

Act No. 271  
Public Acts of 2018  
Approved by the Governor  
June 28, 2018  
Filed with the Secretary of State  
June 29, 2018  
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**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Rep. Barrett

# **ENROLLED HOUSE BILL No. 4438**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 11701 and 11718 (MCL 324.11701 and 324.11718), section 11701 as amended by 2016 PA 294 and section 11718 as amended by 2004 PA 381, and by adding section 11721.

*The People of the State of Michigan enact:*

Sec. 11701. As used in this part:

- (a) “Agricultural land” means land on which a food crop, a feed crop, or a fiber crop is grown, including land used or suitable for use as a range or pasture; a sod farm; or a Christmas tree farm.
- (b) “Certified health department” means a city, county, or district department of health certified under section 11716.
- (c) “Cesspool” means a cavity in the ground that receives waste to be partially absorbed directly or indirectly by the surrounding soil.
- (d) “Department” means the department of environmental quality or its authorized agent.
- (e) “Director” means the director of the department of environmental quality or his or her designee.

(f) “Domestic septage” means liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar storage or treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar facility that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant waste.

(g) “Domestic sewage” means waste and wastewater from humans or household operations.

(h) “Domestic treatment plant septage” means biosolids generated during the treatment of domestic sewage in a treatment works and transported to a receiving facility or managed in accordance with a residuals management program approved by the department.

(i) “Farm operation” means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(j) “Food establishment septage” means material pumped from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant wastes and that is blended into a uniform mixture, consisting of not more than 1 part of that restaurant-derived material per 3 parts of domestic septage prior to land application or is disposed of at a receiving facility.

(k) “Fund” means the septage waste program fund created in section 11717.

(l) “Governmental unit” means a county, township, municipality, or regional authority.

(m) “Incorporation” means the mechanical mixing of surface-applied septage waste with the soil.

(n) “Injection” means the pressurized placement of septage waste below the surface of soil.

(o) “Operating plan” means a plan developed by a receiving facility for receiving septage waste that specifies at least all of the following:

(i) Categories of septage waste that the receiving facility will receive.

(ii) The receiving facility’s service area.

(iii) The hours of operation for receiving septage waste.

(iv) Any other conditions for receiving septage waste established by the receiving facility.

(p) “Pathogen” means a disease-causing agent. Pathogen includes, but is not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

(q) “Peace officer” means a sheriff or sheriff’s deputy, a village or township marshal, an officer of the police department of any city, village, or township, any officer of the Michigan state police, any peace officer who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, or any conservation officer appointed by the department or the department of natural resources under section 1606.

(r) “Portable toilet” means a receptacle for human waste temporarily in a location for human use.

(s) “Receiving facility” means a structure that is designed to receive septage waste for treatment at a wastewater treatment plant or at a research, development, and demonstration project authorized under section 11511b to which the structure is directly connected, and that is available for that purpose as provided for in an ordinance of the local unit of government where the structure is located or in an operating plan. Receiving facility does not include either of the following:

(i) A septic tank.

(ii) A structure or a wastewater treatment plant where the disposal of septage waste is prohibited by order of the department under section 11708 or 11715b.

(t) “Receiving facility service area” or “service area” means the territory for which a receiving facility has the capacity and is available to receive and treat septage waste, except that the geographic service area of a receiving facility shall not extend more than 25 radial miles from the receiving facility.

(u) “Sanitary sewer cleanout septage” means sanitary sewage or cleanout residue removed from a separate sanitary sewer collection system that is not land applied and that is transported by a vehicle licensed under this part elsewhere within the same system or to a receiving facility that is approved by the department.

(v) “Septage waste” means the fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these.

(w) “Septage waste servicing license” means a septage waste servicing license as provided for under sections 11703 and 11706.

(x) “Septage waste vehicle” means a vehicle that is self-propelled or towed and that includes a tank used to transport septage waste. Septage waste vehicle does not include an implement of husbandry as defined in section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

(y) “Septage waste vehicle license” means a septage waste vehicle license as provided for under sections 11704 and 11706.

(z) “Septic tank” means a septic toilet, chemical closet, or other enclosure used for the decomposition of domestic sewage.

(aa) “Service” or “servicing” means cleaning, removing, transporting, or disposing, by application to land or otherwise, of septage waste.

(bb) “Site” means a location or locations on a parcel or tract, as those terms are defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, proposed or used for the disposal of septage waste on land.

(cc) “Site permit” means a permit issued under section 11709 authorizing the application of septage waste to a site.

(dd) “Storage facility” means a structure that receives septage waste for storage but not for treatment.

(ee) “Tank” means an enclosed container placed on a septage waste vehicle to carry or transport septage waste.

(ff) “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.

(gg) “Type III marine sanitation device” means that term as defined in 33 CFR 159.3.

Sec. 11718. (1) The department shall promulgate rules that establish both of the following:

(a) Continuing education requirements under section 11703.

(b) Design and operating requirements for receiving facilities, as provided in section 11715b.

(2) The department may, in addition, promulgate rules that do 1 or more of the following:

(a) Add other materials and substances to the definition of septage waste.

(b) Add enclosures to the list of enclosures in the definition of domestic septage under section 11701 the servicing of which requires a septage waste servicing license under this part.

(c) Specify information required on an application for a septage waste servicing license, septage waste vehicle license, or site permit.

(d) Establish standards or procedures for a department order under section 11708 prohibiting the operation of a wastewater treatment plant or structure as a receiving facility.

(3) The department of environmental quality and the department of agriculture and rural development shall jointly promulgate rules establishing field sanitation and food safety standards for the purposes of section 11721.

Sec. 11721. (1) A farm operation is exempt from this part as it applies to servicing portable toilets, to associated domestic septage management equipment such as trailers, pumps, and septage waste vehicles, and to associated storage facilities, if all of the following requirements are met:

(a) The portable toilets are used to comply with requirements listed in the publication under subsection (2).

(b) The management, pumping, and temporary storage of the domestic septage from the portable toilets by the farm operation does not result in a release of domestic septage into the environment.

(c) The portable toilets and associated septage management equipment are securely fastened to a vehicle or trailer in a manner that prevents a release while being moved by the farm operation on or across a public street, road, or highway.

(d) The farm operation does not move portable toilets that contain domestic septage on or across a limited access highway as defined in section 26 of the Michigan vehicle code, 1949 PA 300, MCL 257.26.

(e) The farm operation does not store domestic septage for more than 60 days or in a tank larger than 3,000 gallons.

(f) The farm operation utilizes the services of a person with a septage waste servicing license and septage waste vehicle license to dispose of the domestic septage from the portable toilets in a receiving facility.

(g) The farm operation does not move domestic septage on or across a public street, road, or highway in a tank larger than 450 gallons.

(2) The department of agriculture and rural development shall publish both of the following:

(a) A list of field sanitation, worker protection, and food safety requirements applicable to the exemption provided for in this section.

(b) A guide to recommend spill preparedness, spill mitigation, and spill response programs applicable to the exemption provided for in this section.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor