

HOUSE BILL No. 4667

April 16, 1991, Introduced by Reps. Bartnik, Alley, DeMars, Weeks, Nye, Hoekman, Martin, Harder, Bodem, Dalman, Hoffman, Jaye and Niederstadt and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 3, 7, 9, 12, 13, 15, 26, 28, 34, 35, 37, 44, and 47 of Act No. 64 of the Public Acts of 1979, entitled as amended

"Hazardous waste management act,"

sections 3, 9, 12, 13, and 15 as amended by Act No. 246 of the Public Acts of 1987, section 7 as amended by Act No. 195 of the Public Acts of 1987, and sections 26, 28, 34, 35, 37, 44, and 47 as amended by Act No. 486 of the Public Acts of 1982, being sections 299.503, 299.507, 299.509, 299.512, 299.513, 299.515, 299.526, 299.528, 299.534, 299.535, 299.537, 299.544, and 299.547 of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 7, 9, 12, 13, 15, 26, 28, 34, 35,
2 37, 44, and 47 of Act No. 64 of the Public Acts of 1979, sections

1 3, 9, 12, 13, and 15 as amended by Act No. 246 of the Public Acts
2 of 1987, section 7 as amended by Act No. 195 of the Public Acts
3 of 1987, and sections 26, 28, 34, 35, 37, 44, and 47 as amended
4 by Act No. 486 of the Public Acts of 1982, being sections
5 299.503, 299.507, 299.509, 299.512, 299.513, 299.515, 299.526,
6 299.528, 299.534, 299.535, 299.537, 299.544, and 299.547 of the
7 Michigan Compiled Laws, are amended to read as follows:

8 Sec. 3. (1) "Board" means a site review board created as
9 provided in section 17.

10 (2) "Committee" means the hazardous waste policy committee
11 created in section 8a.

12 (3) "Department" means the department of ~~natural resources~~
13 ENVIRONMENT AND HUMAN HEALTH.

14 (4) "Designated facility" means a hazardous waste treatment,
15 storage, or disposal facility which has received a permit or has
16 interim status under title II of the solid waste disposal act or
17 has a permit from a state authorized under section 3006 of ~~title~~
18 ~~II~~ SUBTITLE C of the solid waste disposal act, TITLE II OF
19 PUBLIC LAW 89-272, 42 U.S.C. 6926, and which, if located in
20 Michigan has an operating license issued under this act, has a
21 legally binding agreement with the director which authorizes
22 operation, or is subject to the requirements of section 22(4),
23 (5), and (6).

24 (5) "Director" means the director of the department.

25 (6) "Disposal" means the discharge, deposit, injection,
26 dumping, spilling, leaking, or placing of a hazardous waste into
27 or on land or water in a manner that the hazardous waste or a

1 constituent of the hazardous waste may enter the environment, or
2 be emitted into the air, or discharged into water, including
3 groundwater.

4 (7) "Disposal facility" means a facility or a part of a
5 facility where managed hazardous waste, as defined by rule, is
6 intentionally placed into or on any land or water and at which
7 hazardous waste will remain after closure.

8 (8) "Failure mode assessment" means an analysis of the
9 potential major methods by which safe handling of hazardous
10 wastes may fail at a treatment, storage, or disposal facility.

11 Sec. 7. The department, the board, and the committee, in
12 the conduct of their duties as prescribed under this act, shall
13 assist in encouraging, developing, and implementing methods of
14 hazardous waste management which are environmentally sound, which
15 maximize the utilization of valuable resources, and which encour-
16 age resource conservation, including source separation, recycl-
17 ing, and waste reduction, and which are consistent with the plan
18 to be provided by the department ~~of public health~~ pursuant to
19 section 12103(d) of the Public health code, Act No. 368 of the
20 Public Acts of 1978, being section 333.12103 of the Michigan
21 Compiled Laws. In addition, the director, the department, the
22 board, and the committee, in the conduct of their duties as pre-
23 scribed by this act, shall assist in implementing the policy of
24 this state to minimize the placement of untreated hazardous waste
25 in disposal facilities.

