

HOUSE BILL No. 4222

February 7, 2007, Introduced by Reps. Brown, Simpson, Byrnes, Valentine, McDowell, Dean, Espinoza, Donigan, Young, Angerer, Spade, Clack, Polidori, Hammel, Ebli, Byrum, Gillard, Gonzales and Meadows and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11502, 11503, 11504, 11505, and 11506 (MCL 324.11502, 324.11503, 324.11504, 324.11505, and 324.11506), section 11502 as amended by 2004 PA 35, sections 11503 and 11506 as amended by 1998 PA 466, and section 11504 as amended by 1996 PA 359, and by adding sections 11532c, 11532d, 11532e, 11532f, 11532g, and 11532h; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11502. (1) "Applicant" includes any person.
2 (2) "Ashes" means the residue from the burning of wood, coal,
3 coke, refuse, wastewater sludge, or other combustible materials.
4 (3) **"BENCHMARK RECYCLING PROGRAM" MEANS A RECYCLING PROGRAM AS**
5 **DESCRIBED IN SECTION 11532F.**

1 (4) ~~(3)~~—"Beverage container" means an airtight metal, glass,
2 paper, or plastic container, or a container composed of a
3 combination of these materials, which, at the time of sale,
4 contains 1 gallon or less of any of the following:

5 (a) A soft drink, soda water, carbonated natural or mineral
6 water, or other nonalcoholic carbonated drink.

7 (b) A beer, ale, or other malt drink of whatever alcoholic
8 content.

9 (c) A mixed wine drink or a mixed spirit drink.

10 (5) ~~(4)~~—"Bond" means a financial instrument executed on a form
11 approved by the department, including a surety bond from a surety
12 company authorized to transact business in this state, a
13 certificate of deposit, a cash bond, an irrevocable letter of
14 credit, insurance, a trust fund, an escrow account, or a
15 combination of any of these instruments in favor of the department.
16 The owner or operator of a disposal area who is required to
17 establish a bond under ~~other state or~~ **ANOTHER STATE STATUTE OR A**
18 federal statute may petition the department to allow such a bond to
19 meet the requirements of this part. The department shall approve a
20 bond established under ~~other state or~~ **ANOTHER STATE STATUTE OR A**
21 federal statute if the bond provides equivalent funds and access by
22 the department as other financial instruments allowed by this
23 subsection.

24 (6) ~~(5)~~—"Certificate of deposit" means a negotiable
25 certificate of deposit held by a bank or other financial
26 institution regulated and examined by a state or federal agency,
27 the value of which is fully insured by an agency of the United

1 States government. A certificate of deposit used to fulfill the
2 requirements of this part shall be in the sole name of the
3 department with a maturity date of not less than 1 year and shall
4 be renewed not less than 60 days before the maturity date. An
5 applicant who uses a certificate of deposit as a bond shall receive
6 any accrued interest on that certificate of deposit upon release of
7 the bond by the department.

8 (7) ~~(6)~~—"Certified health department" means a city, county, or
9 district department of health that is specifically delegated
10 authority by the department to perform designated activities as
11 prescribed by this part.

12 (8) ~~(7)~~—"Coal or wood ash" means either or both of the
13 following:

14 (a) The residue remaining after the ignition of coal or wood,
15 or both, and may include noncombustible materials, otherwise
16 referred to as bottom ash.

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

20 (9) ~~(8)~~—"Collection center" means a tract of land, building,
21 unit, or appurtenance or combination thereof that is used to
22 collect junk motor vehicles and farm implements under section
23 11530.

24 (10) ~~(9)~~—"Consistency review" means evaluation of the
25 administrative and technical components of an application for a
26 permit ~~—OR~~ license, or ~~for~~ ~~OF~~ operating conditions in the course
27 of inspection, for the purpose of determining consistency with the

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

(11) ~~(10)~~—"Corrective action" means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of constituents, as defined in a facility's approved hydrogeological monitoring plan, released into the environment from a disposal area, or the taking of other actions related to the release as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources that is consistent with ~~subtitle D of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6941 and 6942 to 42 USC 6941 TO 6949a or AND~~ regulations promulgated ~~pursuant to that act~~ **THEREUNDER**.

Sec. 11503. (1) "Department" means the department of environmental quality.

(2) "Director" means the director of the department.

(3) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the environment ~~which~~ **THAT** is or may become injurious to the public health, safety, or welfare, or to the environment.

(4) "Disposal area" means 1 or more of the following at a location as defined by the boundary identified in its construction permit or engineering plans approved by the department:

(a) A solid waste transfer facility.

(b) ~~Incinerator~~ **AN INCINERATOR**.

(c) ~~Sanitary~~ **A SANITARY** landfill.

1 (d) ~~Processing~~ **A PROCESSING** plant.

2 (e) ~~Other~~ **ANOTHER** solid waste handling or disposal facility
3 utilized in the disposal of solid waste.

4 (5) "Enforceable mechanism" means a legal method whereby the
5 state, a county, a municipality, or a person is authorized to take
6 action to guarantee compliance with an approved county solid waste
7 management plan. Enforceable mechanisms include contracts,
8 intergovernmental agreements, laws, ordinances, rules, and
9 regulations.

10 (6) "Escrow account" means an account managed by a bank or
11 other financial institution whose account operations are regulated
12 and examined by a federal or state agency and ~~which~~ **THAT** complies
13 with section 11523b.

