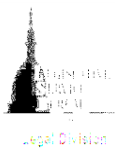


HOUSE BILL NO. 5815

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



1 (d) ~~(e)~~ Ensure that all persons disposing of solid waste are
2 doing so in compliance with ~~this part and the rules promulgated~~
3 ~~under this part 115.~~

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

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

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

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

29 (b) The solid waste was received through a ~~material recovery~~



1 ~~facility, a transfer station, or other~~ facility that has documented
 2 that it has removed from the solid waste being delivered to the
 3 landfill those items that are prohibited from disposal in a
 4 landfill.

5 (c) The country, state, province, or local jurisdiction in
 6 which the solid waste was generated is approved by the department
 7 for inclusion on the list compiled by the department under section
 8 11526b.

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

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

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

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

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

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

28 (b) **Use** only a vehicle or container that does not contribute
 29 to littering and that conforms to ~~the rules promulgated by the~~



1 ~~department, part 115.~~

2 (2) A solid waste hauler ~~who violates this part or a rule~~
 3 ~~promulgated under this part, or who~~ **that** is responsible for a
 4 vehicle that has ~~in part~~ contributed to a violation of ~~this part or~~
 5 ~~a rule promulgated under this part, is subject to a penalty as~~
 6 ~~provided in section 11549.~~ **part 115 is considered to have committed**
 7 **the violation.**

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

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

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

23 (2) ~~(3)~~ The department, a **local** health officer, or a law
 24 enforcement officer may order a solid waste transporting unit out
 25 of service if the unit does not comply with the requirements of
 26 ~~this part or the rules promulgated under this part~~ **115**. Continued
 27 use of a solid waste transporting unit ordered out of service is a
 28 violation of this part.

29 Sec. 11531. (1) A municipality or county shall ~~assure~~ **ensure**



1 that all solid waste is removed from the site of generation
 2 frequently enough to protect the public health, and is delivered to
 3 ~~licensed disposal areas,~~ **a materials management facility that meets**
 4 **the requirements of section 11508(1)(a)**, except waste that is
 5 permitted by state law or rules promulgated by the department to be
 6 disposed of at the site of generation.

7 (2) An ordinance ~~enacted~~ **adopted** before February 8, 1988 by a
 8 county or municipality incidental to the financing of a publicly
 9 owned disposal area or areas under construction that directs that
 10 all or part of the solid waste generated in that county or
 11 municipality be directed to the disposal area or areas is an
 12 acceptable means of compliance with subsection (1), notwithstanding
 13 that the ordinance, in the case of a county, has not been approved
 14 by the governor. This subsection ~~applies only to ordinances adopted~~
 15 ~~by the governing body of a county or municipality before February~~
 16 ~~8, 1988,~~ and does not validate or invalidate an ordinance adopted
 17 **on or** after February 8, 1988 as an acceptable means of compliance
 18 with subsection (1).

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



1 ~~(2) Except as provided in subsection (3), a municipality may~~
 2 ~~impose an impact fee of not more than 10 cents per cubic yard on~~
 3 ~~municipal solid waste incinerator ash that is disposed of in a~~
 4 ~~landfill located within the municipality that is utilized to~~
 5 ~~dispose of municipal solid waste incinerator ash. However, if the~~
 6 ~~landfill is located within a village, the impact fee provided for~~
 7 ~~in this subsection shall be imposed by the township in agreement~~
 8 ~~with the village.~~

9 (2) ~~(3)~~A municipality may enter into an agreement with the
 10 owner or operator of a landfill to establish a higher impact fee
 11 than those provided for in ~~subsections (1) and (2)~~. **subsection (1)**.

