May 28, 2020, Introduced by Reps. O'Malley, Howell, Tate, Sowerby, VanSingel and Rabhi and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11526, 11526a, 11527, 11528, 11531, 11532, 11533, 11539, 11540, 11541, 11546, 11549, 11550, and 11553 (MCL 324.11526, 324.11526a, 324.11527, 324.11528, 324.11531, 324.11532, 324.11533, 324.11539, 324.11540, 324.11541, 324.11546, 324.11549, 324.11550, and 324.11553), section 11526 as amended by 2004 PA 43, section 11526a as added by 2004 PA 40, sections 11528, 11539, and 11550 as amended by 2018 PA 640, section 11533 as amended by 2004 PA 44, section 11541 as amended by 1996 PA 358, section 11546 as
amended by 2006 PA 56, section 11549 as amended by 2006 PA 58, and
section 11553 as added by 2014 PA 178, and by designating sections
11526 to 11533 as subpart 5, sections 11539 to 11541 as subpart 6,
sections 11546 to 11549 as subpart 7, section 11550 as subpart 8,
section 11553 as subpart 9; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SUBPART 5 MISCELLANEOUS

Sec. 11526. (1) The department, a local health officer, or a
law enforcement officer of competent jurisdiction may inspect a
solid waste transporting unit that is being used to transport solid
waste along a public road to determine if the solid waste
transporting unit is designed, maintained, and operated in a manner
to prevent littering or to determine if the owner or operator of
the solid waste transporting unit is performing in compliance with
this part and the rules promulgated under this part 115.

(2) In order to protect the public health, safety, and or
welfare, and or the environment of this state, from items and
substances being illegally disposed of in landfills in this state,
the department, in conjunction with the department of state police,
shall administer this part so as to do all of the following:

(a) Ensure that all disposal areas are each materials
management facility is in full compliance with this part and the
rules promulgated under this part 115.

(b) Provide for the inspection of each licensed solid waste
disposal area for compliance with this part and the rules
promulgated under this part 115 at least 4 times per year.

(c) Provide for the annual inspection for compliance with part
115 of each materials utilization facility that is approved under a
general permit or registered under part 115.
(d) (c) Ensure that all persons disposing of solid waste are doing so in compliance with this part and the rules promulgated under this part 115.

(3) The department and the department of state police may conduct regular, random inspections of waste being transported for disposal at disposal areas at a materials management facility in this state. Inspections under this subsection may be conducted during transportation or at disposal areas at the end original destination the materials management facility.

(4) An inspection described in this section may also be conducted upon receipt of a complaint or as the department determines to be necessary to ensure compliance with part 115.

Sec. 11526a. (1) Beginning October 1, 2004, in order to protect the public health, safety, and welfare and the environment of this state from the improper disposal of waste that is prohibited from disposal in a landfill, and in recognition that the nature of solid waste collection and transport limits the ability of the state to conduct cost effective inspections to ensure compliance with state law, the owner or operator of a landfill shall not accept for disposal in this state solid waste, including, but not limited to, municipal solid waste incinerator ash, that was generated outside of this state unless 1 or more of the following are met:

(a) The solid waste is composed of a uniform type of item, material, or substance, other than municipal solid waste incinerator ash, that meets the requirements for disposal in a landfill under this part and the rules promulgated under this part 115.

(b) The solid waste was received through a material recovery
facility, a transfer station, or other facility that has documented
that it has removed from the solid waste being delivered to the
landfill those items that are prohibited from disposal in a
landfill.

(c) The country, state, province, or local jurisdiction in
which the solid waste was generated is approved by the department
for inclusion on the list compiled by the department under section
11526b.

(2) Notwithstanding section 11538 or any other provision of
this part 115, if there is sufficient disposal capacity for a
county's planning area's disposal needs in or within 150–130 miles
of the county, all of the following apply:

(a) The county is not required to identify a site for a new
landfill in its solid waste management plan.

(b) An interim siting mechanism shall not become operative in
the county unless the county board of commissioners determines
otherwise.

(c) The planning area, the department is not required to issue
a construction permit for a new landfill or municipal solid waste
incinerator in the county planning area.

