

SENATE BILL NO. 954

March 08, 2022, Introduced by Senators NESBITT and DALEY and referred to the Committee on Environmental Quality.

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), sections 11502 and 11505 as amended by 2018 PA 640, sections 11503 and 11504 as amended by 2020 PA 85, and section 11506 as amended by 2018 PA 615.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11502. (1) "Advanced recycling" means a manufacturing
2 process for the conversion of post-use polymers and recovered

1 feedstocks into recycled products by pyrolysis, gasification,
2 depolymerization, catalytic cracking, reforming, hydrogenation,
3 solvolysis, or other similar technologies. The recycled products
4 produced may include, but are not limited to, monomers, oligomers,
5 plastics, plastics and chemical feedstocks, basic and unfinished
6 chemicals, waxes, lubricants, coatings, and other basic
7 hydrocarbons. Advanced recycling is not solid waste processing,
8 waste diversion, resource recovery, incineration, or combustion.

9 (2) "Advanced recycling facility" means a facility that
10 receives and stores post-use polymers and recovered feedstocks and
11 converts the polymers and feedstocks using advanced recycling. An
12 advanced recycling facility is not a solid waste processing plant,
13 a solid waste transfer facility, waste diversion center, resource
14 recovery facility, or municipal solid waste incinerator.

15 (3) ~~(1)~~—"Agronomic rate" means a rate that meets both of the
16 following requirements:

17 (a) Is generally recognized by the agricultural community or
18 is calculated for a particular area of land to improve the physical
19 nature of soil, such as structure, tilth, water retention, pH, or
20 porosity, or to provide macronutrients or micronutrients in an
21 amount not materially in excess of that needed by the crop, forest,
22 or vegetation grown on the land.

23 (b) Takes into account and minimizes runoff of beneficial use
24 by-products to surface water or neighboring properties, the
25 percolation of excess nutrients beyond the root zone, and the
26 liberation of metals from the soil into groundwater.

27 (4) ~~(2)~~—"Ashes" means the residue from the burning of wood,
28 scrap wood, tires, biomass, wastewater sludge, fossil fuels
29 including coal or coke, or other combustible materials.

1 (5) ~~(3)~~—"Beneficial use 1" means use as aggregate, road
2 material, or building material that in ultimate use is or will be
3 bonded or encapsulated by cement, limes, or asphalt.

4 (6) ~~(4)~~—"Beneficial use 2" means use as any of the following:

5 (a) Construction fill at nonresidential property that meets
6 all of the following requirements:

7 (i) Is placed at least 4 feet above the seasonal groundwater
8 table.

9 (ii) Does not come into contact with a surface water body.

10 (iii) Is covered by concrete, asphalt pavement, or other
11 material approved by the department.

12 (iv) Does not exceed 4 feet in thickness, except for areas
13 where exceedances are incidental to variations in the existing
14 topography. This subparagraph does not apply to construction fill
15 placed underneath a building or other structure.

16 (b) Road base or soil stabilizer that does not exceed 4 feet
17 in thickness except for areas where exceedances are incidental to
18 variations in existing topography, is placed at least 4 feet above
19 the seasonal groundwater table, does not come into contact with a
20 surface water body, and is covered by concrete, asphalt pavement,
21 or other material approved by the department.

22 (c) Road shoulder material that does not exceed 4 feet in
23 thickness except for areas where exceedances are incidental to
24 variations in existing topography, is placed at least 4 feet above
25 the seasonal groundwater table, does not come into contact with a
26 surface water body, is sloped, and is covered by asphalt pavement,
27 concrete, 6 inches of gravel, or other material approved by the
28 department.

29 (7) ~~(5)~~—"Beneficial use 3" means applied to land as a

1 fertilizer or soil conditioner under part 85 or a liming material
2 under 1955 PA 162, MCL 290.531 to 290.538, if all of the following
3 requirements are met:

4 (a) The material is applied at an agronomic rate consistent
5 with ~~generally accepted agricultural and management~~
6 ~~practices.~~**GAAMPS.**

7 (b) The use, placement, or storage at the location of use does
8 not do any of the following:

9 (i) Violate part 55 or create a nuisance.

10 (ii) Cause groundwater to no longer be fit for 1 or more
11 protected uses as defined in R 323.2202 of the Michigan
12 ~~administrative code.~~**Administrative Code.**

13 (iii) Cause a violation of a part 31 surface water quality
14 standard.

15 (8) ~~(6)~~—"Beneficial use 4" means any of the following uses:

16 (a) To stabilize, neutralize, solidify, or otherwise treat
17 waste for ultimate disposal at a facility licensed under this part
18 or part 111.

19 (b) To treat wastewater, wastewater treatment sludge, or
20 wastewater sludge in compliance with part 31 or the federal water
21 pollution control act, 33 USC 1251 to 1388, at a private or
22 publicly owned wastewater treatment plant.

23 (c) To stabilize, neutralize, solidify, cap, or otherwise
24 remediate hazardous substances or contaminants as part of a
25 response activity in compliance with part 201, part 213, or the
26 comprehensive environmental response, compensation and liability
27 act of 1980, 42 USC 9601 to 9657, or a corrective action in
28 compliance with part 111 or the solid waste disposal act, 42 USC
29 6901 to 6992k.

1 (d) As construction material at a landfill licensed under this
2 part.

3 (9) ~~(7)~~—"Beneficial use 5" means blended with inert materials
4 or with compost and used to manufacture soil.

5 (10) ~~(8)~~—"Beneficial use by-product" means the following
6 materials if the materials are stored for beneficial use or are
7 used beneficially as specified and the requirements of section
8 11551(1) are met:

9 (a) Coal bottom ash or wood ash used for beneficial use 3 or
10 wood ash or coal ash, except for segregated flue gas
11 desulfurization material, used for beneficial use 1, 2, or 4.

12 (b) Pulp and paper mill ash used for beneficial use 1, 2, 3,
13 or 4.

14 (c) Mixed wood ash used for beneficial use 1, 2, 3, or 4.

15 (d) Cement kiln dust used as a flue gas scrubbing reagent or
16 for beneficial use 1, 2, 3, or 4.

17 (e) Lime kiln dust used as a flue gas scrubbing reagent or for
18 beneficial use 1, 2, 3, or 4.

19 (f) Stamp sands used for beneficial use 1 or 2.

20 (g) Foundry sand from ferrous or aluminum foundries used for
21 beneficial use 1, 2, 3, 4, or 5.

22 (h) Pulp and paper mill material, other than the following,
23 used for beneficial use 3:

24 (i) Rejects, from screens, cleaners, and mills dispersion
25 equipment, containing more than de minimis amounts of plastic.

26 (ii) Scrap paper.

27 (i) Spent media from sandblasting, with uncontaminated sand,
28 newly manufactured, unpainted steel used for beneficial use 1 or 2.

29 (j) Dewatered concrete grinding slurry from public

1 transportation agency road projects used for beneficial use 1, 2,
2 3, or 4.

3 (k) Lime softening residuals from the treatment and
4 conditioning of water for domestic use or from a community water
5 supply used for beneficial use 3 or 4.

6 (l) Soil washed or otherwise removed from sugar beets that is
7 used for beneficial use 3.

8 (m) Segregated flue gas desulfurization material used for
9 beneficial use 1 or 3.

10 (n) Materials and uses approved by the department under
11 section 11553(3) or (4). Approval of materials and uses by the
12 department under section 11553(3) or (4) does not require the use
13 of those materials by any governmental entity or any other person.

14 **(11)** ~~(9)~~—"Beverage container" means an airtight metal, glass,
15 paper, or plastic container, or a container composed of a
16 combination of these materials, which, at the time of sale,
17 contains 1 gallon or less of any of the following:

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

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

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

23 **(12)** ~~(10)~~—"Bond" means a financial instrument executed on a
24 form approved by the department, including a surety bond from a
25 surety company authorized to transact business in this state, a
26 certificate of deposit, a cash bond, an irrevocable letter of
27 credit, **an insurance policy**, a trust fund, an escrow account, or a
28 combination of any of these instruments in favor of the department.
29 The owner or operator of a disposal area who is required to

1 establish a bond under another state statute or a federal statute
2 may petition the department to allow such a bond to meet the
3 requirements of this part. The department shall approve a bond
4 established under another state statute or a federal statute if the
5 bond provides equivalent funds and access by the department as
6 other financial instruments allowed by this subsection.

7 (13) ~~(11)~~ "Captive facility" means a landfill or coal ash
8 impoundment that accepts for disposal, and accepted for disposal
9 during the previous calendar year, only nonhazardous industrial
10 waste generated only by the owner of the landfill or coal ash
11 impoundment.

12 (14) ~~(12)~~ "Cement kiln dust" means particulate matter
13 collected in air emission control devices serving Portland cement
14 kilns.

15 (15) ~~(13)~~ "Certificate of deposit" means a ~~negotiable~~
16 certificate of deposit **that is negotiable, is** held by a bank or
17 other financial institution regulated and examined by a state or
18 federal agency, ~~the value of which is fully insured by an agency of~~
19 ~~the United States government, . A certificate of deposit used to~~
20 ~~fulfill the requirements of this part shall be~~ **is** in the sole name
21 of the department, ~~with~~ **has** a maturity date of not less than 1
22 year, and ~~shall be~~ **is** renewed not less than 60 days before the
23 maturity date. An applicant who uses a certificate of deposit as a
24 bond shall receive any accrued interest on that certificate of
25 deposit upon release of the bond by the department.

26 (16) ~~(14)~~ "Certified health department" means a city, county,
27 or district department of health that is specifically delegated
28 authority by the department to perform designated activities as
29 prescribed by this part.

1 (17) ~~(15)~~ "Coal ash", subject to subsection ~~(16)~~, **(18)**, means
2 any of the following:

3 (a) Material recovered from systems for the control of air
4 pollution from, or the noncombusted residue remaining after, the
5 combustion of coal or coal coke, including, but not limited to,
6 coal bottom ash, fly ash, boiler slag, flue gas desulfurization
7 materials, or fluidized-bed combustion ash.

8 (b) Residuals removed from coal ash impoundments.

9 **(18)** ~~(16)~~ For beneficial use 2, coal ash does not include coal
10 fly ash except for the following if used at nonresidential
11 property:

12 (a) Class C fly ash under ASTM standard C618-12A, **"Standard**
13 **Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan**
14 **for Use in Concrete", by ASTM International**".

15 (b) Class F fly ash under ASTM ~~standard~~ C618-12A if that fly
16 ash forms a pozzolanic-stabilized mixture by being blended with
17 lime, Portland cement, or cement kiln dust.

18 (c) A combination of class C fly ash and class F fly ash under
19 ASTM ~~standard~~ C618-12A if that combination forms a pozzolanic-
20 stabilized mixture by being blended with lime, Portland cement, or
21 cement kiln dust and is used as a road base, soil stabilizer, or
22 road shoulder material under ~~subsection (4)(b) or (c)~~. **beneficial**
23 **use 2.**

24 **(19)** ~~(17)~~ "Coal ash impoundment" means a natural topographic
25 depression, man-made excavation, or diked area that is not a
26 landfill and that is designed to hold and, after October 14, 2015,
27 accepted an accumulation of coal ash and liquids or other materials
28 approved by the department for treatment, storage, or disposal and
29 did not receive department approval of its closure. A coal ash

1 impoundment in existence before October 14, 2015 that receives
2 waste after ~~the effective date of the amendatory act that added~~
3 ~~this subsection, December 28, 2018,~~ and that does not have a permit
4 pursuant to part 31, is considered an open dump beginning ~~2 years~~
5 ~~after the effective date of the amendatory act that added this~~
6 ~~subsection~~ **December 28, 2020** unless the owner or operator has
7 completed closure of the coal ash impoundment under section 11519b
8 or obtained an operating license for the coal ash impoundment.