14 (7) "Financial assurance" means the mechanisms used to
15 demonstrate that the funds necessary to meet the cost of closure,
16 postclosure maintenance and monitoring, and corrective action will
17 be available whenever they are needed.

18 (8) "Financial test" means a corporate or local government
19 financial test or guarantee approved for type II landfills under
20 ~~subtitle D of the solid waste disposal act, title II of Public Law~~
21 ~~89-272, 42 U.S.C. 6941 and 6942 to 6949a~~ **40 CFR PART 258**. An owner
22 or operator may use a single financial test for more than 1
23 facility. Information submitted to the department to document
24 compliance with the test shall include a list showing the name and
25 address of each facility and the amount of funds assured by the
26 test for each facility. For purposes of the financial test, the
27 owner or operator shall aggregate the sum of the closure,

1 postclosure, and corrective action costs it seeks to assure with
2 any other environmental obligations assured by a financial test
3 under state or federal law.

4 (9) "Food processing residuals" means any of the following:

5 (a) Residuals of fruits, vegetables, aquatic plants, or field
6 crops.

7 (b) Otherwise unusable parts of fruits, vegetables, aquatic
8 plants, or field crops from the processing thereof.

9 (c) Otherwise unusable food products which do not meet size,
10 quality, or other product specifications and which were intended
11 for human or animal consumption.

12 (10) "Garbage" means rejected food wastes including waste
13 accumulation of animal, fruit, or vegetable matter used or intended
14 for food or that attends the preparation, use, cooking, dealing in,
15 or storing of meat, fish, fowl, fruit, or vegetable matter.

16 ~~—— (11) "Scrap wood" means wood or wood product that is 1 or more~~
17 ~~of the following:~~

18 ~~—— (a) Plywood, pressed board, oriented strand board, or any~~
19 ~~other wood or wood product mixed with glue or filler.~~

20 ~~—— (b) Wood or wood product treated with creosote or~~
21 ~~pentachlorophenol.~~

22 ~~—— (c) Any other wood or wood product designated as scrap wood in~~
23 ~~rules promulgated by the department.~~

24 ~~—— (12) "Treated wood" means wood or wood product that has been~~
25 ~~treated with 1 or more of the following:~~

26 ~~—— (a) Chromated copper arsenate (CCA).~~

27 ~~—— (b) Ammoniacal copper quat (ACQ).~~

1 ~~—— (c) Ammoniacal copper zinc arsenate (ACZA).~~

2 ~~—— (d) Any other chemical designated in rules promulgated by the~~
3 ~~department.~~

4 ~~—— (13) "Wood" means trees, branches, bark, lumber, pallets, wood~~
5 ~~chips, sawdust, or other wood or wood product but does not include~~
6 ~~scrap wood, treated wood, painted wood or painted wood product, or~~
7 ~~any wood or wood product that has been contaminated during~~
8 ~~manufacture or use.~~

9 Sec. 11504. (1) **"HDPE" MEANS THAT TERM AS DEFINED IN SECTION**
10 **16101.**

11 (2) ~~(1)~~ "Health officer" means a full-time administrative
12 officer of a certified city, county, or district department of
13 health.

14 (3) ~~(2)~~ "Inert material" means a substance that will not
15 decompose, dissolve, or in any other way form a contaminated
16 leachate upon contact with water, or other liquids determined by
17 the department as likely to be found at the disposal area,
18 percolating through the substance.

19 (4) ~~(3)~~ "Insurance" means insurance that conforms to the
20 requirements of 40 ~~C.F.R.~~ **CFR** 258.74(d) provided by an insurer who
21 has a certificate of authority from the Michigan commissioner of
22 insurance to sell this line of coverage. An applicant for an
23 operating license shall submit evidence of the required coverage by
24 submitting both of the following to the department:

25 (a) A certificate of insurance that uses wording approved by
26 the department.

27 (b) A certified true and complete copy of the insurance

1 policy.

2 (5) ~~(4)~~ "Landfill" means a disposal area that is a sanitary
3 landfill.

4 (6) ~~(5)~~ "Letter of credit" means an irrevocable letter of
5 credit that complies with 40 C.F.R. ~~CFR~~ 258.74(c).

6 (7) "LOCAL UNIT OF GOVERNMENT" MEANS A MUNICIPALITY OR COUNTY.

7 (8) "MARKET DEVELOPMENT FUND" MEANS THE RECYCLING MARKET
8 DEVELOPMENT FUND CREATED IN SECTION 11532C.

9 (9) ~~(6)~~ "Medical waste" means that term as it is defined in
10 ~~part 138~~ SECTION 13805 of the public health code, ~~Act No. 378 of~~
11 ~~the Public Acts of 1978, being sections 333.13801 to 333.13831 of~~
12 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.13805.~~

13 (10) ~~(7)~~ "Municipal solid waste incinerator" means an
14 incinerator, ~~that is~~ owned or operated by any person, ~~and~~ THAT
15 meets all of the following requirements:

16 (a) The incinerator receives solid waste from off site and
17 burns only household waste from single and multiple dwellings,
18 hotels, motels, and other residential sources, or this household
19 waste together with solid waste from commercial, institutional,
20 municipal, county, or industrial sources that, if disposed of,
21 ~~would~~ IS not ~~be~~ required to be placed in a disposal facility
22 licensed under part 111.

