

HOUSE BILL NO. 5614

March 20, 2024, Introduced by Reps. Hood, Rheingans, Price, MacDonell, Young, Tsernoglou, Dievendorf, Rogers, Brixie and Conlin and referred to the Committee on Energy, Communications, and Technology.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3103 and 3131 (MCL 324.3103 and 324.3131), section 3103 as amended by 2005 PA 33 and section 3131 as amended by 2012 PA 563.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3103. (1) The department shall protect and conserve the
- 2 water resources of the state and ~~shall~~ have control of the
- 3 pollution of surface or underground waters of the state and the

1 Great Lakes, which are or may be affected by waste disposal of any
 2 person. The department may make or cause to be made surveys,
 3 studies, and investigations of the uses of waters of the state,
 4 both surface and underground, and cooperate with other governments
 5 and governmental units and agencies in making the surveys, studies,
 6 and investigations. The department shall assist in an advisory
 7 capacity a flood control district that may be authorized by the
 8 legislature. The department, in the public interest, shall appear
 9 and present evidence, reports, and other testimony during the
 10 hearings involving the creation and organization of flood control
 11 districts. The department shall advise and consult with the
 12 legislature on the obligation of ~~the~~**this** state to participate in
 13 the costs of construction and maintenance as provided for in the
 14 official plans of a flood control district or intercounty drainage
 15 district.

16 (2) The department shall enforce this part and may promulgate
 17 rules as ~~it~~**the department** considers necessary to carry out ~~its~~**the**
 18 **department's** duties under this part. ~~However, notwithstanding any~~
 19 ~~rule-promulgation authority that is provided in this part, except~~
 20 ~~for rules authorized under section 3112(6), the department shall~~
 21 ~~not promulgate any additional rules under this part after December~~
 22 ~~31, 2006.~~

23 (3) The department may promulgate rules and take other actions
 24 as may be necessary to comply with the federal water pollution
 25 control act, 33 USC 1251 to ~~1387,~~**1389**, and to expend funds
 26 available under ~~such~~**the** law for extension or improvement of the
 27 state or interstate program for prevention and control of water
 28 pollution. This part ~~shall~~**is** not ~~be~~ construed as authorizing the
 29 department to expend or ~~to~~ incur any obligation to expend any state

1 funds for such purpose in excess of any amount that is appropriated
2 by the legislature.

3 (4) ~~Notwithstanding the limitations on rule promulgation under~~
4 ~~subsection (2), rules~~ **Rules** promulgated under this part before
5 January 1, 2007 ~~shall~~ remain in effect unless rescinded.

6 Sec. 3131. (1) By October 1, 1997, the department, ~~of~~
7 ~~environmental quality~~ in consultation with the department of
8 agriculture and rural development, shall promulgate rules to manage
9 the land application of sewage sludge and sewage sludge
10 derivatives. The rules ~~shall~~ **must** be consistent with the minimum
11 requirements of 40 CFR part 503 but may impose requirements in
12 addition to or more stringent than 40 CFR part 503 to protect
13 public health or the environment from any adverse effect from a
14 pollutant in sewage sludge or in a sewage sludge derivative.
15 However, the rules ~~shall~~ **must** require that if monitoring of sewage
16 sludge or a sewage sludge derivative indicates a pollutant
17 concentration in excess of that provided in table 3 of 40 CFR
18 503.13, monitoring frequency ~~shall~~ **must** be increased to not less
19 than twice that provided in table 1 of 40 CFR 503.16, until
20 pollutant concentrations are at or below those provided in table 3
21 of 40 CFR 503.13. The rules ~~shall~~ **must** require a sewage sludge
22 generator or sewage sludge distributor to deliver to a county,
23 city, village, or township a copy of any record required to be
24 created under the rules pertaining to sewage sludge or a sewage
25 sludge derivative applied to land in that local unit. The copy
26 ~~shall~~ **must** be delivered free of charge promptly after the record is
27 created.

28 (2) **The department shall implement measures to restrict**
29 **concentrations of PFAS in biosolids and sewage sludge and sewage**

1 sludge derivations used for land application. A person that
2 prepares biosolids and uses sewage sludge or a sewage sludge
3 derivative for land application shall test the sewage sludge or
4 sewage sludge derivative for PFAS, as directed by the department,
5 before the sewage sludge or sewage sludge derivative is applied and
6 submit a report of the results to the department. A test described
7 under this subsection must utilize a multilaboratory-validated
8 method approved by the United States Environmental Protection
9 Agency to analyze PFAS in biosolids, if that method is available. A
10 person that prepares biosolids shall provide notification of the
11 PFAS concentration present in the biosolids to each landowner and
12 farmer where the biosolids are applied. The department, in
13 consultation with the department of agriculture and rural
14 development, shall promulgate rules under the administrative
15 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to
16 implement this subsection.

17 (3) ~~(2)~~ Notwithstanding R 323.2407(3) of the Michigan
18 ~~administrative code,~~ **Administrative Code**, the requirements of R
19 323.2408 and R 323.2410 of the Michigan ~~administrative code~~
20 **Administrative Code** in effect on the ~~effective date of the 2012~~
21 ~~amendatory act that added this subsection,~~ **January 2, 2013**, or
22 subsequent revisions of those requirements, do not apply to bulk
23 biosolids or a bulk derivative that is sold or given away if all of
24 the following requirements are met:

25 (a) The material is finished compost or other material that
26 has been demonstrated to be mature and stable and to present
27 minimal vector attraction and potential to generate a nuisance.

28 (b) The material is of exceptional quality.

29 (c) The generator or distributor provides to the person

1 receiving the material a written record that contains all of the
2 following information:

3 (i) The name and address of the person ~~who~~**that** prepared the
4 material.

5 (ii) General handling guidelines and recommended application
6 rates.

7 (iii) A current monitoring summary of nitrogen, phosphorus, and
8 potassium concentrations.

9 (d) The material is used beneficially for its nutrient value
10 in accordance with the generator's approved residuals management
11 program.

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

14 (i) A public park.

15 (ii) An athletic field.

16 (iii) A cemetery.

17 (iv) A plant nursery.

18 (v) A turf farm.

19 (vi) A golf course.

20 (vii) A lawn.

21 (viii) A home garden.

22 (ix) Any other location approved by the director of the
23 department or ~~his or her~~**the director's** designee.

24 (4) ~~(3)~~The requirements of R 323.2413(2) (a) ~~through to~~ (c)
25 and (e) ~~through to~~ (i) of the Michigan ~~administrative code~~

26 **Administrative Code** in effect on ~~the effective date of the 2012~~

27 ~~amendatory act that added this subsection~~ **January 2, 2013** do not

28 apply to bulk biosolids or a bulk derivative of exceptional quality

1 utilized for landscaping purposes.

2 **(5)** ~~(4)~~—A person ~~who~~**that** generates bulk biosolids or a bulk
3 derivative of exceptional quality for landscaping uses shall keep a
4 record of quantities in excess of 20 cubic yards sold or given away
5 in a single transaction and make the record available to the
6 department for inspection and copying. The record ~~shall~~**must**
7 include all of the following information:

8 (a) The name and address of the recipient.

9 (b) The quantity received.

10 (c) The signature or initials of the recipient.

11 (d) A general description of the intended use consistent with
12 subsection ~~(2) (e)~~. **(3) (e)**.

13 **(6)** ~~(5)~~—As used in this section:

14 (a) All of the following mean those terms as defined in R
15 ~~324.2402~~**323.2402** of the Michigan ~~administrative~~

16 ~~code~~:**Administrative Code:**

17 **(i) "Biosolids"**.

18 **(ii)** ~~(i)~~—"Bulk biosolids".

19 **(iii)** ~~(ii)~~—"Derivative".

20 **(iv)** ~~(iii)~~—"Exceptional quality".

21 **(v)** ~~(iv)~~—"Generator".

22 **(vi)** ~~(v)~~—"Residuals management program".

23 (b) "Bulk derivative" means a derivative that is not sold or
24 given away in a bag or other container for application to a lawn or
25 home garden.

26 **(c) "Person that prepares biosolids" means 1 of the following:**

27 **(i) A person that generates biosolids during the treatment of**
28 **domestic sewage or sanitary sewage in a treatment works.**

29 **(ii) A person that derives a material from biosolids.**

1 (d) "PFAS" means a per- or polyfluoroalkyl substance that
2 includes any member of the class of fluorinated organic chemicals
3 that contains at least 1 fully fluorinated carbon atom.