

HOUSE BILL NO. 4458

March 09, 2021, Introduced by Reps. O'Malley, Howell, Borton, Martin, VanSingel, Manoogian, Tate, Cambensy, Pohutsky, Anthony, Brixie, Sowerby, Liberati, Markkanen, Breen, Hood, Aiyash, Puri, Brabec, Brenda Carter and Hammoud 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, and 11549 (MCL 324.11526,
324.11526a, 324.11527, 324.11528, 324.11531, 324.11532, 324.11533,
324.11539, 324.11540, 324.11541, 324.11546, and 324.11549), section
11526 as amended by 2004 PA 43, section 11526a as added by 2004 PA
40, sections 11528 and 11539 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, and section 11549 as amended by 2006 PA 58, and by designating sections 11526 to 11533 as subpart 5, sections 11539 to 11541 as subpart 6, and sections 11546 to 11549 as subpart 7 of part 115; 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~~ **managed materials** transporting unit that is being used to transport ~~solid waste~~ **managed materials** along a public road to determine ~~if the solid waste~~ **any of the following:**

(a) **If the managed materials** transporting unit is designed, maintained, and operated in a manner to prevent littering. ~~or to determine if~~

(b) **If** the owner or operator of the ~~solid waste~~ **managed materials** transporting unit is performing in compliance with ~~this part and the rules promulgated under this part~~ **115.**

(2) ~~In order to~~ **To protect the environment, natural resources,** and the public health, safety, and welfare ~~and 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 shall 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.~~ **part 115.**

(b) Provide for the inspection, **for compliance with part 115,** of each ~~solid waste~~ **licensed** disposal area ~~for compliance with this~~

~~part and the rules promulgated under this part~~ at least 4 times ~~per~~
~~year~~ annually and each materials utilization facility that is
 approved under a general permit or registered under part 115 at
 least once annually. Each inspection shall be conducted by the
 department or a health officer. The department or the health
 officer shall do both of the following:

(i) Prepare a written inspection report.

(ii) Submit a copy of the inspection report to the municipality
 in which the licensed disposal area is located if the municipality
 arranges with the department or the health officer to pay the cost
 of duplicating and mailing the reports.

(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~~ to 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~~ **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 **conditions** 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

1 a construction permit for a new landfill **or municipal solid waste**
 2 **incinerator** in the ~~county planning area~~.

3 Sec. 11527. (1) A ~~solid waste~~ hauler transporting solid waste
 4 over a public road in this state shall deliver all **solid** waste to a
 5 disposal area **licensed under part 115** or a solid waste **processing**
 6 **and** transfer facility licensed **or registered or for which a**
 7 **notification has been submitted** under this part and shall use only
 8 a vehicle or container that does not contribute to littering and
 9 that conforms to the rules promulgated by the department.

10 ~~(2) A solid waste hauler who violates this part or a rule~~
 11 ~~promulgated under this part, or who is responsible for a vehicle~~
 12 ~~that has in part contributed to a violation of this part or a rule~~
 13 ~~promulgated under this part, is subject to a penalty as provided in~~
 14 ~~section 11549.115.~~

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

20 Sec. 11528. (1) A ~~solid waste~~ **managed materials** transporting
 21 unit used for ~~garbage,~~ **food waste**, industrial or domestic sludges,
 22 or other moisture laden materials not specifically covered by part
 23 121 shall be watertight and constructed, maintained, and operated
 24 to prevent littering. ~~Solid waste~~ **A managed materials** transporting
 25 ~~units used for hauling other solid waste~~ **unit** shall be designed and
 26 operated to prevent littering or any other nuisance.

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

1 (2) ~~(3)~~ The department, a **local** health officer, or a law
 2 enforcement officer may order a ~~solid waste~~ **managed materials**
 3 transporting unit out of service if the unit does not comply with
 4 the requirements of ~~this part or the rules promulgated under this~~
 5 part **115**. Continued use of a ~~solid waste~~ **managed materials**
 6 transporting unit ordered out of service is a violation of this
 7 part.

8 (3) **A hauler that is responsible for a vehicle that**
 9 **contributes to a violation of part 115 is rebuttably presumed to**
 10 **have committed the violation.**

11 Sec. 11531. (1) A municipality or county shall ~~assure~~ **ensure**
 12 that all solid waste is removed from the site of generation
 13 frequently enough to protect **the environment, natural resources,**
 14 **and the public health, safety, and welfare** and is delivered to
 15 ~~licensed disposal areas, a materials management facility that meets~~
 16 **the requirements of section 11508(1)(a)**, except waste that is
 17 permitted by state law or rules promulgated by the department to be
 18 disposed of at the site of generation.

