 LOCATED IF THAT TOWNSHIP HAS ADOPTED A ZONING ORDINANCE PURSUANT
6 TO THE TOWNSHIP RURAL ZONING ACT, 1943 PA 184, MCL 125.271 TO
7 125.301, AND THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL
8 TYPE III LANDFILL OR INCINERATOR IS NOT PROPOSED TO BE LOCATED IN
9 A VILLAGE THAT HAS ADOPTED A ZONING ORDINANCE PURSUANT TO 1921 PA
10 207, MCL 125.581 TO 125.592, FOR DEVELOPMENTS OTHER THAN THOSE
11 REGULATED BY THIS PART.

12 (iii) THE COUNTY IN WHICH A MUNICIPAL SOLID WASTE LANDFILL
13 OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR IS PROPOSED TO
14 BE LOCATED IF THE MUNICIPAL SOLID WASTE LANDFILL, COMMERCIAL
15 TYPE III LANDFILL, OR INCINERATOR IS NOT PROPOSED TO BE LOCATED
16 IN A MUNICIPALITY DESCRIBED IN SUBDIVISION (A) OR (B).

17 (3) FOR PURPOSES OF SUBSECTION (2), IF A MUNICIPAL SOLID
18 WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL OR INCINERATOR
19 IS LOCATED IN MORE THAN 1 MUNICIPALITY OR COUNTY, "HOST
20 COMMUNITY" MEANS ALL SUCH MUNICIPALITIES OR COUNTIES ACTING AS 1
21 ENTITY THROUGH AN INTERLOCAL AGREEMENT UNDER THE URBAN COOPERA-
22 TION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, OR
23 A CONTRACT UNDER 1967 (EX SESS) PA 8, MCL 124.531 TO 124.536, FOR
24 THE EXERCISE OF THE POWERS AND PERFORMANCE OF THE DUTIES UNDER
25 THIS PART WITH EACH OTHER SUCH COUNTY OR MUNICIPALITY.

26 (4) "HOST COMMUNITY AGREEMENT" MEANS A WRITTEN, LEGALLY
27 ENFORCEABLE DOCUMENT OR DOCUMENTS EXECUTED BY AUTHORIZED

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1 OFFICIALS OF THE HOST COMMUNITY THAT GOVERNS ANY OPERATION OF A
2 LANDFILL OR INCINERATOR OR THE LOCATION OF A LANDFILL OR INCINER-
3 ATOR, OR BOTH.

4 (5) ~~-(2)-~~ "Inert material" means a substance that will not
5 decompose, dissolve, or in any other way form a contaminated
6 leachate upon contact with water, or other liquids determined by
7 the department as likely to be found at the disposal area, perco-
8 lating through the substance.

9 (6) ~~-(3)-~~ "Insurance" means insurance that conforms to the
10 requirements of 40 C.F.R. 258.74(d) provided by an insurer who
11 has a certificate of authority from the Michigan commissioner of
12 insurance to sell this line of coverage. An applicant for an
13 operating license shall submit evidence of the required coverage
14 by submitting both of the following to the department:

15 (a) A certificate of insurance that uses wording approved by
16 the department.

17 (b) A certified true and complete copy of the insurance
18 policy.

19 (7) ~~-(4)-~~ "Landfill" means a disposal area that is a sani-
20 tary landfill.

21 (8) ~~-(5)-~~ "Letter of credit" means an irrevocable letter of
22 credit that complies with 40 C.F.R. 258.74(c).

23 (9) ~~-(6)-~~ "Medical waste" means that term as it is defined
24 in part 138 of the public health code, ~~Act No. 378 of the Public~~
25 ~~Acts of 1978, being sections 333.13801 to 333.13831 of the~~
26 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.13801 TO 333.13831.

1 (10) ~~-(7)-~~ "Municipal solid waste incinerator" means an
2 incinerator that is owned or operated by any person, and meets
3 all of the following requirements:

4 (a) The incinerator receives solid waste from off site and
5 burns only household waste from single and multiple dwellings,
6 hotels, motels, and other residential sources, or this household
7 waste together with solid waste from commercial, institutional,
8 municipal, county, or industrial sources that, if disposed of,
9 would not be required to be placed in a disposal facility
10 licensed under part 111.

11 (b) The incinerator has established contractual requirements
12 or other notification or inspection procedures sufficient to
13 assure that the incinerator receives and burns only waste
14 referred to in subdivision (a).

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

17 (d) The incinerator is not an industrial furnace as defined
18 in 40 C.F.R. 260.10.

19 (e) The incinerator is not an incinerator that receives and
20 burns only medical waste or only waste produced at 1 or more
21 hospitals.

22 (11) ~~-(8)-~~ "Municipal solid waste incinerator ash" means the
23 substances remaining after combustion in a municipal solid waste
24 incinerator.

25 (12) "MUNICIPAL SOLID WASTE LANDFILL" OR "TYPE II LANDFILL"
26 MEANS A LANDFILL WHICH RECEIVES HOUSEHOLD WASTE, MUNICIPAL SOLID
27 WASTE INCINERATOR ASH, OR SEWAGE SLUDGE AND WHICH IS NOT A LAND

1 APPLICATION UNIT, SURFACE IMPOUNDMENT, INJECTION WELL, OR WASTE
2 PILE. A MUNICIPAL SOLID WASTE LANDFILL MAY ALSO RECEIVE OTHER
3 TYPES OF SOLID WASTE, SUCH AS COMMERCIAL WASTE, NONHAZARDOUS
4 SLUDGE, CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR WASTE, AND
5 INDUSTRIAL WASTE. A MUNICIPAL SOLID WASTE LANDFILL MAY BE PUB-
6 LICLY OR PRIVATELY OWNED.

7 (13) ~~(9)~~ "Perpetual care fund" means a perpetual care fund
8 provided for in section 11525.

9 ~~(10) "Trust fund" means a trust fund held by a trustee~~
10 ~~which has the authority to act as a trustee and whose trust oper-~~
11 ~~ations are regulated and examined by a federal or state agency.~~
12 ~~A trust fund shall comply with section 11523b.~~

13 Sec. 11506. (1) "Solid waste" means garbage, rubbish,
14 ashes, incinerator ash, incinerator residue, street cleanings,
15 municipal and industrial sludges, solid commercial and solid
16 industrial waste, and animal waste other than organic waste gen-
17 erated in the production of livestock and poultry. Solid waste
18 does not include the following:

19 (a) Human body waste.

20 (b) Medical waste as it is defined in part 138 of the public
21 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~
22 ~~tions 333.13801 to 333.13831 of the Michigan Compiled Laws, 1978~~
23 ~~PA 368, MCL 333.13801 TO 333.13831, and regulated under part 138~~
24 ~~of Act No. 368 of the Public Acts of 1978~~ THE PUBLIC HEALTH
25 CODE, 1978 PA 368, MCL 333.13801 TO 333.13831, and part 55.

26 (c) Organic waste generated in the production of livestock
27 and poultry.

1 (d) Liquid waste.

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

4 (f) Slag or slag products directed to a slag processor or to
5 a reuser of slag or slag products.

6 (g) Sludges and ashes managed as recycled, or nondetrimental
7 materials appropriate for agricultural or silvicultural use pur-
8 suant to a plan approved by the department. A by-product from
9 the processing of or a residual from fruits, vegetables, sugar
10 beets, or field crops; wood ashes resulting solely from a source
11 that burns only wood that is untreated and inert; lime from kraft
12 pulping processes generated prior to bleaching; or aquatic plants
13 may be applied on farmland for an agricultural or silvicultural
14 purpose, or used as animal feed, as appropriate, and such an
15 application or use does not require a plan described in this sub-
16 division or a permit or license under this part. In addition,
17 source separated materials approved by the department for land
18 application for agricultural and silvicultural purposes and com-
19 post produced from those materials may be applied to the land for
20 agricultural and silvicultural purposes and such an application
21 does not require a plan described in this subdivision or permit
22 or license under this part. Land application authorized under
23 this subdivision for an agricultural or silvicultural purpose, or
24 use as animal feed, as provided for in this subdivision shall
25 occur in a manner that prevents losses from runoff and leaching,
26 and if applied to land, the land application shall be at an
27 agronomic rate consistent with generally accepted agricultural

1 and management practices under the right to farm act, ~~Act No. 93~~
2 ~~of the Public Acts of 1981, being sections 286.471 to 286.474 of~~
3 ~~the Michigan Compiled Laws~~ 1981 PA 93, MCL 286.471 TO 286.474.

4 (h) Materials approved for emergency disposal by the
5 department.

6 (i) Source separated materials.

7 (j) Site separated material.

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

10 (i) With a maximum of 6% of unburned carbon as a component
11 of concrete, grout, mortar, or casting molds.

12 (ii) With a maximum of 12% unburned carbon passing
13 M.D.O.T. test method MTM 101 when used as a raw material in
14 asphalt for road construction.

15 (iii) As aggregate, road, or building material which in
16 ultimate use will be stabilized or bonded by cement, limes, or
17 asphalt.

18 (iv) As a road base or construction fill that is covered
19 with asphalt, concrete, or other material approved by the depart-
20 ment and which is placed at least 4 feet above the seasonal
21 groundwater table.

22 (v) As the sole material in a depository designed to
23 reclaim, develop, or otherwise enhance land, subject to the
24 approval of the department. In evaluating the site, the depart-
25 ment shall consider the physical and chemical properties of the
26 ash including leachability, and the engineering of the
27 depository, including, but not limited to, the compaction,

1 control of surface water and groundwater that may threaten to
2 infiltrate the site, and evidence that the depository is designed
3 to prevent water percolation through the material.

4 (1) Other wastes regulated by statute.

5 (2) "Solid waste hauler" means a person who owns or operates
6 a solid waste transporting unit.

7 (3) "Solid waste processing plant" means a tract of land,
8 building, unit, or appurtenance of a building or unit or a combi-
9 nation of land, buildings, and units that is used or intended for
10 use for the processing of solid waste or the separation of mate-
11 rial for salvage or disposal, or both, but does not include a
12 plant engaged primarily in the acquisition, processing, and ship-
13 ment of ferrous or nonferrous metal scrap, or a plant engaged
14 primarily in the acquisition, processing, and shipment of slag or
15 slag products.

16 (4) "Solid waste transporting unit" means a container that
17 may be an integral part of a truck or other piece of equipment
18 used for the transportation of solid waste.

19 (5) "Solid waste transfer facility" means a tract of land, a
20 building and any appurtenances, or a container, or any combina-
21 tion of land, buildings, or containers that is used or intended
22 for use in the rehandling or storage of solid waste incidental to
23 the transportation of the solid waste, but is not located at the
24 site of generation or the site of disposal of the solid waste.

25 (6) "Source separated material" means glass, metal, wood,
26 paper products, plastics, rubber, textiles, garbage, yard
27 clippings, or any other material approved by the department that

1 is separated at the source of generation for the purpose of
2 conversion into raw materials or new products.

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

7 (8) "TYPE III LANDFILL" MEANS A LANDFILL THAT IS NOT A
8 MUNICIPAL SOLID WASTE LANDFILL OR HAZARDOUS WASTE LANDFILL AND
9 INCLUDES BOTH OF THE FOLLOWING:

10 (A) CONSTRUCTION AND DEMOLITION WASTE LANDFILLS.

11 (B) INDUSTRIAL WASTE LANDFILLS.

12 (9) ~~(7)~~ "Yard clippings" means leaves, grass clippings,
13 vegetable or other garden debris, shrubbery, or brush or tree
14 trimmings, less than 4 feet in length and 2 inches in diameter,
15 that can be converted to compost humus. Yard clippings do not
16 include stumps, agricultural wastes, animal waste, roots, sewage
17 sludge, or garbage.

18 Sec. 11507a. (1) The owner or operator of a landfill shall
19 annually submit a report to the state and the county and municipi-
20 pality in which the landfill is located that contains information
21 on the amount of solid waste received by the landfill during the
22 year itemized, to the extent possible, by county, state, or coun-
23 try of origin.

