

HOUSE BILL No. 5798

August 15, 2012, Introduced by Rep. LaFontaine and referred to the Committee on
Regulatory Reform.

(as amended November 27, 2012)

[A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11503, 11505, and 11506 (MCL 324.11503, 324.11505,
and 324.11506), sections 11503 and 11505 as amended by 2007 PA 212 and
section 11506 as amended by 2010 PA 345, and by adding section 11521b.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11503. (1) "De minimis" refers to a small amount of
2 material or number of items, as applicable, commingled and
3 incidentally disposed of with other solid waste.

4 (2) "Department" means the department of environmental
5 quality.

6 (3) "Director" means the director of the department.

7 (4) "Discharge" includes, but is not limited to, any spilling,
8 leaking, pumping, pouring, emitting, emptying, discharging,
9 injecting, escaping, leaching, dumping, or disposing of a substance

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1 into the environment which is or may become injurious to the public
2 health, safety, or welfare, or to the environment.

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

6 (a) A solid waste transfer facility.

7 (b) Incinerator.

8 (c) Sanitary landfill.

9 (d) Processing plant.

10 (e) Other solid waste handling or disposal facility utilized
11 in the disposal of solid waste. **HOWEVER, A WASTE DIVERSION CENTER**
12 **IS NOT A DISPOSAL AREA.**

13 (6) "DIVERTED WASTE" MEANS WASTE THAT MEETS ALL OF THE
14 FOLLOWING REQUIREMENTS:

15 (A) IS GENERATED BY HOUSEHOLDS[, BUSINESSES, OR GOVERNMENTAL
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 WASTE.

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

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1 THAT CONTAIN ELEMENTAL MERCURY.

2 [(ix) SHARPS.]

3 (x) OTHER WASTES APPROVED BY THE DEPARTMENT THAT CAN BE
4 READILY SEPARATED FROM SOLID WASTE FOR DIVERSION TO PREFERRED
5 METHODS OF MANAGEMENT AND DISPOSAL.

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

12 (8) ~~(7)~~—"Escrow account" means an account managed by a bank or
13 other financial institution whose account operations are regulated
14 and examined by a federal or state agency and which complies with
15 section 11523b.

16 (9) ~~(8)~~—"Farm" means that term as defined in section 2 of the
17 Michigan right to farm act, 1981 PA 93, MCL 286.472.

18 (10) ~~(9)~~—"Farm operation" means that term as defined in
19 section 2 of the Michigan right to farm act, 1981 PA 93, MCL
20 286.472.

21 (11) ~~(10)~~—"Financial assurance" means the mechanisms used to
22 demonstrate that the funds necessary to meet the cost of closure,
23 postclosure maintenance and monitoring, and corrective action will
24 be available whenever they are needed.

25 (12) ~~(11)~~—"Financial test" means a corporate or local
26 government financial test or guarantee approved for type II
27 landfills under 42 USC 6941 to 6949a **AND REGULATIONS PROMULGATED**

1 **UNDER 42 USC 6941 TO 6949A.** An owner or operator may use a single
2 financial test for more than 1 facility. Information submitted to
3 the department to document compliance with the test shall include a
4 list showing the name and address of each facility and the amount
5 of funds assured by the test for each facility. For purposes of the
6 financial test, the owner or operator shall aggregate the sum of
7 the closure, postclosure, and corrective action costs it seeks to
8 assure with any other environmental obligations assured by a
9 financial test under state or federal law.

10 (13) ~~(12)~~—"Food processing residuals" means any of the
11 following:

12 (a) Residuals of fruits, vegetables, aquatic plants, or field
13 crops.

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

16 (c) Otherwise unusable food products which do not meet size,
17 quality, or other product specifications and which were intended
18 for human or animal consumption.

19 (14) ~~(13)~~—"Garbage" means rejected food wastes including waste
20 accumulation of animal, fruit, or vegetable matter used or intended
21 for food or that results from the preparation, use, cooking,
22 dealing in, or storing of meat, fish, fowl, fruit, or vegetable
23 matter.

24 (15) ~~(14)~~—"Scrap wood" means wood or wood product that is 1 or
25 more of the following:

26 (a) Plywood, pressed board, oriented strand board, or any
27 other wood or wood product mixed with glue or filler.

1 (b) Wood or wood product treated with creosote or
2 pentachlorophenol.

3 (c) Any other wood or wood product designated as scrap wood in
4 rules promulgated by the department.