19 (2) An ordinance ~~enacted~~ **adopted** before February 8, 1988 by a
 20 county or municipality incidental to the financing of a publicly
 21 owned disposal area or areas under construction that directs that
 22 all or part of the solid waste generated in that county or
 23 municipality be directed to the disposal area or areas is an
 24 acceptable means of compliance with subsection (1), notwithstanding
 25 that the ordinance, in the case of a county, has not been approved
 26 by the governor. This subsection ~~applies only to ordinances adopted~~
 27 ~~by the governing body of a county or municipality before February~~
 28 ~~8, 1988, and~~ does not validate or invalidate an ordinance adopted
 29 **on or** after February 8, 1988 as an acceptable means of compliance

1 with subsection (1).

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

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

21 **(2)** ~~(3)~~ A municipality may enter into an agreement with the
 22 owner or operator of a landfill to establish a higher impact fee
 23 than ~~those~~**that** provided for in ~~subsections (1) and (2)~~**subsection**
 24 **(1)**.

25 **(3)** ~~(4)~~ The impact fees imposed under this section shall be
 26 collected by the owner or operator of a landfill and shall be paid
 27 to the municipality quarterly by the thirtieth day after the end of
 28 each calendar quarter. However, the impact fees allowed to be
 29 assessed to each landfill under this section shall be reduced by

1 any amount of revenue paid to or available to the municipality from
 2 the landfill under the terms of any preexisting agreements,
 3 ~~including, but not limited to, contracts, special use permit~~
 4 ~~conditions, court settlement agreement conditions, and trusts.~~

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

17 ~~(5) (6)~~ ~~The~~ **A** municipality may establish a trust fund to
 18 receive revenue collected pursuant to this section. The trust fund
 19 shall be administered by a board of trustees. The board of trustees
 20 shall consist of the following members:

21 (a) The chief elected official of the municipality. ~~creating~~
 22 ~~the trust fund.~~

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

25 (c) An individual approved by the owners or operators of the
 26 landfills within the municipality and appointed by the governing
 27 ~~board~~ **body** of the municipality.

28 ~~(6) (7)~~ Individuals appointed to serve on the board of
 29 trustees under subsection ~~(6) (b)~~ **(5) (b)** and (c) shall serve for

1 terms of 2 years.

2 (7) ~~(8) Money~~ **Subject to subsection (8), money** in the ~~a~~ trust
3 fund **under subsection (5)** may be expended, pursuant to a majority
4 vote of the board of trustees, for any purpose that promotes the
5 public health, safety, or welfare of the citizens of the
6 municipality. ~~However, revenue~~

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

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

24 ~~(2) An initial solid waste management plan shall be prepared~~
25 ~~and approved under this section and shall be submitted to the~~
26 ~~director not later than January 5, 1984. Following submittal of the~~
27 ~~initial plan, the solid waste management plan shall be reviewed and~~
28 ~~updated every 5 years. An updated solid waste management plan and~~
29 ~~an amendment to a solid waste management plan shall be prepared and~~

~~1 approved as provided in this section and sections 11534, 11535,
2 11536, 11537, and 11537a. The solid waste management plan shall
3 encompass all municipalities within the county. The solid waste
4 management plan shall at a minimum comply with the requirements of
5 sections 11537a and 11538. The solid waste management plan shall
6 take into consideration solid waste management plans in contiguous
7 counties and existing local approved solid waste management plans
8 as they relate to the county's needs. At a minimum, a county
9 preparing a solid waste management plan shall consult with the
10 regional planning agency from the beginning to the completion of
11 the plan.~~

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

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

1 ~~shall identify the designated agency which is responsible for~~
2 ~~preparing the solid waste management plan.~~

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

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

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

- 19 (a) Hydrogeologic investigations.
20 (b) Monitoring.
21 (c) Liner materials.
22 (d) Leachate collection and treatment, if applicable.
23 (e) Groundwater separation distances.
24 (f) Environmental assessments.
25 (g) Gas control.
26 (h) Soil erosion.
27 (i) Sedimentation control.
28 (j) Groundwater and surface water quality.
29 (k) Noise.

- (l) Air pollution odors.
- (m) The use of floodplains and wetlands.
- (n) Managed materials 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.~~

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

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

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

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

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

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

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

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

29 (c) For a third offense within a 3-year period, a civil fine

1 of not more than \$150.00.

