SENATE BILL NO. 1038

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"

(MCL 324.101 to 324.90106) by adding sections 5525a and 5525b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 5525a. (1) A person or facility shall not store, handle, load, unload, stockpile, or process bulk solid material for transport or shipment unless the person or facility does all of the following:

(a) Annually obtains a certificate of operation as described in section 5525b.

(b) Adheres to site standards described in subsection (3) and operating plans for dust control and material storage and handling.

(c) Installs, operates, and maintains, according to the manufacturer's specifications, permanent, continuous, federal equivalent method (FEM) real-time PM10 monitors around the perimeter of the facility that satisfy all of the following criteria:

(*i*) During the first year of monitoring, not less than 4 monitors must be placed around the facility. Each monitor must face 1 of the 4 cardinal directions, north, south, east, and west, to monitor for fugitive dust in the ambient air around the facility.

(*ii*) During the second year and all subsequent years of monitoring, monitors must be placed in accordance with a fugitive dust plan based on the data observed in the first year. This includes 2 monitors located upwind and 2 monitors located downwind, and additional monitors as appropriate depending on the size of the facility and other relevant factors, such as the variability of wind direction at the facility and the proximity of residential neighborhoods.

(*iii*) A data logger must be attached to each monitor to record readings, and the facility owner or operator shall notify the department in writing within 24 hours of the occurrence of either of the following events:

(A) A monitor reading exceeding a reportable action level.

(B) A malfunction of monitoring equipment preventing a reading or logging of data.

(d) The facility owner or operator shall maintain a log of each PM10 monitor's maintenance and calibration activities.

(e) The facility owner or operator shall install, operate, and maintain, according to manufacturer's specifications, a weather station or other permanent device to monitor and log wind speed and wind direction at the facility at an unobstructed, unsheltered area, centrally positioned in relation to the storage piles, and at a minimum height of 10 meters above ground level.

(2) A person or facility that stores bulk solid material for transfer or shipment shall do all of the following:

(a) Maintain each pile and transfer location in enclosed storage.

(b) Ensure that each entrance or exit from enclosed storage that allows passage of bulk solid material or vehicles has overlapping flaps, sliding doors, or other devices approved by the department that remain closed except when individuals are inside or to allow vehicles to enter and leave or nonairborne material to be moved into or out of enclosed storage.

(c) Ensure that any accumulation is all of the following:

(*i*) Enclosed and monitored by an air quality monitoring system.

(*ii*) Completely covered.

(*iii*) Inside enclosed storage or a conveyor, transport vehicle, coker pit, slurry bin, water collection channel, or separation pond.

(d) Post, in a conspicuous location at the site, all of the following information:

(*i*) A copy of the person's or facility's completed certificate of operation application.

(*ii*) A copy of the person's or facility's history of infractions and noncompliance.

(3) A person or facility that stores bulk solid material shall implement all of the following standards on the person's or facility's property:

(a) Prohibit fugitive dust past the property line.

(b) Limit pile height for outdoor storage to 25 feet generally, and to 15 feet for combustible material.

(c) Employ enclosures or water spray systems to control fugitive dust at conveyors and transfer points.

(d) Maintain an 8 miles per hour speed limit.

(e) Require all outgoing vehicles to undergo both of the following:

(*i*) A cleaning of loose materials.

(*ii*) A wheel wash or rumble strips.

(f) Require covered truck beds and trailers of all vehicles carrying bulk solid material.

(g) Use wet street sweepers on paved roads inside the property and not less than 1/4 mile outside of the property.

(h) Require that outdoor storage piles are set back not less than 100 feet from a waterway, except that material in the process of being unloaded from or loaded to a vessel may be located within 100 feet of a waterway for a period of time not to exceed 24 hours so long as no materials are allowed to fall, erode, be thrown, discharged, dumped, disposed of, or deposited in a waterway at any time. When the temperature falls below 32 degrees Fahrenheit, the facility shall use a chemical stabilizer or water heating system to ensure that dust suppression continues.

(i) Establish enclosure requirements for carbonaceous bulk solid material.

(4) Not more than 45 days after the effective date of the amendatory act that added this section, the department shall issue compliance orders setting forth schedules of interim steps to ensure full compliance with subsection (3) not less than 180 days after the effective date of the amendatory act that added this section. The compliance orders must require monitoring and reporting of pile sizes. The department shall promulgate rules in accordance with industry best practices.

(5) As used in this section:

(a) "Accumulation" means any surface deposit of bulk solid material that is in an amount greater than 3 ounces in 1 square foot or higher than 3 inches.

(b) "Bulk solid material" means a solid substance or material that can be used as a fuel or as an ingredient in a manufacturing process and that may become airborne or be scattered by the wind, including, but not limited to, ores, coal, and coke. Bulk solid material does not include any of the following:

(*i*) Salt.

(*ii*) Grain.

(c) "Carbonaceous bulk solid material" means bulk solid material that includes carbonaceous material.

(d) "Carbonaceous material" means a solid substance that occurs naturally or exists as a result of a human-made process that is rich in carbon. Carbonaceous material includes, but is not limited to, petroleum coke, metallurgical coke, coke breeze, and nut coke.