12 (3) ~~(4)~~The impact fees imposed under this section shall be
 13 collected by the owner or operator of a landfill and shall be paid
 14 to the municipality quarterly by the thirtieth day after the end of
 15 each calendar quarter. However, the impact fees allowed to be
 16 assessed to each landfill under this section shall be reduced by
 17 any amount of revenue paid to or available to the municipality from
 18 the landfill under the terms of any preexisting agreements,
 19 ~~including, but not limited to, contracts, special use permit~~
 20 ~~conditions, court settlement agreement conditions, and trusts.~~

21 (4) ~~(5)~~Unless a trust fund is established by a municipality
 22 pursuant to subsection ~~(6)~~, ~~(5)~~, the revenue collected by a
 23 municipality under ~~subsections (1) and (2)~~ **pursuant to subsection**
 24 **(1)** shall be deposited in its general fund. ~~to be~~ **Subject to**
 25 **subsection (8), the revenue shall be** used for any purpose that
 26 promotes the public health, safety, or welfare of the citizens of
 27 the municipality. ~~However, revenue collected pursuant to this~~
 28 ~~section shall not be used to bring or support a lawsuit or other~~
 29 ~~legal action against an owner or operator of a landfill who is~~



1 ~~collecting an impact fee pursuant to subsection (4) unless the~~
 2 ~~owner or operator of the landfill has instituted a lawsuit or other~~
 3 ~~legal action against the municipality.~~

4 (5) ~~(6) The~~ **A** municipality may establish a trust fund to
 5 receive revenue collected pursuant to this section. The trust fund
 6 shall be administered by a board of trustees. The board of trustees
 7 shall consist of the following members:

8 (a) The chief elected official of the municipality. ~~creating~~
 9 ~~the trust fund.~~

10 (b) ~~An individual from~~ **A resident of** the municipality
 11 appointed by the governing ~~board~~ **body** of the municipality.

12 (c) An individual approved by the owners or operators of the
 13 landfills within the municipality and appointed by the governing
 14 ~~board~~ **body** of the municipality.

15 (6) ~~(7)~~ Individuals appointed to serve on the board of
 16 trustees under subsection ~~(6) (b)~~ **(5) (b)** and (c) shall serve for
 17 terms of 2 years.

18 (7) ~~(8) Money~~ **Subject to subsection (8), money** in ~~the~~ **a** trust
 19 fund **under subsection (5)** may be expended, pursuant to a majority
 20 vote of the board of trustees, for any purpose that promotes the
 21 public health, safety, or welfare of the citizens of the
 22 municipality. ~~However, revenue~~

23 (8) **Revenue** collected pursuant to this section shall not be
 24 used to bring or support a lawsuit or other legal action against ~~an~~
 25 **a landfill** owner or operator ~~of a landfill who~~ **that** is collecting
 26 an impact fee ~~pursuant to~~ **under** subsection ~~(4)~~ **(3)** unless the owner
 27 or operator of the landfill has instituted a lawsuit or other legal
 28 action against the municipality.

29 Sec. 11533. ~~(1) Each solid waste management plan shall include~~



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

11 ~~(2) An initial solid waste management plan shall be prepared~~
12 ~~and approved under this section and shall be submitted to the~~
13 ~~director not later than January 5, 1984. Following submittal of the~~
14 ~~initial plan, the solid waste management plan shall be reviewed and~~
15 ~~updated every 5 years. An updated solid waste management plan and~~
16 ~~an amendment to a solid waste management plan shall be prepared and~~
17 ~~approved as provided in this section and sections 11534, 11535,~~
18 ~~11536, 11537, and 11537a. The solid waste management plan shall~~
19 ~~encompass all municipalities within the county. The solid waste~~
20 ~~management plan shall at a minimum comply with the requirements of~~
21 ~~sections 11537a and 11538. The solid waste management plan shall~~
22 ~~take into consideration solid waste management plans in contiguous~~
23 ~~counties and existing local approved solid waste management plans~~
24 ~~as they relate to the county's needs. At a minimum, a county~~
25 ~~preparing a solid waste management plan shall consult with the~~
26 ~~regional planning agency from the beginning to the completion of~~
27 ~~the plan.~~

28 ~~(3) Not later than July 1, 1981, each county shall file with~~
29 ~~the department and with each municipality within the county on a~~



1 ~~form provided by the department, a notice of intent, indicating the~~
 2 ~~county's intent to prepare a solid waste management plan or to~~
 3 ~~upgrade an existing solid waste management plan. The notice shall~~
 4 ~~identify the designated agency which shall be responsible for~~
 5 ~~preparing the solid waste management plan.~~

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

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

26 ~~(6) If the regional solid waste management planning agency~~
 27 ~~declines to prepare a solid waste management plan, the department~~
 28 ~~shall prepare a solid waste management plan for the county and that~~
 29 ~~plan shall be final.~~



