

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

***** 324.11502.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2023 *****

324.11502.amended Definitions; A to C.

Sec. 11502. (1) "Agreement" means a written contract.

(2) "Agronomic rate" means a rate that meets both of the following requirements:

(a) Is generally recognized by the agricultural community or is calculated for a particular area of land to improve the physical nature of soil, such as structure, tilth, water retention, pH, or porosity, or to provide macronutrients or micronutrients in an amount not materially in excess of that needed by the crop, forest, or vegetation grown on the land.

(b) Takes into account and minimizes runoff of beneficial use by-products to surface water or neighboring properties, the percolation of excess nutrients beyond the root zone, and the liberation of metals from the soil into groundwater.

(3) "Anaerobic digester" means a facility that uses microorganisms to break down biodegradable material in the absence of oxygen, producing methane and an organic product.

(4) "Animal bedding" means a mixture of manure and wood chips, sawdust, shredded paper or cardboard, hay, straw, or other similar fibrous materials normally used for bedding animals.

(5) "Ashes" means the residue from the burning of wood, scrap wood, tires, biomass, wastewater sludge, fossil fuels including coal or coke, or other combustible materials.

(6) "Benchmark recycling standards" means all of the following requirements:

(a) By January 1, 2026, at least 90% of single-family dwellings in urban areas as identified by the most recent federal decennial census and, by January 1, 2028, at least 90% of single-family dwellings in municipalities with more than 5,000 residents have access to curbside recycling that meets all of the following criteria:

(i) One or more recyclable materials, as determined by the county's material management plan, that are typically collected through curbside recycling programs, are collected at least twice per month.

(ii) If recyclable materials are not collected separately, the mixed load is delivered to a solid waste processing and transfer facility and the recyclable materials are separated from material to be sent to a solid waste disposal area.

(iii) Recyclable materials collected are delivered to a materials recovery facility that complies with part 115 or are managed appropriately at an out-of-state recycling facility.

(iv) The curbside recycling is provided by the municipality or the resident has access to curbside recycling by the resident's chosen hauler.

(b) By January 1, 2032, the following additional criteria:

(i) In counties with a population of less than 100,000, there is at least 1 drop-off location for each 10,000 residents without access to curbside recycling at their dwelling, and the drop-off location is available at least 24 hours per month.

(ii) In counties with a population of 100,000 or more, there is at least 1 drop-off location for each 50,000 residents without access to curbside recycling at their dwelling, and the drop-off location is available at least 24 hours per month.

(7) "Beneficial use 1" means use as aggregate, road material, or building material that in ultimate use is or will be bonded or encapsulated by cement, limes, or asphalt.

(8) "Beneficial use 2" means use as any of the following:

(a) Construction fill at nonresidential property that meets all of the following requirements:

(i) Is placed at least 4 feet above the seasonal groundwater table.

(ii) Does not come into contact with a surface water body.

(iii) Is covered by concrete, asphalt pavement, or other material approved by the department.

(iv) Does not exceed 4 feet in thickness, except for areas where exceedances are incidental to variations in the existing topography. This subparagraph does not apply to construction fill placed underneath a building or other structure.

(b) Road base or soil stabilizer that does not exceed 4 feet in thickness except for areas where exceedances are incidental to variations in existing topography, is placed at least 4 feet above the seasonal groundwater table, does not come into contact with a surface water body, and is covered by concrete, asphalt pavement, or other material approved by the department.

(c) Road shoulder material that does not exceed 4 feet in thickness except for areas where exceedances are incidental to variations in existing topography, is placed at least 4 feet above the seasonal groundwater table,

does not come into contact with a surface water body, is sloped, and is covered by asphalt pavement, concrete, 6 inches of gravel, or other material approved by the department.

(9) "Beneficial use 3" means applied to land as a fertilizer or soil conditioner under part 85 or a liming material under 1955 PA 162, MCL 290.531 to 290.538, if all of the following requirements are met:

(a) The material is applied at an agronomic rate consistent with GAAMPS.

(b) The use, placement, or storage at the location of use does not do any of the following:

(i) Violate part 55 or create a nuisance.

