

Act No. 106  
Public Acts of 1990  
Approved by the Governor  
June 18, 1990  
Filed with the Secretary of State  
June 18, 1990

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1990**

Introduced by Reps. Randall, Griffin and Middaugh

# **ENROLLED HOUSE BILL No. 5550**

AN ACT to amend section 18 of Act No. 64 of the Public Acts of 1979, entitled as amended "An act to protect the public health and the natural resources of the state and to license and regulate persons engaged in generating, transporting, treating, storing, and disposing of hazardous waste; to provide for hazardous waste management facilities; to create a means for establishing hazardous waste site review boards; to provide for the inspection and licensing of equipment; to prescribe the powers and duties of certain state agencies; to develop a plan which provides for the safe management and disposal of hazardous waste; to regulate the operation of treatment, storage, and disposal facilities; to establish a list and criteria of hazardous waste requiring treatment, storage, or disposal at approved treatment, storage, or disposal facilities; to establish a manifest system to track hazardous waste; to establish a hazardous waste service fund; to consider waste management and disposal needs of this state; and to prescribe remedies and penalties," as amended by Act No. 228 of the Public Acts of 1987, being section 299.518 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 18 of Act No. 64 of the Public Acts of 1979, as amended by Act No. 228 of the Public Acts of 1987, being section 299.518 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 18. (1) Except as otherwise provided in section 21a, a person shall not establish a treatment, storage, or disposal facility without a construction permit from the director. A person proposing the establishment of a treatment, storage, or disposal facility subject to the construction permit requirement of this act, but not including a limited storage facility, shall make application for a construction permit to the director on a form provided by the director or an authorized representative of the director.

(2) If an amendment to this act or to the rules promulgated under this act subjects activities lawfully being conducted at a treatment, storage, or disposal facility at the time the amendment takes effect to the operating license requirements of this act solely because of the amendment, the activities carried out at the facility prior to the effective date of the amendment shall not be subject to the construction permit requirements of this act,

except for an expansion of the facility with respect to such activities beyond its original authorized design capacity or beyond the area specified in an original permit, license, or other authorization or an alteration of the method of hazardous waste treatment or disposal.

(3) The application for a construction permit shall contain the name and residence of the applicant, the location of the proposed treatment, storage, or disposal facility, and other information specified in this section, by rule, or by federal regulation issued under title II of the solid waste disposal act. The application shall be accompanied by a construction permit application fee. The fee shall be calculated as provided in subsection (10) or may be based on the actual cost of construction permit review according to procedures established by rule. Construction permit application fees shall be deposited in the general fund of the state. The application shall include a copy of the actual published notice as described in subsection (9) and a determination of existing hydrogeological characteristics specified in a hydrogeological report and monitoring program consistent with rules promulgated pursuant to this act, an environmental assessment, an engineering plan, and the procedures for closure and postclosure monitoring. The environmental assessment shall include, at a minimum, an evaluation of the proposed facility's impact on the air, water, and other natural resources of the state; and also shall contain an environmental failure mode assessment.

(4) Except as otherwise provided in this subsection, the construction permit application shall include a disclosure statement which includes all of the following:

(a) The full name and business address of all of the following:

(i) The applicant.

(ii) The 5 persons holding the largest shares of the equity in or debt liability of the proposed facility. The director may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(iii) The operator, if known.

(iv) If known, the 3 employees of the operator who will have the most responsibility for the day-to-day operation of the facility.

(v) Any other business entity listed in the definition of person in section 5(2) in which any person required to be listed in subparagraphs (i) to (iv) has at any time had 25% or more of the equity in or debt liability of that business entity. The director may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(b) All convictions for criminal violations of any environmental statute enacted by a federal, state, Canadian, or provincial agency for each person required to be listed under this subsection. If debt liability is held by a chartered lending institution, information required in this subsection and subsection (4)(c) and (d) shall not be required from that institution.

(c) A listing of all environmental permits or licenses issued by a federal, state, Canadian, or provincial agency held by each person required to be listed under this subsection that were permanently revoked because of noncompliance.

(d) A listing of all activities at property owned or operated by each person required to be listed under this subsection, if the incident resulted in a threat or potential threat to the environment, and public funds were used to finance an activity to mitigate the threat or potential threat to the environment, except if the public funds expended to facilitate the mitigation of environmental contamination were voluntarily and expeditiously recovered from the applicant or other listed person without litigation.

(5) If any information required to be included in the disclosure statement changes, or is supplemented after the filing of the statement, the applicant, permittee, or licensee shall provide that information to the department in writing, within 30 days of the change or addition.

