

HOUSE BILL No. 4895

June 4, 1991, Introduced by Rep. Dolan and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 3, 4, 5, 22, 28, and 41 of Act No. 64 of the Public Acts of 1979, entitled as amended "Hazardous waste management act," section 3 as amended by Act No. 246 of the Public Acts of 1987, sections 4 and 5 as amended by Act No. 53 of the Public Acts of 1989, section 22 as amended by Act No. 228 of the Public Acts of 1987, and sections 28 and 41 as amended by Act No. 486 of the Public Acts of 1982, being sections 299.503, 299.504, 299.505, 299.522, 299.528, and 299.541 of the Michigan Compiled Laws; and to add sections 6b, 15a, 41a, and 48a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 3, 4, 5, 22, 28, and 41
2 of Act No. 64 of the Public Acts of 1979, section 3 as amended by
3 Act No. 246 of the Public Acts of 1987, sections 4 and 5 as
4 amended by Act No. 53 of the Public Acts of 1989, section 22 as

1 amended by Act No. 228 of the Public Acts of 1987, and sections
2 28 and 41 as amended by Act No. 486 of the Public Acts of 1982,
3 being sections 299.503, 299.504, 299.505, 299.522, 299.528, and
4 299.541 of the Michigan Compiled Laws, are amended and
5 sections 6b, 15a, 41a, and 48a are added to read as follows:

6 TITLE

7 An act to protect the public health and the natural
8 resources of the state and to license and regulate persons
9 engaged in generating, transporting, treating, storing, and dis-
10 posing of hazardous waste; to provide for hazardous waste manage-
11 ment facilities; to create a means for establishing hazardous
12 waste site review boards; to provide for the inspection and
13 licensing of equipment; to prescribe the powers and duties of
14 certain state agencies; to develop a plan ~~which provides~~ TO
15 PROVIDE for the safe management and disposal of hazardous waste;
16 to regulate the operation of AND REQUIRE CORRECTIVE ACTION AT
17 treatment, storage, and disposal facilities; to establish a list
18 and criteria of hazardous waste requiring treatment, storage, or
19 disposal at approved treatment, storage, or disposal facilities;
20 to establish a manifest system to track hazardous waste; to
21 establish a hazardous waste service fund; to consider waste man-
22 agement and disposal needs of this state; and to prescribe reme-
23 dies and penalties.

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

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

1 (3) "CORRECTIVE ACTION" MEANS AN ACTION NECESSARY TO PROTECT
2 THE PUBLIC HEALTH, SAFETY, WELFARE, OR THE ENVIRONMENT, AND
3 INCLUDES, BUT IS NOT LIMITED TO, AN INVESTIGATION, EVALUATION,
4 CLEANUP, REMOVAL, REMEDIATION, MONITORING, CONTAINMENT, ISOLA-
5 TION, TREATMENT, STORAGE, MANAGEMENT, TEMPORARY RELOCATION OF
6 PEOPLE, OR PROVISION OF ALTERNATIVE WATER SUPPLIES ASSOCIATED
7 WITH A RELEASE OF A WASTE DEFINED IN R 299.9202 OF THE MICHIGAN
8 ADMINISTRATIVE CODE. CORRECTIVE ACTION INCLUDES, BUT IS NOT
9 LIMITED TO, ANY ACTION REQUIRED UNDER TITLE II OF THE SOLID WASTE
10 DISPOSAL ACT, OR RULES PROMULGATED PURSUANT TO THAT ACT.

11 (4) ~~(3)~~ "Department" means the department of natural
12 resources.

13 (5) ~~(4)~~ "Designated facility" means a hazardous waste
14 treatment, storage, or disposal facility ~~which~~ THAT has
15 received a permit or has interim status under title II of the
16 solid waste disposal act or has a permit from a state authorized
17 under section 3006 of SUBTITLE C OF title II of the solid waste
18 disposal act, 42 U.S.C. 6926, and which, if located in ~~Michigan~~
19 THIS STATE has an operating license issued under this act, has a
20 legally binding agreement with the director ~~which~~ THAT autho-
21 rizes operation, or is subject to the requirements of section
22 ~~22(4), (5), and (6)~~ 22(5).

