

**SUBSTITUTE FOR  
HOUSE BILL NO. 5005**

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 2012 PA 446, 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.

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

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

9           (a) A solid waste transfer facility.

10          (b) Incinerator.

11          (c) Sanitary landfill.

12          (d) Processing plant.

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

16          (6) "DIVERTED WASTE" MEANS WASTE THAT MEETS ALL OF THE  
17     FOLLOWING REQUIREMENTS:

18          (A) IS GENERATED BY HOUSEHOLDS, BUSINESSES, OR GOVERNMENTAL  
19     ENTITIES.

20          (B) CAN LAWFULLY BE DISPOSED OF AT A LICENSED SANITARY  
21     LANDFILL OR MUNICIPAL SOLID WASTE INCINERATOR.

22          (C) IS SEPARATED FROM OTHER WASTE.

23          (D) IS 1 OR MORE OF THE FOLLOWING:

24           (i) HAZARDOUS MATERIAL.

25           (ii) LIQUID WASTE.

26           (iii) PHARMACEUTICALS.

27           (iv) ELECTRONICS.

1 (v) BATTERIES.

2 (vi) LIGHT BULBS.

3 (vii) PESTICIDES.

4 (viii) THERMOSTATS, SWITCHES, THERMOMETERS, OR OTHER DEVICES  
5 THAT CONTAIN ELEMENTAL MERCURY.

6 (ix) SHARPS.

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

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

16 (8) ~~(7)~~—"Escrow account" means an account managed by a bank or  
17 other financial institution whose account operations are regulated  
18 and examined by a federal or state agency and which complies with  
19 section 11523b.

20 (9) ~~(8)~~—"Farm" means that term as defined in section 2 of the  
21 Michigan right to farm act, 1981 PA 93, MCL 286.472.

22 (10) ~~(9)~~—"Farm operation" means that term as defined in  
23 section 2 of the Michigan right to farm act, 1981 PA 93, MCL  
24 286.472.

25 (11) ~~(10)~~—"Financial assurance" means the mechanisms used to  
26 demonstrate that the funds necessary to meet the cost of closure,  
27 postclosure maintenance and monitoring, and corrective action will

1 be available whenever they are needed.

2       (12) ~~(11)~~—"Financial test" means a corporate or local  
3 government financial test or guarantee approved for type II  
4 landfills under 42 USC 6941 to 6949a **AND REGULATIONS PROMULGATED**  
5 **UNDER 42 USC 6941 TO 6949A**. An owner or operator may use a single  
6 financial test for more than 1 facility. Information submitted to  
7 the department to document compliance with the test shall include a  
8 list showing the name and address of each facility and the amount  
9 of funds assured by the test for each facility. For purposes of the  
10 financial test, the owner or operator shall aggregate the sum of  
11 the closure, postclosure, and corrective action costs it seeks to  
12 assure with any other environmental obligations assured by a  
13 financial test under state or federal law.

14       (13) ~~(12)~~—"Food processing residuals" means any of the  
15 following:

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

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

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

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

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

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

5           (b) Wood or wood product treated with creosote or  
6 pentachlorophenol.

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

9           (16) ~~(15)~~—"Treated wood" means wood or wood product that has  
10 been treated with 1 or more of the following:

11           (a) Chromated copper arsenate (CCA).

12           (b) Ammoniacal copper quat (ACQ).

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

14           (d) Any other chemical designated in rules promulgated by the  
15 department.

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

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

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

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

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

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

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

18           (7) **"SHARPS" MEANS THAT TERM AS DEFINED IN SECTION 13807 OF**  
19 **THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.13807.**

20           (8) ~~(7)~~"Site separated material" means glass, metal, wood,  
21 paper products, plastics, rubber, textiles, garbage, or any other  
22 material approved by the department that is separated from solid  
23 waste for the purpose of conversion into raw materials or new  
24 products. Site separated material does not include the residue  
25 remaining after glass, metal, wood, paper products, plastics,  
26 rubber, textiles, or any other material approved by the department  
27 is separated from solid waste.

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1 (9) ~~(8)~~—"Slag" means the nonmetallic product resulting from  
2 melting or smelting operations for iron or steel.

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

9 (a) Human body waste.

10 (b) Medical waste.

11 (c) ~~<<Organic waste~~ >> generated in the  
12 production of livestock and poultry.

13 (d) Liquid waste.

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

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

18 (g) Sludges and ashes managed as recycled or nondetrimental  
19 materials appropriate for agricultural or silvicultural use  
20 pursuant to a plan approved by the department. Food processing  
21 residuals, **GARBAGE**, precipitated calcium carbonate from sugar beet  
22 processing, wood ashes resulting solely from a source that burns  
23 only wood that is untreated and inert, lime from kraft pulping  
24 processes generated prior to bleaching, or aquatic plants may be  
25 applied on, or composted and applied on, farmland or forestland for  
26 an agricultural or silvicultural purpose, or used as animal feed,  
27 as appropriate, and such an application or use does not require a

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

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

17 (i) Source separated materials.

18 (j) Site separated material.

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

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

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

26 (iii) As aggregate, road **MATERIAL**, or building material that in  
27 ultimate use will be stabilized or bonded by cement, limes, or



1 asphalt.

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

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

15 (l) Soil that is washed or otherwise removed from sugar beets,  
16 has not more than 35% moisture content, and is registered as a soil  
17 ~~amendment~~ **CONDITIONER** under part 85. Any testing required to become  
18 registered under part 85 is the responsibility of the generator.

19 (m) Soil that is relocated under section 20120c.

20 **(N) DIVERTED WASTE THAT IS MANAGED THROUGH A WASTE DIVERSION**  
21 **CENTER.**

22 (O) ~~(n)~~ Other wastes regulated by statute.

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

25 (3) "Solid waste processing plant" means a tract of land,  
26 building, unit, or appurtenance of a building or unit or a  
27 combination of land, buildings, and units that is used or intended

1 for use for the processing of solid waste or the separation of  
2 material for salvage or disposal, or both, but does not include a  
3 plant engaged primarily in the acquisition, processing, and  
4 shipment of ferrous or nonferrous metal scrap, or a plant engaged  
5 primarily in the acquisition, processing, and shipment of slag or  
6 slag products.

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

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

16 (6) "Source separated material" means glass, metal, wood,  
17 paper products, plastics, rubber, textiles, garbage, or any other  
18 material approved by the department that is separated at the source  
19 of generation for the purpose of conversion into raw materials or  
20 new products including, but not limited to, compost, **BIOGAS FROM**  
21 **ANAEROBIC DIGESTION, OR SYNTHETIC GAS FROM GASIFICATION OR**  
22 **PYROLYSIS.**

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

27 (8) **"WASTE DIVERSION CENTER" MEANS PROPERTY OR A BUILDING, OR**

1 A PORTION OF PROPERTY OR A BUILDING, DESIGNATED FOR THE PURPOSE OF  
2 RECEIVING OR COLLECTING DIVERTED WASTES AND NOT USED FOR  
3 RESIDENTIAL PURPOSES.

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

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

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

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

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

21 (D) THE OPERATOR SHALL NOT STORE DIVERTED WASTE OVERNIGHT AT  
22 THE WASTE DIVERSION CENTER EXCEPT IN A SECURE LOCATION AND WITH  
23 ADEQUATE CONTAINMENT TO PREVENT ANY RELEASE OF DIVERTED WASTES.

24 (E) WITHIN 1 YEAR AFTER DIVERTED WASTE IS COLLECTED BY THE  
25 WASTE DIVERSION CENTER, THAT DIVERTED WASTE SHALL BE TRANSPORTED  
26 FROM THE WASTE DIVERSION CENTER TO A WASTE DIVERSION CENTER,  
27 RECYCLING FACILITY, OR DISPOSAL FACILITY THAT IS IN COMPLIANCE WITH

1 THIS ACT, FOR PROCESSING, RECYCLING, OR DISPOSAL.

2 (F) THE OPERATOR SHALL NOT PROCESS DIVERTED WASTE EXCEPT TO  
3 THE EXTENT NECESSARY FOR THE SAFE AND EFFICIENT TRANSPORTATION OF  
4 THE DIVERTED WASTE.

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

11 (H) ACCESS TO THE WASTE DIVERSION CENTER SHALL BE LIMITED TO A  
12 TIME WHEN A RESPONSIBLE INDIVIDUAL IS ON DUTY.

13 (I) THE AREA WHERE THE DIVERTED WASTE IS ACCUMULATED SHALL BE  
14 PROTECTED, AS APPROPRIATE FOR THE TYPE OF WASTE, FROM WEATHER,  
15 FIRE, PHYSICAL DAMAGE, AND VANDALS.

16 (J) THE WASTE DIVERSION CENTER SHALL BE KEPT CLEAN AND FREE OF  
17 LITTER.

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

20 (3) THE OPERATOR OF A WASTE DIVERSION CENTER MAY REJECT ANY  
21 DIVERTED WASTE.