

# HOUSE BILL NO. 5332

November 14, 2023, Introduced by Reps. Miller, Paiz, McKinney, Hope, Brenda Carter, Farhat, Tsernoglou, Brixie, Rheingans, Brabec, Coleman, Steckloff, Dievendorf, Neeley, Hood, Byrnes, Price, Wilson and Edwards and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 11108, 11109, and 11130 (MCL 324.11108,  
324.11109, and 324.11130), sections 11108 and 11130 as amended by  
2013 PA 73 and section 11109 as added by 2018 PA 689.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**           Sec. 11108. (1) Except as otherwise provided in this section,

1 ~~each~~**the** owner or operator of a landfill shall pay to the  
2 department a fee assessed on hazardous waste disposed of in the  
3 landfill. The fee shall be based on the quantity of hazardous waste  
4 specified on the manifest or monthly operating report and, **through**  
5 **December 31, 2023**, shall be \$10.00 per ton, \$10.00 per cubic yard,  
6 or 1/2 cent per pound, depending on the unit of measure used by the  
7 owner or operator to calculate the fee. **Subject to subsection (9),**  
8 **beginning January 1, 2024, the fee shall be \$25.00 per ton, \$25.00**  
9 **per cubic yard, or 1.25 cents per pound, depending on the unit of**  
10 **measure used by the owner or operator to calculate the fee.** The fee  
11 for fractional quantities of hazardous waste shall be proportional.  
12 If the hazardous waste is required to be listed on a manifest and  
13 the owner or operator of the landfill determines that the hazardous  
14 waste quantity on the manifest is not accurate, the owner or  
15 operator shall correct the hazardous waste quantity on all manifest  
16 copies accompanying the shipment, note the reason for the change in  
17 the discrepancy indication space on the manifest, and assess the  
18 fee in accordance with the corrected hazardous waste quantity.  
19 Payment shall be made within 30 days after the close of each  
20 quarter. The landfill owner or operator shall assess off-site  
21 generators the fee. The fee for hazardous waste that is generated  
22 and disposed of on the site of a landfill owner or operator shall  
23 be paid by that owner or operator.

24 (2) Except as otherwise provided in this section, each owner  
25 or operator of a solidification facility licensed pursuant to  
26 section 11123 shall pay to the department a fee assessed on  
27 hazardous waste received at the solidification facility. The fee  
28 shall be based on the quantity of hazardous waste specified on the  
29 manifest or monthly operating report and, **through December 31,**

1 **2023**, shall be \$10.00 per ton, \$10.00 per cubic yard, 4 cents per  
2 gallon, or 1/2 cent per pound, depending on the unit of measure  
3 used by the owner or operator to calculate the fee. **Subject to**  
4 **subsection (9), beginning January 1, 2024, the fee shall be \$25.00**  
5 **per ton, \$25.00 per cubic yard, 10 cents per gallon, or 1.25 cents**  
6 **per pound, depending on the unit of measure used by the owner or**  
7 **operator to calculate the fee.** The fee for fractional quantities of  
8 hazardous waste shall be proportional. If the hazardous waste is  
9 required to be listed on a manifest and the owner or operator of  
10 the solidification facility determines that the hazardous waste  
11 quantity on the manifest is not accurate, the owner or operator  
12 shall correct the hazardous waste quantity on all manifest copies  
13 accompanying the shipment, note the reason for the change in the  
14 discrepancy indication space on the manifest, and assess the fee in  
15 accordance with the corrected hazardous waste quantity. Payment  
16 shall be made within 30 days after the close of each quarter. The  
17 solidification facility owner or operator shall assess off-site  
18 generators the fee. The fee for hazardous waste that is generated  
19 and solidified on the site of a solidification owner or operator  
20 shall be paid by that owner or operator.

21 (3) The following hazardous waste is exempt from the fees  
22 provided for in this section:

23 (a) Ash that results from the incineration of hazardous waste  
24 or the incineration of solid waste as defined in part 115.