23 (6) ~~(5)~~ "Director" means the director of the department.

24 (7) ~~(6)~~ "Disposal" means the discharge, deposit, injec-
25 tion, dumping, spilling, leaking, or placing of a hazardous waste
26 into or on land or water in a manner that the hazardous waste or
27 a constituent of the hazardous waste may enter the environment,

1 or be emitted into the air, or discharged into water, including
2 groundwater.

3 (8) ~~(7)~~ "Disposal facility" means a facility or a part of
4 a facility where managed hazardous waste, as defined by rule, is
5 intentionally placed into or on any land or water and at which
6 hazardous waste will remain after closure.

7 (9) ~~(8)~~ "Failure mode assessment" means an analysis of the
8 potential major methods by which safe handling of hazardous
9 wastes may fail at a treatment, storage, or disposal facility.

10 Sec. 4. (1) "Generation" means the act or process of
11 producing hazardous waste.

12 (2) "Generator" means any person, by site, whose act or pro-
13 cess, produces hazardous waste as identified or listed pursuant
14 to section 27 or whose act first causes a hazardous waste to
15 become subject to regulation under this act.

16 (3) "GUARANTOR" MEANS A PERSON, OTHER THAN THE OWNER OR
17 OPERATOR OF A DISPOSAL, TREATMENT, OR STORAGE FACILITY, WHO PRO-
18 VIDES EVIDENCE OF FINANCIAL RESPONSIBILITY FOR AN OWNER OR
19 OPERATOR.

20 (4) ~~(3)~~ "Hazardous waste" means waste or a combination of
21 waste and other discarded material including solid, liquid, semi-
22 solid, or contained gaseous material which because of its quanti-
23 ty; quality; concentration; or physical, chemical, or infectious
24 characteristics may cause or significantly contribute to an
25 increase in mortality or increase in serious irreversible illness
26 or serious incapacitating, but reversible illness, or pose a
27 substantial present or potential hazard to human health or the

1 environment if improperly treated, stored, transported, disposed
 2 of, or otherwise managed. Hazardous waste does not include mate-
 3 rial which is solid or dissolved material in domestic sewage dis-
 4 charge, or solid or dissolved material in an irrigation return
 5 flow discharge, or industrial discharge which is a point source
 6 subject to permits under section 402 of title IV of the federal
 7 water pollution control act, chapter 758, 86 Stat. 880, 33
 8 U.S.C. 1342, or is a source, special nuclear, or by-product mate-
 9 rial as defined by the atomic energy act of 1954, chapter 1073,
 10 68 Stat. 919.

11 (5) ~~(4)~~ "Hazardous waste management" means the systematic
 12 control of the collection, source separation, storage, transpor-
 13 tation, processing, treatment, recovery, recycling, and disposal
 14 of hazardous waste.

15 (6) ~~(5)~~ "Landfill" means a disposal facility or part of a
 16 facility where hazardous waste is placed in or on land and which
 17 is not a land treatment facility, a surface impoundment, ~~or~~ an
 18 injection well, A SALT DOME FORMATION, A SALT BED FORMATION, OR
 19 AN UNDERGROUND MINE OR CAVE.

20 (7) ~~(6)~~ "Land treatment facility" means a treatment facil-
 21 ity or part of a treatment facility at which hazardous waste is
 22 applied onto or incorporated into the soil surface. ~~, such~~
 23 ~~facilities are disposal facilities if the~~ IF waste will remain
 24 after closure, A FACILITY DESCRIBED IN THIS SUBSECTION IS A DIS-
 25 POSAL FACILITY.

1 (8) ~~-(7)-~~ "Limited storage facility" means a storage
2 facility as defined in section ~~-5(6)-~~ 5(9) that meets all of the
3 following conditions:

4 (a) Has a maximum storage capacity that does not exceed
5 25,000 gallons of hazardous waste.

6 (b) Storage occurs only in tanks or containers.

7 (c) Has not more than 200 containers on site that have a
8 capacity of 55 gallons or less.