1 ~~(7) A solid waste management planning agency, upon request of~~
 2 ~~the department, shall submit a progress report in preparing its~~
 3 ~~solid waste management plan.~~**The department may promulgate rules to**
 4 **implement this part. The rules may include, but are not limited to,**
 5 **standards for any of the following:**

- 6 (a) Hydrogeologic investigations.
- 7 (b) Monitoring.
- 8 (c) Liner materials.
- 9 (d) Leachate collection and treatment, if applicable.
- 10 (e) Groundwater separation distances.
- 11 (f) Environmental assessments.
- 12 (g) Gas control.
- 13 (h) Soil erosion.
- 14 (i) Sedimentation control.
- 15 (j) Groundwater and surface water quality.
- 16 (k) Noise.
- 17 (l) Air pollution odors.
- 18 (m) The use of floodplains and wetlands.
- 19 (n) Solid waste transporting units.
- 20 (o) Grants.
- 21 (p) Materials management planning.
- 22 (q) Closure and postclosure.

23 **SUBPART 6 INCINERATORS AND OPEN BURNING**

24 Sec. 11539. (1) ~~The director shall not approve a plan update~~
 25 ~~unless:~~

26 ~~(a) The plan contains an analysis or evaluation of the best~~
 27 ~~available information applicable to the plan area in regard to~~
 28 ~~recyclable materials and all of the following:~~

29 ~~(i) The kind and volume of material in the plan area's waste~~



1 ~~stream that may be recycled or composted.~~

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

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

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

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

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

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

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

29 ~~(i) The kinds and volumes of recyclable materials that will be~~



1 ~~recycled or composted.~~

2 ~~(ii) Collection methods.~~

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

5 ~~(iv) Ordinances or regulations affecting the program.~~

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

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

10 ~~(vii) Anticipated costs.~~

11 ~~(viii) On-going program financing.~~

12 ~~(ix) Equipment selection.~~

13 ~~(x) Public and private sector involvement.~~

14 ~~(xi) Site availability and selection.~~

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

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

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

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

1 municipality shall notify the department of its adoption.

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

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

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

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

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

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

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

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

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

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

28 (b) The burning is not conducted at any of the following
29 locations:



1 (i) Within a priority I area as listed in table 33 or a
 2 priority II area as listed in table 34 of R 336.1331 of the
 3 Michigan Administrative Code.

4 (ii) In a city or village.

5 (iii) Within 1,400 feet outside the boundary of a city or
 6 village.

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

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

13 Sec. 11540. (1) ~~Not later than September 11, 1979, the~~
 14 ~~department shall submit to the legislature rules that contain~~
 15 ~~sanitary design and operational standards for solid waste~~
 16 ~~transporting units and disposal areas and otherwise implement this~~
 17 ~~part. The rules shall include standards for hydrogeologic~~
 18 ~~investigations; monitoring; liner materials; leachate collection~~
 19 ~~and treatment, if applicable; groundwater separation distances;~~
 20 ~~environmental assessments; methane gas control; soil erosion;~~
 21 ~~sedimentation control; groundwater and surface water quality; noise~~
 22 ~~and air pollution; and the use of floodplains and wetlands.~~**The**
 23 **owner or operator of an incinerator may, but is not required to,**
 24 **comply with the disposal area construction permit and operating**
 25 **license requirements of subpart 2 if both of the following**
 26 **conditions are met:**

27 (a) Solid waste to be incinerated is managed in a properly
 28 enclosed area in a manner that prevents fugitive dust, litter,
 29 leachate generation, precipitation runoff, or any release of solid



1 waste to the air, soil, surface water, or groundwater.