Sec. 11527. (1) A solid waste hauler transporting solid waste
over a public road in this state shall deliver do both of the
following:

(a) Deliver all solid waste to a disposal area licensed under
part 115 or a solid waste processing and transfer facility licensed
or registered or for which a notification has been submitted under
this part and shall use 115.

(b) Use only a vehicle or container that does not contribute
to littering and that conforms to the rules promulgated by the
(2) A solid waste hauler who violates this part or a rule promulgated under this part, or who that is responsible for a vehicle that has in part contributed to a violation of this part or a rule promulgated under this part, is subject to a penalty as provided in section 11549. Part 115 is considered to have committed the violation.

(3) A solid waste hauler operating within a county with a materials management plan prepared by the department shall provide recycling services that meet the requirements of the benchmark recycling standard for single-family residences for which it provides solid waste hauling services within that county.

Sec. 11528. (1) A solid waste transporting unit used for garbage, food waste, industrial or domestic sludges, or other moisture laden materials not specifically covered by part 121 shall be watertight and constructed, maintained, and operated to prevent littering. Solid waste transporting units used for hauling other solid waste shall be designed and operated to prevent littering or any other nuisance.

(2) A solid waste hauler who violates this part or the rules promulgated under this part is subject to the penalties provided in this part.

(2) (3) The department, a local health officer, or a law enforcement officer may order a solid waste transporting unit out of service if the unit does not comply with the requirements of this part or the rules promulgated under this part 115. Continued use of a solid waste transporting unit ordered out of service is a violation of this part.

Sec. 11531. (1) A municipality or county shall ensure...
that all solid waste is removed from the site of generation
frequently enough to protect the public health, and is delivered to
licensed disposal areas, a materials management facility that meets
the requirements of section 11508(1)(a), except waste that is
permitted by state law or rules promulgated by the department to be
disposed of at the site of generation.

(2) An ordinance enacted adopted before February 8, 1988 by a
county or municipality incidental to the financing of a publicly
owned disposal area or areas under construction that directs that
all or part of the solid waste generated in that county or
municipality be directed to the disposal area or areas is an
acceptable means of compliance with subsection (1), notwithstanding
that the ordinance, in the case of a county, has not been approved
by the governor. This subsection applies only to ordinances adopted
by the governing body of a county or municipality before February
8, 1988, and does not validate or invalidate an ordinance adopted
on or after February 8, 1988 as an acceptable means of compliance
with subsection (1).

Sec. 11532. (1) Except as provided in subsection (3), (2), a
municipality may impose an impact fee of not more than 10-30 cents
per cubic yard ton on solid waste, including municipal solid waste
incinerator ash, that is disposed of in a landfill located within
the municipality that is utilized by the public and utilized to
dispose of solid waste collected from 2 or more persons. However,
if the landfill is located within a village, the impact fee
provided for in this subsection shall be imposed only by the
township in pursuant to an agreement with the village. The An
impact fee shall be assessed uniformly on all wastes accepted for
disposal.
(2) Except as provided in subsection (3), a municipality may impose an impact fee of not more than 10 cents per cubic yard on municipal solid waste incinerator ash that is disposed of in a landfill located within the municipality that is utilized to dispose of municipal solid waste incinerator ash. However, if the landfill is located within a village, the impact fee provided for in this subsection shall be imposed by the township in agreement with the village.

(2) (3) A municipality may enter into an agreement with the owner or operator of a landfill to establish a higher impact fee than those provided for in subsections (1) and (2).

(3) (4) The impact fees imposed under this section shall be collected by the owner or operator of a landfill and shall be paid to the municipality quarterly by the thirtieth day after the end of each calendar quarter. However, the impact fees allowed to be assessed to each landfill under this section shall be reduced by any amount of revenue paid to or available to the municipality from the landfill under the terms of any preexisting agreements, including, but not limited to, contracts, special use permit conditions, court settlement agreement conditions, and trusts.

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

(5) The municipality may establish a trust fund to receive revenue collected pursuant to this section. The trust fund shall be administered by a board of trustees. The board of trustees shall consist of the following members:

(a) The chief elected official of the municipality.

(b) An individual from the municipality appointed by the governing body of the municipality.

(c) An individual approved by the owners or operators of the landfills within the municipality and appointed by the governing body of the municipality.

