

Act No. 212
Public Acts of 2007
Approved by the Governor
December 27, 2007
Filed with the Secretary of State
December 27, 2007
EFFECTIVE DATE: March 26, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Senator Sanborn

ENROLLED SENATE BILL No. 513

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 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 11502, 11503, 11505, 11506, and 11514 (MCL 324.11502, 324.11503, 324.11505, 324.11506, and 324.11514), section 11502 as amended by 2004 PA 35, sections 11503 and 11506 as amended by 1998 PA 466, and section 11514 as amended by 2005 PA 243, and by adding section 11521.

The People of the State of Michigan enact:

Sec. 11502. (1) "Applicant" includes any person.

(2) "Ashes" means the residue from the burning of wood, coal, coke, refuse, wastewater sludge, or other combustible materials.

(3) "Beverage container" means an airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains 1 gallon or less of any of the following:

- (a) A soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink.
- (b) A beer, ale, or other malt drink of whatever alcoholic content.
- (c) A mixed wine drink or a mixed spirit drink.

(4) "Bond" means a financial instrument executed on a form approved by the department, including a surety bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, an irrevocable letter of credit, insurance, a trust fund, an escrow account, or a combination of any of these instruments in favor of the department. The owner or operator of a disposal area who is required to establish a bond under other state or federal statute may petition the department to allow such a bond to meet the requirements of this part. The department shall approve a bond established under other state or federal statute if the bond provides equivalent funds and access by the department as other financial instruments allowed by this subsection.

(5) "Certificate of deposit" means a negotiable certificate of deposit held by a bank or other financial institution regulated and examined by a state or federal agency, the value of which is fully insured by an agency of the United States government. A certificate of deposit used to fulfill the requirements of this part shall be in the sole name of the department with a maturity date of not less than 1 year and shall be renewed not less than 60 days before the maturity date. An applicant who uses a certificate of deposit as a bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department.

(6) “Certified health department” means a city, county, or district department of health that is specifically delegated authority by the department to perform designated activities as prescribed by this part.

(7) “Coal or wood ash” means either or both of the following:

(a) The residue remaining after the ignition of coal or wood, or both, and may include noncombustible materials, otherwise referred to as bottom ash.

(b) The airborne residues from burning coal or wood, or both, that are finely divided particles entrained in flue gases arising from a combustion chamber, otherwise referred to as fly ash.

(8) “Collection center” means a tract of land, building, unit, or appurtenance or combination thereof that is used to collect junk motor vehicles and farm implements under section 11530.

(9) “Composting facility” means a facility where composting of yard clippings or other organic materials occurs using mechanical handling techniques such as physical turning, windrowing, or aeration or using other management techniques approved by the director.

(10) “Consistency review” means evaluation of the administrative and technical components of an application for a permit or license or evaluation of operating conditions in the course of inspection, for the purpose of determining consistency with the requirements of this part, rules promulgated under this part, and approved plans and specifications.

(11) “Corrective action” means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of constituents, as defined in a facility’s approved hydrogeological monitoring plan, released into the environment from a disposal area, or the taking of other actions related to the release as may be necessary to prevent, minimize, or mitigate injury to the public health, safety, or welfare, the environment, or natural resources that is consistent with 42 USC 6941 to 6949a and regulations promulgated thereunder.

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

(2) “Department” means the department of environmental quality.

(3) “Director” means the director of the department.

(4) “Discharge” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the environment which is or may become injurious to the public health, safety, or welfare, or to the environment.

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

(a) A solid waste transfer facility.

(b) Incinerator.

(c) Sanitary landfill.

(d) Processing plant.

(e) Other solid waste handling or disposal facility utilized in the disposal of solid waste.

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

(7) “Escrow account” means an account managed by a bank or other financial institution whose account operations are regulated and examined by a federal or state agency and which complies with section 11523b.

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

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

(10) “Financial assurance” means the mechanisms used to demonstrate that the funds necessary to meet the cost of closure, postclosure maintenance and monitoring, and corrective action will be available whenever they are needed.