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

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

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

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

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

16 ~~(4) The department shall promote policies that encourage~~
17 ~~resource recovery and establishment of waste-to-energy~~
18 ~~facilities.~~ Within 9 months after the completion of construction of
19 a municipal solid waste incinerator, the owner or operator shall
20 submit a plan to the department for a program that, to the extent
21 practicable, reduces the incineration of noncombustible materials
22 and dangerous combustible materials and their hazardous by-products
23 at the incinerator. Within 30 days after receiving the plan, the
24 department shall approve or disapprove the plan and notify the
25 owner or operator in writing. In reviewing the plan, the department
26 shall consider the current materials management plan for the
27 planning area where the incinerator is located and available
28 markets, disposal alternatives, and collection practices for the
29 managed materials. If the department disapproves a plan, the notice



1 shall specify the reasons for disapproval. If the department
 2 disapproves the plan, the owner or operator shall within 30 days
 3 after receipt of the department's disapproval submit a revised plan
 4 that addresses all of the reasons for disapproval specified by the
 5 department. The department shall approve or disapprove the revised
 6 plan within 30 days after receiving the revised plan and notify the
 7 owner or operator in writing. If the department disapproves the
 8 revised plan, the notice shall specify the reasons for disapproval.
 9 If the department disapproves the revised plan, the department may
 10 continue with the approval process under this subsection or take
 11 appropriate enforcement action.

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

19 SUBPART 7 ENFORCEMENT

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

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



1 ~~this part~~ **115** a civil fine as follows:

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

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

6 (3) In addition to any other relief provided by this section,
7 the court may order a person who violates ~~this part or the rules~~
8 ~~promulgated under this part~~ **115** to restore, or to pay to ~~the~~ **this**
9 state an amount equal to the cost of restoring, the natural
10 resources of this state affected by the violation to their original
11 condition before the violation, and to pay to ~~the~~ **this** state the
12 costs of surveillance and enforcement incurred by ~~the~~ **this** state as
13 a result of the violation.

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

19 (5) ~~This part~~ **Part 115** does not preclude any person from
20 commencing a civil action based on facts that may ~~also~~ constitute a
21 violation of ~~this part or the rules promulgated under this~~
22 ~~part.~~ **part 115.**

23 Sec. 11549. (1) A person who violates ~~this part, a rule~~
24 ~~promulgated under this part, or a condition of a permit, license,~~
25 ~~or final order issued pursuant to this part~~ **115** is guilty of a
26 misdemeanor punishable by a fine of not more than \$1,000.00 for
27 each violation and costs of prosecution and, if in default of
28 payment of fine and costs, imprisonment for not more than 6 months.

29 (2) A person who knowingly violates section 11526e is guilty



1 of a felony punishable by imprisonment for not more than 2 years or
2 a fine of not more than \$5,000.00, or both.

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

5 **SUBPART 8 FUND AND GRANTS**

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

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

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

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

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

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

28 (c) ~~Performing~~ **Providing** an advisory analysis under section
29 11510(1).



1 (d) General administrative costs of running the permit, ~~and~~
2 license, **registration, and notification** program, including permit,
3 ~~and license, registration, and notification~~ tracking and data
4 entry.

5 (e) Inspection of ~~licensed disposal areas~~ **materials management**
6 **facilities** and open dumps.

7 (f) Implementing and enforcing the conditions of any permit,
8 ~~or license, approval under a general permit, registration, or~~
9 **order.**

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

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

17 (i) Review of certifications of closure.

18 (j) Postclosure maintenance and monitoring inspections and
19 review.

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

23 (l) **Materials management planning.**

24 (m) **Materials utilization education and outreach.**

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

27 (o) **Administration of grants and loans under part 115 for**
28 **planning, market development and recycling infrastructure,**
29 **outreach, and education.**



1 (p) Up to 1 full-time equivalent employee for the Michigan
2 economic development corporation to address recycled materials
3 market development.

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

11 (a) ~~Postclosure~~ **To conduct a postclosure** maintenance and
12 monitoring at a ~~disposal area where~~ **materials management facility**
13 **if** the owner or operator is no longer required to do so.

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

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

24 (a) The recycling markets program established under subsection
25 (7).

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

28 (c) The recycling access and voluntary participation program
29 established under subsection (9).



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

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

24 (9) The department shall establish a recycling access and
25 voluntary participation program. The program shall provide grants
26 or loans to assist local units of government in implementing best
27 materials utilization practices and identifying ways to innovate
28 and to collaborate with other local units and the private sector.
29 To be eligible for a grant, a local unit of government must be a



1 county that meets, or a municipality located within a county that
2 meets, both of the following requirements:

3 (a) Has a materials management plan.