(6) Individuals appointed to serve on the board of trustees under subsection (6)(b) and (c) shall serve for terms of 2 years.

(7) Subject to subsection (8), money in the trust fund under subsection (5) may be expended, pursuant to a majority vote of the board of trustees, for any purpose that promotes the public health, safety, or welfare of the citizens of the municipality. However, revenue

(8) Revenue collected pursuant to this section shall not be used to bring or support a lawsuit or other legal action against a landfill owner or operator of a landfill who is collecting an impact fee pursuant to subsection (4) unless the owner or operator of the landfill has instituted a lawsuit or other legal action against the municipality.

Sec. 11533. (1) Each solid waste management plan shall include
an enforceable program and process to assure that the nonhazardous
solid waste generated or to be generated in the planning area for a
period of 10 years or more is collected and recovered, processed,
or disposed of at disposal areas that comply with state law and
rules promulgated by the department governing location, design, and
operation of the disposal areas. Each solid waste management plan
may include an enforceable program and process to assure that only
items authorized for disposal in a disposal area under this part
and the rules promulgated under this part are disposed of in the
disposal area.

(2) An initial solid waste management plan shall be prepared
and approved under this section and shall be submitted to the
director not later than January 5, 1984. Following submittal of the
initial plan, the solid waste management plan shall be reviewed and
updated every 5 years. An updated solid waste management plan and
an amendment to a solid waste management plan shall be prepared and
approved as provided in this section and sections 11534, 11535,
11536, 11537, and 11537a. The solid waste management plan shall
encompass all municipalities within the county. The solid waste
management plan shall at a minimum comply with the requirements of
sections 11537a and 11538. The solid waste management plan shall
take into consideration solid waste management plans in contiguous
counties and existing local approved solid waste management plans
as they relate to the county's needs. At a minimum, a county
preparing a solid waste management plan shall consult with the
regional planning agency from the beginning to the completion of
the plan.

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

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

(5) If the municipalities fail to file a notice of intent to
prepare a solid waste management plan with the department within
the prescribed time, the department shall request the appropriate
regional solid waste management planning agency to prepare the
solid waste management plan. The regional solid waste management
planning agency shall respond within 90 days after the date of the
request.

(6) If the regional solid waste management planning agency
delears to prepare a solid waste management plan, the department
shall prepare a solid waste management plan for the county and that
plan shall be final.
(7) A solid waste management planning agency, upon request of the department, shall submit a progress report in preparing its solid waste management plan. The department may promulgate rules to implement this part. The rules may include, but are not limited to, standards for any of the following:

(a) Hydrogeologic investigations.
(b) Monitoring.
(c) Liner materials.
(d) Leachate collection and treatment, if applicable.
(e) Groundwater separation distances.
(f) Environmental assessments.
(g) Gas control.
(h) Soil erosion.
(i) Sedimentation control.
(j) Groundwater and surface water quality.
(k) Noise.
(l) Air pollution odors.
(m) The use of floodplains and wetlands.
(n) Solid waste transporting units.
(o) Grants.
(p) Materials management planning.
(q) Closure and postclosure.

SUBPART 6 INCINERATORS AND OPEN BURNING

Sec. 11539. (1) The director shall not approve a plan update unless:
(a) The plan contains an analysis or evaluation of the best available information applicable to the plan area in regard to recyclable materials and all of the following:
(i) The kind and volume of material in the plan area's waste
stream that may be recycled or composted.

(ii) How various factors do or may affect a recycling and composting program in the plan area. Factors shall include an evaluation of the existing solid waste collection system; materials market; transportation networks; local composting and recycling support groups, or both; institutional arrangements; the population in the plan area; and other pertinent factors.

(iii) An identification of impediments to implementing a recycling and composting program and recommended strategies for removing or minimizing impediments.

(iv) How recycling and composting and other processing or disposal methods could complement each other and an examination of the feasibility of excluding site separated material and source separated material from other processing or disposal methods.

(v) Identification and quantification of environmental, economic, and other benefits that could result from the implementation of a recycling and composting program.

(vi) The feasibility of source separation of materials that contain potentially hazardous components at disposal areas. This subparagraph applies only to plan updates that are due after January 31, 1989.

(b) The plan either provides for recycling and composting recyclable materials from the plan area's waste stream or establishes that recycling and composting are not necessary or feasible or is only necessary or feasible to a limited extent.