24 (2) By September 1, 1996, the department shall develop and
25 submit to the legislature a plan to gather data on the amount of
26 recyclable materials recovered in the state itemized, to the
27 extent possible, by county, state, or country of origin.

1 (3) BY SEPTEMBER 1, 1997, THE DEPARTMENT SHALL SUBMIT TO THE
2 LEGISLATURE A REPORT THAT CATEGORIZES THE AMOUNT OF SOLID WASTE
3 RECEIVED BY LANDFILLS IN THE STATE ITEMIZED BY STATE OR COUNTRY
4 OF ORIGIN AND CALCULATES THE PERCENTAGE OF SOLID WASTE THAT IS
5 DISPOSED OF ON THE BASIS OF IN-STATE AND OUT-OF-STATE GENERATION.

6 SEC. 11508A. AN ORDINANCE, LAW, RULE, REGULATION, POLICY,
7 SOLID WASTE MANAGEMENT PLAN, OR PRACTICE OF A MUNICIPALITY,
8 COUNTY, OR OTHER LOCAL UNIT OF GOVERNMENT THAT PROHIBITS OR REGU-
9 LATES THE LOCATION, DEVELOPMENT, OR OPERATION OF A SOLID WASTE
10 DISPOSAL AREA SHALL BE CONSIDERED IN CONFLICT WITH THIS PART AND
11 SHALL NOT BE ENFORCEABLE. THIS SECTION DOES NOT APPLY TO ANY OF
12 THE FOLLOWING:

13 (A) THE CONDITIONS OF SITING APPLICABLE TO A MUNICIPAL SOLID
14 WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL UNDER SECTION
15 11511B(1)(B).

16 (B) THE DISPOSAL AREA SITING CRITERIA APPLICABLE TO A MUNIC-
17 IPAL SOLID WASTE LANDFILL OR A COMMERCIAL TYPE III LANDFILL UNDER
18 SECTION 11511B(1)(C).

19 (C) HOST COMMUNITY AGREEMENTS.

20 Sec. 11509. (1) Except as otherwise provided in section
21 11529, a person otherwise allowed under this part to own or oper-
22 ate a solid waste disposal area shall not establish a disposal
23 area without a construction permit from the department, ~~contrary~~
24 ~~to an approved solid waste management plan,~~ or contrary to a
25 permit, license, or final order issued pursuant to this part. IF
26 THE DISPOSAL AREA IS A MUNICIPAL SOLID WASTE LANDFILL OR A
27 COMMERCIAL TYPE III LANDFILL, OR AN INCINERATOR, THE DEPARTMENT

1 SHALL NOT ISSUE A CONSTRUCTION PERMIT FOR THAT LANDFILL OR
2 INCINERATOR UNLESS THE APPLICANT IS IN COMPLIANCE WITH SECTIONS
3 11511A, 11511B, AND 11511C. A person proposing the establishment
4 of a disposal area shall apply for a construction permit to the
5 department through the health officer on a form provided by the
6 department. If the disposal area is located in a county or city
7 that does not have a certified health department, the application
8 shall be made directly to the department.

9 (2) The application for a construction permit shall contain
10 the name and residence of the applicant, the location of the pro-
11 posed disposal area, the INITIAL design capacity of the disposal
12 area, A COPY OF THE HOST COMMUNITY AGREEMENT, IF APPLICABLE, and
13 other information specified by rule. A person may apply to con-
14 struct more than 1 type of disposal area at the same facility
15 under a single permit. The application shall be accompanied by
16 an engineering plan and a construction permit application fee. A
17 construction application permit for a landfill shall be accom-
18 panied by a fee in an amount that is the sum of all of the appli-
19 cable fees in this subsection:

20 (a) For a new sanitary landfill, a fee equal to the follow-
21 ing amount:

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

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

24 (iii) For a type III landfill limited to low hazard indus-
25 trial waste, \$750.00.

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

- 1 (i) For a municipal solid waste landfill, \$1,000.00.
- 2 (ii) For an industrial waste landfill, \$750.00.
- 3 (iii) For a type III landfill limited to low hazard indus-
4 trial waste, construction and demolition waste, or other nonin-
5 dustrial waste, \$500.00.
- 6 (c) For a vertical expansion of an existing sanitary land-
7 fill, a fee equal to the following amount:
- 8 (i) For a municipal solid waste landfill, \$750.00.
- 9 (ii) For an industrial waste landfill, \$500.00.
- 10 (iii) For an industrial waste landfill limited to low hazard
11 industrial waste, construction and demolition waste, or other
12 nonindustrial waste, \$250.00.
- 13 (3) The application for a construction permit for a solid
14 waste transfer facility, a solid waste processing plant, other
15 disposal area, or a combination of these, shall be accompanied by
16 a fee in the following amount:
- 17 (a) For a new facility for municipal solid waste, or a com-
18 bination of municipal solid waste and waste listed in subdivision
19 (b), \$1,000.00.
- 20 (b) For a new facility for industrial waste, or construction
21 and demolition waste, \$500.00.
- 22 (c) For the expansion of an existing facility for any type
23 of waste, \$250.00.
- 24 (4) If an application is returned to the applicant as admin-
25 istratively incomplete, the department shall refund the entire
26 fee. If a permit is denied or an application is withdrawn, the
27 department shall refund 1/2 the amount specified in subsection

1 (3) to the applicant. An applicant for a construction permit,
2 within 12 months after a permit denial or withdrawal, may resub-
3 mit the application and the refunded portion of the fee, together
4 with the additional information as needed to address the reasons
5 for denial, without being required to pay an additional applica-
6 tion fee.

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

13 (6) A person who applies to permit more than 1 type of dis-
14 posal area at the same facility shall pay a fee equal to the sum
15 of the applicable fees listed in this section.

16 (7) The department shall deposit permit application fees
17 collected under this section in the solid waste staff account of
18 the solid waste management fund established in section 11550.

19 Sec. 11511. (1) The department shall make a final decision
20 as to whether to issue a construction permit within 120 days
21 after the department receives an administratively complete
22 application. The decision of the department and the reasons for
23 the decision shall be in writing with specific reference to this
24 part or rules promulgated under this part for any substantiation
25 of denial of the permit application and shall be sent by
26 first-class mail to the clerk of the municipality in which the
27 disposal area is proposed to be located and to the applicant

1 within 10 days after the final decision is made. If the
2 department fails to make a final decision within 120 days, the
3 permit shall be considered issued.

4 (2) A construction permit shall expire 1 year after the date
5 of issuance, unless development under the construction permit is
6 initiated within that year. A construction permit that has
7 expired may be renewed upon payment of a permit renewal fee and
8 submission of any additional information the department may
9 require.

10 ~~(3) Except as otherwise provided in this subsection, the~~
11 ~~department shall not issue a construction permit for a disposal~~
12 ~~area within a planning area unless a solid waste management plan~~
13 ~~for that planning area has been approved pursuant to sections~~
14 ~~11536 and 11537 and unless the disposal area complies with and is~~
15 ~~consistent with the approved solid waste management plan. The~~
16 ~~department may issue a construction permit for a disposal area~~
17 ~~designed to receive ashes produced in connection with the combus-~~
18 ~~tion of fossil fuels for electrical power generation in the~~
19 ~~absence of an approved county solid waste management plan, upon~~
20 ~~receipt of a letter of approval from whichever county or coun-~~
21 ~~ties, group of municipalities, or regional planning agency has~~
22 ~~prepared or is preparing the county solid waste management plan~~
23 ~~for that planning area under section 11533 and from the munici-~~
24 ~~pality in which the disposal area is to be located.~~

25 SEC. 11511A. (1) EXCEPT AS PROVIDED IN SECTION 11511C, THE
26 DEPARTMENT SHALL NOT ISSUE A CONSTRUCTION PERMIT UNDER THIS PART
27 FOR A NEW MUNICIPAL SOLID WASTE LANDFILL OR A NEW COMMERCIAL TYPE

1 III LANDFILL OR A NEW INCINERATOR UNLESS THE PERSON PROPOSING TO
2 CONSTRUCT THE LANDFILL OR INCINERATOR HAS ENTERED INTO A HOST
3 COMMUNITY AGREEMENT WITH THE HOST COMMUNITY AND THE HOST COMMU-
4 NITY AGREEMENT IS APPROVED PURSUANT TO SUBSECTION (3).

5 (2) WHEN A HOST COMMUNITY IS NEGOTIATING A HOST COMMUNITY
6 AGREEMENT, THE HOST COMMUNITY SHALL TAKE THE SOLID WASTE MANAGE-
7 MENT PLAN FOR THAT JURISDICTION INTO CONSIDERATION.

8 (3) IF A HOST COMMUNITY ENTERS INTO A HOST COMMUNITY AGREE-
9 MENT PURSUANT TO THIS SECTION, THE HOST COMMUNITY SHALL FORWARD A
10 COPY OF THE HOST COMMUNITY AGREEMENT TO THE COUNTY BOARD OF COM-
11 MISSIONERS OF THE COUNTY IN WHICH THE HOST COMMUNITY IS LOCATED.
12 WITHIN 90 DAYS OF RECEIPT OF THE HOST COMMUNITY AGREEMENT, THE
13 COUNTY BOARD OF COMMISSIONERS SHALL VOTE TO APPROVE OR DISAPPROVE
14 THE HOST COMMUNITY AGREEMENT. UNLESS A MAJORITY OF THE MEMBERS
15 OF THE COUNTY BOARD OF COMMISSIONERS DISAPPROVE THE HOST COMMU-
16 NITY AGREEMENT WITHIN THE 90-DAY TIME PERIOD, IT IS APPROVED. IF
17 THE COUNTY BOARD OF COMMISSIONERS DISAPPROVES THE HOST COMMUNITY
18 AGREEMENT, THE BOARD SHALL SUBMIT ITS OBJECTIONS TO THE HOST COM-
19 MUNITY WITHIN 30 DAYS FOLLOWING ITS DISAPPROVAL OF THE HOST COM-
20 MUNITY AGREEMENT. UPON RECEIPT OF THE BOARD'S OBJECTIONS, THE
21 MUNICIPALITY MAY ATTEMPT TO NEGOTIATE WITH THE PERSON PROPOSING
22 TO CONSTRUCT THE LANDFILL OR INCINERATOR TO ADDRESS THOSE OBJEC-
23 TIONS WITHIN THE HOST COMMUNITY AGREEMENT. THE MUNICIPALITY
24 SHALL EITHER RESUBMIT A MODIFIED HOST COMMUNITY AGREEMENT FOR
25 REVIEW BY THE COUNTY BOARD OF COMMISSIONERS OR NOTIFY THE BOARD
26 THAT IT INTENDS TO PURSUE THE PREVIOUSLY SUBMITTED HOST COMMUNITY
27 AGREEMENT. UNLESS WITHIN 90 DAYS AFTER SUBMITTAL OF THE MODIFIED

1 HOST COMMUNITY AGREEMENT OR THE NOTIFICATION THAT IT INTENDS TO
2 PURSUE THE PREVIOUSLY SUBMITTED HOST COMMUNITY AGREEMENT, THE
3 LEGISLATIVE BODIES OF 2/3 OF THE MUNICIPALITIES WITHIN THE COUNTY
4 ADOPT RESOLUTIONS OBJECTING TO THE HOST COMMUNITY AGREEMENT, THE
5 HOST COMMUNITY AGREEMENT IS APPROVED.

6 (4) AS USED IN THIS SECTION:

7 (A) "NEW INCINERATOR" MEANS AN INCINERATOR THAT ON THE
8 EFFECTIVE DATE OF THIS SECTION DOES NOT HAVE A PERMIT UNDER PART
9 55 AND WILL ACCEPT MUNICIPAL SOLID WASTE.