23 (b) The incinerator has established contractual requirements
24 or other notification or inspection procedures sufficient to assure
25 that the incinerator receives and burns only waste referred to in
26 subdivision (a).

27 (c) The incinerator meets the requirements of this part and

1 the rules promulgated under this part.

2 (d) The incinerator is not an industrial furnace as defined in
3 ~~40 C.F.R.~~ **CFR** 260.10.

4 (e) The incinerator is not an incinerator that receives and
5 burns only medical waste or only waste produced at 1 or more
6 hospitals.

7 **(11)** ~~(8)~~ "Municipal solid waste incinerator ash" means the
8 substances remaining after combustion in a municipal solid waste
9 incinerator.

10 **(12) "MUNICIPALITY" MEANS A CITY, VILLAGE, OR TOWNSHIP.**

11 **(13)** ~~(9)~~ "Perpetual care fund" means a perpetual care fund
12 provided for in section 11525.

13 ~~—— (10) "Trust fund" means a trust fund held by a trustee which~~
14 ~~has the authority to act as a trustee and whose trust operations~~
15 ~~are regulated and examined by a federal or state agency. A trust~~
16 ~~fund shall comply with section 11523b.~~

17 **(14) "PETE" MEANS THAT TERM AS DEFINED IN SECTION 16101.**

18 Sec. 11505. (1) "Recyclable materials" means source separated
19 materials, site separated materials, high grade paper, glass,
20 metal, plastic, aluminum, newspaper, corrugated paper, yard
21 clippings, and other materials that may be recycled or composted.

22 **(2) "RECYCLING FUND" MEANS THE RECYCLING AND WASTE DIVERSION**
23 **FUND CREATED IN SECTION 11532B.**

24 **(3)** ~~(2)~~ "Regional solid waste management planning agency"
25 means the regional solid waste planning agency designated by the
26 governor pursuant to ~~section 4006 of subtitle D of the solid waste~~
27 ~~disposal act, title II of Public Law 89-272, 42 U.S.C. 42 USC 6946.~~

1 (4) ~~(3)~~—"Resource recovery facility" means machinery,
2 equipment, structures, or any parts or accessories of machinery,
3 equipment, or structures, installed or acquired for the primary
4 purpose of recovering materials or energy from the waste stream.

5 (5) ~~(4)~~—"Response activity" means an activity that is
6 necessary to protect the public health, safety, welfare, or the
7 environment, and includes, but is not limited to, evaluation,
8 cleanup, removal, containment, isolation, treatment, monitoring,
9 maintenance, replacement of water supplies, and temporary
10 relocation of people.

11 (6) ~~(5)~~—"Rubbish" means nonputrescible solid waste, excluding
12 ashes, consisting of both combustible and noncombustible waste,
13 including paper, cardboard, metal containers, yard clippings, wood,
14 glass, bedding, crockery, demolished building materials, or litter
15 of any kind that may be a detriment to the public health and
16 safety.

17 (7) ~~(6)~~—"Salvaging" means the lawful and controlled removal of
18 reusable materials from solid waste.

19 (8) **"SCRAP WOOD" MEANS WOOD OR WOOD PRODUCT THAT IS 1 OR MORE**
20 **OF THE FOLLOWING:**

21 (A) **PLYWOOD, PRESSED BOARD, ORIENTED STRAND BOARD, OR ANY**
22 **OTHER WOOD OR WOOD PRODUCT MIXED WITH GLUE OR FILLER.**

23 (B) **WOOD OR WOOD PRODUCT TREATED WITH CREOSOTE OR**
24 **PENTACHLOROPHENOL.**

25 (C) **ANY OTHER WOOD OR WOOD PRODUCT DESIGNATED AS SCRAP WOOD IN**
26 **RULES PROMULGATED BY THE DEPARTMENT.**

27 (9) ~~(7)~~—"Site separated material" means glass, metal, wood,

1 paper products, plastics, rubber, textiles, garbage, yard
2 clippings, or any other material approved by the department that is
3 separated from solid waste for the purpose of conversion into raw
4 materials or new products. Site separated material does not include
5 the residue remaining after glass, metal, wood, paper products,
6 plastics, rubber, textiles, or any other material approved by the
7 department is separated from solid waste.

8 (10) ~~(8)~~ "Slag" means the nonmetallic product resulting from
9 melting or smelting operations for iron or steel.

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

16 (a) Human body waste.

17 (b) Medical waste. ~~as it is defined in part 138 of the public~~
18 ~~health code, 1978 PA 368, MCL 333.13801 to 333.13831, and regulated~~
19 ~~under that part and part 55.~~

20 (c) Organic waste generated in the production of livestock and
21 poultry.

22 (d) Liquid waste.

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

25 (f) Slag or slag products directed to a slag processor or to a
26 reuser of slag or slag products.