9 (d) Does not store hazardous waste on site for more than
10 90 days.

11 (e) Does not receive hazardous waste from a treatment, stor-
12 age, or disposal facility.

13 (9) ~~-(8)-~~ "Manifest" means a form approved by the director
14 used for identifying the quantity, composition, origin, routing,
15 and destination of hazardous waste during its transportation from
16 the point of generation to the point of disposal, treatment, or
17 storage.

18 (10) ~~-(9)-~~ "Manifest system" means the system used for iden-
19 tifying the quantity, composition, origin, routing, and destina-
20 tion of hazardous waste during its transportation from the point
21 of generation to the point of disposal, treatment, or storage.

22 (11) ~~-(10)-~~ "Mechanism" means a letter of credit; a finan-
23 cial test which demonstrates the financial strength of the com-
24 pany owning a treatment, storage, or disposal facility or a
25 parent company guaranteeing financial assurance for a subsidiary;
26 or an insurance policy that will provide funds for closure or
27 postclosure care of a treatment, storage, or disposal facility.

1 (12) ~~(11)~~ "Municipal solid waste incinerator" means an
2 incinerator that is owned or operated by any person, and meets
3 all of the following requirements:

4 (a) The incinerator receives solid waste from off site and
5 burns only household waste from single and multiple dwellings,
6 hotels, motels, and other residential sources, or this household
7 waste together with solid waste from commercial, institutional,
8 municipal, county, or industrial sources that, if disposed of,
9 would not be required to be placed in a disposal facility
10 licensed under ~~the hazardous waste management~~ THIS act. ~~, Act~~
11 ~~No. 64 of the Public Acts of 1979, being sections 299.501 to~~
12 ~~299.551 of the Michigan Compiled Laws.~~

13 (b) The incinerator has established contractual requirements
14 or other notification or inspection procedures sufficient to
15 assure that the incinerator receives and burns only waste
16 referred to in subdivision (a).

17 (c) The incinerator meets the requirements of this act and
18 the rules promulgated under this act.

19 (d) The incinerator is not an industrial furnace as defined
20 in 40 C.F.R. 260.10.

21 (13) ~~(12)~~ "Municipal solid waste incinerator ash" means
22 the substances remaining after combustion in a municipal solid
23 waste incinerator.

24 (14) ~~(13)~~ "Municipality" means a city, village, township,
25 or Indian tribe.

26 (15) ~~(14)~~ "On site" means on the same or geographically
27 contiguous property ~~which~~ THAT may be divided by a public or

1 private right of way if the entrance and exit between the pieces
2 of property are at a crossroads intersection and access is by
3 crossing rather than going along the right of way.

4 ~~Noncontiguous~~ ON SITE PROPERTY INCLUDES NONCONTIGUOUS pieces of
5 property owned by the same person but connected by a right of way
6 ~~which~~ THAT the owner controls and to which the public does not
7 have access. ~~is also considered on site property.~~

8 Sec. 5. (1) "Operator" means the person responsible for the
9 overall operation of a disposal, treatment, or storage facility
10 with approval of the director either by contract or license.

11 (2) "Person" means an individual; partnership; the state;
12 trust; firm; joint stock company; federal agency; corporation,
13 including a government corporation; association; municipality;
14 commission; political subdivision of a state; any interstate
15 body; and any other public body created by or pursuant to state
16 law.

17 (3) "PLAN" MEANS THE STATE HAZARDOUS WASTE MANAGEMENT PLAN
18 PREPARED UNDER SECTION 9.

19 (4) "REGULATED WASTES" MEANS WASTES DEFINED IN RULES PROMUL-
20 GATED UNDER THIS ACT.

21 (5) ~~(3)~~ "Rule" means a rule promulgated pursuant to the
22 administrative procedures act of 1969, Act No. 306 of the Public
23 Acts of 1969, as amended, being sections 24.201 to 24.328 of the
24 Michigan Compiled Laws.

25 (6) ~~(4)~~ "Solid waste" means that term as it is defined in
26 the solid waste management act, Act No. 641 of the Public Acts of

1 1978, being sections 299.401 to 299.437 of the Michigan Compiled
2 Laws.