10 (B) "NEW MUNICIPAL SOLID WASTE LANDFILL OR NEW COMMERCIAL
11 TYPE III LANDFILL" MEANS A LANDFILL THAT IS NOT CONTIGUOUS TO THE
12 ACREAGE SITED, IDENTIFIED, RECOGNIZED IN, OR OTHERWISE CONSISTENT
13 WITH A SOLID WASTE MANAGEMENT PLAN IN EFFECT IMMEDIATELY BEFORE
14 THE EFFECTIVE DATE OF THIS SECTION FOR A MUNICIPAL SOLID WASTE
15 LANDFILL OR A COMMERCIAL TYPE III LANDFILL.

16 SEC. 11511B. (1) EACH MUNICIPAL SOLID WASTE LANDFILL AND
17 COMMERCIAL TYPE III LANDFILL IN THE STATE THAT IS LICENSED UNDER
18 THIS PART ON THE EFFECTIVE DATE OF THIS SECTION MAY CONTINUE TO
19 OPERATE WITHIN ITS SITED ACREAGE, SUBJECT TO THE FOLLOWING:

20 (A) IF, BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
21 OR OPERATOR OF A MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL
22 TYPE III LANDFILL ENTERED INTO A HOST COMMUNITY AGREEMENT WITH
23 THE MUNICIPALITY OR COUNTY IN WHICH THE LANDFILL IS LOCATED, THE
24 LANDFILL SHALL OPERATE SUBJECT TO THAT HOST COMMUNITY AGREEMENT.
25 NOTHING IN THIS PART VOIDS, MODIFIES, OR OTHERWISE INTERFERES
26 WITH A HOST COMMUNITY AGREEMENT ENTERED INTO BEFORE THE EFFECTIVE
27 DATE OF THIS SECTION AND WHICH HAS NOT EXPIRED.

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1 (B) IF, BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
2 OR OPERATOR OF THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL
3 TYPE III LANDFILL ENTERED INTO A HOST COMMUNITY AGREEMENT WITH
4 THE MUNICIPALITY OR COUNTY IN WHICH THE DISPOSAL AREA IS LOCATED
5 BUT THE HOST COMMUNITY AGREEMENT HAS EXPIRED, THE LANDFILL SHALL
6 OPERATE SUBJECT TO ANY CONDITIONS OF SITING. HOWEVER, IF THE
7 OWNER OR OPERATOR OF THE MUNICIPAL SOLID WASTE LANDFILL OR COM-
8 Mercial TYPE III LANDFILL ENTERS INTO A NEW HOST COMMUNITY AGREE-
9 MENT WITH EITHER THE MUNICIPALITY OR COUNTY IN WHICH THE DISPOSAL
10 AREA IS LOCATED REGARDING OPERATIONS AT THAT LANDFILL, THE LAND-
11 FILL SHALL OPERATE UNDER THE TERMS OF THAT NEW HOST COMMUNITY
12 AGREEMENT.

13 (C) IF, BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE OWNER
14 OR OPERATOR OF THE MUNICIPAL SOLID WASTE LANDFILL OR COMMERCIAL
15 TYPE III LANDFILL HAS NOT ENTERED INTO A HOST COMMUNITY AGREEMENT
16 WITH THE MUNICIPALITY OR COUNTY IN WHICH THE DISPOSAL AREA IS
17 LOCATED, THE LANDFILL SHALL CONTINUE TO OPERATE SUBJECT TO CRI-
18 TERIA WHICH MEETS ALL OF THE FOLLOWING REQUIREMENTS:

19 (i) THE CRITERIA ARE CONTAINED IN A SOLID WASTE MANAGEMENT
20 PLAN IN EFFECT AT THE TIME OF THE INITIAL SITING OF THE LANDFILL
21 OR IN EFFECT IMMEDIATELY BEFORE THE EFFECTIVE DATE OF THIS SEC-
22 TION, WHICHEVER ARE LESS RESTRICTIVE.

23 (ii) THE CRITERIA WERE SUBJECT TO THE ENFORCEABLE MECHANISM
24 ASSOCIATED WITH THAT SOLID WASTE MANAGEMENT PLAN.

25 (iii) THE CRITERIA RELATE TO THE DEVELOPMENT OR OPERATION OF
26 THE LANDFILL, EXCLUDING CRITERIA RELATING TO THE FLOW OF SOLID
27 WASTE.

1 (2) NOT MORE THAN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS
2 SECTION, THE OWNER OF EACH MUNICIPAL SOLID WASTE LANDFILL OR COM-
3 MERCIAL TYPE III LANDFILL SHALL SUBMIT A STATEMENT DESCRIBING ALL
4 CONTIGUOUS PROPERTY OWNED BY THE OWNER OF THE LANDFILL OR A SUB-
5 SIDIARY, PARENT, OR AN AFFILIATE OF THE OWNER. THE OWNER OF THE
6 LANDFILL SHALL SUBMIT THE STATEMENT TO EACH COUNTY AND MUNICIPAL-
7 ITY IN WHICH EITHER THE LANDFILL OR CONTIGUOUS PROPERTY IS
8 LOCATED. THE STATEMENT SHALL DESCRIBE THE PROPERTY BY PARCEL OR
9 LOT NUMBER OR METES AND BOUNDS DESCRIPTION, AND IDENTIFY THE
10 OWNER OR OWNERS OF RECORD.

11 (3) A MUNICIPAL SOLID WASTE LANDFILL OR A COMMERCIAL
12 TYPE III LANDFILL SHALL NOT EXPAND BEYOND ITS SITED ACREAGE ONTO
13 CONTIGUOUS PROPERTY UNLESS THE EXPANSION COMPLIES WITH THIS PART
14 AND THE RULES PROMULGATED UNDER THIS PART INCLUDING REQUIREMENTS
15 OF OBTAINING NECESSARY CONSTRUCTION PERMITS AND OPERATING
16 LICENSES, AND EITHER OF THE FOLLOWING APPLIES:

17 (A) A HOST COMMUNITY AGREEMENT COVERING THE EXPANSION IS
18 REACHED BETWEEN THE HOST COMMUNITY AND THE OWNER OR OPERATOR OF
19 THE MUNICIPAL SOLID WASTE LANDFILL OR THE COMMERCIAL TYPE III
20 LANDFILL.

21 (B) PERMITTED CAPACITY OF THE REGION DESCRIBED IN
22 SECTION 11511C IN WHICH THE EXPANSION IS LOCATED IS LESS THAN 9
23 YEARS.

24 (4) IF THE CONDITION OF SUBSECTION(3)(B) IS MET AND IF THE
25 OWNER OR OPERATOR OF A MUNICIPAL SOLID WASTE LANDFILL OR A COM-
26 MERCIAL TYPE III LANDFILL IS UNABLE TO REACH AN AGREEMENT WITH
27 THE HOST COMMUNITY REGARDING A HOST COMMUNITY AGREEMENT WITHIN 90

1 DAYS AFTER A SUBMITTAL OF AN INITIAL OFFER, THE OWNER OR OPERATOR
2 MAY SUBMIT A WRITTEN REQUEST TO INITIATE ARBITRATION UNDER THIS
3 SECTION TO THE HOST COMMUNITY.

4 (5) AN ARBITRATION PANEL CONVENED TO DETERMINE THE TERMS OF
5 A HOST COMMUNITY AGREEMENT PURSUANT TO SUBSECTION (4) SHALL CON-
6 SIST OF 3 ARBITRATORS. ONE ARBITRATOR SHALL BE SELECTED BY THE
7 HOST COMMUNITY. ONE ARBITRATOR SHALL BE SELECTED BY THE OWNER OR
8 OPERATOR OF THE LANDFILL. ONE ARBITRATOR SHALL BE JOINTLY
9 SELECTED BY THE OWNER OR OPERATOR OF THE LANDFILL AND THE HOST
10 COMMUNITY. IF THE OWNER OR OPERATOR FAILS TO NOTIFY THE HOST
11 COMMUNITY OF THE OWNER'S OR OPERATOR'S SELECTION OF AN ARBITRATOR
12 WITHIN 30 DAYS AFTER SUBMITTING A WRITTEN REQUEST TO INITIATE
13 ARBITRATION TO THE HOST COMMUNITY, THE DIRECTOR SHALL SELECT AN
14 ARBITRATOR FOR THE OWNER OR OPERATOR FROM A LIST OF ARBITRATORS
15 PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION. IF THE HOST
16 COMMUNITY FAILS TO NOTIFY THE OWNER OR OPERATOR OF THE HOST
17 COMMUNITY'S SELECTION OF AN ARBITRATOR WITHIN 30 DAYS AFTER
18 RECEIVING THE WRITTEN REQUEST TO INITIATE ARBITRATION, THE DIREC-
19 TOR SHALL SELECT AN ARBITRATOR FOR THE HOST COMMUNITY FROM A LIST
20 OF ARBITRATORS PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.
21 IF THE PARTIES ARE UNABLE TO AGREE TO JOINTLY SELECT THE THIRD
22 ARBITRATOR, THE DIRECTOR SHALL SELECT AN ARBITRATOR FROM A LIST
23 OF ARBITRATORS PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.
24 (6) THE ARBITRATION PANEL SHALL BE CONVENED WITHIN 60 DAYS
25 AFTER RECEIPT OF THE REQUEST TO INITIATE ARBITRATION BY THE HOST
26 COMMUNITY. WITHIN 7 DAYS AFTER CONVENING, THE ARBITRATION PANEL
27 SHALL DO 1 OF THE FOLLOWING:

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1 (A) ORDER THE PARTIES TO CONTINUE NEGOTIATING FOR A PERIOD
2 NOT TO EXCEED 30 DAYS AFTER THE DATE OF THE ORDER IF, IN THE
3 JUDGMENT OF THE PANEL, ARBITRATION CAN BE AVOIDED BY THE NEGOTIA-
4 TION OF ANY REMAINING ISSUES. IF THE PANEL ORDERS THE PARTIES TO
5 CONTINUE NEGOTIATIONS, THE REQUEST TO INITIATE ARBITRATION MAY BE
6 RESUBMITTED UPON EXPIRATION OF THE NEGOTIATION PERIOD.

7 (B) ORDER THE PARTIES TO SUBMIT THEIR RESPECTIVE FINAL
8 OFFERS TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE ORDER.
9 IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER WITHIN 7 DAYS
10 AFTER THE DATE OF THE ORDER, THE ARBITRATION PANEL SHALL ISSUE A
11 SUBSEQUENT ORDER TO THE HOST COMMUNITY TO SUBMIT ITS FINAL OFFER
12 TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE SUBSEQUENT
13 ORDER. IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER
14 WITHIN 7 DAYS AFTER THE DATE OF THE SECOND ORDER, THE OWNER'S OR
15 OPERATOR'S FINAL OFFER SHALL BE CONSIDERED THE APPROVED HOST COM-
16 MUNITY AGREEMENT. IF THE LANDFILL OWNER OR OPERATOR FAILS TO
17 SUBMIT A FINAL OFFER WITHIN 7 DAYS AFTER THE DATE OF THE INITIAL
18 ORDER TO THE LANDFILL OWNER OR OPERATOR UNDER THIS SUBDIVISION,
19 THE PROPOSAL SHALL BE CONSIDERED ABANDONED.

20 (7) A FINAL OFFER SHALL CONTAIN THE LANDFILL OWNER'S OR
21 OPERATOR'S OR THE HOST COMMUNITY'S FINAL TERMS AND CONDITIONS
22 RELATING TO THE LANDFILL AND ANY INFORMATION OR ARGUMENTS IN SUP-
23 PORT OF THE PROPOSALS. ADDITIONAL SUPPORTING INFORMATION MAY BE
24 SUBMITTED AT ANY TIME. A FINAL OFFER MAY NOT INCLUDE ANY OF THE
25 FOLLOWING:

26 (A) RESTRICTIONS ON THE INTRASTATE FLOW OF SOLID WASTE.

1 (B) TECHNICAL REQUIREMENTS RELATING TO THE DESIGN,
2 CONSTRUCTION, OR OPERATION OF THE LANDFILL WHICH ARE MORE
3 RESTRICTIVE THAN THE PROVISIONS IN THIS PART OR THE RULES PROMUL-
4 GATED UNDER THIS PART.

5 (C) TERMS AFFECTING ANY PORTION OF THE LANDFILL OR OTHER
6 FACILITY WHICH IS NOT LOCATED ON THE CONTIGUOUS PROPERTY.

7 (8) NEGOTIATIONS BETWEEN THE PARTIES MAY CONTINUE DURING THE
8 ARBITRATION PROCESS. IF AN ISSUE SUBJECT TO NEGOTIATION IS
9 RESOLVED TO THE SATISFACTION OF BOTH PARTIES, IT SHALL BE INCOR-
10 PORATED INTO A WRITTEN AGREEMENT BETWEEN BOTH PARTIES AND THE
11 FINAL OFFER OF EACH PARTY SHALL BE AMENDED CONSISTENT WITH SUCH
12 AGREEMENT.

13 (9) AFTER THE FINAL OFFERS ARE SUBMITTED TO THE ARBITRATION
14 PANEL, NEITHER PARTY MAY AMEND ITS FINAL OFFER, EXCEPT WITH THE
15 WRITTEN PERMISSION OF THE OTHER PARTY.

16 (10) WITHIN 60 DAYS AFTER THE LAST DAY FOR SUBMITTING A
17 FINAL OFFER UNDER THIS SECTION, THE ARBITRATION PANEL SHALL ISSUE
18 AN ARBITRATION AWARD WITH APPROVAL OF A MINIMUM OF 2 PANEL
19 MEMBERS. THE ARBITRATION AWARD SHALL ADOPT, WITHOUT MODIFICA-
20 TION, THE FINAL OFFER OF EITHER THE OWNER OR OPERATOR OF THE
21 LANDFILL OR THE HOST COMMUNITY, EXCEPT THAT THE ARBITRATION AWARD
22 SHALL DELETE THOSE ITEMS THAT ARE NOT SUBJECT TO ARBITRATION
23 UNDER THIS SECTION. A COPY OF THE ARBITRATION AWARD SHALL BE
24 SERVED ON BOTH PARTIES. THE ARBITRATION PANEL MAY, AT ITS DIS-
25 CRETION, MEET WITH 1 OR BOTH PARTIES PRIOR TO ISSUING AN ARBITRA-
26 TION AWARD.

1 (11) IF THE LANDFILL OWNER OR OPERATOR CONSTRUCTS AND
2 OPERATES THE FACILITY THAT IS THE SUBJECT OF AN ARBITRATION AWARD
3 UNDER THIS SECTION, THE ARBITRATION AWARD SHALL BE CONSIDERED AN
4 APPROVED HOST COMMUNITY AGREEMENT AND SHALL BE BINDING ON THE
5 LANDFILL OWNER OR OPERATOR, THE HOST COMMUNITY, AND THE
6 DEPARTMENT.

7 (12) AS USED IN THIS SECTION:

8 (A) "CONTIGUOUS PROPERTY" MEANS THE SAME OR GEOGRAPHICALLY
9 CONTIGUOUS PROPERTY OWNED ON OR BEFORE JANUARY 1, 1996 BY THE
10 SAME PERSON, ITS SUBSIDIARIES, PARENT CORPORATION, OR AFFILIATES
11 THAT MAY BE DIVIDED BY A PUBLIC OR PRIVATE RIGHT-OF-WAY.
12 PROPERTY OWNED BY SUCH PERSONS AND CONNECTED BY A RIGHT-OF-WAY
13 WHICH SUCH PERSONS CONTROL AND TO WHICH THE PUBLIC DOES NOT HAVE
14 ACCESS IS ALSO CONTIGUOUS PROPERTY.

15 (B) "FLOW CONTROL" MEANS ANY REQUIREMENT DIRECTING THE LOCA-
16 TION IN WHICH SOLID WASTE OR RECYCLABLE MATERIALS MAY BE DIS-
17 POSED, PROCESSED, OR TRANSFERRED OR SHALL NOT BE DISPOSED, PRO-
18 CESSSED, OR TRANSFERRED.

19 (C) "SITED ACREAGE" MEANS THE AREA FOR LANDFILL DEVELOPMENT
20 IDENTIFIED, RECOGNIZED IN, OR OTHERWISE CONSISTENT WITH A SOLID
21 WASTE MANAGEMENT PLAN THAT WAS IN EFFECT IMMEDIATELY BEFORE THE
22 EFFECTIVE DATE OF THIS SECTION.

23 SEC. 11511C. (1) NOTWITHSTANDING SECTION 11511A, THE
24 DEPARTMENT MAY ISSUE A CONSTRUCTION PERMIT FOR A MUNICIPAL SOLID
25 WASTE LANDFILL IF THE CONDITIONS OF THIS SECTION ARE MET.

26 (2) THE DEPARTMENT SHALL ANNUALLY PUBLISH NOTICE OF THE
27 EXISTING PERMITTED CAPACITY OF THE MUNICIPAL SOLID WASTE

1 LANDFILLS IN EACH REGION OF THE STATE AS DESCRIBED IN SUBSECTION
2 (11).

3 (3) IF THE PERMITTED CAPACITY WITHIN ANY OF THESE REGIONS IS
4 LESS THAN 9 YEARS, A PERSON WHO IS INTERESTED IN SITING A MUNICI-
5 PAL SOLID WASTE LANDFILL WITHIN THAT REGION SHALL, NOT MORE THAN
6 30 DAYS AFTER THE PUBLICATION OF THE NOTICE UNDER SUBSECTION (2),
7 NOTIFY THE DEPARTMENT. A PERSON SHALL ONLY NOTIFY THE DEPARTMENT
8 OF HIS OR HER INTEREST IN SITING A MUNICIPAL SOLID WASTE LANDFILL
9 WITHIN THAT REGION IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

10 (A) THE PERSON HAS BEEN ACTIVELY NEGOTIATING THE TERMS AND
11 CONDITIONS OF SITING OF THE MUNICIPAL SOLID WASTE LANDFILL WITH
12 THE HOST COMMUNITY IN WHICH THE MUNICIPAL SOLID WASTE LANDFILL IS
13 PROPOSED TO BE LOCATED DURING THE 6-MONTH PERIOD IMMEDIATELY
14 PRIOR TO JANUARY 1 OF THAT YEAR AND THE HOST COMMUNITY HAS NOT
15 FINALLY REJECTED THE PROPOSAL AND TERMINATED NEGOTIATIONS.

16 (B) THE PERSON OWNS OR HOLDS AN OPTION TO PURCHASE OR LEASE
17 THE LAND IN WHICH THE MUNICIPAL SOLID WASTE LANDFILL IS PROPOSED
18 TO BE LOCATED.

19 (C) THE PROPOSED SITE OF THE MUNICIPAL SOLID WASTE LANDFILL
20 WILL, AT THE TIME OF APPLICATION FOR A CONSTRUCTION PERMIT, MEET
21 THE SITING AND CONSTRUCTION CRITERIA CONTAINED IN RULES PROMUL-
22 GATED UNDER THIS PART INCLUDING BUT NOT LIMITED TO R 299.411 TO
23 R 299.418 OF THE MICHIGAN ADMINISTRATIVE CODE.

24 (4) ONE YEAR AFTER BEING NOTIFIED UNDER SUBSECTION (3), THE
25 DEPARTMENT SHALL CONVENE AN ARBITRATION PANEL AND FORWARD TO THE
26 ARBITRATION PANEL ALL NOTIFICATIONS RECEIVED PURSUANT TO
27 SUBSECTION (2) THAT SATISFY THE CONDITIONS OF SUBSECTION (3).

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1 THE ARBITRATION PANEL SHALL CONSIST OF 3 ARBITRATORS. ONE
2 ARBITRATOR SHALL BE SELECTED BY THE DEPARTMENT OF ENVIRONMENTAL
3 QUALITY AND REPRESENT LOCAL UNITS OF GOVERNMENT. ONE ARBITRATOR
4 SHALL BE SELECTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND
5 REPRESENT LANDFILL OWNERS. ONE ARBITRATOR MAY BE SELECTED
6 JOINTLY BY THE OTHER 2 ARBITRATORS. IF THE ARBITRATORS ARE
7 UNABLE TO AGREE TO JOINTLY SELECT THE THIRD ARBITRATOR, THE
8 DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL MAKE
9 THIS SELECTION FROM A LIST OF ARBITRATORS PROVIDED BY THE
10 AMERICAN ARBITRATION ASSOCIATION. THE ARBITRATION PANEL SHALL
11 UTILIZE PROCEDURES RECOMMENDED BY THE AMERICAN ARBITRATION
12 ASSOCIATION.

13 (5) UPON RECEIPT OF THE NOTIFICATIONS FROM THE DEPARTMENT
14 UNDER SUBSECTION (4), THE ARBITRATION PANEL SHALL CONVENE TO
15 DETERMINE WHETHER 1 OR MORE OF THE MUNICIPAL SOLID WASTE LAND-
16 FILLS SHOULD BE SITED AND THE TERMS OF A HOST COMMUNITY AGREEMENT
17 BETWEEN THE PERSON PROPOSING TO SITE THE LANDFILL AND THE HOST
18 COMMUNITY. IN MAKING ITS DETERMINATION, THE ARBITRATION PANEL
19 SHALL CONSIDER THE CAPACITY NEEDS OF THE REGION AND STATE AND THE
20 OVERALL ENVIRONMENTAL PROTECTION AFFORDED BY THE LOCATION OF THE
21 PROPOSED MUNICIPAL SOLID WASTE LANDFILL. WITHIN 7 DAYS AFTER
22 CONVENING, THE ARBITRATION PANEL SHALL DO 1 OF THE FOLLOWING:

23 (A) ORDER THE PARTIES TO CONTINUE NEGOTIATING FOR A PERIOD
24 NOT TO EXCEED 30 DAYS AFTER THE DATE OF THE ORDER IF, IN THE
25 JUDGMENT OF THE PANEL, ARBITRATION CAN BE AVOIDED BY THE NEGOTIA-
26 TION OF ANY REMAINING ISSUES. IF THE PANEL ORDERS THE PARTIES TO

1 CONTINUE NEGOTIATIONS, THE REQUEST TO INITIATE ARBITRATION MAY BE
2 RESUBMITTED UPON EXPIRATION OF THE NEGOTIATION PERIOD.

3 (B) ORDER THE PARTIES TO SUBMIT THEIR RESPECTIVE FINAL
4 OFFERS TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE ORDER.
5 IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER WITHIN 7 DAYS
6 AFTER THE DATE OF THE ORDER, THE ARBITRATION PANEL SHALL ISSUE A
7 SUBSEQUENT ORDER TO THE HOST COMMUNITY TO SUBMIT ITS FINAL OFFER
8 TO THE PANEL WITHIN 7 DAYS AFTER THE DATE OF THE SUBSEQUENT
9 ORDER. IF THE HOST COMMUNITY FAILS TO SUBMIT A FINAL OFFER
10 WITHIN 7 DAYS AFTER THE DATE OF THE SECOND ORDER, THE OWNER'S OR
11 OPERATOR'S FINAL OFFER SHALL BE CONSIDERED THE APPROVED HOST COM-
12 MUNITY AGREEMENT. IF THE LANDFILL OWNER OR OPERATOR FAILS TO
13 SUBMIT A FINAL OFFER WITHIN 7 DAYS AFTER THE DATE OF THE INITIAL
14 ORDER TO THE LANDFILL OWNER OR OPERATOR UNDER THIS SUBDIVISION,
15 THE PROPOSAL SHALL BE CONSIDERED ABANDONED.