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

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

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

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

12 (b) The burning is not conducted at any of the following
13 locations:

14 (i) Within a priority I area as listed in table 33 or a
15 priority II area as listed in table 34 of R 336.1331 of the MAC.

16 (ii) In a city or village.

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

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

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

25 Sec. 11540. (1) ~~Not later than September 11, 1979, the~~
26 ~~department shall submit to the legislature rules that contain~~
27 ~~sanitary design and operational standards for solid waste~~
28 ~~transporting units and disposal areas and otherwise implement this~~
29 ~~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, as authorized by subsection (1), does not comply with the construction permit and operating license requirements of subpart 2 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~~

1 ~~facilities.~~ Within 9 months after the completion of construction of
2 a municipal solid waste incinerator, the owner or operator shall
3 submit a plan to the department for a program that, to the extent
4 practicable, reduces the incineration of noncombustible materials
5 and dangerous combustible materials and their hazardous by-products
6 at the incinerator. The plan shall include an implementation
7 schedule. Within 30 days after receiving the plan, the department
8 shall approve or disapprove the plan and notify the owner or
9 operator in writing. In reviewing the plan, the department shall
10 consider the current materials management plan for the planning
11 area where the incinerator is located and available markets,
12 disposal alternatives, and collection practices for the managed
13 materials. If the department disapproves a plan, the notice shall
14 specify the reasons for disapproval. If the department disapproves
15 the plan, the owner or operator shall, within 30 days after receipt
16 of the department's disapproval, submit a revised plan that
17 addresses all of the reasons for disapproval specified by the
18 department. The department shall approve or disapprove the revised
19 plan within 30 days after receiving the revised plan and notify the
20 owner or operator in writing. If the department disapproves the
21 revised plan, the notice shall specify the reasons for disapproval.
22 If the department disapproves the revised plan, the department may
23 continue with the approval process under this subsection or take
24 appropriate enforcement action.

25 (2) Not later than 6 months after the approval of the plan by
26 the department under subsection (1), the owner or operator shall
27 implement the plan in compliance with the implementation schedule.
28 The operation of a municipal solid waste incinerator without an
29 approved plan under this section subjects the owner or operator, or

1 both, to the sanctions provided by this part.

2 SUBPART 7 ENFORCEMENT

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

9 (2) In addition to any other relief provided by this section,
 10 the court may impose on any person who violates ~~any provision of~~
 11 ~~this part or rules promulgated under this part or who fails to~~
 12 ~~comply with any permit, license, or final order issued pursuant to~~
 13 ~~this part~~ **115** a civil fine as follows:

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

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

18 (3) In addition to any other relief provided by this section,
 19 the court may order a person who violates ~~this part or the rules~~
 20 ~~promulgated under this part~~ **115** to restore, or to pay to ~~the~~**this**
 21 state an amount equal to the cost of restoring, the natural
 22 resources of this state affected by the violation to their original
 23 condition before the violation, and to pay to ~~the~~**this** state the
 24 costs of surveillance and enforcement incurred by ~~the~~**this** state as
 25 a result of the violation.

26 (4) In addition to any other relief provided by this section,
 27 the court shall order a person who violates section 11526e to
 28 return, or to pay to ~~the~~**this** state an amount equal to the cost of
 29 returning, the solid waste that is the subject of the violation to

1 the country in which that waste was generated.

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

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

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

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

17 Enacting section 1. Sections 11529, 11534 to 11538, 11539a,
 18 11547, and 11548 of the natural resources and environmental
 19 protection act, 1994 PA 451, MCL 324.11529, 324.11534 to 324.11538,
 20 324.11539a, 324.11547, and 324.11548, are repealed.

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

23 Enacting section 3. This amendatory act does not take effect
 24 unless all of the following bills of the 101st Legislature are
 25 enacted into law:

26 (a) Senate Bill No. ____ or House Bill No. 4454 (request no.
 27 01463'21 *).

28 (b) Senate Bill No. ____ or House Bill No. 4456 (request no.
 29 01464'21).

- 1 (c) Senate Bill No.____ or House Bill No. 4457 (request no.
2 01465'21).
- 3 (d) Senate Bill No.____ or House Bill No. 4460 (request no.
4 01467'21).
- 5 (e) Senate Bill No.____ or House Bill No. 4461 (request no.
6 01468'21).
- 7 (f) Senate Bill No.____ or House Bill No. 4455 (request no.
8 02172'21).
- 9 (g) Senate Bill No.____ or House Bill No. 4459 (request no.
10 02173'21).