(c) A plan that proposes a recycling or composting program, or both, details the major features of that program, including all of the following:

(i) The kinds and volumes of recyclable materials that will be
recycled or composted.

(ii) Collection methods.

(iii) Measures that will ensure collection such as ordinances or cooperative arrangements, or both.

(iv) Ordinances or regulations affecting the program.

(v) The role of counties and municipalities in implementing the plan.

(vi) The involvement of existing recycling interests, solid waste haulers, and the community.

(vii) Anticipated costs.

(viii) On-going program financing.

(ix) Equipment selection.

(x) Public and private sector involvement.

(xi) Site availability and selection.

(xii) Operating parameters such as pH and heat range.

(d) The plan includes an evaluation of how the planning entity is meeting the state's waste reduction and recycling goals as established pursuant to section 11541(4).

(2) A disposal area permitted, licensed, or otherwise in existence on the date of approval of the solid waste management plan for the planning area where the disposal area is located shall be considered to be consistent with the plan and included in the plan.

(3) The director may promulgate rules as may be necessary to implement this section. The open burning of yard waste or leaves is prohibited in any municipality having a population of 7,500 or more, unless specifically authorized by local ordinance. Within 30 days after adoption of such an ordinance, the clerk of the
municipality shall notify the department of its adoption.

(2) Subsection (1) does not permit a county or municipality to authorize open burning of yard waste or leaves by an ordinance that is prohibited under part 55 or rules promulgated under part 55.

(3) A person shall not conduct open burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials.

(4) Subpart 7 does not apply to an individual who violates subsection (3) by open burning of waste from that individual's household. The individual is responsible for a state civil infraction and is subject to the following:

(a) For a first offense within a 3-year period, a warning by the judge or magistrate.

(b) For a second offense within a 3-year period, a civil fine of not more than $75.00.

(c) For a third offense within a 3-year period, a civil fine of not more than $150.00.

(d) For a fourth or subsequent offense within a 3-year period, a civil fine of not more than $300.00.

(5) Notwithstanding section 5512, the department shall not promulgate or enforce a rule that extends the prohibition under subsection (3) to materials not listed in subsection (3).

(6) Part 115, part 55, or rules promulgated under part 55 do not prohibit a person from conducting open burning of wooden fruit or vegetable storage bins constructed from untreated lumber if all of the following requirements are met:

(a) The burning is conducted for disease or pest control.

(b) The burning is not conducted at any of the following locations:
(i) Within a priority I area as listed in table 33 or a priority II area as listed in table 34 of R 336.1331 of the Michigan Administrative Code.
(ii) In a city or village.
(iii) Within 1,400 feet outside the boundary of a city or village.

(7) Subsections (5) and (6) do not authorize open burning that is prohibited by a local ordinance.

(8) A congressionally chartered patriotic organization that disposes of an unserviceable flag of the United States by burning that flag is not subject to regulation or sanction for violating state law or local ordinance pertaining to open burning.

Sec. 11540. (1) Not later than September 11, 1979, the department shall submit to the legislature rules that contain sanitary design and operational standards for solid waste transporting units and disposal areas and otherwise implement this part. The rules shall include standards for hydrogeologic investigations; monitoring; liner materials; leachate collection and treatment, if applicable; groundwater separation distances; environmental assessments; methane gas control; soil erosion; sedimentation control; groundwater and surface water quality; noise and air pollution; and the use of floodplains and wetlands.

The owner or operator of an incinerator may, but is not required to, comply with the disposal area construction permit and operating license requirements of subpart 2 if both of the following conditions are met:

(a) Solid waste to be incinerated is managed in a properly enclosed area in a manner that prevents fugitive dust, litter, leachate generation, precipitation runoff, or any release of solid
waste to the air, soil, surface water, or groundwater.

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

(2) An incinerator that does not comply with the construction permit and operating license requirements of subpart 2 as authorized by subsection (1) is subject to the planning provisions of part 115 and must be included in the county materials management plan for the county in which the incinerator is located.

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

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

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

(4) The department shall promote policies that encourage resource recovery and establishment of waste-to-energy facilities. Within 9 months after the completion of construction of a municipal solid waste incinerator, the owner or operator shall submit a plan to the department for a program that, to the extent practicable, reduces the incineration of noncombustible materials and dangerous combustible materials and their hazardous by-products at the incinerator. Within 30 days after receiving the plan, the department shall approve or disapprove the plan and notify the owner or operator in writing. In reviewing the plan, the department shall consider the current materials management plan for the planning area where the incinerator is located and available markets, disposal alternatives, and collection practices for the managed materials. If the department disapproves a plan, the notice...
shall specify the reasons for disapproval. If the department disapproves the plan, the owner or operator shall within 30 days after receipt of the department's disapproval submit a revised plan that addresses all of the reasons for disapproval specified by the department. The department shall approve or disapprove the revised plan within 30 days after receiving the revised plan and notify the owner or operator in writing. If the department disapproves the revised plan, the notice shall specify the reasons for disapproval. If the department disapproves the revised plan, the department may continue with the approval process under this subsection or take appropriate enforcement action.

(2) Not later than 6 months after the approval of the plan by the department under subsection (1), the owner or operator shall implement the plan in compliance with the implementation schedule set forth in the plan. The operation of a municipal solid waste incinerator without an approved plan under this section subjects the owner or operator, or both, to the sanctions provided by this part.

SUBPART 7 ENFORCEMENT

Sec. 11546. (1) The department or a local health officer may request that the attorney general bring an action in the name of the people of the this state, or a municipality or county may bring an action based on facts arising within its boundaries, for any appropriate relief, including injunctive relief, for a violation of this part or rules promulgated under this part 115.

(2) In addition to any other relief provided by this section, the court may impose on any person who violates any provision of this part or rules promulgated under this part or who fails to comply with any permit, license, or final order issued pursuant to

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(a) Except as provided in subdivision (b), a civil fine of not more than $10,000.00 for each day of violation.

(b) For a second or subsequent violation, a civil fine of not more than $25,000.00 for each day of violation.

(3) In addition to any other relief provided by this section, the court may order a person who violates this part or the rules promulgated under this part to restore, or to pay to the state an amount equal to the cost of restoring, the natural resources of this state affected by the violation to their original condition before the violation, and to pay to the state the costs of surveillance and enforcement incurred by the state as a result of the violation.

(4) In addition to any other relief provided by this section, the court shall order a person who violates section 11526e to return, or to pay to the state an amount equal to the cost of returning, the solid waste that is the subject of the violation to the country in which that waste was generated.

(5) This part does not preclude any person from commencing a civil action based on facts that may also constitute a violation of this part or the rules promulgated under this part.

Sec. 11549. (1) A person who violates this part, a rule promulgated under this part, or a condition of a permit, license, or final order issued pursuant to this part is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 for each violation and costs of prosecution and, if in default of payment of fine and costs, imprisonment for not more than 6 months.

(2) A person who knowingly violates section 11526e is guilty
of a felony punishable by imprisonment for not more than 2 years or
a fine of not more than $5,000.00, or both.

(3) Each day upon which a violation described in this section
occurs is a separate offense.

SUBPART 8 FUND AND GRANTS

Sec. 11550. (1) The solid waste management fund is created
within the state treasury. The state treasurer may receive money
from any source for deposit into the fund. The state treasurer
shall direct the investment of the fund. The state treasurer shall
credit to the fund interest and earnings from fund investments. The
department shall be the administrator of the fund for auditing
purposes.

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

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

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

(a) Preparing generally applicable guidance regarding the
solid waste permit and license materials management facility
program or its implementation or enforcement.

(b) Reviewing and acting on any notification, registration,
application for approval under a general permit, application for a
permit or license, permit or license revision, or permit or license
renewal, including the cost of public notice and public hearings.

(c) Performing Providing an advisory analysis under section
11510(1).
(d) General administrative costs of running the permit, license, registration, and notification program, including permit, license, registration, and notification tracking and data entry.

(e) Inspection of licensed disposal areas materials management facilities and open dumps.

(f) Implementing and enforcing the conditions of any permit, license, registration, and notification tracking and data entry.

(g) Groundwater monitoring audits at disposal areas which are or have been licensed under this part 115 or at any other materials management facility that requires groundwater monitoring because of a release or suspected release.

(h) Reviewing and acting upon corrective action plans for disposal areas which are or have been licensed materials management facilities under this part 115.

(i) Review of certifications of closure.

(j) Postclosure maintenance and monitoring inspections and review.

(k) Review of bonds and financial assurance documentation at disposal areas which are or have been licensed materials management facilities, if required under this part 115.

(l) Materials management planning.

(m) Materials utilization education and outreach.

(n) Development of a materials utilization and recycled materials market directory.

(o) Administration of grants and loans under part 115 for planning, market development and recycling infrastructure, outreach, and education.
(p) Up to 1 full-time equivalent employee for the Michigan economic development corporation to address recycled materials market development.

(5) Money shall be expended from the perpetual care account, upon appropriation, only for the purpose of conducting the following activities at disposal areas which are or have been licensed under this part: materials management facilities for which the requirements of section 11508(1)(a) are or were met and for which fees have been collected and deposited into the perpetual care account:

(a) Postclosure maintenance and monitoring at a disposal area where materials management facility if the owner or operator is no longer required to do so.

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

(6) Subject to appropriations, the department shall provide grants for the following purposes:

(a) The recycling markets program established under subsection (7).

(b) The local recycling innovation program established under subsection (8).

(c) The recycling access and voluntary participation program established under subsection (9).
(7) The department shall establish a recycling markets program. The program shall provide grants or loans for purchasing equipment, research and development, or associated activities to provide for new or increased use of recycled materials or to support the development of recycling markets. Local units of government and nonprofit and for-profit entities are eligible for funding under the program. The funding is not limited to entities in counties with approved materials management plans. In addition to any other reporting requirements established by the department, grant recipients under the program shall provide information on the materials managed.

(8) The department shall establish a local recycling innovation program. The program shall provide grants or loans for developing local recycling infrastructure, for recycling education campaigns for residents and businesses, for other activities that result in increasing recycling access and participation, for reducing waste, and for sustainable materials management. Local units of government and nonprofit and for-profit entities are eligible for funding under the program. The funding is not limited to entities in counties with approved materials management plans. In addition to any other reporting requirements established by the department, grant recipients under the program shall provide the department information on the materials managed.

(9) The department shall establish a recycling access and voluntary participation program. The program shall provide grants or loans to assist local units of government in implementing best materials utilization practices and identifying ways to innovate and to collaborate with other local units and the private sector. To be eligible for a grant, a local unit of government must be a
county that meets, or a municipality located within a county that meets, both of the following requirements:

(a) Has a materials management plan.

(b) Has documented progress toward meeting or has met its benchmark recycling standards and ultimately the municipal solid waste recycling rate goal under section 11507.

(10) The department shall publish and make available to grant and loan applicants criteria upon which the grants and loans will be made.

(11) By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities of the previous fiscal year funded by the staff account of the solid waste management fund. This report shall include, at a minimum, all of the following as it relates to the department:

(a) The number of full-time equated positions performing solid waste management permitting, authorization, compliance, and enforcement activities.

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

(i) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

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

(iii) The percentage and number of applications determined to be administratively complete for which a final decision was made within the period required by part 13.

(c) All of the following information related to the operating license applications received under section 11512:

(i) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

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

(iii) The percentage and number of applications determined to be administratively complete for which a final decision was made within the period required by part 13.

(d) The number of inspections conducted at licensed disposal areas as required by section 11519 and the number of inspections conducted at materials utilization facilities as required by section 11526.

(e) The number of letters of warning sent to licensed disposal areas.

(f) The number of contested case hearings and civil actions initiated and completed, the number of voluntary consent orders and
administrative orders entered or issued, and the amount of fines
and penalties collected through such actions or orders.

(g) For each enforcement action that includes a penalty, a
description of what the corrective actions that were required by
the enforcement action.

(h) The number of solid waste complaints received,
investigated, resolved, and not resolved by the department.

(i) The amount of revenue in the staff account of the solid
waste management fund and the coal ash care fund at the end of the
fiscal year.

(12) (7) The coal ash care fund is created within the state
treasury. The state treasurer may receive money from any source for
deposit into the fund. The state treasurer shall direct the
investment of the fund. The state treasurer shall credit to the
fund interest and earnings from fund investments.

(13) (8) Money shall be expended from the coal ash care fund,
upon appropriation, only for the following purposes relating to
coal ash impoundments and coal ash landfills:

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

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

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

(d) General administrative costs of running the permit and
license program, including permit and license tracking and data
entry.

(e) Inspection of licensed disposal areas and open dumps.
(f) Implementing and enforcing the conditions of any permit or license.

(g) Groundwater monitoring audits at disposal areas that are or have been licensed under this part.

(h) Reviewing and acting upon corrective action plans for disposal areas that are or have been licensed under this part.

(i) Review of certifications of closure.

(j) Postclosure maintenance and monitoring inspections and review.

(k) Review of bonds and financial assurance documentation at disposal areas that are or have been licensed under this part.

SUBPART 9 BENEFICIAL USE BY-PRODUCTS

Sec. 11553. (1) Consistent with the requirements of this part, the department shall apply this section so as to promote and foster the use of wastes and by-products for recycling or beneficial purposes.

(2) Any person may request the department, consistent with the definitions and other terms of this part, to approve a material, a use, or a material and use as a source separated material; a beneficial use by-product for beneficial use 1, 2, 4, or 5; an inert material; a low-hazard industrial waste; nondetrimental material managed for agricultural or silvicultural use; or another material, use, or material and use that can be approved under this part. Among other things, a person may request the department to approve a use that does not qualify as meet the definition of beneficial use 2 under section 11502(4)(a), 11502(8)(a) because the property is not nonresidential property or under section 11502(4)(a), 11502(8)(a), (b), or (c) because the material exceeds 4 feet in thickness. A request under this
subsection shall be in writing and contain a description of the material including the process generating it; results of analyses of representative samples of the material for any hazardous substances that the person has knowledge or reason to believe could be present in the material, based on its source, its composition, or the process that generated it; and, if applicable, a description of the proposed use. The analysis and sampling of the material under this subsection shall be consistent with the methods contained in the EPA document entitled "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," SW 846 3rd edition; identified in "Standard Methods for the Examination of Water and Wastewater, 20th Edition," (jointly published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation) or "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846, Third Edition, Final Updates I (1993), II (1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB (2005), IV (2008), AND V (2015); or more peer-reviewed standards developed by a national or international organization, such as ASTM International; or more standards or methods approved by the department or the EPA. The department shall approve or deny the request in writing within 150 days after the request is received, unless the parties agree to an extension. If the department determines that the request does not include sufficient information, the department shall, not more than 60 days after receipt of the request, notify the requester. The notice shall specify the additional information that is required. The 150-day period is tolled until the requestor submits the information specified in the notice. If the department approves a request under
this subsection, the approval shall include the following statement: "This approval does not require any use of any beneficial use by-product by a governmental entity or any other person." The department may impose conditions and other requirements consistent with the purposes of this part 115 on a material, a use, or a material and use approved under this section that are reasonably necessary for the use. If a request is approved with conditions or other requirements, the approval shall specifically state the conditions or other requirements. If the request is denied, the department's denial shall, to the extent practical, state with specificity all of the reasons for denial. If the department fails to approve or deny the request within the 150-day period, the request is considered approved. A person requesting approval under this subsection may seek review of any final department decision pursuant to section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(3) The department shall approve a material for a specified use as a beneficial use by-product if all of the following requirements are met:

(a) The material is an industrial or commercial material that is or has the potential to be generated in high volumes.

(b) The proposed use serves a legitimate beneficial purpose other than providing a means to discard the material.

(c) A market exists for the material or there is a reasonable potential for the creation of a new market for the material if it is approved as a beneficial use by-product.

(d) The material and use meet all federal and state consumer protection and product safety laws and regulations.

(e) The material meets all of the following requirements:
(i) Hazardous substances in the material do not pose a direct contact health hazard to humans.

(ii) The material does not leach, decompose, or dissolve in a way that forms an unacceptably contaminated leachate. An unacceptably contaminated leachate is one that exceeds either part 201 generic residential groundwater drinking water criteria or surface water quality standards established under part 31.

(iii) The material does not produce emissions that violate part 55 or that create a nuisance.