27 (g) Sludges and ashes managed as recycled ~~,~~ or nondetrimental

1 materials appropriate for agricultural or silvicultural use
2 pursuant to a plan approved by the department. Food processing
3 residuals; wood ashes resulting solely from a source that burns
4 only wood that is untreated and inert; lime from kraft pulping
5 processes generated prior to bleaching; or aquatic plants may be
6 applied on, or composted and applied on, farmland or forestland for
7 an agricultural or silvicultural purpose, or used as animal feed,
8 as appropriate. ~~, and such an application or use does not require a~~
9 ~~plan described in this subdivision or a permit or license under~~
10 ~~this part.~~ In addition, source separated materials approved by the
11 department for land application for agricultural and silvicultural
12 purposes and compost produced from those materials may be applied
13 to the land for agricultural and silvicultural purposes. ~~and such~~
14 ~~an application does not require a plan described in this~~
15 ~~subdivision or permit or license under this part.~~ Land application
16 ~~authorized under this subdivision for an agricultural or~~
17 ~~silvicultural purpose, or use as animal feed ,as provided for in~~
18 ~~this subdivision, shall occur~~ **DOES NOT REQUIRE A PLAN UNDER THIS**
19 **SUBDIVISION OR A PERMIT OR LICENSE UNDER THIS PART, BUT SHALL BE**
20 **PERFORMED** in a manner that prevents losses from runoff and
21 leaching. ~~, and if applied to land, the land~~ **LAND** application **UNDER**
22 **THIS SUBDIVISION** shall be at an agronomic rate consistent with
23 generally accepted agricultural and management practices under the
24 Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

25 (h) Materials approved for emergency disposal by the
26 department.

27 (i) Source separated materials.

1 (j) Site separated material.

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

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

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

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

11 (iv) As a road base or construction fill that is covered with
12 asphalt, concrete, or other material approved by the department and
13 ~~which~~**THAT** is placed at least 4 feet above the seasonal groundwater
14 table.

15 (v) As the sole material in a depository designed to reclaim,
16 develop, or otherwise enhance land, subject to the approval of the
17 department. In evaluating the site, the department shall consider
18 the physical and chemical properties of the ash including
19 leachability, and the engineering of the depository, including, but
20 not limited to, ~~the~~ compaction, control of surface water and
21 groundwater that may threaten to infiltrate the site, and evidence
22 that the depository is designed to prevent water percolation
23 through the material.

24 (l) Other wastes regulated by statute.

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

27 (3) "Solid waste processing plant" means a tract of land,

1 building, unit, or appurtenance of a building or unit or a
2 combination of land, buildings, and units that is used or intended
3 for use for the processing of solid waste or the separation of
4 material for salvage or disposal, or both, but does not include a
5 plant engaged primarily in the acquisition, processing, and
6 shipment of ferrous or nonferrous metal scrap, or a plant engaged
7 primarily in the acquisition, processing, and shipment of slag or
8 slag products.

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

12 (5) "Solid waste transfer facility" means a tract of land, a
13 building and any appurtenances, or a container, or any combination
14 of land, buildings, or containers that is used or intended for use
15 in the rehandling or storage of solid waste incidental to the
16 transportation of the solid waste, but is not located at the site
17 of generation or the site of disposal of the solid waste.

18 (6) "Source separated material" means glass, metal, wood,
19 paper products, plastics, rubber, textiles, garbage, yard
20 clippings, or any other material approved by the department that is
21 separated at the source of generation for the purpose of conversion
22 into raw materials or new products including, but not limited to,
23 compost.

24 (7) **"TREATED WOOD" MEANS WOOD OR WOOD PRODUCT THAT HAS BEEN**
25 **TREATED WITH 1 OR MORE OF THE FOLLOWING:**

26 (A) **CHROMATED COPPER ARSENATE (CCA).**

27 (B) **AMMONIACAL COPPER QUAT (ACQ).**

1 (C) AMMONIACAL COPPER ZINC ARSENATE (ACZA).

2 (D) ANY OTHER CHEMICAL DESIGNATED IN RULES PROMULGATED BY THE
3 DEPARTMENT.

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

8 (9) "WOOD" MEANS TREES, BRANCHES, BARK, LUMBER, PALLETS, WOOD
9 CHIPS, SAWDUST, OR OTHER WOOD OR WOOD PRODUCT BUT DOES NOT INCLUDE
10 SCRAP WOOD, TREATED WOOD, PAINTED WOOD OR PAINTED WOOD PRODUCT, OR
11 ANY WOOD OR WOOD PRODUCT THAT HAS BEEN CONTAMINATED DURING
12 MANUFACTURE OR USE.

13 (10) ~~(7)~~—"Yard clippings" means leaves, grass clippings,
14 vegetable or other garden debris, shrubbery, or brush or tree
15 trimmings, less than 4 feet in length and 2 inches in diameter,
16 that can be converted to compost humus. Yard clippings do not
17 include stumps, agricultural wastes, animal waste, roots, sewage
18 sludge, or garbage.

19 SEC. 11532C. (1) THE RECYCLING MARKET DEVELOPMENT FUND IS
20 CREATED WITHIN THE STATE TREASURY.

21 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
22 ANY SOURCE FOR DEPOSIT INTO THE MARKET DEVELOPMENT FUND. THE STATE
23 TREASURER SHALL DIRECT THE INVESTMENT OF THE MARKET DEVELOPMENT
24 FUND. THE STATE TREASURER SHALL CREDIT TO THE MARKET DEVELOPMENT
25 FUND INTEREST AND EARNINGS FROM DEVELOPMENT FUND INVESTMENTS.

26 (3) MONEY IN THE MARKET DEVELOPMENT FUND AT THE CLOSE OF THE
27 FISCAL YEAR SHALL REMAIN IN THE MARKET DEVELOPMENT FUND, EXCEPT AS

1 PROVIDED IN SUBSECTION (5), AND SHALL NOT LAPSE TO THE GENERAL
2 FUND.

3 (4) IF THE MARKET DEVELOPMENT FUND ACCUMULATES, AT ANY TIME
4 BEFORE OCTOBER 1, 2010, \$1,000,000.00, THE DEPARTMENT SHALL EXPEND
5 MONEY FROM THE MARKET DEVELOPMENT FUND, UPON APPROPRIATION, FOR
6 GRANTS OR OTHER INCENTIVES TO PRIVATE OR PUBLIC ENTITIES TO EXPAND
7 MARKETS FOR RECYCLED MATERIALS IN THIS STATE.

8 (5) IF THE MARKET DEVELOPMENT FUND DOES NOT ACCUMULATE, AT ANY
9 TIME BEFORE OCTOBER 1, 2010, \$1,000,000.00, THEN AT THE END OF EACH
10 STATE FISCAL YEAR BEGINNING WITH THE STATE FISCAL YEAR THAT BEGINS
11 OCTOBER 1, 2010, THE BALANCE IN THE MARKET DEVELOPMENT FUND SHALL
12 BE TRANSFERRED TO THE RECYCLING FUND TO BE USED TO AUGMENT
13 DISTRIBUTIONS UNDER SECTION 11532D(1) (A) (ii) .

14 SEC. 11532D. (1) EACH STATE FISCAL YEAR, MONEY APPROPRIATED
15 FROM THE RECYCLING FUND SHALL BE DISTRIBUTED AS FOLLOWS:

16 (A) THE FIRST \$53,000,000.00, AS AUGMENTED PURSUANT TO SECTION
17 11532C(5), IF APPLICABLE, APPROPRIATED FROM THE RECYCLING FUND
18 SHALL BE DISTRIBUTED AS FOLLOWS:

19 (i) SUBJECT TO SECTION 11532G, \$15,000.00 TO EACH COUNTY TO BE
20 USED TO OFFSET THE COST OF MEETING REPORTING REQUIREMENTS UNDER
21 SECTION 11532G.

22 (ii) THE REMAINING MONEY TO MUNICIPALITIES ON A PER CAPITA
23 BASIS, SUBJECT TO AND TO BE USED FOR THE PURPOSES DESCRIBED IN
24 SECTION 11532E.

25 (B) THE NEXT \$2,000,000.00 APPROPRIATED FROM THE RECYCLING
26 FUND SHALL BE DISTRIBUTED TO THE DEPARTMENT FOR ALL OF THE
27 FOLLOWING PURPOSES:

1 (i) TO PROVIDE RECYCLING TECHNICAL ASSISTANCE, INCLUDING, BUT
2 NOT LIMITED TO, GATHERING AND DISSEMINATING INFORMATION USEFUL IN
3 THE DEVELOPMENT OF MARKET DEMAND FOR RECYCLED MATERIALS.

4 (ii) FOR THE ADMINISTRATION OF THE RECYCLING FUND AND SECTIONS
5 11532A TO 11532H.

6 (iii) TO FUND FULL-TIME EQUATED POSITIONS, IN ADDITION TO THOSE
7 FUNDED BY SURCHARGES UNDER SECTION 11525A, TO CONDUCT INSPECTIONS,
8 CARRY OUT THE DEPARTMENT'S RESPONSIBILITIES WITH RESPECT TO COUNTY
9 SOLID WASTE MANAGEMENT PLANNING, AND OTHERWISE ADMINISTER AND
10 ENFORCE THIS PART.

11 (C) THE NEXT \$1,500,000.00 APPROPRIATED FROM THE RECYCLING
12 FUND SHALL BE DISTRIBUTED TO COUNTIES THROUGH AND FOR THE PURPOSES
13 OF THE GRANT PROGRAM PROVIDED FOR IN SECTION 11547.

14 (D) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2012,
15 THE NEXT \$8,000,000.00 APPROPRIATED FROM THE RECYCLING FUND SHALL
16 BE DISTRIBUTED ON A PER CAPITA BASIS TO MUNICIPALITIES THAT, SINCE
17 SEPTEMBER 30, 2007, HAVE DIRECTLY PROVIDED CURBSIDE RECYCLING
18 SERVICE, OR HAVE PAID A CONTRACTOR TO PROVIDE SUCH SERVICE FREE OF
19 CHARGE, AT LEAST EVERY OTHER WEEK FOR HOUSEHOLDS IN THAT
20 MUNICIPALITY TO WHICH CURBSIDE RECYCLING SERVICE IS AVAILABLE.

21 (E) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2012,
22 AFTER THE DISTRIBUTIONS UNDER SUBDIVISIONS (A) TO (D), MONEY
23 APPROPRIATED FROM THE RECYCLING FUND SHALL BE DISTRIBUTED TO LOCAL
24 UNITS OF GOVERNMENT THAT DIRECTLY PROVIDE DROP-OFF RECYCLING
25 SERVICE, OR PAY A CONTRACTOR TO PROVIDE SUCH SERVICE FREE OF
26 CHARGE. THE AMOUNT DISTRIBUTED SHALL BE \$5,000.00 PER DROP-OFF
27 POINT MAINTAINED SINCE SEPTEMBER 30, 2007.

1 (F) AFTER DISTRIBUTIONS UNDER SUBDIVISIONS (A) TO (C) AND, IF
2 APPLICABLE, (D) AND (E), ANY REMAINING MONEY APPROPRIATED FROM THE
3 RECYCLING FUND SHALL BE DISTRIBUTED AS FOLLOWS:

4 (i) 85% TO MUNICIPALITIES, ON A PER CAPITA BASIS.

