

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

324.3131 Land application of sewage sludge and derivatives; rules; applicability to bulk biosolids or bulk derivative; definitions.

Sec. 3131.

(1) By October 1, 1997, the department of environmental quality in consultation with the department of agriculture and rural development shall promulgate rules to manage the land application of sewage sludge and sewage sludge derivatives. The rules shall be consistent with the minimum requirements of 40 CFR part 503 but may impose requirements in addition to or more stringent than 40 CFR part 503 to protect public health or the environment from any adverse effect from a pollutant in sewage sludge or in a sewage sludge derivative. However, the rules shall require that if monitoring of sewage sludge or a sewage sludge derivative indicates a pollutant concentration in excess of that provided in table 3 of 40 CFR 503.13, monitoring frequency shall be increased to not less than twice that provided in table 1 of 40 CFR 503.16, until pollutant concentrations are at or below those provided in table 3 of 40 CFR 503.13. The rules shall require a sewage sludge generator or sewage sludge distributor to deliver to a county, city, village, or township a copy of any record required to be created under the rules pertaining to sewage sludge or a sewage sludge derivative applied to land in that local unit. The copy shall be delivered free of charge promptly after the record is created.

(2) Notwithstanding R 323.2407(3) of the Michigan administrative code, the requirements of R 323.2408 and R 323.2410 of the Michigan administrative code in effect on the effective date of the 2012 amendatory act that added this subsection, or subsequent revisions of those requirements, do not apply to bulk biosolids or a bulk derivative that is sold or given away if all of the following requirements are met:

- (a) The material is finished compost or other material that has been demonstrated to be mature and stable and to present minimal vector attraction and potential to generate a nuisance.
- (b) The material is of exceptional quality.
- (c) The generator or distributor provides to the person receiving the material a written record that contains all of the following information:
 - (i) The name and address of the person who prepared the material.
 - (ii) General handling guidelines and recommended application rates.
 - (iii) A current monitoring summary of nitrogen, phosphorus, and potassium concentrations.
- (d) The material is used beneficially for its nutrient value in accordance with the generator's approved residuals management program.

(e) The material is utilized only for landscaping uses at 1 or more of the following locations:

- (i) A public park.
- (ii) An athletic field.
- (iii) A cemetery.
- (iv) A plant nursery.
- (v) A turf farm.
- (vi) A golf course.
- (vii) A lawn.
- (viii) A home garden.
- (ix) Any other location approved by the director of the department or his or her designee.

(3) The requirements of R 323.2413(2)(a) through (c) and (e) through (i) of the Michigan administrative code in effect on the effective date of the 2012 amendatory act that added this subsection do not apply to bulk biosolids or a bulk derivative of exceptional quality utilized for landscaping purposes.

(4) A person who generates bulk biosolids or a bulk derivative of exceptional quality for landscaping uses shall keep a record of quantities in excess of 20 cubic yards sold or given away in a single transaction and make the record available to the department for inspection and copying. The record shall include all of the following information:

- (a) The name and address of the recipient.
- (b) The quantity received.
- (c) The signature or initials of the recipient.
- (d) A general description of the intended use consistent with subsection (2)(e).
- (5) As used in this section:

(a) All of the following mean those terms as defined in R 324.2402 of the Michigan administrative code:

- (i) "Bulk biosolids".
- (ii) "Derivative".

- (iii) "Exceptional quality".
- (iv) "Generator".
- (v) "Residuals management program".
- (b) "Bulk derivative" means a derivative that is not sold or given away in a bag or other container for application to a lawn or home garden.

History: Add. 1997, Act 29, Imd. Eff. June 18, 1997 ;-- Am. 2012, Act 563, Imd. Eff. Jan. 2, 2013

Compiler's Notes: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. *Blank v Department of Corrections*, 462 Mich 103 (2000).

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