(6) Notwithstanding any other provision of law, the director may deny an application for a construction permit if there are any listings pursuant to subsection (4)(b), (c), or (d) as originally disclosed or as supplemented.

(7) A person may indicate an interest in being placed on a department organized mailing list to be kept informed of any rules, plans, construction permit applications, contested case hearings, public hearings, or other information or procedures relating to the administration of this act. A charge may be required by the director to cover the cost of the materials.

(8) There is created within the state treasury a revolving fund. When a site construction permit application is referred to a site review board by the director, the applicant shall pay a \$25,000.00 fee to be placed in this fund. The \$25,000.00 fee shall be in addition to the application fee required under subsection (3). This fund shall cover the expenses of the site review board members, the chairperson, a mediator, and any other expenses necessary to the deliberations of the board. The director or an authorized representative of the director shall administer the fund and authorize expenditures. The director or an authorized representative of the director shall maintain records to support any expenses charged to the fund. If expenses payable from the fund exceed

the \$25,000.00 fee paid by the applicant, the additional expenses shall be paid from money appropriated by the legislature to the revolving fund created in this subsection. Any unexpended portion of an applicant's \$25,000.00 fee that is not expended to pay the expenses listed in this subsection shall be reimbursed to the applicant after the site review board process is concluded.

(9) An application for a site construction permit shall not be complete unless it includes a copy of a newspaper notice which the applicant published at least 30 days prior to submittal of the application in a newspaper having major circulation in the municipality and the immediate vicinity of the proposed treatment, storage, or disposal facility. The required published notice shall contain a map indicating the location of the proposed treatment, storage, or disposal facility and information on the nature and size of the proposed facility. In addition, the notice shall contain all of the following information provided by the director or an authorized representative of the director:

- (a) A description of the application review process.
- (b) The location where the complete application package may be reviewed.
- (c) How copies of the complete application package may be obtained.

(10) An applicant for a construction permit for a treatment, storage, or disposal facility shall calculate the applicable construction permit application fee required under subsection (3) by totaling the following for each construction permit application:

- (a) For a landfill, surface impoundment, land treatment, or waste pile facility .....\$9,000.00
- (b) For an incinerator or treatment facility other than a treatment facility in subdivision (a) .....\$7,200.00
- (c) For a storage facility, other than storage that is associated with treatment or disposal activities that may be regulated under a single permit.....\$ 500.00
- (d) For the permitted site size of a landfill, surface impoundment, land treatment, or waste pile facility, except waste piles meeting the requirements of 40 C.F.R. 264.250(c), the following:
  - (i) Less than 5 acres.....\$100.00
  - (ii) 5 to 19 acres.....\$170.00
  - (iii) 20 to 79 acres .....\$240.00
  - (iv) 80 acres or more .....\$320.00
- (e) For the permitted site size of a treatment or storage facility, other than a facility listed in subdivision (d), the following:
  - (i) Less than 5 acres.....\$ 50.00
  - (ii) 5 to 19 acres.....\$100.00
  - (iii) 20 to 79 acres .....\$100.00
  - (iv) 80 acres or more .....\$100.00
- (f) For the projected waste volume per day for a landfill, surface impoundment, land treatment, or waste pile facility, except waste piles meeting the requirement of 40 C.F.R. 264.250(c), the following:
  - (i) Less than 50 cubic yards or 10,000 gallons .....\$ 60.00
  - (ii) 50 to 100 cubic yards or 10,000 to 20,000 gallons.....\$ 80.00
  - (iii) 101 to 700 cubic yards or 20,000 to 140,000 gallons.....\$100.00
  - (iv) More than 700 cubic yards or more than 140,000 gallons.....\$130.00
- (g) For the projected waste volume per day for a treatment or storage facility, other than a facility listed in subdivision (f), the following:
  - (i) Less than 50 cubic yards or 10,000 gallons .....\$ 50.00
  - (ii) 50 to 100 cubic yards or 10,000 to 20,000 gallons.....\$100.00
  - (iii) 101 to 700 cubic yards or 20,000 to 140,000 gallons.....\$100.00
  - (iv) More than 700 cubic yards or more than 140,000 gallons.....\$150.00
- (h) For the hydrogeological characteristics of a landfill, surface impoundment, land treatment, or waste pile facility, except waste piles meeting the requirements of 40 C.F.R. 264.250(c), the following:
  - (i) Natural clay.....\$ 40.00
  - (ii) Natural sand .....\$ 60.00
  - (iii) Compacted clay .....\$ 70.00
  - (iv) Artificially lined (other materials).....\$100.00
  - (v) Any combination of the above .....\$100.00

(i) For the hydrogeological characteristics of surface water in a treatment or storage facility, other than a facility listed in subdivision (h).....\$ 75.00

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