5 (ii) SUBJECT TO SECTION 11532G, 15% TO COUNTIES, ON A PER
6 CAPITA BASIS.

7 (2) MONEY DISTRIBUTED UNDER SUBSECTION (1)(D), (E), OR (F)
8 SHALL BE USED TO PROMOTE THE HEALTH, SAFETY, OR WELFARE OF THE
9 CITIZENS OF THE RESPECTIVE LOCAL UNIT OF GOVERNMENT.

10 (3) FUNDING PROVIDED TO LOCAL UNITS OF GOVERNMENT UNDER THIS
11 SECTION IS INTENDED TO BE IN ADDITION TO, AND NOT A SUBSTITUTE FOR,
12 REVENUE SHARING OR OTHER STATUTORY OR CONSTITUTIONAL FUNDING
13 OBLIGATIONS OF THIS STATE TO LOCAL UNITS OF GOVERNMENT.

14 SEC. 11532E. (1) TO QUALIFY FOR A DISTRIBUTION UNDER SECTION
15 11532D(1)(A)(ii) DURING A STATE FISCAL YEAR, A MUNICIPALITY SHALL
16 MEET ALL OF THE FOLLOWING REQUIREMENTS, AS APPLICABLE:

17 (A) BY THE END OF THE PRECEDING STATE FISCAL YEAR, THE
18 MUNICIPALITY HAD A BENCHMARK RECYCLING PROGRAM. THIS SUBDIVISION
19 APPLIES BEGINNING OCTOBER 1, 2009 OR, FOR A MUNICIPALITY WITH A
20 POPULATION OF 124,000 OR MORE, BEGINNING OCTOBER 1, 2010.

21 (B) THE MUNICIPALITY SUBMITS TO THE DEPARTMENT ON A FORM
22 PROVIDED BY THE DEPARTMENT AN AGREEMENT TO USE THE DISTRIBUTION TO
23 OFFSET THE COSTS OF A RECYCLING PROGRAM, WHICH MAY INCLUDE PLANNING
24 COSTS.

25 (C) IF THE MUNICIPALITY RECEIVED A DISTRIBUTION UNDER SECTION
26 11532D(1)(A)(ii) IN THE PRECEDING STATE FISCAL YEAR, THE
27 MUNICIPALITY, BY NOVEMBER 15 OF THE CURRENT STATE FISCAL YEAR,

1 SUBMITS TO THE COUNTY INFORMATION NECESSARY FOR THE PREPARATION OF
2 THE COUNTY RECYCLING AND WASTE DIVERSION REPORT UNDER SECTION
3 11532G.

4 (2) A MUNICIPALITY THAT RECEIVES MONEY UNDER SECTION
5 11532D(1) (A) (ii) SHALL DO 1 OR MORE OF THE FOLLOWING WITH THE MONEY:

6 (A) POOL THE MONEY WITH OR TRANSFER IT TO OTHER LOCAL UNITS OR
7 AN AUTHORITY ESTABLISHED UNDER 1947 PA 179, MCL 123.301 TO 123.311,
8 OR 1955 PA 233, MCL 124.281 TO 124.294, FOR MULTIJURISDICTIONAL
9 RECYCLING PROGRAMS CONSISTENT WITH THE REQUIREMENTS OF THIS
10 SECTION.

11 (B) USE THE MONEY TO CONDUCT OR TO PAY CONTRACTORS TO CONDUCT
12 RECYCLING PROGRAMS CONSISTENT WITH THE REQUIREMENTS OF THIS
13 SECTION.

14 (3) IF A MUNICIPALITY DOES NOT QUALIFY FOR A DISTRIBUTION OR
15 PORTION OF A DISTRIBUTION UNDER SECTION 11532D(1) (A) (ii), THE MONEY
16 THAT WOULD OTHERWISE HAVE BEEN DISTRIBUTED TO THE MUNICIPALITY
17 SHALL BE DISTRIBUTED AS FOLLOWS:

18 (A) TO THE COUNTY, SUBJECT TO SECTION 11532G. TO QUALIFY FOR A
19 DISTRIBUTION UNDER THIS SUBDIVISION, THE COUNTY SHALL SUBMIT TO THE
20 DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT AN AGREEMENT TO USE
21 THE MONEY ANYWHERE IN THE COUNTY FOR THE PURPOSES FOR WHICH IT
22 WOULD HAVE BEEN REQUIRED TO HAVE BEEN USED BY THE MUNICIPALITY.

23 (B) IF THE COUNTY DOES NOT QUALIFY FOR A DISTRIBUTION UNDER
24 SUBDIVISION (A), TO THE MARKET DEVELOPMENT FUND.

25 SEC. 11532F. A BENCHMARK RECYCLING PROGRAM IS A RECYCLING AND
26 WASTE DIVERSION PROGRAM THAT MEETS ALL OF THE FOLLOWING
27 REQUIREMENTS, AS APPLICABLE:

1 (A) FOR A MUNICIPALITY WITH A POPULATION GREATER THAN 10,000
2 OR A POPULATION DENSITY GREATER THAN 300 PER SQUARE MILE, THE
3 RECYCLING PROGRAM USES TRUCKS AND RELATED EQUIPMENT TO COLLECT
4 RECYCLABLE MATERIALS FROM THE CURBSIDE OR SIMILAR LOCATIONS AT
5 LEAST EVERY OTHER WEEK FROM EACH HOUSEHOLD IN THE MUNICIPALITY,
6 OTHER THAN HOUSEHOLDS IN MULTIFAMILY DWELLINGS OF 5 OR MORE
7 DWELLING UNITS. THE MATERIAL COLLECTED IN THIS MANNER SHALL INCLUDE
8 AT LEAST 5 OF THE FOLLOWING ITEMS:

9 (i) CLEAR GLASS.

10 (ii) COLORED GLASS.

11 (iii) ALUMINUM, STEEL, AND BIMETALLIC CANS.

12 (iv) MIXED RESIDENTIAL PAPER.

13 (v) NEWSPRINT.

14 (vi) CORRUGATED CARDBOARD.

15 (vii) MAGAZINES.

16 (viii) BOXBOARD.

17 (ix) HDPE AND PETE.

18 (B) FOR A MUNICIPALITY WITH A POPULATION OF 10,000 OR LESS AND
19 A POPULATION DENSITY OF 300 OR LESS PER SQUARE MILE, 1 OF THE
20 FOLLOWING APPLIES:

21 (i) THE RECYCLING PROGRAM MEETS THE REQUIREMENTS OF SUBDIVISION
22 (A).

23 (ii) THE RECYCLING PROGRAM DOES NOT MEET AND HAS NOT MET THE
24 REQUIREMENTS OF SUBDIVISION (A) BUT INCLUDES AN EASILY ACCESSIBLE
25 DROP-OFF COLLECTION POINT AVAILABLE TO CITIZENS NOT LESS THAN 8
26 HOURS PER WEEK.

27 (C) BY ORDINANCE, THE MUNICIPALITY REQUIRES PERSONS GENERATING

1 YARD CLIPPINGS AND OTHER ITEMS PROHIBITED FROM DISPOSAL IN A
2 LANDFILL UNDER SECTION 11514 TO SEPARATE THOSE ITEMS FROM OTHER
3 SOLID WASTE FOR SEPARATE COLLECTION, COMPOSTING, OR OTHER PROPER
4 MANAGEMENT.

5 (D) THE MUNICIPALITY CONDUCTS A COMPREHENSIVE AND SUSTAINED
6 PUBLIC INFORMATION AND EDUCATION PROGRAM CONCERNING RECYCLING
7 PROGRAM FEATURES AND REQUIREMENTS. AS PART OF THIS PROGRAM, THE
8 MUNICIPALITY SHALL, AT LEAST 30 DAYS PRIOR TO THE INITIATION OF THE
9 RECYCLING PROGRAM AND AT LEAST ANNUALLY THEREAFTER, NOTIFY ALL
10 PERSONS OCCUPYING RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, AND
11 MUNICIPAL PREMISES IN THE MUNICIPALITY OF THE OPPORTUNITIES FOR
12 RECYCLING IN THAT MUNICIPALITY AND THE REQUIREMENTS FOR SEPARATION
13 AND PROPER MANAGEMENT OF YARD CLIPPINGS AND OTHER ITEMS PROHIBITED
14 FROM DISPOSAL IN A LANDFILL.

15 (E) THE MUNICIPALITY ADEQUATELY DOCUMENTS ITS RECYCLING AND
16 WASTE DIVERSION PROGRAM, INCLUDING SUBMISSION OF THE INFORMATION
17 NECESSARY FOR THE COUNTY RECYCLING AND WASTE DIVERSION REPORTS TO
18 MEET THE REQUIREMENTS OF SECTION 11532G.

19 SEC. 11532G. BY DECEMBER 31 OF EACH YEAR, EACH COUNTY SHALL
20 SUBMIT TO THE DEPARTMENT A RECYCLING AND WASTE DIVERSION REPORT.
21 THE REPORT SHALL BE SUBMITTED IN THE MANNER AND SHALL CONTAIN THE
22 INFORMATION REQUIRED BY THE DEPARTMENT DESCRIBING PROGRESS IN
23 RECYCLING AND WASTE DIVERSION DURING THE PREVIOUS STATE FISCAL
24 YEAR. IN REPORTING PROGRESS, THE COUNTY SHALL USE A STANDARD
25 METHODOLOGY FOR MEASURING RECYCLING RATES CONSISTENT WITH THE
26 METHODOLOGY USED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
27 AGENCY AS SPECIFIED BY THE DEPARTMENT. A COUNTY THAT FAILS TO

1 SUBMIT A COMPLETE RECYCLING AND WASTE DIVERSION REPORT TO THE
2 DEPARTMENT AS PROVIDED IN THIS SECTION DOES NOT QUALIFY FOR A
3 DISTRIBUTION UNDER SECTION 11532D(1) (A) (i) OR (F) (ii) OR SECTION
4 11532E(3) (A) UNTIL THE COMPLETE WASTE DIVERSION REPORT IS
5 SUBMITTED.

6 SEC. 11532H. (1) THE RECYCLING ADVISORY COUNCIL IS CREATED
7 WITHIN THE DEPARTMENT.

8 (2) THE COUNCIL SHALL CONSIST OF THE DIRECTOR OR HIS OR HER
9 DESIGNEE AND ALL OF THE FOLLOWING MEMBERS APPOINTED BY THE
10 GOVERNOR:

11 (A) A REPRESENTATIVE OF AN ORGANIZATION OF TOWNSHIPS.

12 (B) A REPRESENTATIVE OF AN ORGANIZATION OF CITIES AND
13 VILLAGES.