(ii) Cause groundwater to no longer be fit for 1 or more protected uses as defined in R 323.2202 of the MAC.

(iii) Cause a violation of a part 31 surface water quality standard.

(10) "Beneficial use 4" means any of the following uses:

(a) To stabilize, neutralize, solidify, or otherwise treat waste for ultimate disposal at a facility licensed under this part or part 111.

(b) To treat wastewater, wastewater treatment sludge, or wastewater sludge in compliance with part 31 or the federal water pollution control act, 33 USC 1251 to 1388, at a private or publicly owned wastewater treatment plant.

(c) To stabilize, neutralize, solidify, cap, or otherwise remediate hazardous substances or contaminants as part of a response activity in compliance with part 201, part 213, or the comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601 to 9657, or a corrective action in compliance with part 111 or the solid waste disposal act, 42 USC 6901 to 6992k.

(d) As construction material at a landfill licensed under this part.

(e) As alternate daily cover at a licensed landfill in compliance with an operational plan approved pursuant to R 299.4429 of the MAC.

(11) "Beneficial use 5" means blended with inert materials or with compost and used to manufacture soil.

(12) "Beneficial use by-product" means the following materials if the materials are stored for beneficial use or are used beneficially as specified and the requirements of section 11551(1) are met:

(a) Coal bottom ash or wood ash used for beneficial use 3 or wood ash or coal ash, except for segregated flue gas desulfurization material, used for beneficial use 1, 2, or 4.

(b) Pulp and paper mill ash used for beneficial use 1, 2, 3, or 4.

(c) Mixed wood ash used for beneficial use 1, 2, 3, or 4.

(d) Cement kiln dust used as a flue gas scrubbing reagent or for beneficial use 1, 2, 3, or 4.

(e) Lime kiln dust used as a flue gas scrubbing reagent or for beneficial use 1, 2, 3, or 4.

(f) Stamp sands used for beneficial use 1 or 2.

(g) Foundry sand from ferrous or aluminum foundries used for beneficial use 1, 2, 3, 4, or 5.

(h) Pulp and paper mill material, other than the following, used for beneficial use 3:

(i) Rejects, from screens, cleaners, and mills dispersion equipment, containing more than de minimis amounts of plastic.

(ii) Scrap paper.

(i) Spent media from sandblasting, with uncontaminated sand, newly manufactured, unpainted steel used for beneficial use 1 or 2.

(j) Dewatered concrete grinding slurry from public transportation agency road projects used for beneficial use 1, 2, 3, or 4.

(k) Lime softening residuals from the treatment and conditioning of water for domestic use or from a community water supply used for beneficial use 3 or 4.

(l) Soil washed or otherwise removed from sugar beets that is used for beneficial use 3.

(m) Segregated flue gas desulfurization material used for beneficial use 1 or 3.

(n) Materials and uses approved by the department under section 11553(3) or (4). Approval of materials and uses by the department under section 11553(3) or (4) does not require the use of those materials by any governmental entity or any other person.

(13) "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.

(14) "Biosolids" means a solid, semisolid, or liquid that has been treated to meet the requirements of R 323.2414 of the MAC. Biosolids include, but are not limited to, scum or solids removed in a primary, secondary, or advanced wastewater treatment process and a derivative of the removed scum or solids.

(15) "Bond" means a financial instrument guaranteeing performance, 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, an insurance policy, a trust fund, an escrow account, or a combination of any of these instruments in favor of the department.

(16) "Captive facility" means a landfill or coal ash impoundment that accepts for disposal, and accepted for disposal during the previous calendar year, only nonhazardous industrial waste generated only by the owner of the landfill or coal ash impoundment.

(17) "Captive type III landfill" means a type III landfill that meets either of the following requirements:

- (a) Accepts for disposal only nonhazardous industrial waste generated only by the owner of the landfill.
- (b) Is a nonhazardous industrial waste landfill described in section 11525(4)(a), (b), or (c).

(18) "Cement kiln dust" means particulate matter collected in air emission control devices serving Portland cement kilns.