9 **(20)** ~~(18)~~ "Coal ash landfill" means a landfill that is used
10 for the disposal of coal ash and may also be used for the disposal
11 of inert materials and construction material used for purposes of
12 meeting the definition of beneficial use 4, or other materials
13 approved by the department.

14 **(21)** ~~(19)~~ "Coal bottom ash" means ash particles from the
15 combustion of coal that are too large to be carried in flue gases
16 and that collect on furnace walls or at the bottom of the furnace.

17 **(22)** ~~(20)~~ "Collection center" means a tract of land, building,
18 unit, or appurtenance or combination thereof that is used to
19 collect junk motor vehicles and farm implements under section
20 11530.

21 **(23)** ~~(21)~~ "Composting facility" means a facility where
22 composting of yard clippings or other organic materials occurs
23 using mechanical handling techniques such as physical turning,
24 windrowing, or aeration or using other management techniques
25 approved by the director.

26 **(24)** ~~(22)~~ "Consistency review" means evaluation of the
27 administrative and technical components of an application for a
28 permit or license or evaluation of operating conditions in the
29 course of inspection, for the purpose of determining consistency

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

3 (25) ~~(23)~~—"Corrective action" means the investigation,
4 assessment, cleanup, removal, containment, isolation, treatment, or
5 monitoring of constituents, as defined in a facility's approved
6 hydrogeological monitoring plan, released into the environment from
7 a disposal area, or the taking of other actions related to the
8 release as may be necessary to prevent, minimize, or mitigate
9 injury to the public health, safety, or welfare, the environment,
10 or natural resources that is consistent with **subtitle D of the**
11 **solid waste disposal act**, 42 USC 6941 to 6949a, and regulations
12 promulgated thereunder.

13 Sec. 11503. (1) "De minimis" refers to a small amount of
14 material or number of items, as applicable, incidentally commingled
15 with inert material for beneficial use by-products, or incidentally
16 disposed of with other solid waste.

17 (2) "Department", subject to section 11554, means the
18 department of environment, Great Lakes, and energy.

19 (3) "**Depolymerization**" means a manufacturing process in which
20 **post-use polymers are broken into smaller molecules such as**
21 **monomers and oligomers or raw, intermediate, or final products,**
22 **plastics and chemical feedstocks, basic and unfinished chemicals,**
23 **waxes, lubricants, coatings, and other basic hydrocarbons.**

24 (4) "Director" means the director of the department.

25 (5) ~~(4)~~—"Discharge" includes, but is not limited to, any
26 spilling, leaking, pumping, pouring, emitting, emptying,
27 discharging, injecting, escaping, leaching, dumping, or disposing
28 of a substance into the environment that is or may become injurious
29 to the public health, safety, or welfare, or to the environment.

1 (6) ~~(5)~~—"Disposal area" means 1 or more of the following at a
2 location as defined by the boundary identified in its construction
3 permit or engineering plans approved by the department:

4 (a) A solid waste transfer facility.

5 (b) An incinerator.

6 (c) A sanitary landfill.

7 (d) A **solid waste** processing plant.

8 (e) A coal ash impoundment.

9 (f) Any other solid waste handling or disposal facility
10 utilized in the disposal of solid waste. However, a waste diversion
11 center is not a disposal area.

12 (7) ~~(6)~~—"Diverted waste" means waste that meets all of the
13 following requirements:

14 (a) Is generated by households, businesses, or governmental
15 entities.

16 (b) Can lawfully be disposed of at a licensed sanitary
17 landfill or municipal solid waste incinerator.

18 (c) Is separated from other waste.

19 (d) Is 1 or more of the following:

20 (i) Hazardous material.

21 (ii) Liquid waste.

22 (iii) Pharmaceuticals.

23 (iv) Electronics.

24 (v) Batteries.

25 (vi) Light bulbs.

26 (vii) Pesticides.

27 (viii) Thermostats, switches, thermometers, or other devices
28 that contain elemental mercury.

29 (ix) Sharps.

1 (x) Other ~~wastes~~**waste** approved by the department that can be
 2 readily separated from solid waste for diversion to preferred
 3 methods of management and disposal.

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

10 (9) ~~(8)~~ "Escrow account" means an account that is managed by a
 11 bank or other financial institution whose account operations are
 12 regulated and examined by a federal or state agency and that
 13 complies with section 11523b.

14 (10) ~~(9)~~ "Existing coal ash impoundment" means a coal ash
 15 impoundment that received coal ash before December 28, 2018, and
 16 that, as of that date, had not initiated elements of closure that
 17 include dewatering, stabilizing residuals, or placement of an
 18 engineered cover or otherwise closed pursuant to its part 31 permit
 19 or pursuant to R 299.4309 of the part 115 rules and, therefore, is
 20 capable of receiving coal ash in the future. A coal ash impoundment
 21 that has initiated closure is considered an open dump unless the
 22 owner or operator has completed closure of the coal ash impoundment
 23 under section 11519b or obtained an operating license for the coal
 24 ash impoundment by December 28, 2020.

25 (11) ~~(10)~~ "Existing coal ash landfill" means a coal ash
 26 landfill to which either of the following applies:

27 (a) The landfill received coal ash both before and after
 28 October 19, 2015.

29 (b) Construction of the landfill commenced before October 19,

1 2015, and the landfill received coal ash on or after October 19,
2 2015. For the purposes of this subdivision, construction of a
3 landfill commenced before October 19, 2015 if both of the following
4 requirements were met before that date:

5 (i) The owner or operator obtained the federal, state, and
6 local approvals or permits necessary to begin physical
7 construction.

8 (ii) A continuous, on-site physical construction program began.

9 **(12)** ~~(11)~~—"Existing disposal area" means any of the following:

10 (a) A disposal area that has in effect a construction permit
11 under this part.

12 (b) A disposal area that had engineering plans approved by the
13 director before January 11, 1979.

14 (c) An industrial waste landfill that was authorized to
15 operate by the director or by court order before October 9, 1993.

16 (d) An industrial waste pile that was located at the site of
17 generation on October 9, 1993.

18 (e) An existing coal ash impoundment.