(11) “Financial test” means a corporate or local government financial test or guarantee approved for type II landfills under 42 USC 6941 to 6949a. An owner or operator may use a single financial test for more than 1 facility. Information submitted to the department to document compliance with the test shall include a list showing the name and address of each facility and the amount of funds assured by the test for each facility. For purposes of the financial test, the owner or operator shall aggregate the sum of the closure, postclosure, and corrective action costs it seeks to assure with any other environmental obligations assured by a financial test under state or federal law.

(12) “Food processing residuals” means any of the following:

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

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

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

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

(14) "Scrap wood" means wood or wood product that is 1 or more of the following:

- (a) Plywood, pressed board, oriented strand board, or any other wood or wood product mixed with glue or filler.
- (b) Wood or wood product treated with creosote or pentachlorophenol.
- (c) Any other wood or wood product designated as scrap wood in rules promulgated by the department.

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

- (a) Chromated copper arsenate (CCA).
- (b) Ammoniacal copper quat (ACQ).
- (c) Ammoniacal copper zinc arsenate (ACZA).
- (d) Any other chemical designated in rules promulgated by the department.

(16) "Wood" means trees, branches, bark, lumber, pallets, wood chips, sawdust, or other wood or wood product but does not include scrap wood, treated wood, painted wood or painted wood product, or any wood or wood product that has been contaminated 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) "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.

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

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

(a) Human body waste.

(b) Medical waste as it is defined in part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13831, and regulated under that part and part 55.

(c) Organic waste generated in the production of livestock and poultry.

(d) Liquid waste.

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

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

(g) Sludges and ashes managed as recycled or nondetrimental materials appropriate for agricultural or silvicultural use pursuant to a plan approved by the department. Food processing residuals; wood ashes resulting solely from a source that burns only wood that is untreated and inert; lime from kraft pulping processes generated prior to bleaching; or aquatic plants may be applied on, or composted and applied on, farmland or forestland for an agricultural or silvicultural purpose, or used as animal feed, as appropriate, and such an application or use does not require a plan described in this

subdivision or a permit or license under this part. In addition, source separated materials approved by the department for land application for agricultural and silvicultural purposes and compost produced from those materials may be applied to the land for agricultural and silvicultural purposes and such an application does not require a plan described in this subdivision or permit or license under this part. Land application authorized under this subdivision for an agricultural or silvicultural purpose, or use as animal feed, as provided for in this subdivision shall be performed in a manner that prevents losses from runoff and leaching. Land application under this subdivision shall be at an agronomic rate consistent with generally accepted agricultural and management practices under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

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

(i) Source separated materials.

(j) Site separated material.

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

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

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

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

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

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

(l) Other wastes regulated by statute.

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

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

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

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

(6) "Source separated material" means glass, metal, wood, paper products, plastics, rubber, textiles, garbage, or any other material approved by the department that is separated at the source of generation for the purpose of conversion into raw materials or 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) "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 not include stumps, agricultural wastes, animal waste, roots, sewage sludge, or garbage.

Sec. 11514. (1) Optimizing recycling opportunities and the reuse of materials shall be a principal objective of the state's solid waste management plan. Recycling and reuse of materials are in the best interest of promoting the public health and welfare. The state shall develop policies and practices that promote recycling and reuse of materials and, to the extent practical, minimize the use of landfilling as a method for disposal of its waste.

(2) A person shall not knowingly deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, knowingly permit disposal in the landfill of, any of the following:

(a) Medical waste, unless that medical waste has been decontaminated or is not required to be decontaminated but is packaged in the manner required under part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13831.

(b) More than a de minimis amount of open, empty, or otherwise used beverage containers.

(c) More than a de minimis number of whole motor vehicle tires.

(d) More than a de minimis amount of yard clippings, unless they are diseased, infested, or composed of invasive species as authorized by section 11521(1)(i).

(3) A person shall not deliver to a landfill for disposal, or, if the person is an owner or operator of a landfill, permit disposal in the landfill of, any of the following:

(a) Used oil as defined in section 16701.

(b) A lead acid battery as defined in section 17101.