(19) "Certificate of deposit" means a certificate of deposit that meets all of the following requirements:

- (a) Is negotiable.
- (b) Is held by a bank or other financial institution regulated and examined by a state or federal agency.
- (c) Is fully insured by an agency of the United States government.
- (d) Is in the sole name of the department.
- (e) Has a maturity date of not less than 1 year.
- (f) Is renewed not later than 60 days before the maturity date.

(20) "Certified health department" means a city, county, or district department of health certified under section 11507a.

(21) "Chemical recycling" means a manufacturing process for the conversion of source separated post-use polymers into basic raw materials, feedstocks, chemicals, and other products through processes that include pyrolysis (catalytic and noncatalytic), gasification, depolymerization, hydrogenation, solvolysis, and other similar chemical technologies. The recycled products produced include, but are not limited to, monomers, oligomers, plastics, plastic and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and adhesives. For the purposes of part 115, chemical recycling does not include incineration of plastics, waste-to-energy processes, or activities performed at a facility excluded from the definition of materials management facility by section 11504(25). Products sold as fuel are not recycled products. For purposes of part 115, chemical recycling is not solid waste management, solid waste processing, waste diversion, resource recovery, municipal solid waste incineration or combustion, the conversion of waste to energy, or identification, separation, or sorting of recyclable materials through mechanical processes.

(22) "Chemical recycling facility" means a manufacturing facility that receives, stores, and, using chemical recycling, converts post-use polymers. A chemical recycling facility is a manufacturing facility subject to applicable requirements of this act and rules promulgated under this act concerning air, water, waste, and land use or any other applicable regulation. A chemical recycling facility is not a solid waste processing plant, solid waste transfer facility, waste diversion center, resource recovery facility, or municipal solid waste incinerator.

(23) "Class 1 compostable material" means any of the following:

- (a) Yard waste.
- (b) Wood.
- (c) Food waste.
- (d) Paper products.
- (e) Manure or animal bedding.
- (f) Anaerobic digester digestate that does not contain free liquids.
- (g) Compostable products.
- (h) Dead animals unless infectious or managed under 1982 PA 239, MCL 287.651 to 287.683.
- (i) Spent grain from breweries.
- (j) Paunch.
- (k) Food processing residuals.
- (l) Aquatic plants.

(m) Any other material, including, but not limited to, fat, oil, or grease, that the department classifies as class 1 compostable material under section 11562 or that is approved as part of a large composting facility operations plan.

(n) A mixture of any of these materials.

(24) "Class 1 composting facility" means a composting facility where only class 1 compostable material is composted.

(25) "Class 2 compostable material" means mixed municipal solid waste, biosolids, state or federal

controlled substances, and all other compostable material that is not listed or approved as a class 1 compostable material.

(26) "Class 2 composting facility" means a composting facility where class 2 compostable material or a combination of class 2 compostable material and class 1 compostable material is composted.

(27) "Coal ash", subject to subsection (28), means any of the following:

(a) Material recovered from systems for the control of air pollution from, or the noncombusted residue remaining after, the combustion of coal or coal coke, including, but not limited to, coal bottom ash, fly ash, boiler slag, flue gas desulfurization materials, or fluidized-bed combustion ash.

(b) Residuals removed from coal ash impoundments.

(28) For beneficial use 2, coal ash does not include coal fly ash except for the following if used at nonresidential property:

(a) Class C fly ash under ASTM C618-12A, "Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use in Concrete", by ASTM International.

(b) Class F fly ash under ASTM C618-12A, if that fly ash forms a pozzolanic-stabilized mixture by being blended with lime, Portland cement, or cement kiln dust.

(c) A combination of class C fly ash and class F fly ash under ASTM C618-12A if that combination forms a pozzolanic-stabilized mixture by being blended with lime, Portland cement, or cement kiln dust and is used as a road base, soil stabilizer, or road shoulder material under beneficial use 2.

(29) "Coal ash impoundment" means a natural topographic depression, man-made excavation, or diked area that is designed to hold and, after October 14, 2015, accepted an accumulation of coal ash and liquids or other materials approved by the department for treatment, storage, or disposal and did not receive department approval of its closure. A coal ash impoundment in existence before October 14, 2015 that receives waste after December 28, 2018, and that does not have a permit pursuant to part 31, is considered an open dump beginning December 28, 2020 unless the owner or operator has completed closure of the coal ash impoundment under section 11519b or obtained an operating license for the coal ash impoundment. Coal ash impoundment includes an existing coal ash impoundment.