(4) The department may approve a material for a specified use as a beneficial use by-product or as restricted use compost if the material meets the requirements of subsection (3)(a), (b), (c), and (d) but fails to meet the requirements of subsection (3)(e) and if the department determines that the material and use are protective of the public health and environment. In making the determination, the department shall consider the potential for exposure and risk to human health and the environment given the nature of the material, its proposed use, and the environmental fate and transport of any hazardous substances in the material in soil, groundwater, or other relevant media.

(5) The department shall approve a material as inert or as general use compost if all of the following requirements are met:

(a) The material is proposed to be used for a legitimate purpose other than a means to dispose of the material.

(b) Hazardous substances in the material do not pose a direct contact health hazard to humans.

(c) The material does not leach, decompose, or dissolve in a way that forms an unacceptably contaminated leachate upon contact.
with water or other liquids likely to be found at the area of placement, disposal, or use. An unacceptably contaminated leachate is leachate that exceeds part 201 generic residential groundwater drinking water criteria or surface water quality standards established under part 31.

(d) The material does not produce emissions that violate part 55 or that create a nuisance.

(6) The department may approve a material as inert if the material meets the requirements of subsection (5)(a) but fails to meet the requirements of subsection (5)(b), (c), or (d) and if the department determines that the material is protective of the public health and environment. In making the determination, the department shall consider the potential for exposure and risk to human health and the environment given the nature of the material, its proposed use, and the environmental fate and transport of any hazardous substances in the material in soil, groundwater, or other relevant media.

(7) The department shall approve a material as a low-hazard industrial waste if hazardous substances in representative samples of the material do not leach, using, at the option of the generator, EPA method 1311, 1312, or any other method approved by the department that more accurately simulates mobility, above the higher of the following:

   (a) One-tenth the hazardous waste toxicity characteristic threshold as set forth in rules promulgated under part 111.

   (b) Ten times the generic residential groundwater drinking water cleanup criteria as set forth in rules promulgated under part 201.

(8) The department shall approve a material as a source
separated material if the person who seeks the designation

demonstrates that the material can be recycled or converted into
raw materials or new products by being returned to the original
process from which it was generated, by use or reuse as an
ingredient in an industrial process to make a product, or by use or
reuse as an effective substitute for a commercial product. To
qualify as a source separated material, the material, product, or
reuse must meet all federal and state consumer protection and
product safety laws and regulations and must not create a nuisance.
If a material will be applied to or placed on the land, or will be
used to produce products that are applied to or placed on the land,
the material must qualify as an inert material or beneficial use
by-product.

(9) Any written determination by the department made prior to
the effective date of the amendatory act that added this section
before September 16, 2014, designating a material as an inert
material, an inert material appropriate for general reuse, an inert
material appropriate for reuse at a specific location, an inert
material appropriate for specific reuse instead of virgin material,
a source separated material, a site separated material, a low-
hazard industrial waste, or a non-solid-waste material remains in
effect according to its terms or until forfeited in writing by the
person who received the determination. Upon termination,
expiration, or forfeiture of the written determination, the current
requirements of this part 115 control. The amendments made to this
part by the amendatory act that added this section 2014 PA 178 do
not rescind, invalidate, limit, or modify any such prior
determination in any way.

(10) Notwithstanding any other provision of part 115, a person
in possession of material that is designated or approved for
beneficial use or as inert material or in possession of material
from an industrial facility that is designated or approved as
source separated material is not subject to regulation as a
materials management facility if the person manages and uses the
materials as provided in part 115 for those materials.

Enacting section 1. Sections 11529, 11534 to 11538, 11539a,
11547, and 11548 of the natural resources and environmental
protection act, 1994 PA 451, MCL 324.11529, 324.11534 to 324.11538,
324.11539a, 324.11547, and 324.11548, are repealed.

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

Enacting section 3. This amendatory act does not take effect
unless all of the following bills of the 100th Legislature are
enacted into law:

(a) Senate Bill No.____ or House Bill No. 5812 (request no.
06084'20 *).

(b) Senate Bill No.____ or House Bill No. 5813 (request no.
06085'20 *).

(c) Senate Bill No.____ or House Bill No. 5814 (request no.
06086'20 *).

(d) Senate Bill No.____ or House Bill No. 5816 (request no.
06088'20 *).

(e) Senate Bill No.____ or House Bill No. 5817 (request no.
06127'20 *).