(c) Low-level radioactive waste as defined in section 2 of the low-level radioactive waste authority act, 1987 PA 204, MCL 333.26202.

(d) Regulated hazardous waste as defined in R 299.4104 of the Michigan administrative code.

(e) Bulk or noncontainerized liquid waste or waste that contains free liquids, unless the waste is 1 of the following:

(i) Household waste other than septage waste.

(ii) Leachate or gas condensate that is approved for recirculation.

(iii) Septage waste or other liquids approved for beneficial addition under section 11511b.

(f) Sewage.

(g) PCBs as defined in 40 CFR 761.3.

(h) Asbestos waste, unless the landfill complies with 40 CFR 61.154.

(4) A person shall not knowingly deliver to a municipal solid waste incinerator for disposal, or, if the person is an owner or operator of a municipal solid waste incinerator, knowingly permit disposal in the incinerator of, more than a de minimis amount of yard clippings, unless they are diseased, infested, or composed of invasive species as authorized by section 11521(1)(i). The department shall post, and a solid waste hauler that disposes of solid waste in a municipal solid waste incinerator shall provide its customers with, notice of the prohibitions of this subsection in the same manner as provided in section 11527a.

(5) If the department determines that a safe, sanitary, and feasible alternative does not exist for the disposal in a landfill or municipal solid waste incinerator of any items described in subsection (2) or (4), respectively, the department shall submit a report setting forth that determination and the basis for the determination to the standing committees of the senate and house of representatives with primary responsibility for solid waste issues.

Sec. 11521. (1) Yard clippings shall be managed by 1 of the following means:

(a) Composted on the property where the yard clippings are generated.

(b) Temporarily accumulated under subsection (2).

(c) Composted at a composting facility containing not more than 200 cubic yards of yard clippings if decomposition occurs without creating a nuisance.

(d) Composted on a farm as described by subsection (3).

(e) Composted at site that qualifies as a registered composting facility under subsection (4).

(f) Decomposed in a controlled manner using a closed container to create and maintain anaerobic conditions if in compliance with part 55 and otherwise approved by the director under this part.

(g) Composted and used as part of normal operations by a municipal solid waste landfill if the composting and use meet all of the following requirements:

(i) Take place on property described in the landfill construction permit.

(ii) Are described in and consistent with the landfill operation plans.

(iii) Are otherwise in compliance with this act.

(h) Processed at a processing plant in accordance with this part and the rules promulgated under this part.

(i) Disposed of in a landfill or an incinerator, but only if the yard clippings are diseased or infested or are composed of invasive plants, such as garlic mustard, purple loosestrife, or spotted knapweed, that were collected through an eradication or control program, include no more than a de minimis amount of other yard clippings, and are inappropriate to compost.

(2) A person may temporarily accumulate yard clippings at a site not designed for composting if all of the following requirements are met:

(a) The accumulation does not create a nuisance or otherwise result in a violation of this act.

(b) The yard clippings are not mixed with other compostable materials.

(c) No more than 1,000 cubic yards are placed on site unless a greater volume is approved by the department.

(d) Yard clippings placed on site on or after April 1 but before December 1 are moved to another location and managed as provided in subsection (1) within 30 days after being placed on site. The director may approve a longer time period based on a demonstration that additional time is necessary.

(e) Yard clippings placed on site on or after December 1 but before the next April 1 are moved to another location and managed as provided in subsection (1) by the next April 10 after the yard clippings are placed on site.

(f) The owner or operator of the site maintains and makes available to the department records necessary to demonstrate that the requirements of this subsection are met.

(3) A person may compost yard clippings on a farm if composting does not otherwise result in a violation of this act and is done in accordance with generally accepted agricultural and management practices under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474, and if 1 or more of the following apply:

(a) Only yard clippings generated on the farm are composted.

(b) There are not more than 5,000 cubic yards of yard clippings on the farm.

(c) If there are more than 5,000 cubic yards of yard clippings on the farm at any time, all of the following requirements are met:

(i) The farm operation accepts yard clippings generated at a location other than the farm only to assist in management of waste material generated by the farm operation.