(30) "Coal ash landfill" means a landfill that is used for the disposal of coal ash and may also be used for the disposal of inert materials and construction material used for purposes of meeting the definition of beneficial use 4, or other materials approved by the department.

(31) "Coal bottom ash" means ash particles from the combustion of coal that are too large to be carried in flue gases and that collect on furnace walls or at the bottom of the furnace.

(32) "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.

(33) "Commercial waste", subject to subsection (34), means solid waste generated by nonmanufacturing activities, including, but not limited to, solid waste from any of the following:

(a) Stores.

(b) Offices.

(c) Restaurants.

(d) Warehouses.

(e) Multifamily dwellings.

(f) Hotels and motels.

(g) Bunkhouses.

(h) Ranger stations.

(i) Crew quarters.

(j) Campgrounds.

(k) Picnic grounds.

(l) Day use recreation areas.

(m) Hospitals.

(n) Schools.

(34) Commercial waste does not include household waste, hazardous waste, or industrial waste.

(35) "Compost additive" means any of the following materials if added to finished compost to improve the quality of the finished compost:

(a) Products designed to enhance finished compost.

(b) Sugar beet limes.

(c) Wood ash.

(d) Drywall.

(e) Synthetic gypsum.

(f) Other materials approved by the department.

(36) "Compostable material" means organic material that can be converted to finished compost. Compostable material comprises class 1 compostable material and class 2 compostable material.

(37) "Compostable products" means utensils, food service containers, and other packaging and products that are certified by the Biodegradable Products Institute or an equivalent, recognized, third-party, independent verification body, as meeting either of the following requirements:

(a) ASTM D6400, "Standard Specification for Labeling of Plastics Designed to Be Aerobically Composted in Municipal or Industrial Facilities", by ASTM International.

(b) ASTM D6868, "Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to Be Aerobically Composted in Municipal or Industrial Facilities", by ASTM International.

(38) "Composting" means a process of biological decomposition of class 1 compostable material or class 2 compostable material that meets the following requirements:

(a) Is carried out as provided in either of the following:

(i) In a system using vermiculture.

(ii) Under controlled aerobic conditions using mechanical handling techniques such as physical turning, windrowing, or aeration or using other management techniques approved by the department. For the purposes of this subparagraph, aerobic conditions may include the presence of insignificant anaerobic zones within the composting material.

(b) Stabilizes the organic fraction into a material that can be stored, handled, and used easily, safely, and in an environmentally acceptable manner.

(39) "Composting facility" means a facility where composting occurs. However, composting facility does not include a site where only composting described in section 11555(1)(a), (b), or (e) occurs.

(40) "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 part 115 and approved plans and specifications.

(41) "Corrective action" means the investigation, assessment, cleanup, removal, containment, isolation, treatment, or monitoring of constituents, as defined in a materials management facility's approved hydrogeological monitoring plan, released into the environment from a materials management facility, 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 subtitle D of the solid waste disposal act, 42 USC 6941 to 6949a, and regulations promulgated thereunder.

(42) "County approval agency" or "CAA" means the county board of commissioners, the municipalities in the county, or the regional planning agency, whichever submits a notice of intent to prepare a materials management plan under section 11571.

(43) "County board of commissioners" means the county board of commissioners or the elected county executive, as appropriate.

(44) "Custodial care" includes all of the following:

(a) Preventing deep-rooted vegetation from establishing on the final cover.

(b) Repairing erosion damage on the final cover.

(c) Maintaining stormwater controls.

(d) Maintaining limited access to the site.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2004, Act 35, Imd. Eff. Mar. 19, 2004;—Am. 2007, Act 212, Eff. Mar. 26, 2008;—Am. 2014, Act 178, Eff. Sept. 16, 2014;—Am. 2018, Act 640, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 243, Eff. Mar. 29, 2023.

Popular name: Act 451

Popular name: NREPA

Popular name: Solid Waste Act