25 (b) Hazardous waste exempted by rule because of its character  
26 or the treatment it has received.

27 (c) Hazardous waste that is removed as part of a site cleanup  
28 activity at the expense of this state or the federal government.

29 (d) Solidified hazardous waste produced by a solidification

1 facility licensed pursuant to section 11123 and destined for land  
2 disposal.

3 (e) Hazardous waste generated pursuant to a 1-time closure or  
4 site cleanup activity in this state if the closure or cleanup  
5 activity has been authorized in writing by the department.

6 Hazardous waste resulting from the cleanup of inadvertent releases  
7 ~~which~~**that** occur after March 30, 1988 is not exempt from the fees.

8 (f) Primary and secondary wastewater treatment solids from a  
9 wastewater treatment plant that includes an aggressive biological  
10 treatment facility as defined in 42 USC 6925.

11 (g) Emission control dust or sludge from the primary  
12 production of steel in electric furnaces.

13 (4) An owner or operator of a landfill or solidification  
14 facility shall assess or pay the fee described in this section  
15 unless the generator provides a signed written certification  
16 indicating that the hazardous waste is exempt from the fee. If the  
17 hazardous waste that is exempt from the fee is required to be  
18 listed on a manifest, the certification shall contain the manifest  
19 number of the shipment and the specific fee exemption for which the  
20 hazardous waste qualifies. If the hazardous waste that is exempt  
21 from the fee is not required to be listed on a manifest, the  
22 certification shall provide the ~~volume~~**quantity** of exempt hazardous  
23 waste, the waste code or waste codes of the exempt waste, the date  
24 of disposal or solidification, and the specific fee exemption for  
25 which the hazardous waste qualifies. The owner or operator of the  
26 landfill or solidification facility shall retain this certification  
27 for 4 years from the date of receipt.

28 (5) The department or a health department certified pursuant  
29 to section 11145 shall evaluate the accuracy of generator fee

1 exemption certifications and shall take enforcement action against  
2 a generator who files a false certification. In addition, the  
3 department shall take enforcement action to collect fees that are  
4 not paid as required by this section.

5 (6) ~~The landfill owner or operator and the~~ **A landfill or**  
6 solidification facility owner or operator shall forward to the  
7 department the fee revenue due under this section with a completed  
8 form that is provided or approved by the department. The owner or  
9 operator shall certify that all information provided in the form is  
10 accurate. The form shall include the following information:

11 (a) The ~~volume~~ **quantity** of hazardous waste subject to a fee.

12 (b) The name of each generator who was assessed a fee, the  
13 generator's identification number, manifest numbers, hazardous  
14 waste ~~volumes,~~ **quantities**, and the amount of the fee assessed.

15 (7) A generator is eligible for a refund from this state of  
16 fees paid under this section if the generator documents to the  
17 department, on a form provided by the department, a reduction in  
18 the amount of hazardous waste generated as a result of a process  
19 change, or a reduction in the amount of hazardous waste disposed of  
20 in a landfill, either directly or following solidification at a  
21 solidification facility, as a result of a process change or the  
22 generator's increased use of source separation, input substitution,  
23 process reformulation, recycling, treatment, or an exchange of  
24 hazardous waste that results in a utilization of that hazardous  
25 waste. The refund shall be in the amount of \$10.00 per ton, \$10.00  
26 per cubic yard, 4 cents per gallon, or 1/2 cent per pound of  
27 reduction in the amount of hazardous waste generated or disposed of  
28 in a landfill **through December 31, 2023. The refund shall be in the**  
29 **amount of \$25.00 per ton, \$25.00 per cubic yard, 10 cents per**

1 **gallon, or 1.25 cents per pound of reduction in the amount of**  
2 **hazardous waste generated or disposed of in a landfill beginning**  
3 **January 1, 2024, subject to subsection (9).** A generator is not  
4 eligible to receive a refund for that portion of a reduction in the  
5 amount of hazardous waste generated that is attributable to a  
6 decrease in the generator's level of production of the products  
7 that resulted in the generation of the hazardous waste.