16 (6) A FINAL OFFER SHALL CONTAIN THE LANDFILL OWNER'S OR
17 OPERATOR'S OR THE HOST COMMUNITY'S FINAL TERMS AND CONDITIONS
18 RELATING TO THE FACILITY AND ANY INFORMATION OR ARGUMENTS IN SUP-
19 PORT OF THE PROPOSALS. ADDITIONAL SUPPORTING INFORMATION MAY BE
20 SUBMITTED AT ANY TIME. A FINAL OFFER MAY NOT INCLUDE ANY OF THE
21 FOLLOWING:

22 (A) RESTRICTIONS ON THE INTRASTATE FLOW OF SOLID WASTE.

23 (B) TECHNICAL REQUIREMENTS RELATING TO THE DESIGN, CONSTRUC-
24 TION, OR OPERATION OF THE LANDFILL WHICH ARE MORE RESTRICTIVE
25 THAN THE PROVISIONS IN THIS PART OR THE RULES PROMULGATED UNDER
26 THIS PART.

1 (C) TERMS AFFECTING ANY PORTION OF THE LANDFILL OR OTHER
2 FACILITY WHICH IS NOT LOCATED ON THE CONTIGUOUS PROPERTY.

3 (7) NEGOTIATIONS BETWEEN THE PARTIES MAY CONTINUE DURING THE
4 ARBITRATION PROCESS. IF AN ISSUE SUBJECT TO NEGOTIATION IS
5 RESOLVED TO THE SATISFACTION OF BOTH PARTIES, IT SHALL BE INCOR-
6 PORATED INTO A WRITTEN AGREEMENT BETWEEN BOTH PARTIES AND THE
7 FINAL OFFER OF EACH PARTY SHALL BE AMENDED CONSISTENT WITH SUCH
8 AGREEMENT.

9 (8) AFTER THE FINAL OFFERS ARE SUBMITTED TO THE PANEL, NEI-
10 THER PARTY MAY AMEND ITS FINAL OFFER, EXCEPT WITH THE WRITTEN
11 PERMISSION OF THE OTHER PARTY.

12 (9) WITHIN 60 DAYS AFTER THE LAST DAY FOR SUBMITTING A FINAL
13 OFFER UNDER THIS SECTION, THE PANEL SHALL ISSUE AN ARBITRATION
14 AWARD WITH APPROVAL OF A MINIMUM OF 2 PANEL MEMBERS. THE ARBI-
15 TRATION AWARD SHALL ADOPT, WITHOUT MODIFICATION, THE FINAL OFFER
16 OF EITHER THE PERSON INTERESTED IN SITING A MUNICIPAL SOLID WASTE
17 OR THE HOST COMMUNITY, EXCEPT THAT THE ARBITRATION AWARD SHALL
18 DELETE THOSE ITEMS WHICH ARE NOT SUBJECT TO ARBITRATION UNDER
19 THIS SECTION. A COPY OF THE ARBITRATION AWARD SHALL BE SERVED ON
20 BOTH PARTIES. THE PANEL MAY, AT ITS DISCRETION, MEET WITH 1 OR
21 BOTH PARTIES PRIOR TO ISSUING AN ARBITRATION AWARD.

22 (10) IF THE LANDFILL OWNER OR OPERATOR CONSTRUCTS AND OPER-
23 ATES THE FACILITY THAT IS THE SUBJECT OF AN ARBITRATION AWARD
24 UNDER THIS SECTION, THE ARBITRATION AWARD SHALL BE CONSIDERED AN
25 APPROVED HOST COMMUNITY AGREEMENT AND SHALL BE BINDING ON THE
26 LANDFILL OWNER OR OPERATOR, THE HOST COMMUNITY, AND THE
27 DEPARTMENT.

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1 (11) FOR PURPOSES OF THIS SECTION, THE STATE IS DIVIDED INTO
2 THE FOLLOWING REGIONS:

3 (A) REGION I - UPPER PENINSULA -- ALGER, BARAGA, CHIPPEWA,
4 DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEEWENAW, LUCE,
5 MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON, AND SCHOOLCRAFT
6 COUNTIES.

7 (B) REGION II - NORTHERN LOWER PENINSULA -- ALCONA, ALPENA,
8 ANTRIM, ARENAC, BAY, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE,
9 CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, IOSCO, ISABELLA,
10 KALKASKA, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MIDLAND,
11 MISSAUKEE, MONTMORENCY, NEWAYGO, OCEANA, OGEMAW, OSCEOLA, OSCODA,
12 OTSEGO, PRESQUE ISLE, ROSCOMMON, AND WEXFORD COUNTIES.

13 (C) REGION III - SOUTHERN LOWER PENINSULA -- ALLEGAN, BARRY,
14 BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, GENESEE, GRATIOT,
15 HILLSDALE, HURON, INGHAM, IONIA, JACKSON, KALAMAZOO, KENT,
16 LAPEER, LENAWEE, LIVINGSTON, MACOMB, MONROE, MONTCALM, MUSKEGON,
17 OAKLAND, OTTAWA, ST. CLAIR, ST. JOSEPH, SAGINAW, SANILAC,
18 SHIAWASSEE, TUSCOLA, VAN BUREN, WASHTENAW, AND WAYNE COUNTIES.

19 SEC. 11511D. A MUNICIPAL SOLID WASTE LANDFILL OR A TYPE III
20 LANDFILL THAT IS IN COMPLIANCE WITH THIS PART AND THE RULES
21 PROMULGATED UNDER THIS PART IS NOT SUBJECT TO THE FOLLOWING:

22 (A) THE COUNTY RURAL ZONING ENABLING ACT, 1943 PA 183, MCL
23 125.201 TO 125.232.

24 (B) THE TOWNSHIP RURAL ZONING ACT, 1943 PA 184, MCL 125.271
25 TO 125.301.

26 (C) 1921 PA 207, MCL 125.581 TO 125.592.

1 Sec. 11512. (1) A person shall dispose of solid waste at a
2 disposal area licensed under this part unless a person is
3 permitted by state law or rules promulgated by the department to
4 dispose of the solid waste at the site of generation.

5 (2) Except as otherwise provided in this section or in sec-
6 tion 11529, a person otherwise allowed under this part to own or
7 operate a solid waste disposal area shall not conduct, manage,
8 maintain, or operate a disposal area within this state without a
9 license from the department, ~~contrary to an approved solid waste~~
10 ~~management plan,~~ or contrary to a permit, license, or final
11 order issued under this part. A person who intends to conduct,
12 manage, maintain, or operate a disposal area shall submit a prior
13 license application to the department through a certified health
14 department on a form provided by the department. If the disposal
15 area is located in a county or city that does not have a certi-
16 fied health department, the application shall be made directly to
17 the department. A person authorized by this part to operate more
18 than 1 type of disposal area at the same facility may apply for a
19 single license.

20 (3) The application for a license shall contain the name and
21 residence of the applicant, the location of the proposed or
22 existing disposal area, the type or types of disposal area pro-
23 posed, evidence of bonding, and other information required by
24 rule. In addition, an applicant for a type II landfill shall
25 submit evidence of financial assurance adequate to meet the
26 requirements of section 11523a, the maximum waste slope in the
27 active portion, an estimate of remaining permitted capacity, and

1 documentation on the amount of waste received at the disposal
2 area during the previous license period or expected to be
3 received, whichever is greater. The application shall be accom-
4 panied by a fee based on the number of years proposed for licen-
5 sure as specified in subsections (7), (9), and (10).

6 (4) At the time of application for a license for a disposal
7 area, the applicant shall submit to a health officer or the
8 department a certification under the seal of a licensed profes-
9 sional engineer verifying that the construction of the disposal
10 area has proceeded according to the approved plans. If construc-
11 tion of the disposal area or a portion of the disposal area is
12 not complete, the department shall require additional construc-
13 tion certification of that portion of the disposal area during
14 intermediate progression of the operation, as specified in
15 section 11516(4).

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

21 (6) In order to conduct tests and assess operational capa-
22 bilities, the owner or operator of a municipal solid waste incin-
23 erator that is designed to burn at a temperature in excess of
24 2500 degrees Fahrenheit may operate the incinerator without an
25 operating license, upon notice to the department, for a period
26 not to exceed 60 days.

1 (7) The application for a type II landfill operating license
2 shall be accompanied by the following fee for the 2-year term of
3 the operating license, calculated in accordance with
4 subsection (8):

5 (a) Landfills receiving less than 100 tons per day,
6 \$250.00.

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

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

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

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

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

17 (g) Landfills receiving greater than 3,000 tons per day,
18 \$30,000.00.

19 (8) Type II landfill application fees shall be based on the
20 average amount of waste projected to be received daily during the
21 license period. Application fees for license renewals shall be
22 based on the average amount of waste received in the previous
23 calendar year. Application fees shall be adjusted in the follow-
24 ing circumstances:

25 (a) If a landfill accepts more waste than projected, a sup-
26 plemental fee equal to the difference shall be submitted with the
27 next license application.

1 (b) If a landfill accepts less waste than projected, the
2 department shall credit the applicant an amount equal to the dif-
3 ference with the next license application.

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

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

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

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

16 (9) The operating license application for a type III land-
17 fill shall be accompanied by a fee equal to \$2,500.00.

18 (10) The operating license application for a solid waste
19 processing plant, solid waste transfer facility, other disposal
20 area, or combination of these entities shall be accompanied by a
21 fee equal to \$500.00.

22 (11) The department shall deposit operating license applica-
23 tion fees collected under this section in the perpetual care
24 account of the solid waste management fund established in
25 section 11550.

26 (12) A person who applies for an operating license for more
27 than 1 type of disposal area at the same facility shall pay a fee

1 equal to the sum of the applicable application fees listed in
2 this section.

3 Sec. 11516. (1) Subject to subsection (4), the department
4 shall conduct a consistency review and make a final decision on a
5 license application within 90 days after the department receives
6 an administratively complete application. The decision of the
7 department and the reasons for the decision shall be documented
8 in writing with specific reference to this part or rules promul-
9 gated under this part and shall be sent by first-class mail to
10 the clerk of the municipality in which the disposal area is
11 located and to the applicant within 10 days after the final deci-
12 sion is made. If the department fails to make a final decision
13 within 90 days, the license is considered issued.

14 (2) An operating license shall expire 2 years after the date
15 of issuance. An operating license may be renewed before expira-
16 tion upon payment of a renewal application fee specified in
17 section 11512(8) if the licensee is in compliance with this part
18 and the rules promulgated under this part.

19 (3) The issuance of the operating license under this part
20 empowers the department or a health officer or an authorized rep-
21 resentative of a health officer to enter at any reasonable time,
22 pursuant to law, in or upon private or public property licensed
23 under this part for the purpose of inspecting or investigating
24 conditions relating to the storage, processing, or disposal of
25 any material.

26 ~~-(4) Except as otherwise provided in this subsection, the~~
27 ~~department shall not issue an operating license for a new~~

~~1 disposal area within a planning area unless a solid waste
2 management plan for that planning area has been approved pursuant
3 to sections 11536 and 11537 and unless the disposal area complies
4 with and is consistent with the approved solid waste management
5 plan. The department may issue an operating license for a dis-
6 posal area designed to receive ashes produced in connection with
7 the combustion of fossil fuels for electrical power generation in
8 the absence of an approved county solid waste management plan,
9 upon receipt of a letter of approval from whichever county or
10 counties, group of municipalities, or regional planning agency
11 has prepared or is preparing the county solid waste management
12 plan for that planning area under section 11533 and from the
13 municipality in which the disposal area is to be located.~~

14 (4) ~~(5)~~ Issuance of an operating license by the department
15 authorizes the licensee to accept waste for disposal in certified
16 portions of the disposal area for which a bond was established
17 under section 11523 and, for type II landfills, for which finan-
18 cial assurance was demonstrated under section 11523a. If the
19 construction of a portion of a landfill licensed under this sec-
20 tion is not complete at the time of license application, the
21 owner or operator of the landfill shall submit a certification
22 under the seal of a licensed professional engineer verifying that
23 the construction of that portion of the landfill has proceeded
24 according to the approved plans at least 60 days prior to the
25 anticipated date of waste disposal in that portion of the
26 landfill. If the department does not deny the certification
27 within 60 days of receipt, the owner or operator may accept waste

1 for disposal in the certified portion. In the case of a denial,
2 the department shall, issue a written statement stating the rea-
3 sons why the construction or certification is not consistent with
4 this part or rules promulgated under this part or the approved
5 plans.

