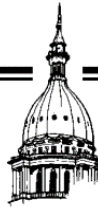




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1206 (as enacted)

Sponsor: Senator Tom Casperson

Senate Committee: Natural Resources, Environment and Great Lakes

House Committee: Natural Resources, Tourism, and Outdoor Recreation

Date Completed: 4-16-13

PUBLIC ACT 563 of 2012**CONTENT**

The bill amended Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to make an exception to several administrative rules regarding the land application of biosolids for bulk biosolids and derivatives that are of exceptional quality and meet other criteria, provided the material is used for landscaping.

The bill took effect on January 2, 2013.

Part 24 of the Michigan Administrative Code regulates the land application of biosolids. These rules define "biosolids" as solid, semisolid, or liquid residue generated during the treatment of sanitary sewage or domestic sewage in a treatment works. The term includes scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a derivative of the removed scum or solids.

Rule 323.2408 prohibits the application of particular biosolids to certain types of land, prohibits the application of biosolids from more than one source or septage, requires applicators to obtain certain information about sites where land application is proposed, and prescribes notification requirements. Rule 323.2410 establishes management practices for land application of biosolids. (Both of these rules are described in further detail below, under **BACKGROUND.**)

Under the bill, the requirements of R 323.2408 and R 323.2410 in effect on the bill's effective date, or subsequent revisions

of those requirements, do not apply to bulk biosolids or a bulk derivative that is sold or given away if all of the following requirements are met:

- The material is finished compost or other material that is demonstrated to be mature and stable and to present minimal vector attraction and potential to generate a nuisance.
- The material is of exceptional quality.
- The material is used beneficially for its nutrient value in accordance with the generator's approved residuals program.

The bill requires the generator or distributor to give the person receiving the material a written record that contains all of the following information:

- The name and address of the person who prepared the material.
- General handling guidelines and recommended application rates.
- A current monitoring summary of nitrogen, phosphorus, and potassium concentrations.

Also, the bill provides that the material may be used only for landscaping uses at one or more of the following locations: a public park, athletic field, cemetery, plant nursery, turf farm, golf course, lawn, home garden, or any other location approved by the Director of the Department of Environmental Quality (DEQ) or his or her designee.

In addition, the bill provides that the requirements of R 323.2413(2)(a), (b), (c) and (e) through (i) in effect on the bill's

effective date do not apply to bulk biosolids or a bulk derivative of exceptional quality used for landscaping purposes. (This rule contains record-keeping provisions, which are described below. Rule 323.2413(2)(d), which continues to apply, requires a record of biosolids analysis parameters listed in the rules at a prescribed frequency of analysis.)

The bill requires a person who generates bulk biosolids or a bulk derivative of exceptional quality for landscaping uses to keep a record of quantities that exceed 20 cubic yards sold or given away in a single transaction, and make it available to the DEQ for inspection and copying. The record must include all of the following information:

- The recipient's name and address.
- The quantity received.
- The recipient's signature or initials.
- A general description of the intended use, consistent with the locations prescribed in the bill.

The bill specifies that the definitions used in R 324.3202 apply to terms used in the bill.

("Bulk biosolids" means biosolids that are not sold or given away in a bag or other container for application to a lawn or home garden.

"Derivative" means a product for land application derived from biosolids that does not include solid waste or other waste regulated under the Act. The term does not include materials or treatment chemicals integral to the wastewater treatment and biosolids unit processes, such as lime or ferric chloride.

"Exceptional quality" means biosolids or a derivative that meets pollutant ceiling concentrations and pollutant concentrations prescribed in the rules, as well as one of the vector attraction reduction options and one of the pathogen reduction alternatives specified in the rules.

"Generator" means a person who generates biosolids that are applied to land. "Residuals management program" means a program that is required by a generator's permit and is developed in accordance with requirements prescribed in the rules.)

The bill also defines "bulk derivative" as a derivative that is not sold or given away in a

bag or other container for application to a lawn or home garden.

MCL 324.3131

BACKGROUND

R 324.2408. This rule prohibits a person from applying bulk biosolids in excess of prescribed cumulative pollutant loading rates to agricultural land, a forest, a public contact site, or a reclamation site. In addition, the rule prohibits a person from knowingly applying bulk biosolids from more than one source or septage to the same land application site within the same crop year.

The rule requires a person who applies biosolids to the land to obtain information needed to determine when bulk biosolids subject to cumulative pollutant loading rates were last applied to that land and whether the cumulative amount of each pollutant applied to the site is known. Depending on the last application date and whether the cumulative amount is known, the person may be allowed to use the pollutants up to the cumulative loading rates, or may be prohibited from using them.

The rule also contains notification requirements applicable to a generator or distributor, a person who prepares bulk biosolids that are applied to land, and a person who applies bulk biosolids to the land.

R 324.2410. Under this rule, a person may not apply bulk biosolids to the land if it is likely to adversely affect a threatened or endangered species or its designated critical habitat. The rule also prohibits a person from applying bulk biosolids to agricultural land, a forest, a public contact site, or a reclamation site that is flooded, saturated with water, frozen, or snow-covered so that the biosolids enter a wetland or other waters of the State.

A person may subsurface inject bulk biosolids on frozen or snow-covered ground as long as there is substantial soil coverage of the applied biosolids. A person may not surface apply bulk biosolids, other than those of exceptional quality, on frozen or snow-covered ground, unless approved by the DEQ.

The rule prohibits the application of bulk biosolids on land exceeding a certain slope, unless the use is in accordance with a DEQ-approved site management plan.

The rule requires the application of bulk biosolids to agricultural land, a forest, a public contact site, or a reclamation site at a rate that is equal to or less than the agronomic rate, unless the application is in accordance with an approved site management plan.

The rule requires a generator or distributor to affix a label containing specified information to the bag or other container in which biosolids are sold or given away for land application, or provide an information sheet to the person who receives the biosolids.

Under the rule, a person who applies biosolids must perform soil fertility tests on soils sampled from each application site before the initial application. The person must resample and test regularly at least every two years.

The rule prescribes biosolid application rates for agricultural and silvicultural land, and prohibits application when specific soil test thresholds are exceeded. In addition, the rule prescribes rates for wastewater biosolids application in Michigan forests based on tree type.

R 323.2413. Under this rule, a person who generates bulk biosolids or bulk derivatives must keep all of the following records and make them available for inspection and copying:

- Site information of each application site.
- Written consent to apply biosolids from the property owner and farm operator, if different from the property owner.
- A written agreement between the generator and the farmer not to apply biosolids from other sources or septage to a listed land application site.
- Biosolids analysis parameters listed in the rules at a prescribed frequency of analysis.
- Soil fertility test results for each site.
- For each biosolids-applied site, a summary of application activity.
- For bulk biosolids subject to the cumulative pollutant loading rates, the location of the land application site, and

the name, address, telephone number, and National Pollutant Discharge Elimination System permit number of the person who will apply the bulk biosolids.

- An annual summary.
- For a biosolid generator, all application rate information from the monitoring of pollutant concentrations and nutrients, and agronomic information, specified in the rules.

Legislative Analyst: Julie Cassidy
Suzanne Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

S1112\S1206es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.