8 (8) A generator seeking a refund under subsection (7) shall  
9 calculate the refund due by comparing hazardous waste generation,  
10 treatment, and disposal activity in the calendar year immediately  
11 preceding the date of filing with hazardous waste generation,  
12 treatment, and disposal activity in the calendar year 2 years ~~prior~~  
13 ~~to~~**before** the date of filing. To be eligible for a refund, a  
14 generator shall file a request with the department by June 30 of  
15 the year following the year for which the refund is being claimed.  
16 A refund shall not exceed the total fees paid by the generator to  
17 the landfill operator or owner and the solidification facility  
18 operator or owner. A form submitted by the generator as provided  
19 for in subsection (7) ~~shall~~**must** be certified by the generator or  
20 the generator's authorized agent.

21 (9) **Beginning January 1, 2029, and every fifth year**  
22 **thereafter, the state treasurer shall adjust each of the current**  
23 **fees under this section by an amount determined by the state**  
24 **treasurer to reflect the cumulative percentage change in the**  
25 **Consumer Price Index during the most recent 5-year period for which**  
26 **Consumer Price Index statistics are available. As used in this**  
27 **subsection, "Consumer Price Index" means the most comprehensive**  
28 **index of consumer prices available for this state from the Bureau**  
29 **of Labor Statistics of the United States Department of Labor, or a**

1 **successor agency.**

2 (10) ~~(9)~~—The department shall maintain information regarding  
3 the landfill disposal fees received and refunds provided under this  
4 section.

5 (11) ~~(10)~~—The fees collected under this section shall be  
6 forwarded to the state treasurer and deposited in the environmental  
7 pollution prevention fund created in section 11130. ~~Any balance in~~  
8 ~~the waste reduction fund on October 1, 2013 shall not lapse to the~~  
9 ~~general fund but shall be transferred to the environmental~~  
10 ~~pollution prevention fund and the waste reduction fund shall be~~  
11 ~~closed. Money~~ **Subject to section 11109(6), money** from the  
12 environmental pollution prevention fund shall be expended, upon  
13 appropriation, only for 1 or more of the following purposes:

14 (a) **For deposit in the general fund of a city or township**  
15 **where a landfill or solidification facility is located, to be used**  
16 **to promote the public health, safety, or welfare of the city or**  
17 **township. Forty percent of the fees paid by the owner or operator**  
18 **of a landfill or solidification facility under this section, after**  
19 **deducting any refunds under subsection (7), shall be paid to the**  
20 **city or township where the landfill or solidification facility is**  
21 **located. However, if the city or township where the landfill or**  
22 **solidification facility is located has a host community agreement**  
23 **under which it receives revenue from the owner or operator of the**  
24 **landfill or solidification facility, 100% of the surcharges**  
25 **collected from the owner or operator of the landfill or**  
26 **solidification facility shall be expended for the purposes of**  
27 **subdivisions (b) to (e).**

28 (b) ~~(a)~~—To pay refunds to generators under this section.

29 (c) ~~(b)~~—To fund programs created under this part, part 143,

1 part 145, or the hazardous materials transportation act, 1998 PA  
2 138, MCL 29.471 to 29.480.

3 (d) ~~(e)~~—Not more than \$500,000.00 to implement section 3103a.

4 (e) ~~(d)~~—To fund the permit to install program established  
5 under section 5505.