14 (C) A REPRESENTATIVE OF AN ORGANIZATION OF COUNTIES.

15 (D) A REPRESENTATIVE OF A CONSERVATION OR ENVIRONMENTAL
16 ORGANIZATION.

17 (E) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED
18 GLASS.

19 (F) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED
20 PLASTICS.

21 (G) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED
22 PAPER.

23 (H) A REPRESENTATIVE OF A RECYCLING PROCESSING FACILITY.

24 (I) A REPRESENTATIVE OF AN ORGANIZATION REPRESENTING BEVERAGE
25 BOTTLERS, WHOLESALERS, AND RETAILERS.

26 (J) A REPRESENTATIVE OF A PUBLIC LANDFILL OPERATOR.

27 (K) A REPRESENTATIVE OF A PRIVATE LANDFILL OPERATOR.

1 (I) AN OFFICER OR EMPLOYEE OF A LOCAL UNIT OF GOVERNMENT
2 RESPONSIBLE FOR RECYCLING IN THAT LOCAL UNIT.

3 (M) A REPRESENTATIVE OF A PRIVATE COMPANY THAT PROVIDES
4 CURBSIDE RECYCLING OR DROP-OFF COLLECTION POINT SERVICE TO THE
5 PUBLIC.

6 (N) A REPRESENTATIVE OF THE GENERAL PUBLIC.

7 (3) THE MEMBERS FIRST APPOINTED TO THE COUNCIL SHALL BE
8 APPOINTED BY APRIL 1, 2010.

9 (4) MEMBERS OF THE COUNCIL SHALL SERVE FOR THE LIFE OF THE
10 COUNCIL.

11 (5) IF A VACANCY OCCURS ON THE COUNCIL, THE GOVERNOR SHALL
12 MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS
13 THE ORIGINAL APPOINTMENT.

14 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE COUNCIL FOR
15 INCOMPETENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
16 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

17 (7) THE FIRST MEETING OF THE COUNCIL SHALL BE CALLED BY THE
18 DIRECTOR. AT THE FIRST MEETING, THE COUNCIL SHALL ELECT FROM AMONG
19 ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS
20 NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE COUNCIL
21 SHALL MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF
22 THE CHAIRPERSON OR IF REQUESTED BY 3 OR MORE MEMBERS.

23 (8) A MAJORITY OF THE MEMBERS OF THE COUNCIL CONSTITUTE A
24 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE COUNCIL.
25 THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF THE COUNCIL IS
26 REQUIRED FOR OFFICIAL ACTION OF THE COUNCIL.

27 (9) THE BUSINESS THAT THE COUNCIL MAY PERFORM SHALL BE

1 CONDUCTED AT A PUBLIC MEETING OF THE COUNCIL HELD IN COMPLIANCE
2 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

3 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
4 RETAINED BY THE COUNCIL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION
5 IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
6 15.231 TO 15.246.

7 (11) MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT COMPENSATION.
8 THE DIRECTOR OR HIS OR HER DESIGNEE ON THE COUNCIL SHALL SERVE
9 WITHOUT ADDITIONAL COMPENSATION. HOWEVER, MEMBERS OF THE COUNCIL
10 MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED
11 IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE
12 COUNCIL.

13 (12) BY APRIL 1, 2011, THE COUNCIL SHALL SUBMIT TO THE
14 GOVERNOR AND THE LEGISLATURE A REPORT ON ITS RECOMMENDATIONS ON
15 EXPANDING AND IMPROVING THE EFFICIENCY OF RECYCLING IN THIS STATE.
16 THE REPORT SHALL INCLUDE RECOMMENDATIONS ON ALL OF THE FOLLOWING:

17 (A) ANY CHANGES IN THE DISTRIBUTION FORMULA UNDER SECTION
18 11532D(1)(A), (D), AND (E) TO TAKE EFFECT AFTER SEPTEMBER 30, 2012.

19 (B) WHETHER AND TO WHAT EXTENT THE RECYCLING FUND AND THE
20 MARKET DEVELOPMENT FUND SHOULD BE USED TO EXPAND MARKETS FOR
21 RECYCLED MATERIALS.

22 (C) ANY CHANGES IN THE STANDARDS FOR A BENCHMARK RECYCLING
23 PROGRAM TO TAKE EFFECT AFTER SEPTEMBER 30, 2012, INCLUDING, BUT NOT
24 LIMITED TO, RECOMMENDATIONS CONCERNING THE FOLLOWING POTENTIAL
25 CHANGES:

26 (i) INCREASING THE NUMBER OF MATERIALS THAT MUST BE COLLECTED.

27 (ii) REQUIRING THE COLLECTION OF HOUSEHOLD HAZARDOUS WASTE.

1 (iii) REQUIRING A COLLECTION PROGRAM FOR COMMERCIAL GENERATORS
2 OF RECYCLABLE SOLID WASTE.

3 (iv) REQUIRING A CURBSIDE RECYCLING PROGRAM DESCRIBED IN
4 SECTION 11532F(A) TO PROVIDE SERVICE TO HOUSEHOLDS IN MULTIFAMILY
5 DWELLINGS OF 5 OR MORE DWELLING UNITS.

6 (13) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2012.

7 Enacting section 1. This amendatory act does not take effect
8 unless House Bill No. 4221 or Senate Bill No. (request no.
9 00541'07) of the 94th Legislature is enacted into law.