26 Sec. 9. (1) Not later than January 1, 1990, the committee
27 shall prepare an updated state hazardous waste management plan.

1 (2) The updated plan shall:

2 (a) Update the state hazardous waste management plan adopted
3 by the commission of natural resources on January 15, 1982.

4 (b) Be based upon location of generators, health and safety,
5 economics of transporting, type of waste, and existing treatment,
6 storage, or disposal facilities.

7 (c) Include information generated by the department of com-
8 merce and the department of natural resources on hazardous waste
9 capacity needs in the state.

10 (d) Include information provided by the office of waste
11 reduction created in the waste minimization act.

12 (e) Plan for the availability of hazardous waste treatment
13 or disposal facilities which have adequate capacity for the
14 destruction, treatment, or secure disposition of all hazardous
15 wastes that are reasonably expected to be generated within the
16 state during the 20-year period after ~~the effective date of the~~
17 ~~amendatory act that added this subdivision~~ OCTOBER 1, 1988, as
18 is described in section 104(c)(9)(A) of title I of the comprehen-
19 sive environmental response, compensation, and liability act of
20 1980, Public Law 96-510, 42 U.S.C. 9604.

21 (f) Plan for a reasonable geographic distribution of treat-
22 ment, storage, and disposal facilities to meet existing and
23 future needs, including proposing criteria for determining
24 acceptable locations for these facilities. The criteria shall
25 include a consideration of a location's geology, geography,
26 demography, waste generation patterns, along with environmental

1 factors, public health factors, and other relevant
2 characteristics as determined by the committee.

3 (g) Emphasize a shift away from the practice of landfilling
4 hazardous waste and toward the in-plant reduction of hazardous
5 waste and the recycling and treatment of hazardous waste.

6 (h) Include necessary legislative, administrative, economic
7 mechanisms, and a timetable to carry out the plan.

8 (3) The committee shall instruct the office of waste reduc-
9 tion created in the waste minimization act to complete studies as
10 considered necessary for the completion of the updated plan. The
11 studies may include:

12 (a) An inventory and evaluation of the sources of hazardous
13 waste generation within this state or from other states, includ-
14 ing the types, quantities, and chemical and physical characteris-
15 tics of the hazardous waste.

16 (b) An inventory and evaluation of current hazardous waste
17 management, minimization, or reduction practices and costs,
18 including treatment, disposal, on-site recycling, reclamation,
19 and other forms of source reduction within this state.

20 (c) A projection or determination of future hazardous waste
21 management needs based on an evaluation of existing capacities,
22 treatment or disposal capabilities, manufacturing activity, limi-
23 tations, and constraints. Projection of needs shall consider the
24 types and sizes of treatment, storage, or disposal facilities,
25 general locations within the state, management control systems,
26 and an identified need for a state owned treatment, storage, or
27 disposal facility.

1 (d) An investigation and analysis of methods, incentives, or
2 technologies for source reduction, reuse, recycling, or recovery
3 of potentially hazardous waste and a strategy for encouraging the
4 utilization or reduction of hazardous waste.

5 (e) An investigation and analysis of methods and incentives
6 to encourage interstate and international cooperation in the man-
7 agement of hazardous waste.

8 (f) An estimate of the public and private cost of treating,
9 storing, or disposing of hazardous waste.

10 (g) An investigation and analysis of alternate methods for
11 treatment and disposal of hazardous waste.

12 (4) If the committee finds in preparing the updated plan
13 that there is a need for additional treatment or disposal facili-
14 ties in the state, then the committee shall identify incentives
15 the state could offer which would encourage the construction and
16 operation of additional treatment or disposal facilities in the
17 state that are consistent with the updated plan. The committee
18 shall propose criteria which could be used in evaluating appli-
19 cants for the incentives.

20 (5) Upon completion of the updated plan, the committee shall
21 publish a notice in a number of newspapers having major circula-
22 tion within the state as determined by the committee and shall
23 issue a statewide news release announcing the availability of the
24 updated plan for inspection or purchase at cost by interested
25 persons. The announcement shall indicate where and how the
26 updated plan may be obtained or reviewed and shall indicate that
27 not less than 6 public hearings shall be conducted at varying

1 locations in the state before formal adoption. The first public
2 hearing shall not be held until 60 days have elapsed from the
3 date of the notice announcing the availability of the updated
4 plan. The remaining public hearings shall be held within 120
5 days after the first public hearing at approximately equal time
6 intervals.

7 (6) After the public hearings, the committee shall prepare a
8 written summary of the comments received, provide comments on the
9 major concerns raised, make amendments to the updated plan, and
10 shall recommend to the ~~commission of natural resources~~ DIRECTOR
11 whether the updated plan should be adopted.

12 Sec. 12. A new committee shall be appointed every 5 years
13 following the adoption of the updated plan by the ~~commission of~~
14 ~~natural resources~~ DIRECTOR. The committee shall be appointed in
15 the same manner as provided in section 8a for the original
16 appointment. The committee shall review the updated plan and
17 amend the updated plan as considered necessary pursuant to the
18 procedure provided in section 9. The committee also shall review
19 the implementation of this act and submit to the legislature rec-
20 ommendations regarding the implementation of this act.

21 Sec. 13. Not more than 180 days after the final adoption of
22 the updated plan by the ~~commission of natural resources~~
23 DIRECTOR, the director shall submit to the legislature proposed
24 rules to implement the updated plan created in section 9.

25 Sec. 15. ~~After the updated plan is adopted by the commis-~~
26 ~~sion of natural resources, the~~ THE director shall not issue a
27 permit or license under this act for a treatment, storage, or

1 disposal facility until the director has made a determination
2 that the action is consistent with the updated plan. This sec-
3 tion shall not apply to a treatment, storage, or disposal facil-
4 ity granted a construction permit or a license under this act
5 before the final adoption of the updated plan. However, such a
6 facility shall be consistent with the state hazardous waste man-
7 agement plan adopted ~~by the commission of natural resources~~ on
8 January 15, 1982.

9 Sec. 26. (1) Not later than January 25, 1980, the director
10 shall submit to the legislature, after consultation and partici-
11 pation with the department of ~~public health~~ NATURAL RESOURCES,
12 rules necessary to implement and administer this act.

13 (2) Not ~~more than 6 months after the enactment into law of~~
14 ~~the 1982 amendatory act which added this subsection~~ LATER THAN
15 JUNE 30, 1983, the director shall submit to the legislature,
16 after consultation with the department of ~~public health~~ NATURAL
17 RESOURCES, rules necessary to implement and administer this act.
18 ~~as amended by the 1982 amendatory act which added this~~
19 ~~subsection.~~ The rules required to be submitted by this subsec-
20 tion shall include, but not be limited to, requirements for gen-
21 erators, transporters, and treatment, storage, and disposal
22 facilities.

23 (3) The director may promulgate rules which exempt certain
24 hazardous wastes and certain treatment, storage, or disposal
25 facilities from all or portions of the requirements of this act,
26 as necessary to obtain or maintain authorization from the United
27 States environmental protection agency under title II of the

1 solid waste disposal act, or upon a determination by the director
2 that a hazardous waste, or a treatment, storage, or disposal
3 facility, is adequately regulated under other state or federal
4 law, and that scientific data supports a conclusion that an
5 exemption will not result in an impairment of the department's
6 ability to protect the public health and the environment.

7 However, an exemption granted pursuant to this subsection shall
8 not result in a level of regulation less stringent than that
9 required under title II of the solid waste disposal act.

10 (4) If an amendment to this act or the rules promulgated
11 under this act subjects a person to a new or different licensing
12 requirement of this act, the director shall promulgate rules to
13 facilitate orderly and reasonable compliance by that person.

14 (5) Changes in the definition of hazardous waste contained
15 in section 4 and the definition of treatment contained in section
16 5 effected by the 1982 amendatory act which added this subsection
17 shall not eliminate any exemption provided to any hazardous waste
18 or to any treatment, storage, or disposal facility under adminis-
19 trative rules promulgated pursuant to this act before ~~the effec-~~
20 ~~tive date of the 1982 amendatory act which added this subsection~~
21 MARCH 30, 1983. However, these exemptions may be modified or
22 eliminated by administrative rules promulgated subsequent to ~~the~~
23 ~~effective date of the 1982 amendatory act which added this~~
24 ~~subsection~~ MARCH 30, 1983 in order that the state may obtain
25 authorization from the United States environmental protection
26 agency under title II of the solid waste disposal act, or to

1 provide adequate protection to the public health or the
2 environment.

3 Sec. 28. (1) Except as provided in subsections (2) and (3),
4 information obtained by the department under this act shall be a
5 public record as provided in the freedom of information act, Act
6 No. 442 of the Public Acts of 1976, as amended, being sections
7 15.231 to 15.246 of the Michigan Compiled Laws.

8 (2) A person regulated under this act may designate a
9 record, permit application, other information, or a portion of a
10 record, permit application, or other information furnished to or
11 obtained by the department or its agents, as being only for the
12 confidential use of the department and the board. The department
13 shall notify the regulated person of a request for public records
14 under section 5 of Act No. 442 of the Public Acts of 1976, as
15 amended, being section 15.235 of the Michigan Compiled Laws,
16 whose scope includes information designated as confidential. The
17 person regulated under this act shall have 30 days after the
18 receipt of the notice to demonstrate to the director that the
19 information designated as confidential should not be disclosed
20 because the information is a trade secret or secret process, or
21 is production, commercial, or financial information the disclo-
22 sure of which would jeopardize the competitive position of the
23 person from whom the information was obtained, and make available
24 information not otherwise publicly available. The director shall
25 grant the request for the information unless the person regulated
26 under this act has made a satisfactory demonstration to the
27 director that the information should not be disclosed. If there

1 is a dispute between the owner or operator of a treatment,
2 storage, or disposal facility and the person requesting informa-
3 tion under Act No. 442 of the Public Acts of 1976, as amended,
4 the ~~commission of natural resources~~ DIRECTOR shall make the
5 decision to grant or deny the request. When the ~~commission of~~
6 ~~natural resources~~ DIRECTOR makes a decision to grant a request,
7 the information requested shall not be released until 3 days have
8 elapsed after the decision is made.

9 (3) Data on the quantity or composition of hazardous waste
10 generated, transported, treated, stored, or disposed of; air and
11 water emission factors, rates and characterizations; emissions
12 during malfunctions of equipment required under this act on
13 treatment, storage, or disposal facilities; or the efficiency of
14 air and water pollution control devices is not rendered as confi-
15 dential information by this section.

16 (4) The director may release any information obtained under
17 this act, including a record, permit application, or other infor-
18 mation deemed confidential pursuant to subsection (2), to the
19 United States environmental protection agency.

20 Sec. 34. (1) The hazardous waste transporter shall certify
21 acceptance of waste for transportation and shall deliver the haz-
22 ardous waste and accompanying manifest only to the destination
23 specified by the generator on the manifest.

24 (2) The hazardous waste transporter shall keep a copy of the
25 manifest for a period of 3 years, and shall make it readily
26 available for review and inspection by the director, an
27 authorized representative of the director, the director of

1 ~~public health~~ THE DEPARTMENT OF NATURAL RESOURCES, an
2 authorized representative of the director of ~~public health~~ THE
3 DEPARTMENT OF NATURAL RESOURCES, a peace officer, or a represen-
4 tative of the United States environmental protection agency. The
5 retention period required by this subsection shall be automati-
6 cally extended during the course of any unresolved enforcement
7 action regarding the regulated activity or as required by the
8 director.

9 Sec. 35. The treatment, storage, or disposal facility owner
10 or operator shall accept delivery of hazardous waste only if
11 delivery is accompanied by a manifest properly certified by both
12 the generator and the transporter and the treatment, storage, or
13 disposal facility is the destination indicated on the manifest.
14 The treatment, storage, or disposal facility owner or operator
15 also shall:

16 (a) Certify on the manifest receipt of the hazardous waste
17 and return a signed copy of the manifest to the department within
18 a period of 10 days after the end of the month for all hazardous
19 waste received within that month.

20 (b) Return a signed copy of the manifest to the generator.

21 (c) Keep permanent records pursuant to the rules promulgated
22 by the department.

23 (d) Compile a periodic report of hazardous waste treated,
24 stored, or disposed of as required by the department under rules
25 promulgated by the department.

26 (e) Retain a copy of each manifest and report described in
27 this section for a period of 3 years and make each copy readily

1 available for review and inspection by the director or a
2 designated representative of the director, the director of
3 ~~public health~~ THE DEPARTMENT OF NATURAL RESOURCES or a desig-
4 nated representative of the director of ~~public health~~ THE
5 DEPARTMENT OF NATURAL RESOURCES, a peace officer, or a represen-
6 tative of the United States environmental protection agency. The
7 retention period required by this subdivision shall be automati-
8 cally extended during the course of any unresolved enforcement
9 action regarding the regulated activity or as required by the
10 director.

11 Sec. 37. (1) A generator of hazardous waste shall do the
12 following:

13 (a) Compile and maintain information and records regarding
14 the quantities of hazardous waste generated, characteristics and
15 composition of the hazardous waste, and the disposition of haz-
16 ardous waste generated.

17 (b) Utilize proper labeling and containerization of hazard-
18 ous waste as required by the department.

19 (c) Provide for the transport of hazardous waste only by a
20 transporter licensed under this act.

21 (d) Utilize and retain a manifest for each shipment of haz-
22 ardous waste transported to property that is not on site as
23 required by section 33 and assure that the treatment, storage, or
24 disposal facility to which the waste is transported is a desig-
25 nated facility.

1 (e) Provide the information on the manifest as required
2 under section 33(1), to each person transporting, treating,
3 storing, or disposing of hazardous waste.

4 (f) Keep all records readily available for review and
5 inspection by the authorized representative of the department or
6 the authorized representative of the department of ~~public~~
7 ~~health~~ NATURAL RESOURCES, a peace officer, or a representative
8 of the United States environmental protection agency.

9 (g) Retain all records for a period of 3 years. The reten-
10 tion period required by this subdivision shall be automatically
11 extended during the course of any unresolved enforcement action
12 regarding the regulated activity or as required by the director.

13 (h) Compile and submit a periodic report of hazardous waste
14 generated, stored, transferred, treated, disposed of, or trans-
15 ported for treatment, storage, or disposal as required by the
16 department.

17 (2) A generator who also operates a treatment, storage, or
18 disposal facility shall keep records of all hazardous waste
19 produced and treated, stored, or disposed. The generator shall
20 submit a report to the department within a period of 10 days
21 after the end of each month for all waste produced and treated,
22 stored, or disposed.

23 Sec. 44. (1) The director or an authorized representative
24 shall inspect and file a written report not less than 4 times per
25 year for each licensed treatment, storage, and disposal
26 facility.

1 (2) A person may register with the director a complaint or
2 allegation of improper action or violation of this act, a rule,
3 or a condition of the license to operate a treatment, storage, or
4 disposal facility or transporting vehicle.