19 **(13)** ~~(12)~~—"Existing landfill unit" or "existing unit" means
20 any landfill unit that received solid waste on or before October 9,
21 1993.

22 **(14)** ~~(13)~~—"Farm" means that term as defined in section 2 of
23 the Michigan right to farm act, 1981 PA 93, MCL 286.472.

24 **(15)** ~~(14)~~—"Farm operation" means that term as defined in
25 section 2 of the Michigan right to farm act, 1981 PA 93, MCL
26 286.472.

27 **(16)** ~~(15)~~—"Financial assurance" means the mechanisms used to
28 demonstrate that the funds necessary to meet the cost of closure,
29 postclosure maintenance and monitoring, and corrective action will

1 be available whenever they are needed.

2 (17) ~~(16)~~ "Financial test" means a corporate or local
3 government financial test or guarantee approved ~~for type II~~
4 ~~landfills~~ under **subtitle D of the solid waste disposal act**, 42 USC
5 6941 to 6949a, and regulations promulgated thereunder. An owner or
6 operator may use a single financial test for more than 1 facility.
7 Information submitted to the department to document compliance with
8 the **financial** test shall include a list showing the name and
9 address of each facility and the amount of funds assured by the
10 **financial** test for each facility. For purposes of the financial
11 test, the owner or operator shall aggregate the sum of the closure,
12 postclosure, and corrective action costs it seeks to assure with
13 any other environmental obligations assured by a financial test
14 under state or federal law.

15 (18) ~~(17)~~ "Flue gas desulfurization material" means the
16 material recovered from air pollution control systems that capture
17 sulfur dioxide from the combustion of wood, coal, or fossil fuels,
18 or other combustible materials, if the other combustible materials
19 constitute less than 50% by weight of the total material combusted
20 and the department determines in writing that the other combustible
21 materials do not materially affect the character of the residue.
22 Flue gas desulfurization material includes synthetic gypsum.

23 (19) ~~(18)~~ "Food processing residuals" means any of the
24 following:

25 (a) Residuals of fruits, vegetables, aquatic plants, or field
26 crops.

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

29 (c) Otherwise unusable food products that do not meet size,

1 quality, or other product specifications and that were intended for
2 human or animal consumption.

3 (20) ~~(19)~~ "Foundry sand" means silica sand used in the metal
4 casting process, including binding material or carbonaceous
5 additives, from ferrous or nonferrous foundries.

6 (21) ~~(20)~~ "GAAMPS" means ~~the~~ generally accepted agricultural
7 and management practices under the Michigan right to farm act, 1981
8 PA 93, MCL 286.471 to 286.474.

9 (22) ~~(21)~~ "Garbage" means rejected food wastes including waste
10 accumulation of animal, fruit, or vegetable matter used or intended
11 for food or that results from the preparation, use, cooking,
12 dealing in, or storing of meat, fish, fowl, fruit, or vegetable
13 matter.

14 (23) "Gasification" means a manufacturing process in which
15 recovered feedstocks are heated and converted into a fuel-gas
16 mixture in an oxygen-deficient atmosphere and the mixture is
17 converted into valuable raw materials and intermediate and final
18 products, including, but not limited to, plastic monomers,
19 chemicals, waxes, lubricants, plastics and chemical feedstocks, and
20 other basic hydrocarbons.

21 Sec. 11504. (1) "Health officer" means a full-time
22 administrative officer of a certified health department.

23 (2) "Industrial waste" means solid waste that is generated by
24 manufacturing or industrial processes and that is not a hazardous
25 waste regulated under part 111.

26 (3) "Industrial waste landfill" means a landfill that is used
27 for the disposal of any of the following, as applicable:

28 (a) Industrial waste that has been characterized for hazard
29 and that has been determined to be nonhazardous under part 111.

1 (b) If the landfill is an existing disposal area, nonhazardous
2 solid waste that originates from an industrial site.

3 (4) "Inert material" means any of the following:

4 (a) Rock.

5 (b) Trees, stumps, and other similar land-clearing debris, if
6 all of the following conditions are met:

7 (i) The debris is buried on the site of origin or another site,
8 with the approval of the owner of the site.

9 (ii) The debris is not buried in a wetland or floodplain.

10 (iii) The debris is placed at least 3 feet above the groundwater
11 table as observed at the time of placement.

12 (iv) The placement of the debris does not violate federal,
13 state, or local law or create a nuisance.

14 (c) Uncontaminated excavated soil or dredged sediment.

15 Excavated soil or dredged sediment is considered uncontaminated if
16 it does not contain more than de minimis amounts of solid waste and
17 ~~1~~**any** of the following ~~applies~~**apply**:

18 (i) The soil or sediment is not contaminated by a hazardous
19 substance as a result of human activity. Soil or sediment that
20 naturally contains elevated levels of hazardous substances above
21 unrestricted residential or any other part 201 generic soil cleanup
22 criteria is not considered contaminated for purposes of this
23 subdivision. A soil or sediment analysis is not required under this
24 subparagraph if, based on past land use, there is no reason to
25 believe that the soil or sediment is contaminated.

26 (ii) For any hazardous substance that could reasonably be
27 expected to be present as a result of past land use and human
28 activity, the soil or sediment does not exceed the background
29 concentration, as that term is defined in ~~part 201~~**section 20101**.

1 (iii) For any hazardous substance that could reasonably be
2 expected to be present as a result of past land use and human
3 activity, the soil or sediment falls below part 201 generic
4 residential soil direct contact cleanup criteria and hazardous
5 substances in leachate from the soil or sediment, using, at the
6 option of the generator, EPA method 1311, "**Toxicity Characteristic**
7 **Leaching Procedure**", EPA method 1312, "**Synthetic Precipitation**
8 **Leaching Procedure**", or any other leaching protocol approved by the
9 department, fall below part 201 generic residential health based
10 groundwater drinking water values or criteria, and the soil or
11 sediment would not cause a violation of any surface water quality
12 standard established under part 31 at the area of placement,
13 disposal, or use.

14 (d) Excavated soil from a site of environmental contamination,
15 corrective action, or response activity if the soil is not a listed
16 hazardous waste under part 111 and if hazardous substances in the
17 soil do not exceed generic soil cleanup criteria for unrestricted
18 residential use as defined in ~~part 201~~ **section 20101** or background
19 concentration as defined in ~~part 201~~, **section 20101**, as applicable.

20 (e) Construction brick, masonry, pavement, or broken concrete
21 that is reused for fill, rip rap, slope stabilization, or other
22 construction, if all of the following conditions are met:

23 (i) The use of the material does not violate section 3108, part
24 301, or part 303.

25 (ii) The material is not materially contaminated. Typical
26 surface oil staining on pavement ~~and or~~ concrete from driveways,
27 roadways, ~~and or~~ parking lots is not material contamination.
28 Material covered in whole or in part with lead-based paint is
29 materially contaminated.

1 (iii) The material does not include exposed reinforcing bars.

2 (f) Portland cement clinker produced by a cement kiln using
3 wood, fossil fuels, or solid waste as a fuel or feedstock, but not
4 including cement kiln dust generated in the process.

5 (g) Asphalt pavement or concrete pavement that meets all of
6 the following requirements:

7 (i) Has been removed from a public right-of-way.

8 (ii) Has been stockpiled or crushed for reuse as aggregate
9 material.

10 (iii) Does not include exposed reinforcement bars.

11 (h) Cuttings, drilling materials, and fluids used to drill or
12 complete a well installed pursuant to part 127 of the public health
13 code, 1978 PA 368, MCL 333.12701 to 333.12771, if the location of
14 the well is not a facility under part 201.

15 (i) Any material determined by the department under section
16 11553(5) or (6) to be an inert material, either for general use or
17 for a particular use.

18 (5) "Insurance" means insurance that conforms to the
19 requirements of 40 CFR 258.74(d) **and is** provided by an insurer who
20 has a certificate of authority from the director of insurance and
21 financial services to sell this line of coverage. An applicant for
22 an operating license shall submit evidence of the required coverage
23 by submitting both of the following to the department:

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

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

28 (6) "Landfill" means a disposal area that is a sanitary
29 landfill.

1 (7) "Lateral expansion" means a horizontal expansion of the
2 solid waste boundary of any of the following:

3 (a) A landfill, other than a coal ash landfill, if the
4 expansion is beyond the limit established in a construction permit
5 or engineering plans approved by the ~~solid waste control agency~~
6 **department or a certified health department** before January 11,
7 1979.

8 (b) A coal ash landfill, if either of the following applies:

9 (i) The expansion is beyond the limit established in a
10 construction permit issued after December 28, 2018.

11 (ii) The expansion is made after October 19, 2015, and is a
12 horizontal expansion of the outermost boundary, as defined by a
13 construction certification or operating license, of an existing
14 coal ash landfill.

15 (c) A coal ash impoundment, if the expansion is beyond the
16 limit established in a construction permit or the horizontal limits
17 of coal ash in place on or before October 14, 2015.

18 (8) "Letter of credit" means an irrevocable letter of credit
19 that complies with 40 CFR 258.74(c).

20 (9) "Lime kiln dust" means particulate matter collected in air
21 emission control devices serving lime kilns.

22 (10) "Low-hazard industrial waste" means industrial material
23 that has a low potential for groundwater contamination when managed
24 in ~~accordance~~-**compliance** with this part. The following materials
25 are low-hazard industrial wastes:

26 (a) Coal ash and wood ash.

27 (b) Cement kiln dust.

28 (c) Pulp and paper mill material.

29 (d) Scrap wood.

1 (e) Sludge from the treatment and conditioning of water for
2 domestic use.

3 (f) Residue from the thermal treatment of petroleum
4 contaminated soil, media, or debris.

5 (g) Sludge from the treatment and conditioning of water from a
6 community water supply.

7 (h) Foundry sand.

8 (i) Mixed wood ash, scrap wood ash, and pulp and paper mill
9 ash.

10 (j) Street cleanings.

11 (k) Asphalt shingles.

12 (l) New construction or production scrap drywall.

13 (m) Chipped or shredded tires.

14 (n) Copper slag.

15 (o) Copper stamp sands.

16 (p) Dredge material from nonremedial activities.

17 (q) Flue gas desulfurization material.

18 (r) Dewatered grinding slurry generated from public
19 transportation agency road projects.

20 (s) Any material determined by the department under section
21 11553(7) to be a low-hazard industrial waste.

22 (11) "Low-hazard-potential coal ash impoundment" means a coal
23 ash impoundment that is a diked surface impoundment, the failure or
24 ~~misoperation~~ **improper operation** of which is expected to result in
25 no loss of human life and low economic or environmental losses
26 principally limited to the impoundment owner's property.

27 (12) "Medical waste" means that term as it is defined in
28 section 13805 of the public health code, 1978 PA 368, MCL
29 333.13805.

1 (13) "Mixed wood ash" means the material recovered from air
2 pollution control systems for, or the noncombusted residue
3 remaining after, the combustion of any combination of wood, scrap
4 wood, railroad ties, or tires, if railroad ties composed less than
5 35% by weight of the total combusted material and tires composed
6 less than 10% by weight of the total combusted material.

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

10 (a) The incinerator receives solid waste from off site and
11 burns only household waste from single and multiple dwellings,
12 hotels, motels, and other residential sources, or such household
13 waste together with solid waste from commercial, institutional,
14 municipal, county, or industrial sources that, if disposed of,
15 would not be required to be placed in a disposal facility licensed
16 under part 111.

17 (b) The incinerator has established contractual requirements
18 or other notification or inspection procedures sufficient to ensure
19 that the incinerator receives and burns only waste referred to in
20 subdivision (a).

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

23 (d) The incinerator is not an industrial furnace as defined in
24 40 CFR 260.10.

25 (e) The incinerator is not an incinerator that receives and
26 burns only medical waste or only waste produced at 1 or more
27 hospitals.

28 (15) "Municipal solid waste incinerator ash" means the
29 substances remaining after combustion in a municipal solid waste

1 incinerator.