6 Sec. 11517. (1) Within 9 months after the completion of
7 construction of a municipal solid waste incinerator, the owner or
8 operator of a municipal solid waste incinerator shall submit a
9 plan to the department for a program that, to the extent practi-
10 cable, reduces the incineration of noncombustible materials and
11 dangerous combustible materials and their hazardous by-products
12 at the incinerator. The department shall approve or disapprove
13 the plan submitted under this subsection within 30 days after
14 receiving it. In reviewing the plan, the department shall con-
15 sider the ~~current county solid waste management plan,~~ available
16 markets for separated materials, disposal alternatives for the
17 separated materials, and collection practices for handling such
18 separated materials. If the department disapproves a plan, the
19 department shall notify the owner or operator submitting the plan
20 of this fact, and shall provide modifications that, if included,
21 would result in the plan's approval. If the department disap-
22 proves a plan, the owner or operator of a municipal solid waste
23 incinerator shall within 30 days after receipt of the
24 department's disapproval submit a revised plan that addresses all
25 of the modifications provided by the department. The department
26 shall approve or disapprove the revised plan within 30 days after

1 receiving it, and approval of the revised plan shall not be
2 unreasonably withheld.

3 (2) Not later than 6 months after the approval of the plan
4 by the department under subsection (1), the owner or operator
5 shall implement the plan in accordance with the implementation
6 schedule set forth in the plan. The operation of a municipal
7 solid waste incinerator without an approved plan under this sec-
8 tion shall subject the owner or operator, or both, to all of the
9 sanctions provided by this part.

10 Sec. 11519. (1) The department shall specify, in writing,
11 the reasons for denial of a construction permit or an operating
12 license, further specifying those particular sections of this
13 part or rules promulgated under this part that may be violated by
14 granting the application and the manner in which the violation
15 may occur.

16 (2) The health officer or department may issue a cease and
17 desist order specifying a schedule of closure or remedial action
18 in accordance with this part and rules promulgated under this
19 part or may establish a consent agreement specifying a schedule
20 of closure or remedial action in accordance with this part and
21 rules promulgated under this part to a person who establishes,
22 constructs, conducts, manages, maintains, or operates a disposal
23 area without a permit or license or to a person who holds a
24 permit or license but establishes, constructs, conducts, manages,
25 maintains, or operates a disposal area contrary to ~~an approved~~
26 ~~solid waste management plan or contrary to~~ the permit or license
27 issued under this part.

1 (3) The department may issue a final order revoking,
2 suspending, or restricting a permit or license after a contested
3 case hearing as provided in the administrative procedures act of
4 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
5 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL
6 24.201 TO 24.328, if the department finds that the disposal area
7 is not being constructed or operated in accordance with ~~the~~
8 ~~approved plans,~~ the conditions of a permit or license, this
9 part, or the rules promulgated under this part. A final order
10 issued pursuant to this section is subject to judicial review as
11 provided in ~~Act No. 306 of the Public Acts of 1969~~ THE ADMINIS-
12 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
13 24.328. The department or a health officer shall inspect and
14 file a written report not less than 4 times per year for each
15 licensed disposal area. The department or the health officer
16 shall provide the municipality in which the licensed disposal
17 area is located with a copy of each written inspection report if
18 the municipality arranges with the department or the health offi-
19 cer to bear the expense of duplicating and mailing the reports.

20 (4) The department may issue an order summarily suspending a
21 permit or license if the department determines that a violation
22 of this part or rules promulgated under this part has occurred
23 which, in the department's opinion, constitutes an emergency or
24 poses an imminent risk of injury to the public health or the
25 environment. A determination that a violation poses an imminent
26 risk of injury to the public health shall be made by the
27 department. Summary suspension may be ordered effective on the

1 date specified in the order or upon service of a certified copy
2 of the order on the licensee, whichever is later, and shall
3 remain effective during the proceedings. The proceedings shall
4 be commenced within 7 days of the issuance of the order and shall
5 be promptly determined.

6 Sec. 11529. (1) A disposal area that is a solid waste
7 transfer facility is not subject to the construction permit and
8 operating license requirements of this part if either of the fol-
9 lowing circumstances exists:

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

12 (b) The solid waste transfer facility accepts less than 200
13 uncompacted cubic yards per day.

14 (2) A solid waste transfer facility that is exempt from the
15 construction permit and operating license requirements of this
16 part under subsection (1) shall comply with the operating
17 requirements of this part and the rules promulgated under this
18 part.

19 (3) Except as provided in subsection (5), a disposal area
20 that is an incinerator may, but is not required to, comply with
21 the construction permit and operating license requirements of
22 this part if both of the following conditions are met:

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

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

26 (4) A disposal area that is an incinerator that does not
27 comply with the construction permit and operating license

1 requirements of this part as permitted in subsection (3) is
2 subject to the ~~planning provisions of this part and must be~~
3 ~~included in the county solid waste management plan for the county~~
4 ~~in which the incinerator is located~~ HOST COMMUNITY AGREEMENT
5 REQUIREMENTS PROVIDED IN SECTION 11511A.

6 (5) A disposal area that is a municipal solid waste inciner-
7 ator that is designed to burn at a temperature in excess of 2500
8 degrees Fahrenheit is not subject to the construction permit
9 requirements of this part.

10 SEC. 11531A. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) AND
11 SECTION 11531B, A COUNTY OR A MUNICIPALITY SHALL NOT ENACT AN
12 ORDINANCE, RULE, REGULATION, OR LAW THAT DIRECTS OR RESTRICTS THE
13 FLOW OF THE SOLID WASTE. EXCEPT AS PROVIDED IN SUBSECTION (2),
14 THE PORTION OF AN ORDINANCE, RULE, REGULATION, OR LAW THAT VIO-
15 LATES THIS SUBSECTION IS VOID.

16 (2) AN ORDINANCE ENACTED PRIOR TO JANUARY 1, 1996 BY A
17 COUNTY OR MUNICIPALITY INCIDENTAL TO THE ISSUANCE OF BONDS BY THE
18 COUNTY OR MUNICIPALITY OR PUBLIC SERVICE AUTHORITY SERVING A
19 COUNTY OR MUNICIPALITY TO FINANCE SOLID WASTE MANAGEMENT FACILI-
20 TIES OF THAT COUNTY OR MUNICIPALITY, OR THE EXECUTION, DELIVERY,
21 OR PERFORMANCE OF A WASTE CONTRACT, MAY REMAIN IN EFFECT TO THE
22 EXTENT NECESSARY FOR THE SHORTER OF THE FOLLOWING PERIODS:

23 (A) UNTIL THE BONDS HAVE BEEN PAID IN FULL OR THE TERM OF
24 THE WASTE CONTRACT HAS EXPIRED.

25 (B) FOR THE REMAINING USEFUL LIFE OF THE FACILITY AS THAT
26 REMAINING LIFE MAY BE EXTENDED BY THE FOLLOWING:

1 (i) RETROFITTING OF EQUIPMENT OR THE MAKING OF OTHER
2 SIGNIFICANT MODIFICATIONS TO MEET APPLICABLE ENVIRONMENTAL
3 REQUIREMENTS OR SAFETY REQUIREMENTS.

4 (ii) REPAIR OR REPLACEMENT OF EQUIPMENT OR COMPONENTS THAT
5 DOES NOT ADD TO THE CAPACITY OF A WASTE MANAGEMENT FACILITY.

6 (3) AS USED IN THIS SECTION, "WASTE CONTRACT" MEANS A CON-
7 TRACT BETWEEN A COUNTY OR MUNICIPALITY AND A PUBLIC SERVICE
8 AUTHORITY CONCERNING THE MOVEMENT OR DELIVERY OF SOLID WASTE GEN-
9 ERATED WITHIN THE JURISDICTIONAL BOUNDARIES OF SUCH COUNTY,
10 MUNICIPALITY, OR PUBLIC SERVICE AUTHORITY.

11 SEC. 11531B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
12 PART, A MUNICIPALITY, TO THE EXTENT ALLOWED BY LAW, MAY PROHIBIT,
13 AT A DISPOSAL AREA WITHIN ITS JURISDICTION, THE DISPOSAL OF SOLID
14 WASTE THAT WAS GENERATED OUTSIDE OF THE STATE.

15 Sec. 11532. (1) Except as provided in subsection (3), a
16 municipality may impose an impact fee of not more than 10 cents
17 per cubic yard on solid waste that is disposed of in a landfill
18 located within the municipality that is utilized by the public
19 and utilized to dispose of solid waste collected from 2 or more
20 persons. However, if the landfill is located within a village,
21 the impact fee provided for in this subsection shall be imposed
22 by the township in agreement with the village. The impact fee
23 shall be assessed uniformly on all wastes accepted for disposal.

24 (2) Except as provided in subsection (3), a municipality may
25 impose an impact fee of not more than 10 cents per cubic yard on
26 municipal solid waste incinerator ash that is disposed of in a
27 landfill located within the municipality that is utilized to

1 dispose of municipal solid waste incinerator ash. However, if
2 the landfill is located within a village, the impact fee provided
3 for in this subsection shall be imposed by the township in agree-
4 ment with the village.

5 (3) ~~A~~ AS PART OF A HOST COMMUNITY AGREEMENT, A municipal-
6 ity may enter into an agreement with the owner or operator of a
7 landfill to establish a higher impact fee than those provided for
8 in subsections (1) and (2).

9 (4) IN ADDITION TO THE IMPACT FEE PROVIDED IN
10 SUBSECTION (1), (2), OR (3), A COUNTY IN WHICH A LANDFILL
11 DESCRIBED IN SUBSECTION (1) OR (2) IS LOCATED MAY IMPOSE AN
12 IMPACT FEE OF NOT MORE THAN 10 CENTS PER CUBIC YARD OF SOLID
13 WASTE OR MUNICIPAL SOLID WASTE INCINERATOR ASH DISPOSED OF IN THE
14 LANDFILL. MONEY COLLECTED BY A COUNTY PURSUANT TO THIS SECTION
15 SHALL BE USED BY THAT COUNTY ONLY TO ADDRESS IMPACTS OF THE LAND-
16 FILL OR FOR DISTRIBUTION BY THE COUNTY TO MUNICIPALITIES EITHER
17 WITHIN OR OUTSIDE OF THE COUNTY THAT ARE IMPACTED BY THE
18 LANDFILL.

19 (5) ~~(4)~~ The impact fees imposed under this section shall
20 be collected by the owner or operator of a landfill and shall be
21 paid to the COUNTY OR municipality quarterly by the thirtieth day
22 after the end of each calendar quarter. However, the impact fees
23 allowed to be assessed to each landfill under this section shall
24 be reduced by any amount of revenue paid to or available to the
25 municipality OR COUNTY from the landfill under the terms of any
26 preexisting agreements, including, but not limited to, contracts,

1 special use permit conditions, court settlement agreement
2 conditions, and trusts.

3 (6) ~~-(5)-~~ Unless a trust fund is established by a municipal-
4 ity pursuant to subsection ~~-(6)-~~ (7), the revenue collected by a
5 municipality under subsections (1) and (2) shall be deposited in
6 its general fund to be used for any purpose that promotes the
7 public health, safety, or welfare of the citizens of the
8 municipality. However, revenue collected pursuant to this sec-
9 tion shall not be used to bring or support a lawsuit or other
10 legal action against an owner or operator of a landfill who is
11 collecting an impact fee pursuant to subsection ~~-(4)-~~ (5) unless
12 the owner or operator of the landfill has instituted a lawsuit or
13 other legal action against the municipality.

14 (7) ~~-(6)-~~ The municipality may establish a trust fund to
15 receive revenue collected pursuant to this section. The trust
16 fund shall be administered by a board of trustees. The board of
17 trustees shall consist of the following members:

18 (a) The chief elected official of the municipality creating
19 the trust fund.