5 (3) Upon receipt of a complaint or allegation from a
6 municipality, the director shall make a record of the complaint
7 and shall order an inspection of the treatment, storage, or dis-
8 posal facility, transporting vehicle, or other location of
9 alleged violation to investigate the complaint or allegation
10 within not more than 5 business days after receipt of the com-
11 plaint or allegation. If a complaint or allegation is of a
12 highly serious nature, as determined by the director, the facil-
13 ity or transporting vehicle shall be inspected as quickly as
14 possible.

15 (4) Following an investigation of a complaint or allegation
16 under subsection (3), the director shall make a written report to
17 the municipality within 15 days.

18 (5) A person who has knowledge that hazardous waste is being
19 treated, disposed of, or stored in violation of this act shall
20 notify the director. A person who has knowledge that an emer-
21 gency situation exists shall notify the director, the department
22 of ~~public health~~ NATURAL RESOURCES, and the state toxic sub-
23 stance control commission.

24 Sec. 47. (1) Subject to subsection (2), upon receipt of
25 information that the storage, transportation, treatment, or dis-
26 posal of hazardous waste may present an imminent and substantial
27 hazard to the health of persons or to the natural resources, or

1 is endangering or causing damage to public health or the
2 environment, the director, after consultation with the director
3 of ~~public health~~ THE DEPARTMENT OF NATURAL RESOURCES or a des-
4 ignated representative of the director of ~~public health~~ THE
5 DEPARTMENT OF NATURAL RESOURCES, shall take 1 or more of the fol-
6 lowing actions:

7 (a) Issue an order directing the owner or operator of the
8 treatment, storage, or disposal facility, the generator, the
9 transporter, or the custodian of the hazardous waste which con-
10 stitutes the hazard, to take the steps necessary to prevent the
11 act or eliminate the practice which constitutes the hazard. The
12 order may include permanent or temporary cessation of the opera-
13 tion of a treatment, storage, or disposal facility, generator, or
14 transporter. An order issued under this subdivision may be
15 issued without prior notice or hearing and shall be complied with
16 immediately. An order issued under this subdivision shall not
17 remain in effect more than 7 days without affording the owner or
18 operator or custodian an opportunity for a hearing. In issuing
19 an order calling for corrective action, the department shall
20 specify the precise nature of the corrective action necessary and
21 the specific time limits for performing the corrective action.
22 If corrective action is not completed within the time limit spec-
23 ified and pursuant to the department's requirements, the director
24 shall issue a cease and desist order against the owner or opera-
25 tor of the treatment, storage, or disposal facility, generator,
26 or transporter and initiate action to revoke the operating or
27 transporter's license and take appropriate action.

1 (b) Request that the attorney general commence an action to
2 enjoin the act or practice and obtain injunctive relief upon a
3 showing by the department that a person has engaged in the pro-
4 hibited act or practice.

5 (c) Revoke a permit, license, or construction permit after
6 reasonable notice and hearing pursuant to the administrative pro-
7 cedures act OF 1969, Act No. 306 of the Public Acts of 1969, as
8 amended, being sections 24.201 to ~~24.315~~ 24.328 of the Michigan
9 Compiled Laws, if the director finds that a treatment, storage,
10 or disposal facility or transporting vehicle is not, or has not
11 been, constructed or operated pursuant to the approved plans or
12 this act and the rules promulgated under this act, or the condi-
13 tions of a license or construction permit.

14 (2) A determination of an instance of imminent and substan-
15 tial hazard to the health of persons shall be made by the direc-
16 tor of public health.

17 Section 2. Sections 10 and 11 of Act No. 64 of the Public
18 Acts of 1979, being sections 299.510 and 299.511 of the Michigan
19 Compiled Laws, are repealed.

20 Section 3. This amendatory act shall not take effect unless
21 all of the following bills of the 86th Legislature are enacted
22 into law:

23 (a) Senate Bill No. _____ or House Bill No. 4674 (request
24 no. 02482'91).

25 (b) Senate Bill No. _____ or House Bill No. 4669 (request
26 no. 02483'91).