(e) "Coal" means a solid, brittle, carbonaceous rock classified as anthracite, bituminous, subbituminous, or lignite by ASTM International designation D388-77.

(f) "Coke" means a solid carbonaceous material derived from the distillation of coal, including, but not limited to, metallurgical coke, or from oil refinery coker units or other cracking processes, including, but not limited to, petroleum coke.

(g) "Combustible material" means a substance that can catch fire and burn.

(h) "Department" means the department of environment, Great Lakes, and energy.

(i) "Enclosed storage" means a completely roofed and walled structure.

(j) "Metallurgical coke" means a carbonaceous material resulting from the manufactured purification of multifarious blends of bituminous coal.

(k) "Petroleum coke" means a solid carbonaceous residue produced from a coker after cracking and distillation from petroleum refining operations, including, but not limited to, residues produced by petroleum upgraders in addition to petroleum refining.

(*l*) "Pile" means bulk solid material that attains a height of 3 feet or more, or a total surface area of 150 square feet or more.

(m) "Reportable action level" means the positive difference between the level of PM10 measured at the upwind monitor or monitors at a facility and the level of PM10 measured at the downwind monitor or monitors at a facility that will trigger response activities under a fugitive dust plan. The reportable action level is the difference of 20% based on the concentration of PM10 detected at the downwind monitor or monitors at a facility.

(n) "Transfer location" means the location in the storage, handling, or transport process where bulk solid material being moved is dropped or deposited.

(o) "24-hour emergency contact information" means the name, number, and email of the facility owner or operator or the

facility owner or operator's designee that can be reached at any time.

Sec. 5525b. (1) Not more than 90 days after the effective date of the amendatory act that added this section, a person or facility regulated by this section shall file an application for a certificate of operation on a form provided by the department. An application for a certificate of operation must include all of the following:

(a) The contact information of the applicant, including the applicant's address, phone number, email address, and 24-hour emergency contact information.

(b) The name and address of the applicant's facility.

(c) A nonrefundable application fee.

(d) A fugitive dust plan under subsection (4).

(e) Information required for a fugitive dust plan.

(f) An attestation, signed by the applicant, that the applicant has read section 5525a and this section.

(g) Any other data or information the department requires.

(h) A history of the applicant's infractions and noncompliance.

(2) Once an applicant submits a completed application under subsection (1), the department shall review the completed application and grant the applicant a certificate of operation if the department determines that the applicant is compliant with section 5525a, this section, and other applicable laws.

(3) The department shall deny an application if the application is incomplete or the application demonstrates that the applicant is noncompliant with section 5525a, this section, or other applicable laws.

(4) A person or facility regulated by this section shall file a fugitive dust plan with the person's or facility's application for a certificate of operation. A fugitive dust plan must include all of the following:

(a) The name and address of the person's or facility's property.

(b) The contact information of the person responsible for implementing the fugitive dust plan, including the person's phone number, email address, and 24-hour emergency contact information.

(c) A site map, drawn to scale, including all of the following information about the person's or facility's property:

(*i*) The property boundaries.

(*ii*) All buildings, internal roadways, and utilities on the facility property.

(*iii*) All roadways and transportation corridors within 1/4 mile of the person's or facility's property that are used for the transport of bulk solid material to or from the person's or facility's property.

(*iv*) The location of all floor drains, storm drains, waterways, and storm water outfalls.

(*v*) All potential emission points at the person's or facility's property, including a depiction of the footprints of all bulk solid material piles, transfer points, and conveyors.

(*vi*) The location of all fugitive dust control devices and monitoring devices, including, but not limited to, the fugitive dust monitor and wind monitor.

(d) A description of the person's or facility's operations, including a list of all incoming or outgoing bulk solid material handled or processed at the person's or facility's property.

(e) A description of the truck routes on the person's or facility's property that are used to transport bulk solid material to and from the person's or facility's property, including an explanation of how fugitive dust will be minimized during transport and a list of the measures that will be used to ensure vehicles used for transport are cleaned of loose material before the vehicles leave the person's or facility's property.

(f) A calculation demonstrating the person's or facility's property's maximum outdoor bulk solid material capacity in tons or cubic yards. The calculation must be certified by the signature of the person's or facility's property owner or operator or an authorized representative of the facility's owner or operator. The signature must be accompanied by evidence of the authority to sign on behalf of the person's or facility's property owner or operator if the signature belongs to an authorized representative.

(g) A description of all of the following:

(*i*) The control measures, devices, and technologies that a person or facility uses to control fugitive dust.

(*ii*) How the person or facility will maintain all control measures, devices, and technologies under subparagraph (*i*).

(*iii*) The training provided to staff regarding the proper application and operation of the control measures, devices, and technologies under subparagraph (*i*).

(h) A dust monitoring plan that includes all of the following:

(*i*) A description of the type, placement, operation, and maintenance of PM10 monitors.

(*ii*) A schedule of quarterly testing to ensure compliance with this section.

(*iii*) A description of the person's or facility's recordkeeping system, which must include a schedule for routine inspection, testing, and maintenance.