20 (b) An individual from the municipality appointed by the
21 governing board of the municipality.

22 (c) An individual approved by the owners or operators of the
23 landfills within the municipality and appointed by the governing
24 board of the municipality.

25 (8) ~~-(7)-~~ Individuals appointed to serve on the board of
26 trustees under subsection ~~-(6)(b)-~~ (7)(B) and (c) shall serve for
27 terms of 2 years.

1 (9) ~~(8)~~ Money in the trust fund may be expended, pursuant
2 to a majority vote of the board of trustees, for any purpose that
3 promotes the public health, safety, or welfare of the citizens of
4 the municipality. However, revenue collected pursuant to this
5 section shall not be used to bring or support a lawsuit or other
6 legal action against an owner or operator of a landfill who is
7 collecting an impact fee pursuant to subsection ~~(4)~~ (5) unless
8 the owner or operator of the landfill has instituted a lawsuit or
9 other legal action against the municipality.

10 Sec. 11533. (1) A COUNTY, OR 2 OR MORE COUNTIES ACTING
11 JOINTLY, MAY PREPARE A SOLID WASTE MANAGEMENT PLAN. Each solid
12 waste management plan shall include ~~an enforceable program and~~
13 ~~process to assure that the nonhazardous solid waste generated or~~
14 ~~to be generated in the planning area for a period of 10 years or~~
15 ~~more is collected and recovered, processed, or disposed of at~~
16 ~~disposal areas which comply with state law and rules promulgated~~
17 ~~by the department governing location, design, and operation of~~
18 ~~the disposal areas~~ THE BEST AVAILABLE DATA NECESSARY TO MANAGE
19 SOLID WASTE WITHIN THE PLANNING AREA.

20 ~~(2) An initial solid waste management plan shall be pre-~~
21 ~~pared and approved under this section and shall be submitted to~~
22 ~~the director not later than January 5, 1984. Following submittal~~
23 ~~of the initial plan, the solid waste management plan shall be~~
24 ~~reviewed and updated every 5 years. An updated plan and an~~
25 ~~amendment to a plan shall be prepared and approved as provided in~~
26 ~~sections 11533, 11534, 11535, 11536, 11537, and 11537a. The~~
27 ~~solid waste management plan shall encompass all municipalities~~

~~1 within the county. The solid waste management plan shall at a
2 minimum comply with the requirements of sections 11537a and
3 11538. The solid waste management plan shall take into consider-
4 ation solid waste management plans in contiguous counties and
5 existing local approved solid waste management plans as they
6 relate to the county's needs. At a minimum, a county preparing a
7 solid waste management plan shall consult with the regional plan-
8 ning agency from the beginning to the completion of the plan.~~

~~9 (3) Not later than July 1, 1981, each county shall file with
10 the department and with each municipality within the county on a
11 form provided by the department, a notice of intent, indicating
12 the county's intent to prepare a county solid waste management
13 plan or to upgrade an existing plan. The notice shall identify
14 the designated agency which shall be responsible for preparing
15 the county solid waste management plan.~~

~~16 (2) (4) If the county fails to file a notice of intent
17 with the department within the prescribed time, the department
18 immediately shall notify each municipality within the county and
19 shall request those municipalities to prepare the county solid
20 waste management plan and shall convene a meeting to discuss the
21 plan preparation. Within 4 months following notification by the
22 department, the municipalities shall decide by a majority vote of
23 the municipalities in the county whether or not to file a notice
24 of intent to prepare the county solid waste management plan.
25 Each municipality in the county shall have 1 vote. If a majority
26 does not agree, then a notice of intent shall not be filed. The
27 notice shall identify the designated agency which is responsible~~

1 ~~for preparing the county solid waste management plan.~~ PREPARE A
2 SOLID WASTE MANAGEMENT PLAN UNDER SUBSECTION (1), THE MUNICIPALITI-
3 TIES WITHIN A COUNTY REPRESENTING 51% OR MORE OF THE TOTAL COUNTY
4 POPULATION MAY JOINTLY PREPARE A SOLID WASTE MANAGEMENT PLAN.

5 ~~(5) If the municipalities fail to file a notice of intent~~
6 ~~to prepare a county solid waste management plan with the depart-~~
7 ~~ment within the prescribed time, the department shall request the~~
8 ~~appropriate regional solid waste management planning agency to~~
9 ~~prepare the county solid waste management plan. The regional~~
10 ~~solid waste management planning agency shall respond within~~
11 ~~90 days after the date of the request.~~

12 ~~(6) If the regional solid waste management planning agency~~
13 ~~declines to prepare a county solid waste management plan, the~~
14 ~~department shall prepare the solid waste management plan for the~~
15 ~~county and that plan shall be final.~~

16 ~~(7) A solid waste management planning agency, upon request~~
17 ~~of the department, shall submit a progress report in preparing~~
18 ~~its solid waste management plan.~~

19 Sec. 11534. (1) The county executive of a charter county
20 that elects a county executive and that chooses to prepare a
21 solid waste management plan under section 11533 or the county
22 board of commissioners in all other counties choosing to prepare
23 ~~an initial~~ A solid waste management plan under section 11533,
24 or the municipalities preparing ~~an initial~~ A solid waste man-
25 agement plan under section ~~11533(4)~~ 11533(2), shall appoint a
26 planning committee to assist ~~the agency designated to prepare~~
27 IN THE PREPARATION OF the SOLID WASTE MANAGEMENT plan under

1 section 11533. ~~If the county charter provides procedures for~~
2 ~~approval by the county board of commissioners of appointments by~~
3 ~~the county executive, an appointment under this subsection shall~~
4 ~~be subject to that approval. A planning committee appointed pur-~~
5 ~~suant to this subsection shall be appointed for terms of 2~~
6 ~~years. A planning committee appointed pursuant to this subsec-~~
7 ~~tion may be reappointed for the purpose of completing the prepa-~~
8 ~~ration of the initial solid waste management plan or overseeing~~
9 ~~the implementation of the initial plan. Reappointed members of a~~
10 ~~planning committee shall serve for terms not to exceed 2 years as~~
11 ~~determined by the appointing authority. An initial solid waste~~
12 ~~management plan shall only be approved by a majority of the mem-~~
13 ~~bers appointed and serving.~~

14 (2) A planning committee appointed pursuant to this section
15 shall consist of ~~14~~ members. ~~Of the members appointed, 4 shall~~
16 MEMBERS WHO represent the solid waste management industry, ~~2~~
17 ~~shall represent~~ environmental interest groups, ~~1~~ shall
18 ~~represent~~ county government, ~~1~~ shall represent city govern-
19 ment, ~~1~~ shall represent township government, ~~1~~ shall
20 ~~represent~~ the regional solid waste planning agency, ~~1~~ shall
21 ~~represent~~ industrial waste generators, and ~~3~~ shall represent
22 the general public. ~~A member appointed to represent a county,~~
23 ~~city, or township government shall be an elected official of that~~
24 ~~government or the designee of that elected official. Vacancies~~
25 ~~shall be filled in the same manner as the original appointments.~~
26 A member may be removed for nonperformance of duty.

1 ~~(3) A planning committee appointed pursuant to this section~~
2 ~~shall annually elect a chairperson and shall establish procedures~~
3 ~~for conducting the committee's activities and for reviewing the~~
4 ~~matters to be considered by the committee.~~

5 SEC. 11534A. (1) A COUNTY IS NOT ELIGIBLE TO RECEIVE A
6 GRANT RELATED TO SOLID WASTE MANAGEMENT, SOURCE SEPARATION, OR
7 RECYCLING UNLESS THE COUNTY HAS PREPARED OR HAS JOINTLY PREPARED
8 A SOLID WASTE MANAGEMENT PLAN.

9 (2) A LOCAL UNIT OF GOVERNMENT SHALL NOT ISSUE BONDS TO
10 FINANCE A DISPOSAL AREA OR FOR OTHER SOLID WASTE MANAGEMENT,
11 SOURCE SEPARATION, OR RECYCLING PROJECTS UNLESS THE LOCAL UNIT OF
12 GOVERNMENT IS WITHIN THE JURISDICTION OF THE PLAN AREA OF A SOLID
13 WASTE MANAGEMENT PLAN.

14 Sec. 11535. ~~A county or regional solid waste management~~
15 ~~planning agency~~ THE ENTITY OR ENTITIES preparing a solid waste
16 management plan shall do all of the following:

17 (a) Solicit the advice of and consult periodically during
18 the preparation of the plan with the municipalities, appropriate
19 organizations, and the private sector in the county under section
20 11538(1) and solicit the advice of and consult with the appropri-
21 ate county or regional solid waste management planning agency and
22 adjacent counties and municipalities in adjacent counties which
23 may be significantly affected by the solid waste management plan
24 for a county.

25 ~~(b) If a planning committee has been appointed under sec-~~
26 ~~tion 11534, prepare the plan with the advice, consultation, and~~
27 ~~assistance of the planning committee.~~

1 ~~(c) Notify by letter the chief elected official of each~~
2 ~~municipality within the county and any other person within the~~
3 ~~county so requesting, not less than 10 days before each public~~
4 ~~meeting of the planning agency designated by the county, if that~~
5 ~~planning agency plans to discuss the county plan. The letter~~
6 ~~shall indicate as precisely as possible the subject matter being~~
7 ~~discussed.~~

8 (B) ~~(d)~~ Submit for review a copy of the proposed ~~county~~
9 ~~or regional~~ solid waste management plan ~~to the department,~~ to
10 each municipality within the affected ~~county,~~ and to adjacent
11 ~~counties and municipalities that may be affected by the plan or~~
12 ~~that have requested the opportunity to review the plan. The~~
13 ~~county plan shall be submitted for review to the designated~~
14 ~~regional solid waste management planning agency for that county.~~
15 PLANNING AREA. Reviewing ~~agencies~~ MUNICIPALITIES shall be
16 allowed an opportunity of not less than 3 months to review and
17 comment on the plan before adoption of the plan by the county ~~or~~
18 ~~a designated regional solid waste management planning agency.~~
19 ~~The comments of a reviewing agency shall be submitted with the~~
20 ~~plan to the county board of commissioners or to the regional~~
21 ~~solid waste management planning agency.~~ OR THE MUNICIPALITIES
22 PREPARING THE PLAN.

23 (C) ~~(e)~~ Publish a notice, at the time the plan is submit-
24 ted for review under subdivision ~~(d)~~ (B), of the availability
25 of the plan for inspection or copying, at cost, by an interested
26 person.

1 (D) ~~-(f)-~~ Conduct a public hearing on the proposed ~~county~~
2 solid waste management plan before formal adoption. A notice
3 shall be published not less than 30 days before a hearing in a
4 newspaper having a major circulation within the county OR COUN-
5 TIES INCLUDED IN THE PLANNING AREA. The notice shall indicate a
6 location where copies of the SOLID WASTE MANAGEMENT plan are
7 available for public inspection and shall indicate the time and
8 place of the public hearing.

9 Sec. 11536. (1) ~~A municipality located in 2 counties or~~
10 ~~adjacent to a municipality located in another county may request~~
11 ~~to be included in the adjacent county's plan. Before the munici-~~
12 ~~pality may be included, the request shall be approved by a reso-~~
13 ~~lution of the county boards of commissioners of the counties~~
14 ~~involved. A municipality may appeal to the department a decision~~
15 ~~to exclude it from an adjacent county's plan. If there is an~~
16 ~~appeal, the department shall issue a decision within 45 days.~~
17 ~~The decision of the department is final. (2) Except as provided~~
18 ~~in subsection (3), the~~ THE county board of commissioners OR IF A
19 SOLID WASTE MANAGEMENT PLAN IS PREPARED UNDER SECTION 11533(2),
20 THE MUNICIPALITIES IN THE COUNTY PREPARING THE SOLID WASTE MAN-
21 AGEMENT PLAN shall formally act on the plan following the public
22 hearing required by section ~~11535(f)-~~ 11535(C).