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

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

10 (11) ~~(6)~~ By March 1 annually, the department shall prepare and
11 submit to the governor, the legislature, the chairs of the standing
12 committees of the senate and house of representatives with primary
13 responsibility for issues related to natural resources and the
14 environment, and the chairs of the subcommittees of the senate and
15 house appropriations committees with primary responsibility for
16 appropriations to the department a report that details the
17 activities of the previous fiscal year funded by the staff account
18 of the solid waste management fund. This report shall include, at a
19 minimum, all of the following as it relates to the department:

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

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

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

29 (ii) The number of applications determined to be



1 administratively complete for which a final action was taken by the
2 department. The number of final actions shall be reported as the
3 number of applications approved, the number of applications denied,
4 and the number of applications withdrawn by the applicant.

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

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

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

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

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

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

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

28 (f) The number of contested case hearings and civil actions
29 initiated and completed, the number of voluntary consent orders and



1 administrative orders entered or issued, and the amount of fines
2 and penalties collected through such actions or orders.

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

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

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

11 **(12)** ~~(7)~~—The coal ash care fund is created within the state
12 treasury. The state treasurer may receive money from any source for
13 deposit into the fund. The state treasurer shall direct the
14 investment of the fund. The state treasurer shall credit to the
15 fund interest and earnings from fund investments.

16 **(13)** ~~(8)~~—Money shall be expended from the coal ash care fund,
17 upon appropriation, only for the following purposes relating to
18 coal ash impoundments and coal ash landfills:

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

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

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

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

29 (e) Inspection of licensed disposal areas and open dumps.



1 (f) Implementing and enforcing the conditions of any permit or
2 license.

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

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

7 (i) Review of certifications of closure.

8 (j) Postclosure maintenance and monitoring inspections and
9 review.

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

12 **SUBPART 9 BENEFICIAL USE BY-PRODUCTS**

13 Sec. 11553. (1) Consistent with the requirements of ~~this part~~
14 **115**, the department shall apply this section so as to promote and
15 foster the use of wastes and by-products for recycling or
16 beneficial purposes.

17 (2) Any person may request the department, consistent with the
18 definitions and other terms of ~~this part~~ **115**, to approve a
19 material, a use, or a material and use as a source separated
20 material; a beneficial use by-product for beneficial use 1, 2, 4,
21 or 5; an inert material; a low-hazard industrial waste;
22 **nondetrimental material managed for agricultural or silvicultural**
23 **use**; or another material, use, or material and use that can be
24 approved under this part. Among other things, a person may request
25 the department to approve a use that does not ~~qualify as~~ **meet the**
26 **definition of** beneficial use 2 under section ~~11502(4)(a)~~
27 **11502(8)(a)** because the property is not nonresidential property or
28 under section ~~11502(4)(a)~~, **11502(8)(a)**, (b), or (c) because the
29 material exceeds 4 feet in thickness. A request under this



1 subsection shall **be in writing and** contain a description of the
2 material including the process generating it; results of analyses
3 of representative samples of the material for any hazardous
4 substances that the person has knowledge or reason to believe could
5 be present in the material, based on its source, its composition,
6 or the process that generated it; and, if applicable, a description
7 of the proposed use. The analysis and sampling of the material
8 under this subsection shall be consistent with the methods
9 ~~contained in the EPA document entitled "test methods for the~~
10 ~~evaluation of solid waste, physical/chemical methods," SW 846 3rd~~
11 ~~edition; identified in "Standard Methods for the Examination of~~
12 **Water and Wastewater, 20th Edition,** (jointly published by the
13 **American Public Health Association, the American Water Works**
14 **Association, and the Water Environment Federation) or "Test Methods**
15 **for Evaluating Solid Waste, Physical/Chemical Methods," EPA**
16 **publication SW-846, Third Edition, Final Updates I (1993), II**
17 **(1995), IIA (1994), IIB (1995), III (1997), IIIA (1999), IIIB**
18 **(2005), IV (2008), AND V (2015);** 1 or more peer-reviewed standards
19 developed by a national or international organization, such as ASTM
20 ~~international; **International;**~~ or 1 or more standards or methods
21 approved by the department or the EPA. The department shall approve
22 or deny the request **in writing** within 150 days after the request is
23 received, unless the parties agree to an extension. If the
24 department determines that the request does not include sufficient
25 information, the department shall, not more than 60 days after
26 receipt of the request, notify the requester. The notice shall
27 specify the additional information that is required. The 150-day
28 period is tolled until the requestor submits the information
29 specified in the notice. If the department approves a request under