2 (16) "New coal ash impoundment" means a coal ash impoundment
3 that first receives coal ash after ~~the effective date of the~~
4 ~~amendatory act that added this subsection.~~**December 28, 2018.**

5 (17) "New disposal area" means a disposal area that requires a
6 construction permit under this part and includes all of the
7 following:

8 (a) A disposal area, other than an existing disposal area,
9 that is proposed for construction.

10 (b) For a landfill, a lateral expansion, vertical expansion,
11 or other expansion that results in an increase in the landfill's
12 design capacity.

13 (c) A new coal ash impoundment, or a lateral expansion of a
14 coal ash impoundment beyond the placement of waste as of October
15 14, 2015.

16 (d) For a disposal area other than ~~landfills~~**a landfill** or
17 coal ash ~~impoundments,~~**impoundment**, an enlargement in capacity
18 beyond that indicated in the construction permit or in engineering
19 plans approved before January 11, 1979.

20 (e) For any existing disposal area, an alteration of the
21 disposal area to a different disposal area type than ~~had been~~**was**
22 specified in the previous construction permit application or in
23 engineering plans that were approved by the director or his or her
24 designee before January 11, 1979.

25 (18) "Nonresidential property" means property not used or
26 intended to be used for any of the following:

27 (a) A child day care center.

28 (b) An elementary school.

29 (c) An elder care and assisted living center.

1 (d) A nursing home.

2 (e) A single-family or multifamily dwelling unless the
3 dwelling is part of a mixed use development and all dwelling units
4 and associated outdoor residential use areas are located above the
5 ground floor.

6 (19) "Part 115 rules" means R 299.4101 to R 299.4922 of the
7 Michigan Administrative Code including any amendments to or
8 replacements of those rules.

9 (20) "Perpetual care fund" means a trust or escrow account or
10 perpetual care fund bond ~~provided for in~~ **required by** section 11525.

11 (21) "Perpetual care fund bond" means a surety bond, an
12 irrevocable letter of credit, or a combination of these instruments
13 in favor of and on a form approved by the department by which a
14 perpetual care fund is established.

15 (22) "Post-use polymer" means a plastic to which all of the
16 following apply:

17 (a) It is derived from an industrial, commercial,
18 agricultural, or household activity.

19 (b) It has been sorted from solid waste and other regulated
20 waste but may contain residual amounts of solid waste such as
21 organic material and incidental contaminants or impurities, for
22 example, paper labels and metal rings.

23 (c) It is not mixed with solid waste or hazardous waste on-
24 site or during conversion at an advanced recycling facility.

25 (d) It is used or intended for use as a feedstock for advanced
26 recycling.

27 (e) It is converted at an advanced recycling facility or
28 stored there before conversion.

29 (23) ~~(22)~~ "Pulp and paper mill ash" means the material

1 recovered from air pollution control systems for, or the
2 noncombusted residue remaining after, the combustion of any
3 combination of coal, wood, pulp and paper mill material, wood or
4 biomass fuel pellets, scrap wood, railroad ties, or tires, ~~from~~**in**
5 a boiler, power plant, or furnace at a pulp and paper mill, if
6 railroad ties composed less than 35% by weight of the total
7 combusted material and tires composed less than 10% by weight of
8 the total combusted material.

9 **(24)** ~~(23)~~ "Pulp and paper mill material" means all of the
10 following materials if generated at a facility that produces pulp
11 or paper:

12 (a) Wastewater treatment sludge, including wood fibers,
13 minerals, and microbial biomass.

14 (b) Rejects from screens, cleaners, and mills.

15 (c) Bark, wood fiber, and chips.

16 (d) Scrap paper.

17 (e) Causticizing residues, including lime mud and grit and
18 green liquor dregs.

19 (f) Any material that the department determines has
20 characteristics that are similar to any of the materials listed in
21 subdivisions (a) to (e).

22 **(25) "Pyrolysis" means a manufacturing process in which post-**
23 **use polymers are heated in the absence of oxygen until melted and**
24 **thermally decomposed and are then cooled, condensed, and converted**
25 **into valuable raw materials and intermediate and final products,**
26 **including, but not limited to, plastic monomers, chemicals, waxes,**
27 **lubricants, plastic and chemical feedstocks, and other basic**
28 **hydrocarbons.**

29 Sec. 11505. (1) **"Recovered feedstock" means material that**

1 meets all of the following requirements:

2 (a) It is 1 or more of the following materials that have been
3 converted by advanced recycling so that they may be used as
4 feedstock in an advanced recycling facility:

5 (i) Post-use polymers.

6 (ii) Materials for which the United States Environmental
7 Protection Agency has granted a nonwaste determination pursuant to
8 40 CFR 241.3(c), or that the Environmental Protection Agency has
9 otherwise determined are feedstocks and not solid waste.

10 (b) It does not include unprocessed municipal solid waste.

11 (c) It is not mixed with solid waste or hazardous waste on-
12 site or during conversion at an advanced recycling facility.

13 (2) ~~(1)~~—"Recyclable materials" means source separated
14 materials, site separated materials, high grade paper, glass,
15 metal, plastic, aluminum, newspaper, corrugated paper, yard
16 clippings, and other materials that may be recycled or composted.

17 (3) ~~(2)~~—"Regional solid waste management planning agency"
18 means the regional solid waste planning agency designated by the
19 governor pursuant to **section 4006 of Subtitle D of the solid waste**
20 **disposal act**, 42 USC 6946.

21 (4) ~~(3)~~—"Resource recovery facility" means machinery,
22 equipment, structures, or any parts or accessories of machinery,
23 equipment, or structures, installed or acquired for the primary
24 purpose of recovering materials or energy from the waste stream.

25 (5) ~~(4)~~—"Response activity" means an activity that is
26 necessary to protect the public health, safety, welfare, or the
27 environment, and includes, but is not limited to, evaluation,
28 cleanup, removal, containment, isolation, treatment, monitoring,
29 maintenance, replacement of water supplies, and temporary

1 relocation of people.

2 (6) ~~(5)~~—"Rubbish" means nonputrescible solid waste, excluding
3 ashes, consisting of both combustible and noncombustible waste,
4 including paper, cardboard, metal containers, yard clippings, wood,
5 glass, bedding, crockery, demolished building materials, or litter
6 of any kind that may be a detriment to the public health and
7 safety.

8 (7) ~~(6)~~—"Salvaging" means the lawful and controlled removal of
9 reusable materials from solid waste.

10 (8) ~~(7)~~—"Sanitary landfill" means a type of disposal area
11 consisting of 1 or more landfill units and the active work areas
12 associated with those units. Sanitary landfills are classified as 1
13 of the following types of landfills:

14 (a) A type II landfill, which is a municipal solid waste
15 landfill and includes a municipal solid waste incinerator ash
16 landfill.

17 (b) A type III landfill, which is any landfill that is not a
18 municipal solid waste landfill or hazardous waste landfill and
19 includes all of the following:

20 (i) A construction and demolition waste landfill.

21 (ii) An industrial waste landfill.

22 (iii) A landfill that accepts waste other than household waste,
23 municipal solid waste incinerator ash, or hazardous waste from
24 conditionally exempt small quantity generators.

25 (iv) A coal ash landfill.

26 (v) An existing coal ash impoundment that is closed or is
27 actively being closed as a landfill pursuant to R 299.4309 of the
28 part 115 rules.

29 (9) ~~(8)~~—"Scrap wood" means wood or wood product that is 1 or

1 more of the following:

2 (a) Plywood, particle board, pressed board, oriented strand
3 board, fiberboard, resonated wood, or any other wood or wood
4 product mixed with glue, resins, or filler.

5 (b) Wood or wood product treated with creosote or
6 pentachlorophenol.

7 (c) Any wood or wood product designated as scrap wood in rules
8 promulgated by the department.

9 (10) ~~(9)~~—"Sharps" means that term as defined in section 13807
10 of the public health code, 1978 PA 368, MCL 333.13807.

11 (11) ~~(10)~~—"Site separated material" means glass, metal, wood,
12 paper products, plastics, rubber, textiles, garbage, or any other
13 material approved by the department that is separated from solid
14 waste for the purpose of recycling or conversion into raw materials
15 or new products.

16 (12) ~~(11)~~—"Slag" means the nonmetallic product resulting from
17 melting or smelting operations for iron or steel.

18 Sec. 11506. (1) "Solid waste" means garbage, rubbish, ashes,
19 incinerator ash, incinerator residue, street cleanings, municipal
20 and industrial sludges, solid commercial waste, solid industrial
21 waste, and animal waste. However, solid waste does not include **any**
22 **of** the following:

23 (a) Human body waste.

24 (b) Medical waste.

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

27 (d) Liquid waste.

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

1 (f) Slag or slag products directed to a slag processor or to a
2 reuser of slag or slag products.

3 (g) Sludges and ashes managed as recycled or nondetrimental
4 materials appropriate for agricultural or silvicultural use
5 pursuant to a plan approved by the department.

6 (h) The following materials that are used as animal feed, or
7 are applied on, or are composted and applied on, farmland or
8 forestland for an agricultural or silvicultural purpose at an
9 agronomic rate consistent with GAAMPS:

10 (i) Food processing residuals and garbage.

11 (ii) Precipitated calcium carbonate from sugar beet processing.

12 (iii) Wood ashes resulting solely from a source that burns only
13 wood that is untreated and inert.

14 (iv) Lime from kraft pulping processes generated ~~prior to~~
15 **before** bleaching.

16 (v) Aquatic plants.

17 (i) Materials approved for emergency disposal by the
18 department.

19 (j) Source separated materials.

20 (k) Site separated material.

21 (l) Coal ash, when used under any of the following
22 circumstances:

23 (i) As a component of concrete, grout, mortar, or casting
24 molds, if the coal ash does not have more than 6% unburned carbon.

25 (ii) As a raw material in asphalt for road construction, if the
26 coal ash does not have more than 12% unburned carbon and passes
27 Michigan test method for water asphalt preferential test, MTM 101,
28 as set forth in the state transportation department's manual for
29 the Michigan test methods (MTM).

1 (iii) As aggregate, road material, or building material that in
2 ultimate use is or will be stabilized or bonded by cement, limes,
3 or asphalt, or itself act as a bonding agent. To be considered to
4 act as a bonding agent, the coal ash must have at least 10%
5 available lime.

6 (iv) As a road base or construction fill that is placed at
7 least 4 feet above the seasonal groundwater table and covered with
8 asphalt, concrete, or other material approved by the department.

9 (m) Inert material.

10 (n) Soil that is washed or otherwise removed from sugar beets,
11 has not more than 55% moisture content, and is registered as a soil
12 conditioner under part 85. Any testing required to become
13 registered under part 85 is the responsibility of the generator.

14 (o) Soil that is relocated under section 20120c.

15 (p) Diverted waste that is managed through a waste diversion
16 center.

17 (q) Beneficial use by-products.

18 (r) Coal bottom ash, if substantially free of fly ash or
19 economizer ash, when used as cold weather road abrasive.

20 (s) Stamp sands when used as cold weather road abrasive in the
21 Upper Peninsula by any of the following:

22 (i) A public road agency.

23 (ii) Any other person pursuant to a plan approved by a public
24 road agency.

25 (t) Any material that is reclaimed or reused in the process
26 that generated it.

27 (u) Any secondary material that, as specified in or determined
28 pursuant to 40 CFR part 241, is not a solid waste when combusted.

29 (v) **Post-use polymers and recovered feedstocks.**

1 (w) ~~(v)~~ Other wastes regulated by statute.

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

4 (3) "Solid waste processing plant" means a tract of land, a
5 building, ~~or~~ unit, ~~or~~ an appurtenance of a building or unit, or a
6 **any** combination of land, buildings, and units **these** that is used or
7 intended for use ~~for~~ **in** the processing of solid waste or the
8 separation of material for salvage or disposal, or both. ~~but~~
9 **Solid waste processing plant** does not include ~~a~~ **any of the**
10 **following:**

11 (a) A plant engaged primarily in the acquisition, processing,
12 and shipment of ferrous or nonferrous metal scrap. ~~or~~ ~~a~~

13 (b) A plant engaged primarily in the acquisition, processing,
14 and shipment of slag or slag products.

15 (c) **A facility that is located at the site of generation or**
16 **the site of disposal of the solid waste.**

17 (d) **An advanced recycling facility.**

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

21 (5) "Solid waste transfer facility" means a tract of land, a
22 building, ~~and any appurtenances, or~~ **an appurtenance of a building,**
23 a container, or any combination of land, buildings, ~~or containers~~
24 **these** that is used or intended for use in the rehandling or storage
25 of solid waste incidental to the transportation of the solid waste,
26 but is not located at the site of generation or the site of
27 disposal of the solid waste.

28 (6) "Solvolysis" means a manufacturing process in which post-
29 use polymers are purified with the aid of solvents, while heated at

1 low temperatures or pressurized, or both, to make useful products
2 while allowing additives and contaminants to be removed. The
3 products of solvolysis include, but are not limited to, monomers,
4 intermediates, and valuable chemicals and raw materials. Solvolysis
5 includes, but is not limited to, the following:

6 (a) Hydrolysis.

7 (b) Aminolysis.

8 (c) Ammonolysis.

9 (d) Methanolysis.

10 (e) Glycolysis.

11 (7) ~~(6)~~—"Source separated material" means any of the following
12 materials if separated at the source of generation and not
13 speculatively accumulated:

14 (a) Glass, metal, wood, paper products, plastics, rubber,
15 textiles, garbage, or any other material approved by the department
16 that is used for conversion into raw materials or new products. For
17 the purposes of this subdivision, raw materials or new products
18 include, but are not limited to, compost, biogas from anaerobic
19 digestion, synthesis gas from gasification or pyrolysis, or other
20 fuel. This subdivision does not prohibit material from being
21 classified as a renewable energy resource as defined in section 11
22 of the clean and renewable energy and energy waste reduction act,
23 2008 PA 295, MCL 460.1011.

24 (b) Scrap wood and railroad ties used to fuel an industrial
25 boiler, kiln, power plant, or furnace, subject to part 55, for
26 production of new wood products, or for other uses approved by the
27 department.

28 (c) Chipped or whole tires used to fuel an industrial boiler,
29 kiln, power plant, or furnace, subject to part 55, or for other

1 uses approved by the department. This subdivision does not prohibit
 2 material from being classified as a renewable energy resource as
 3 defined in section 11 of the clean and renewable energy and energy
 4 waste reduction act, 2008 PA 295, MCL 460.1011.

5 (d) Recovered paint solids if used to fuel an industrial
 6 boiler, kiln, power plant, or furnace, subject to part 55, or if
 7 used for other uses approved by the department.

8 (e) Gypsum drywall generated from the production of wallboard
 9 used for stock returned to the production process or for other uses
 10 approved by the department.

11 (f) Flue gas desulfurization gypsum used for production of
 12 cement or wallboard or other uses approved by the department.

13 (g) Asphalt shingles that ~~do meet both of the following~~
 14 **requirements:**

15 (i) **Do** not contain asbestos, rolled roofing, or tar paper.

16 (ii) **Are** used as **described in any of the following:**

17 (A) **As** a component in asphalt. ~~or used to~~

18 (B) **To** fuel an industrial boiler, kiln, power plant, or
 19 furnace, subject to part 55. ~~or for~~

20 (C) **For** other uses approved by the department.

21 (h) Municipal solid waste incinerator ash that meets criteria
 22 specified by the department and that is used as daily cover at a
 23 disposal facility licensed pursuant to this part.

24 (i) Utility poles or pole segments reused as poles, posts, or
 25 similar uses approved by the department in writing.

26 (j) Railroad ties reused in landscaping, embankments, or
 27 similar uses approved by the department in writing.

28 (k) Any materials and uses approved by the department under
 29 section 11553(8).

1 (l) Any material determined by the department in writing before
2 September 16, 2014 to be a source separated material.

3 (8) ~~(7)~~—"Stamp sands" means finely grained crushed rock
4 resulting from mining, milling, or smelting of copper ore and
5 includes native substances contained within the crushed rock and
6 any ancillary material associated with the crushed rock.

7 (9) ~~(8)~~—"Treated wood" means wood or wood product that has
8 been treated with 1 or more of the following:

9 (a) Chromated copper arsenate (CCA).

10 (b) Ammoniacal copper quat (ACQ).

11 (c) Ammoniacal copper zinc arsenate (ACZA).

12 (d) Any other chemical designated in rules promulgated by the
13 department.

14 (10) ~~(9)~~—"Trust fund" means a fund held by a trustee who has
15 the authority to act as a trustee and whose trust operations are
16 regulated and examined by a federal or state agency.

17 (11) ~~(10)~~—"Type I public water supply", "type IIa public water
18 supply", "type IIb public water supply", and "type III public water
19 supply" mean those terms, respectively, as described in R 325.10502
20 of the Michigan Administrative Code.

21 (12) ~~(11)~~—"Waste diversion center" means property or a
22 building, or a portion of property or a building, designated for
23 the purpose of receiving or collecting diverted wastes and not used
24 for residential purposes.

25 (13) ~~(12)~~—"Wood" means trees, branches and associated leaves,
26 bark, lumber, pallets, wood chips, sawdust, or other wood or wood
27 product but does not include scrap wood, treated wood, painted wood
28 or painted wood product, or any wood or wood product that has been
29 contaminated during manufacture or use.

1 **(14)** ~~(13)~~—"Wood ash" means any type of ash or slag resulting
2 from the burning of wood.

3 **(15)** ~~(14)~~—"Yard clippings" means leaves, grass clippings,
4 vegetable or other garden debris, shrubbery, or brush or tree
5 trimmings, less than 4 feet in length and 2 inches in diameter,
6 that can be converted to compost. Yard clippings do not include
7 stumps, agricultural wastes, animal waste, roots, sewage sludge, or
8 garbage.