23 ~~-(3) If a planning committee has been appointed by the~~
24 ~~county board of commissioners under section 11534(1), the county~~
25 ~~board of commissioners, or if a plan is prepared under section~~
26 ~~11533(4), the municipalities in the county who voted in favor of~~
27 ~~filing a notice of intent to prepare a county solid waste~~

1 ~~management plan, shall take formal action on the plan after the~~
2 ~~completion of public hearings and only after the plan has been~~
3 ~~approved by a majority of the planning committee as provided in~~
4 ~~section 11534(1). If the county board of commissioners, or, if a~~
5 ~~plan is prepared under section 11533(4), a majority of the munic-~~
6 ~~ipalities in the county who voted in favor of filing a notice of~~
7 ~~intent to prepare a county solid waste management plan, does or~~
8 ~~do not approve the plan as submitted, the plan shall be returned~~
9 ~~to the planning committee along with a statement of objections to~~
10 ~~the plan. Within 30 days after receipt, the planning committee~~
11 ~~shall review the objections and shall return the plan with its~~
12 ~~recommendations.~~

13 (2) ~~(4)~~ Following approval UNDER SUBSECTION (1), the
14 ~~county~~ SOLID WASTE MANAGEMENT plan shall be approved by the
15 governing bodies of not less than ~~67%~~ 66-2/3% of the municipal-
16 ities within each respective county before the plan may take
17 effect. IF THE SOLID WASTE MANAGEMENT PLAN IS PREPARED UNDER
18 SECTION 11533(2), THE PLAN SHALL BE APPROVED BY NOT LESS THAN
19 66-2/3% OF THE GOVERNING BODIES OF THE PARTICIPATING
20 MUNICIPALITIES. IF A MUNICIPALITY FAILS TO APPROVE OR REJECT THE
21 SOLID WASTE MANAGEMENT PLAN WITHIN 90 DAYS, SUCH FAILURE SHALL BE
22 CONSIDERED AN APPROVAL.

23 ~~(5)~~ A county plan prepared by a regional solid waste man-
24 agement planning agency shall be approved by the governing bodies
25 of not less than 67% of the municipalities within each respective
26 county before the plan may take effect.

1 ~~(6) If, after the plan has been adopted, the governing~~
2 ~~bodies of not less than 67% of the municipalities have not~~
3 ~~approved the plan, the department shall prepare a plan for the~~
4 ~~county, including those municipalities that did not approve the~~
5 ~~county plan. A plan prepared by the department shall be final.~~

6 (3) UPON APPROVAL UNDER SUBSECTION (2), A SOLID WASTE MAN-
7 AGEMENT PLAN SHALL BE SUBMITTED TO THE DEPARTMENT.

8 (4) AN ENTITY PREPARING A SOLID WASTE MANAGEMENT PLAN UNDER
9 THIS PART SHALL UPDATE THAT PLAN EVERY 5 YEARS TO REFLECT CHANGES
10 IN DATA.

11 Sec. 11538. ~~(1) Not later than September 11, 1979, the~~
12 ~~director shall promulgate rules for the development, form, and~~
13 ~~submission of initial solid waste management plans. The rules~~
14 ~~shall require~~ A SOLID WASTE MANAGEMENT PLAN PREPARED PURSUANT TO
15 THIS PART SHALL INCLUDE all of the following:

16 (a) The establishment of goals and objectives for prevention
17 of adverse effects on the public health and on the environment
18 resulting from improper solid waste collection, processing, or
19 disposal including protection of surface and groundwater quality,
20 air quality, and the land.

21 (b) An evaluation AND CHARACTERIZATION of waste ~~problems~~
22 STREAMS by type and volume, including residential and commercial
23 solid waste, HOUSEHOLD hazardous waste, industrial sludges, pre-
24 treatment residues, municipal sewage sludge, air pollution con-
25 trol residue, and other wastes from industrial or municipal
26 sources.

1 ~~-(c) An evaluation and selection of technically and~~
2 ~~economically feasible solid waste management options, which may~~
3 ~~include sanitary landfill, resource recovery systems, resource~~
4 ~~conservation, or a combination of options.~~

5 (C) ~~-(d) An inventory and description of all existing~~
6 ~~facilities where solid waste is being treated, processed, or dis-~~
7 ~~posed of, including COMPOSTING AND RECYCLING FACILITIES AND a~~
8 ~~summary of the deficiencies, if any, of the facilities in meet-~~
9 ~~ing current solid waste management needs~~ CAPACITY.

10 ~~-(e) The encouragement and documentation as part of the~~
11 ~~plan, of all opportunities for participation and involvement of~~
12 ~~the public, all affected agencies and parties, and the private~~
13 ~~sector.~~

14 (f) ~~That the plan contain enforceable mechanisms for imple-~~
15 ~~menting the plan, including identification of the municipalities~~
16 ~~within the county responsible for the enforcement. This subdivi-~~
17 ~~sion does not preclude the private sector's participation in pro-~~
18 ~~viding solid waste management services consistent with the county~~
19 ~~plan.~~

20 (D) PUBLIC EDUCATION EFFORTS CONCERNING SOLID WASTE DISPOSAL
21 ALTERNATIVES.

22 (E) ~~-(g) Current and projected population densities of each~~
23 ~~county and identification of population centers and centers of~~
24 ~~solid waste generation, including industrial wastes.~~

25 (F) AN ANALYSIS OR EVALUATION OF THE BEST AVAILABLE INFORMA-
26 TION APPLICABLE TO THE PLAN AREA IN REGARD TO RECYCLABLE
27 MATERIALS AND COMPOSTING.

1 ~~-(h) That the plan area has, and will have during the plan~~
2 ~~period, access to a sufficient amount of available and suitable~~
3 ~~land, accessible to transportation media, to accommodate the~~
4 ~~development and operation of solid waste disposal areas, or~~
5 ~~resource recovery facilities provided for in the plan.~~

6 ~~-(i) That the solid waste disposal areas or resource recov-~~
7 ~~ery facilities provided for in the plan are capable of being~~
8 ~~developed and operated in compliance with state law and rules of~~
9 ~~the department pertaining to protection of the public health and~~
10 ~~the environment, considering the available land in the plan area,~~
11 ~~and the technical feasibility of, and economic costs associated~~
12 ~~with, the facilities.~~

13 ~~-(j) A timetable or schedule for implementing the county~~
14 ~~solid waste management plan.~~

15 ~~(2) Each solid waste management plan shall identify specific~~
16 ~~sites for solid waste disposal areas for a 5-year period after~~
17 ~~approval of a plan or plan update. In calculating disposal need~~
18 ~~requirements to measure compliance with this section, only those~~
19 ~~existing waste stream volume reduction levels achieved through~~
20 ~~source reduction, reuse, composting, recycling, or incineration,~~
21 ~~or any combination of these reduction devices, that can currently~~
22 ~~be demonstrated or that can be reasonably expected to be achieved~~
23 ~~through currently active implementation efforts for proposed~~
24 ~~volume reduction projects, may be assumed by the planning~~
25 ~~entity. In addition, if the solid waste management plan does not~~
26 ~~also identify specific sites for solid waste disposal areas for~~
27 ~~the remaining portion of the entire planning period required by~~

~~1 this part after approval of a plan or plan update, the solid
2 waste management plan shall include an interim siting mechanism
3 and an annual certification process as described in subsections
4 (3) and (4). In calculating the capacity of identified disposal
5 areas to determine if disposal needs are met for the entire
6 required planning period, full achievement of the solid waste
7 management plan's volume reduction goals may be assumed by the
8 planning entity if the plan identifies a detailed programmatic
9 approach to achieving these goals. If a siting mechanism is not
10 included, and disposal capacity falls to less than 5 years of
11 capacity, a county shall amend its plan to resolve the
12 shortfall.~~

~~13 (3) An interim siting mechanism shall include both a process
14 and a set of minimum siting criteria, both of which are not
15 subject to interpretation or discretionary acts by the planning
16 entity, and which if met by an applicant submitting a disposal
17 area proposal, will guarantee a finding of consistency with the
18 plan. The interim siting mechanism shall be operative upon the
19 call of the board of commissioners or shall automatically be
20 operative whenever the annual certification process shows that
21 available disposal capacity will provide for less than 66 months
22 of disposal needs. In the latter event, applications for a find-
23 ing of consistency from the proposers of disposal area capacity
24 will be received by the planning agency commencing on January 1
25 following completion of the annual certification process. Once
26 operative, an interim siting mechanism will remain operative for
27 at least 90 days or until more than 66 months of disposal~~

~~1 capacity is once again available, either by the approval of a
2 request for consistency or by the adoption of a new annual certi-
3 fication process which concludes that more than 66 months of dis-
4 posal capacity is available.~~

~~5 (4) An annual certification process shall be concluded by
6 June 30 of each year, commencing on the first June 30 which is
7 more than 12 months after the department's approval of the plan
8 or plan update. The certification process will examine the
9 remaining disposal area capacity available for solid wastes gen-
10 erated within the planning area. In calculating disposal need
11 requirements to measure compliance with this section, only those
12 existing waste stream volume reduction levels achieved through
13 source reduction, reuse, composting, recycling, or incineration,
14 or any combination of these reduction devices, that can currently
15 be demonstrated or that can be reasonably expected to be achieved
16 through currently active implementation efforts for proposed
17 volume reduction projects, may be assumed. The annual certifica-
18 tion of disposal capacity shall be approved by the board of
19 commissioners. Failure to approve an annual certification by
20 June 30 is equivalent to a finding that less than a sufficient
21 amount of capacity is available and the interim siting mechanism
22 will then be operative on the first day of the following
23 January. As part of the department's responsibility to act on
24 construction permit applications, the department has final deci-
25 sion authority to approve or disapprove capacity certifications
26 and to determine consistency of a proposed disposal area with the
27 solid waste management plan.~~

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1 ~~(5) A board of commissioners may adopt a new certification~~
2 ~~of disposal capacity at any time. A new certification of dis-~~
3 ~~posal capacity shall supersede all previous certifications, and~~
4 ~~become effective 30 days after adoption by the board of commis-~~
5 ~~sioners and remain in effect until subsequent certifications are~~
6 ~~adopted.~~

7 ~~(6) In order for a disposal area to serve the disposal needs~~
8 ~~of another county, state, or country, the service, including the~~
9 ~~disposal of municipal solid waste incinerator ash, must be~~
10 ~~explicitly authorized in the approved solid waste management plan~~
11 ~~of the receiving county. With regard to intercounty service~~
12 ~~within Michigan, the service must also be explicitly authorized~~
13 ~~in the exporting county's solid waste management plan.~~

14 ~~(7) A person shall not dispose of, store, or transport solid~~
15 ~~waste in this state unless the person complies with the require-~~
16 ~~ments of this part.~~

17 ~~(8) Following approval by the director of a county solid~~
18 ~~waste management plan and after July 1, 1981, an ordinance, law,~~
19 ~~rule, regulation, policy, or practice of a municipality, county,~~
20 ~~or governmental authority created by statute, which prohibits or~~
21 ~~regulates the location or development of a solid waste disposal~~
22 ~~area, and which is not part of or not consistent with the~~
23 ~~approved solid waste management plan for the county, shall be~~
24 ~~considered in conflict with this part and shall not be~~
25 ~~enforceable.~~

1 SEC. 11551. ADMINISTRATIVE RULES R 299.4112(1)(B) AND
2 299.4711(E)(*iii*)(C) OF THE MICHIGAN ADMINISTRATIVE CODE ARE
3 RESCINDED.

4 Enacting section 1. Sections 11513, 11524, 11531, 11537,
5 11537a, 11539, 11539a, 11541, and 11547 of the natural resources
6 and environmental protection act, 1994 PA 451, MCL 324.11513,
7 324.11524, 324.11531, 324.11537, 324.11537a, 324.11539,
8 324.11539a, 324.11541, and 324.11547, are repealed.