6 Sec. 11109. (1) The owner or operator of a landfill shall pay  
7 to the department a fee assessed on TENORM disposed of in the  
8 landfill. The fee, **through December 31, 2023**, is \$5.00 per ton. ~~7~~  
9 **Beginning January 1, 2024, the fee is \$12.50 per ton. Beginning**  
10 **January 1, 2029, and every fifth year thereafter, the state**  
11 **treasurer shall adjust the current fee under this subsection by an**  
12 **amount determined by the state treasurer to reflect the cumulative**  
13 **percentage change in the Consumer Price Index during the most**  
14 **recent 5-year period for which Consumer Price Index statistics are**  
15 **available. As used in this subsection, "Consumer Price Index" means**  
16 **the most comprehensive index of consumer prices available for this**  
17 **state from the Bureau of Labor Statistics of the United States**  
18 **Department of Labor, or a successor agency. The fee shall be based**  
19 on the quantity of TENORM specified on the monthly operating  
20 report. The fee for fractional tons of TENORM shall be  
21 proportional. The fee shall be paid within 30 days after the end of  
22 each calendar year quarter.

23 (2) The department shall take enforcement action to collect  
24 fees that are not paid as required by this section.

25 (3) The landfill owner or operator shall forward to the  
26 department the fee revenue due under this section with a completed  
27 form that is provided or approved by the department. The owner or  
28 operator shall certify that all information provided in the form is  
29 accurate. The form shall specify the ~~volume~~**weight** of TENORM



1 disposed of at the landfill during the preceding calendar quarter  
2 and the amount of fee revenue being forwarded to the department.

3 (4) The department shall maintain information regarding the  
4 fees collected under this section.

5 (5) The TENORM account is created within the environmental  
6 pollution prevention fund created in section 11130. The department  
7 shall forward fees collected under this section to the state  
8 treasurer for deposit in the TENORM account. ~~The state treasurer  
9 may receive money or other assets from any other source for deposit  
10 into the account. The state treasurer shall direct the investment  
11 of the account. The state treasurer shall credit to the account  
12 interest and earnings from account investments. Money remaining in  
13 the account at the close of the fiscal year shall not lapse to the  
14 general fund.~~

15 (6) Money from the TENORM account shall be expended, upon  
16 appropriation, only for 1 or more of the following purposes:

17 (a) **For deposit in the general fund of a city or township**  
18 **where a landfill at which TENORM is disposed is located, to be used**  
19 **to promote the public health, safety, or welfare of the city or**  
20 **township. Twenty-five percent of the fees paid by the owner or**  
21 **operator of a landfill under this section, after deducting any**  
22 **refunds under subdivision (b), shall be paid to the city or**  
23 **township where the landfill is located. However, if the city or**  
24 **township where the landfill is located has a host community**  
25 **agreement under which it receives revenue from the owner or**  
26 **operator of the landfill, 100% of the fees paid by the owner or**  
27 **operator of the landfill shall be expended for the purposes of**  
28 **subdivisions (b) to (d).**

29 (b) ~~(a)~~ To pay refunds to generators under this section.

1           (c) ~~(b)~~—To fund the department's regulation and oversight of  
2 the disposal of TENORM in this state.

3           (d) ~~(e)~~—To provide grants to local units of government and  
4 landfill operators to obtain equipment to monitor TENORM radiation.

5           Sec. 11130. (1) The environmental pollution prevention fund is  
6 created in the state treasury.

7           (2) The state treasurer may receive money or other assets from  
8 any source for deposit into the environmental pollution prevention  
9 fund or into an account within the environmental pollution  
10 prevention fund. **These accounts include the TENORM account created**  
11 **in section 11109 and the liquid industrial waste by-product**  
12 **transporter account created in section 12117.** The state treasurer  
13 shall direct the investment of the environmental pollution  
14 prevention fund. The state treasurer shall credit to each account  
15 within the environmental pollution prevention fund interest and  
16 earnings from account investments.

17           (3) Money remaining in the environmental pollution prevention  
18 fund and in any account within the environmental pollution  
19 prevention fund at the close of the fiscal year shall not lapse to  
20 the general fund. The department shall be the administrator of the  
21 fund for auditing purposes.

22           (4) **Sections 11109, 11123, 11153, and 12117 specify sources of**  
23 **revenue for and authorized expenditures from the environmental**  
24 **pollution prevention fund.**