1 this subsection, the approval shall include the following
 2 statement: "This approval does not require any use of any
 3 beneficial use by-product by a governmental entity or any other
 4 person." The department may impose conditions and other
 5 requirements consistent with the purposes of ~~this part~~ **115** on a
 6 material, a use, or a material and use approved under this section
 7 that are reasonably necessary for the use. If a request is approved
 8 with conditions or other requirements, the approval shall
 9 specifically state the conditions or other requirements. If the
 10 request is denied, the department's denial shall, to the extent
 11 practical, state with specificity all of the reasons for denial. If
 12 the department fails to approve or deny the request within the 150-
 13 day period, the request is considered approved. A person requesting
 14 approval under this subsection may seek review of any final
 15 department decision pursuant to section 631 of the revised
 16 judicature act of 1961, 1961 PA 236, MCL 600.631.

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

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

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

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

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

29 (e) The material meets all of the following requirements:



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

3 (ii) The material does not leach, decompose, or dissolve in a
4 way that forms an unacceptably contaminated leachate. An
5 unacceptably contaminated leachate is ~~one~~**leachate** that exceeds
6 either part 201 generic residential groundwater drinking water
7 criteria or surface water quality standards established under part
8 31.

9 (iii) The material does not produce emissions that violate part
10 55 or that create a nuisance.

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

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

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

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

28 (c) The material does not leach, decompose, or dissolve in a
29 way that forms an unacceptably contaminated leachate upon contact



1 with water or other liquids likely to be found at the area of
2 placement, disposal, or use. An unacceptably contaminated leachate
3 is leachate that exceeds part 201 generic residential groundwater
4 drinking water criteria or surface water quality standards
5 established under part 31.

6 (d) The material does not produce emissions that violate part
7 55 or that create a nuisance.

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

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

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

26 (b) Ten times the generic residential groundwater drinking
27 water cleanup criteria as set forth in rules promulgated under part
28 201.

29 (8) The department shall approve a material as a source



1 separated material if the person who seeks the designation
 2 demonstrates that the material can be recycled or converted into
 3 raw materials or new products by being returned to the original
 4 process from which it was generated, by use or reuse as an
 5 ingredient in an industrial process to make a product, or by use or
 6 reuse as an effective substitute for a commercial product. To
 7 qualify as a source separated material, the material, product, or
 8 reuse must meet all federal and state consumer protection and
 9 product safety laws and regulations and must not create a nuisance.
 10 If a material will be applied to or placed on ~~the~~ land, or will be
 11 used to produce products that are applied to or placed on ~~the~~ land,
 12 the material must qualify as an inert material or beneficial use
 13 by-product.

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

29 (10) **Notwithstanding any other provision of part 115, a person**



1 in possession of material that is designated or approved for
 2 beneficial use or as inert material or in possession of material
 3 from an industrial facility that is designated or approved as
 4 source separated material is not subject to regulation as a
 5 materials management facility if the person manages and uses the
 6 materials as provided in part 115 for those materials.

7 Enacting section 1. Sections 11529, 11534 to 11538, 11539a,
 8 11547, and 11548 of the natural resources and environmental
 9 protection act, 1994 PA 451, MCL 324.11529, 324.11534 to 324.11538,
 10 324.11539a, 324.11547, and 324.11548, are repealed.

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

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

16 (a) Senate Bill No. ____ or House Bill No. 5812 (request no.
 17 06084'20 *).

18 (b) Senate Bill No. ____ or House Bill No. 5813 (request no.
 19 06085'20 *).

20 (c) Senate Bill No. ____ or House Bill No. 5814 (request no.
 21 06086'20 *).

22 (d) Senate Bill No. ____ or House Bill No. 5816 (request no.
 23 06088'20 *).

24 (e) Senate Bill No. ____ or House Bill No. 5817 (request no.
 25 06127'20 *).