(ii) The farm operation does not accept yard clippings generated at a location other than the farm for monetary or other valuable consideration.

(iii) The owner or operator of the farm registers with the department of agriculture on a form provided by the department of agriculture and certifies that the farm operation meets and will continue to meet the requirements of subparagraphs (i) and (ii).

(4) A site qualifies as a registered composting facility if all of the following requirements are met:

(a) The owner or operator of the site registers as a composting facility with the department and reports to the department within 30 days after the end of each state fiscal year the amount of yard clippings and other compostable material composted in the previous state fiscal year. The registration and reporting shall be done on forms provided by the department. The registration shall be accompanied by a fee of \$600.00. The registration is for a term of 3 years. Registration fees collected under this subdivision shall be forwarded to the state treasurer for deposit in the solid waste staff account of the solid waste management fund established in section 11550.

(b) The site is operated in compliance with the following location restrictions:

(i) If the site is in operation on December 1, 2007, the management or storage of yard clippings, compost, and residuals does not expand from its location on that date to an area that is within the following distances from any of the following features:

(A) 50 feet from a property line.

(B) 200 feet from a residence.

(C) 100 feet from a body of surface water, including a lake, stream, or wetland.

(ii) If the site begins operation after December 1, 2007, the management or storage of yard clippings, compost, and residuals occurs in an area that is not in the 100-year floodplain and is at least the following distances from each of the following features:

(A) 50 feet from a property line.

(B) 200 feet from a residence.

(C) 100 feet from a body of surface water, including a lake, stream, or wetland.

(D) 2,000 feet from a type I or type IIA water supply well.

(E) 800 feet from a type IIB or type III water supply well.

(F) 500 feet from a church or other house of worship, hospital, nursing home, licensed day care center, or school, other than a home school.

(G) 4 feet above groundwater.

(c) Composting and management of the site occurs in a manner that meets all of the following requirements:

(i) Does not violate this act or create a facility as defined in section 20101.

(ii) Unless approved by the department, does not result in more than 5,000 cubic yards of yard clippings and other compostable material, compost, and residuals present on any acre of property at the site.

(iii) Does not result in an accumulation of yard clippings for a period of over 3 years unless the site has the capacity to compost the yard clippings and the owner or operator of the site can demonstrate, beginning in the third year of operation and each year thereafter, unless a longer time is approved by the director, that the amount of yard clippings

and compost that is transferred off-site in a calendar year is not less than 75% by weight or volume, accounting for natural volume reduction, of the amount of yard clippings and compost that was on-site at the beginning of the calendar year.

(iv) Results in finished compost with not more than 1%, by weight, of foreign matter that will remain on a 4 millimeter screen.

(v) If yard clippings are collected in bags other than paper bags, debags the yard clippings by the end of each business day.

(vi) Prevents the pooling of water by maintaining proper slopes and grades.

(vii) Properly manages storm water runoff.

(viii) Does not attract or harbor rodents or other vectors.

(d) The owner or operator maintains, and makes available to the department, all of the following records:

(i) Records identifying the volume of yard clippings and other compostable material accepted by the facility and the volume of yard clippings and other compostable material and of compost transferred off-site each month.

(ii) Records demonstrating that the composting operation is being performed in a manner that prevents nuisances and minimizes anaerobic conditions. Unless other records are approved by the department, these records shall include records of carbon-to-nitrogen ratios, the amount of leaves and the amount of grass in tons or cubic yards, temperature readings, moisture content readings, and lab analysis of finished products.

(5) A site at which yard clippings are managed in accordance with this section, other than a site described in subsection (1)(g), (h) or (i), is not a disposal area, notwithstanding section 11503(5).

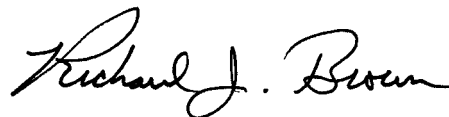
(6) Except with respect to subsection (1)(h) and (i), management of yard clippings in accordance with this section is not considered disposal for purposes of section 11538(6).

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.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor