

HOUSE BILL No. 5553

December 11, 2007, Introduced by Rep. Miller and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11502. (1) "Applicant" includes any person.
2 (2) "Ashes" means the residue from the burning of wood, coal,
3 coke, refuse, wastewater sludge, or other combustible materials.
4 (3) "Beverage container" means an airtight metal, glass,
5 paper, or plastic container, or a container composed of a

1 combination of these materials, which, at the time of sale,
2 contains 1 gallon or less of any of the following:

3 (a) A soft drink, soda water, carbonated natural or mineral
4 water, or other nonalcoholic carbonated drink.

5 (b) A beer, ale, or other malt drink of whatever alcoholic
6 content.

7 (c) A mixed wine drink or a mixed spirit drink.

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

21 (5) "Certificate of deposit" means a negotiable certificate of
22 deposit held by a bank or other financial institution regulated and
23 examined by a state or federal agency, the value of which is fully
24 insured by an agency of the United States government. A certificate
25 of deposit used to fulfill the requirements of this part shall be
26 in the sole name of the department with a maturity date of not less
27 than 1 year and shall be renewed not less than 60 days before the

1 maturity date. An applicant who uses a certificate of deposit as a
2 bond shall receive any accrued interest on that certificate of
3 deposit upon release of the bond by the department.

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

8 (7) "Coal or wood ash" means either or both of the following:

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

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

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

18 (9) **"COMPOSTING FACILITY" MEANS A FACILITY WHERE COMPOSTING OF**
19 **YARD CLIPPINGS OR OTHER ORGANIC MATERIALS OCCURS USING MECHANICAL**
20 **HANDLING TECHNIQUES SUCH AS PHYSICAL TURNING, WINDROWING, OR**
21 **AERATION OR USING OTHER MANAGEMENT TECHNIQUES APPROVED BY THE**
22 **DIRECTOR.**

23 (10) ~~(9)~~—"Consistency review" means evaluation of the
24 administrative and technical components of an application for a
25 permit ~~—OR~~ license ~~—or for~~ **EVALUATION OF** operating conditions in
26 the course of inspection, for the purpose of determining
27 consistency with the requirements of this part, rules promulgated

1 under this part, and approved plans and specifications.

2 (11) ~~(10)~~ "Corrective action" means the investigation,
3 assessment, cleanup, removal, containment, isolation, treatment, or
4 monitoring of constituents, as defined in a facility's approved
5 hydrogeological monitoring plan, released into the environment from
6 a disposal area, or the taking of other actions related to the
7 release as may be necessary to prevent, minimize, or mitigate
8 injury to the public health, safety, or welfare, the environment,
9 or natural resources that is consistent with ~~subtitle D of the~~
10 ~~solid waste disposal act, title II of Public Law 89-272, 42 U.S.C.~~
11 ~~6941 and 6942~~ **42 USC 6941** to 6949a ~~or~~ **AND** regulations promulgated
12 ~~pursuant to that act~~ **THEREUNDER.**

13 Sec. 11503. (1) **"DE MINIMIS" REFERS TO A SMALL AMOUNT OF**
14 **MATERIAL OR NUMBER OF ITEMS, AS APPLICABLE, COMMINGLED AND**
15 **INCIDENTALLY DISPOSED OF WITH OTHER SOLID WASTE.**

16 (2) ~~(1)~~ "Department" means the department of environmental
17 quality.

18 (3) ~~(2)~~ "Director" means the director of the department.

19 (4) ~~(3)~~ "Discharge" includes, but is not limited to, any
20 spilling, leaking, pumping, pouring, emitting, emptying,
21 discharging, injecting, escaping, leaching, dumping, or disposing
22 of a substance into the environment which is or may become
23 injurious to the public health, safety, or welfare, or to the
24 environment.

25 (5) ~~(4)~~ "Disposal area" means 1 or more of the following at a
26 location as defined by the boundary identified in its construction
27 permit or engineering plans approved by the department:

1 (a) A solid waste transfer facility.

2 (b) Incinerator.

3 (c) Sanitary landfill.

4 (d) Processing plant.

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

7 (6) ~~(5)~~ "Enforceable mechanism" means a legal method whereby
8 the state, a county, a municipality, or a ~~ANOTHER~~ person is
9 authorized to take action to guarantee compliance with an approved
10 county solid waste management plan. Enforceable mechanisms include
11 contracts, intergovernmental agreements, laws, ordinances, rules,
12 and regulations.

13 (7) ~~(6)~~ "Escrow account" means an account managed by a bank or
14 other financial institution whose account operations are regulated
15 and examined by a federal or state agency and which complies with
16 section 11523b.

17 (8) "FARM" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
18 MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

19 (9) "FARM OPERATION" MEANS THAT TERM AS DEFINED IN SECTION 2
20 OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

21 (10) ~~(7)~~ "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 (11) ~~(8)~~ "Financial test" means a corporate or local
26 government financial test or guarantee approved for type II
27 landfills under ~~subtitle D of the solid waste disposal act, title~~

~~II of Public Law 89-272, 42 U.S.C. 6941 and 6942~~ **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) ~~(9)~~—"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) ~~(10)~~—"Garbage" means rejected food wastes including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that ~~attends~~ **RESULTS FROM** the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.

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

(a) Plywood, pressed board, oriented strand board, or any

1 other wood or wood product mixed with glue or filler.

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

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

6 (15) ~~(12)~~—"Treated wood" means wood or wood product that has
7 been treated with 1 or more of the following:

8 (a) Chromated copper arsenate (CCA).

9 (b) Ammoniacal copper quat (ACQ).

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

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

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

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

22 (2) "Regional solid waste management planning agency" means
23 the regional solid waste planning agency designated by the governor
24 pursuant to ~~section 4006 of subtitle D of the solid waste disposal~~
25 ~~act, title II of Public Law 89-272, 42 U.S.C. 42 USC 6946.~~

26 (3) "Resource recovery facility" means machinery, equipment,
27 structures, or any parts or accessories of machinery, equipment, or

1 structures, installed or acquired for the primary purpose of
2 recovering materials or energy from the waste stream.

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

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

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

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

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

26 Sec. 11506. (1) "Solid waste" means garbage, rubbish, ashes,
27 incinerator ash, incinerator residue, street cleanings, municipal

1 and industrial sludges, solid commercial and solid industrial
2 waste, and animal waste other than organic waste generated in the
3 production of livestock and poultry. ~~Solid~~ **HOWEVER, SOLID** waste
4 does not include the following:

5 (a) Human body waste.

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

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

11 (d) Liquid waste.

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

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

16 (g) Sludges and ashes managed as recycled ~~or~~ nondetrimental
17 materials appropriate for agricultural or silvicultural use
18 pursuant to a plan approved by the department. Food processing
19 residuals; wood ashes resulting solely from a source that burns
20 only wood that is untreated and inert; lime from kraft pulping
21 processes generated prior to bleaching; or aquatic plants may be
22 applied on, or composted and applied on, farmland or forestland for
23 an agricultural or silvicultural purpose, or used as animal feed,
24 as appropriate, and such an application or use does not require a
25 plan described in this subdivision or a permit or license under
26 this part. In addition, source separated materials approved by the
27 department for land application for agricultural and silvicultural

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

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

15 (i) Source separated materials.

16 (j) Site separated material.

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

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

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

24 (iii) As aggregate, road, or building material ~~which~~ **THAT** in
25 ultimate use will be stabilized or bonded by cement, limes, or
26 asphalt.

27 (iv) As a road base or construction fill that is covered with

1 asphalt, concrete, or other material approved by the department and
2 ~~which~~**THAT** is placed at least 4 feet above the seasonal groundwater
3 table.

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

13 (l) Other wastes regulated by statute.

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

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

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

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

7 (6) "Source separated material" means glass, metal, wood,
8 paper products, plastics, rubber, textiles, garbage, ~~yard~~
9 ~~clippings~~, or any other material approved by the department that is
10 separated at the source of generation for the purpose of conversion
11 into raw materials or new products including, but not limited to,
12 compost.

13 (7) **"TYPE I PUBLIC WATER SUPPLY", "TYPE IIA PUBLIC WATER**
14 **SUPPLY", "TYPE IIB PUBLIC WATER SUPPLY", AND "TYPE III PUBLIC WATER**
15 **SUPPLY" MEAN THOSE TERMS, RESPECTIVELY, AS DESCRIBED IN R 325.10502**
16 **OF THE MICHIGAN ADMINISTRATIVE CODE.**

17 (8) ~~(7)~~—"Yard clippings" means leaves, grass clippings,
18 vegetable or other garden debris, shrubbery, or brush or tree
19 trimmings, less than 4 feet in length and 2 inches in diameter,
20 that can be converted to compost humus. Yard clippings do not
21 include stumps, agricultural wastes, animal waste, roots, sewage
22 sludge, or garbage.

23 Sec. 11514. (1) Optimizing recycling opportunities and the
24 reuse of materials shall be a principal objective of the state's
25 solid waste management plan. Recycling and reuse of materials are
26 in the best interest of promoting the public health and welfare.
27 The state shall develop policies and practices that promote

1 recycling and reuse of materials and, to the extent practical,
2 minimize the use of landfilling as a method for disposal of its
3 waste.

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

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

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

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

15 (d) More than a de minimis amount of yard clippings, unless
16 they are diseased, ~~or~~-infested, **OR COMPOSED OF INVASIVE SPECIES AS**
17 **AUTHORIZED BY SECTION 11521(1) (I) .**

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

21 (a) Used oil as defined in section 16701.

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

23 (c) Low-level radioactive waste as defined in section 2 of the
24 low-level radioactive waste authority act, 1987 PA 204, MCL
25 333.26202.

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

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

3 (i) Household waste other than septage waste.

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

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

8 (f) Sewage.

9 (g) PCBs as defined in 40 CFR 761.3.

10 (h) Asbestos waste, unless the landfill complies with 40 CFR
11 61.154.

12 (4) A person shall not knowingly deliver to a municipal solid
13 waste incinerator for disposal, or, if the person is an owner or
14 operator of a municipal solid waste incinerator, knowingly permit
15 disposal in the incinerator of, more than a de minimis amount of
16 yard clippings, unless they are diseased, ~~or~~-infested, **OR COMPOSED**
17 **OF INVASIVE SPECIES AS AUTHORIZED BY SECTION 11521(1)(I)**. The
18 department shall post, and a solid waste hauler that disposes of
19 solid waste in a municipal solid waste incinerator shall provide
20 its customers with, notice of the prohibitions of this subsection
21 in the same manner as provided in section 11527a.

22 (5) If the department determines that a safe, sanitary, and
23 feasible alternative does not exist for the disposal in a landfill
24 or municipal solid waste incinerator of any items described in
25 subsection (2) or (4), respectively, the department shall submit a
26 report setting forth that determination and the basis for the
27 determination to the standing committees of the senate and house of

1 representatives with primary responsibility for solid waste issues.

2 ~~—— (6) As used in this section, "de minimis" means incidental~~
3 ~~disposal of small amounts of these materials that are commingled~~
4 ~~with other solid waste.~~

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No. 513 of the 94th Legislature is enacted into
7 law.

8 Enacting section 2. This amendatory act takes effect 90 days
9 after this amendatory act is enacted into law.