5 (16) ~~(15)~~—"Treated wood" means wood or wood product that has
6 been treated with 1 or more of the following:

7 (a) Chromated copper arsenate (CCA).

8 (b) Ammoniacal copper quat (ACQ).

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

10 (d) Any other chemical designated in rules promulgated by the
11 department.

12 (17) ~~(16)~~—"Wood" means trees, branches, bark, lumber, pallets,
13 wood chips, sawdust, or other wood or wood product but does not
14 include scrap wood, treated wood, painted wood or painted wood
15 product, or any wood or wood product that has been contaminated
16 during manufacture or use.

[Sec. 11505. (1) "Recyclable materials" means source separated materials, site separated materials, high grade paper, glass, metal, plastic, aluminum, newspaper, corrugated paper, yard clippings, and other materials that may be recycled or composted.

(2) "Regional solid waste management planning agency" means the regional solid waste planning agency designated by the governor pursuant to 42 USC 6946.

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

(4) "Response activity" means an activity that is necessary to protect the public health, safety, welfare, or the environment, and includes, but is not limited to, evaluation, cleanup, removal, containment, isolation, treatment, monitoring, maintenance, replacement of water supplies, and temporary relocation of people.

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

(6) "Salvaging" means the lawful and controlled removal of reusable materials from solid waste.

(7) "SHARPS" MEANS THAT TERM AS DEFINED IN SECTION 13807 OF THE

PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.13807.

(8) ~~(7)~~ "Site separated material" means glass, metal, wood, paper products, plastics, rubber, textiles, garbage, or any other material approved by the department that is separated from solid waste for the purpose of conversion into raw materials or new products. Site separated material does not include the residue remaining after glass, metal, wood, paper products, plastics, rubber, textiles, or any other material approved by the department is separated from solid waste.

(9) ~~(8)~~ "Slag" means the nonmetallic product resulting from melting or smelting operations for iron or steel.]

17 Sec. 11506. (1) "Solid waste" means garbage, rubbish, ashes,
18 incinerator ash, incinerator residue, street cleanings, municipal
19 and industrial sludges, solid commercial and solid industrial
20 waste, and animal waste other than organic waste generated in the
21 production of livestock and poultry. However, solid waste does not
22 include 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.

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

3 (f) Slag or slag products directed to a slag processor or to a
4 reuser of slag or slag products.

5 (g) Sludges and ashes managed as recycled or nondetrimental
6 materials appropriate for agricultural or silvicultural use
7 pursuant to a plan approved by the department. Food processing
8 residuals, precipitated calcium carbonate from sugar beet
9 processing, wood ashes resulting solely from a source that burns
10 only wood that is untreated and inert, lime from kraft pulping
11 processes generated prior to bleaching, or aquatic plants may be
12 applied on, or composted and applied on, farmland or forestland for
13 an agricultural or silvicultural purpose, or used as animal feed,
14 as appropriate, and such an application or use does not require a
15 plan described in this subdivision or a permit or license under
16 this part. In addition, source separated materials approved by the
17 department for land application for agricultural and silvicultural
18 purposes and compost produced from those materials may be applied
19 to the land for agricultural and silvicultural purposes and such an
20 application does not require a plan described in this subdivision
21 or permit or license under this part. Land application authorized
22 under this subdivision for an agricultural or silvicultural
23 purpose, or use as animal feed as provided for in this subdivision
24 shall be performed in a manner that prevents losses from runoff and
25 leaching. Land application under this subdivision shall be at an
26 agronomic rate consistent with generally accepted agricultural and
27 management practices under the Michigan right to farm act, 1981 PA

1 93, MCL 286.471 to 286.474.

2 (h) Materials approved for emergency disposal by the
3 department.

4 (i) Source separated materials.

5 (j) Site separated material.

6 (k) Fly ash or any other ash produced from the combustion of
7 coal, when used in the following instances:

8 (i) With a maximum of 6% of unburned carbon, if used as a
9 component of concrete, grout, mortar, or casting molds.

10 (ii) With a maximum of 12% unburned carbon passing M.D.O.T.
11 test method MTM 101, if used as a raw material in asphalt for road
12 construction.

13 (iii) As aggregate, road, or building material that in ultimate
14 use will be stabilized or bonded by cement, limes, or asphalt.

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

19 (v) As the sole material in a depository designed to reclaim,
20 develop, or otherwise enhance land, subject to the approval of the
21 department. In evaluating the site, the department shall consider
22 the physical and chemical properties of the ash, including, but not
23 limited to, leachability, and the engineering of the depository,
24 including, but not limited to, the compaction, control of surface
25 water and groundwater that may threaten to infiltrate the site, and
26 evidence that the depository is designed to prevent water
27 percolation through the material.

1 (I) DIVERTED WASTE THAT IS MANAGED THROUGH A WASTE DIVERSION
2 CENTER.

3 (M) ~~(I)~~ Other wastes regulated by statute.

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

6 (3) "Solid waste processing plant" means a tract of land,
7 building, unit, or appurtenance of a building or unit or a
8 combination of land, buildings, and units that is used or intended
9 for use for the processing of solid waste or the separation of
10 material for salvage or disposal, or both, but does not include a
11 plant engaged primarily in the acquisition, processing, and
12 shipment of ferrous or nonferrous metal scrap, or a plant engaged
13 primarily in the acquisition, processing, and shipment of slag or
14 slag products.

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

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

24 (6) "Source separated material" means glass, metal, wood,
25 paper products, plastics, rubber, textiles, garbage, or any other
26 material approved by the department that is separated at the source
27 of generation for the purpose of conversion into raw materials or

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new products including, but not limited to, compost.

(7) "Type I public water supply", "type IIa public water supply", "type IIb public water supply", and "type III public water supply" mean those terms, respectively, as described in R 325.10502 of the Michigan administrative code.

(8) "WASTE DIVERSION CENTER" MEANS [PROPERTY OR A BUILDING, OR A PORTION OF PROPERTY OR A BUILDING, DESIGNATED FOR THE PURPOSE OF RECEIVING OR] COLLECTING DIVERTED WASTES AND LOCATED IN AN AREA THAT IS NOT ZONED RESIDENTIAL.

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

SEC. 11521B. (1) THE OPERATOR OF A WASTE DIVERSION CENTER SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:

(A) AT LEAST 90%, BY VOLUME, OF THE MATERIAL COLLECTED AT THE WASTE DIVERSION CENTER SHALL CONSIST OF DIVERTED WASTE TO BE MANAGED AT THE WASTE DIVERSION CENTER.

(B) THE WASTE DIVERSION CENTER SHALL BE OPERATED BY PERSONNEL WHO ARE KNOWLEDGEABLE ABOUT THE SAFE MANAGEMENT OF THE TYPES OF DIVERTED WASTE THAT ARE ACCEPTED AT THE WASTE DIVERSION CENTER.

(C) THE OPERATOR SHALL MANAGE THE DIVERTED WASTE IN A MANNER THAT PREVENTS THE RELEASE OF ANY DIVERTED WASTE OR COMPONENT OF DIVERTED WASTE TO THE ENVIRONMENT.

(D) THE OPERATOR SHALL NOT STORE DIVERTED WASTE OVERNIGHT AT THE WASTE DIVERSION CENTER EXCEPT IN A SECURE, CONTAINED FACILITY.

1 (E) WITHIN 1 YEAR AFTER DIVERTED WASTE IS COLLECTED BY THE
2 WASTE DIVERSION CENTER, THAT DIVERTED WASTE SHALL BE TRANSPORTED
3 FROM THE WASTE DIVERSION CENTER TO A WASTE DIVERSION CENTER,
4 RECYCLING FACILITY, OR DISPOSAL FACILITY THAT IS IN COMPLIANCE WITH
5 THIS ACT, FOR PROCESSING, RECYCLING, OR DISPOSAL.

6 (F) THE OPERATOR SHALL NOT PROCESS DIVERTED WASTE EXCEPT TO
7 THE EXTENT NECESSARY FOR THE SAFE AND EFFICIENT TRANSPORTATION OF
8 THE DIVERTED WASTE.

9 (G) THE OPERATOR SHALL RECORD THE TYPES AND QUANTITIES OF
10 DIVERTED WASTES COLLECTED, THE PERIOD OF STORAGE, AND WHERE THE
11 DIVERTED WASTES WERE TRANSFERRED, PROCESSED, RECYCLED, OR DISPOSED
12 OF. THE OPERATOR SHALL MAINTAIN THE RECORDS FOR AT LEAST 3 YEARS
13 AND SHALL MAKE THE RECORDS AVAILABLE TO THE DEPARTMENT UPON
14 REQUEST.

15 (2) MANAGEMENT OF DIVERTED WASTES AS REQUIRED BY THIS SECTION
16 IS NOT CONSIDERED DISPOSAL FOR THE PURPOSES OF SECTION 11538(6).