3 (7) "SOLID WASTE MANAGEMENT UNIT" MEANS ANY DISCERNIBLE UNIT
4 AT WHICH REGULATED WASTE HAS BEEN PLACED AT ANY TIME, IRRESPEC-
5 TIVE OF WHETHER THE UNIT WAS INTENDED FOR MANAGING REGULATED
6 WASTE, AND ANY AREA AT ANY FACILITY REGULATED UNDER THIS ACT AT
7 WHICH WASTES OR WASTE CONSTITUENTS HAVE BEEN ROUTINELY AND SYS-
8 TEMATICALLY RELEASED.

9 (8) ~~(5)~~ "Storage" means the holding of hazardous waste for
10 a temporary period, at the end of which the hazardous waste is
11 treated, disposed of, or stored elsewhere.

12 (9) ~~(6)~~ "Storage facility" means a facility or part of a
13 facility where managed hazardous waste, as defined by rule, is
14 subject to storage. A generator who accumulates managed hazard-
15 ous waste, as defined by rule, on site in containers or tanks for
16 less than 91 days or a period of time prescribed by rule is not a
17 storage facility.

18 (10) ~~(7)~~ "Surface impoundment" or "impoundment" means a
19 treatment, storage, or disposal facility or part of a treatment,
20 storage, or disposal facility ~~which~~ THAT is a natural topo-
21 graphic depression, man-made excavation, or diked area formed
22 primarily of earthen materials, although it may be lined with
23 man-made materials, ~~which~~ THAT is designed to hold an accumula-
24 tion of liquid wastes or wastes containing free liquids, and
25 ~~which~~ THAT is not an injection well. ~~Examples of surface~~
26 ~~impoundments are~~ SURFACE IMPOUNDMENTS INCLUDE, BUT ARE NOT

1 LIMITED TO, holding, storage, settling, and aeration pits, ponds,
2 and lagoons.

3 (11) ~~(8)~~ "Title II of the solid waste disposal act" means
4 title II of Public Law 89-272, 42 U.S.C. 6901, 6902 to ~~6911~~
5 6907, 6911, 6912 TO 6914a, 6915 TO 6916, 6921 to 6931, 6933 to
6 ~~6941~~ 6939b, 6941, 6942 to ~~6979a~~ 6949a, 6951 TO 6956, 6961 TO
7 6964, 6971 TO 6979a, 6981 to 6987, ~~and~~ 6991 to 6991i, AND 6992
8 TO 6992k.

9 (12) ~~(9)~~ "Transporter" means a person engaged in the off
10 site transportation of hazardous waste by air, rail, highway, or
11 water.

12 (13) ~~(10)~~ "Treatment" means any method, technique, or pro-
13 cess, including neutralization, designed to change the physical,
14 chemical, or biological character or composition of any hazardous
15 waste, ~~so as~~ to neutralize the waste, ~~so as~~ to recover energy
16 or material resources from the waste, or ~~so as~~ to render the
17 waste nonhazardous or less hazardous, safer to transport, store,
18 or dispose of, amenable to recovery, amenable to storage, or
19 reduced in volume. Treatment includes any activity or processing
20 designed to change the physical form or chemical composition of
21 hazardous waste so as to render it nonhazardous.

22 (14) ~~(11)~~ "Treatment facility" means a facility or part of
23 a facility where managed hazardous waste, as defined by rule, is
24 subject to treatment.

25 (15) ~~(12)~~ "Updated plan" means the updated state hazardous
26 waste management plan prepared under section 9.

1 (16) ~~(13)~~ "Vehicle" means a device used to transport
2 hazardous waste. Each cargo carrying body is a separate
3 transport vehicle.

4 SEC. 6B. BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION,
5 WITHIN 180 DAYS OF THE DATE ON WHICH A WASTE BECOMES A REGULATED
6 WASTE, A PERSON SHALL NOT DO EITHER OF THE FOLLOWING UNLESS THE
7 PERSON IS IN COMPLIANCE WITH THIS ACT AND THE RULES PROMULGATED
8 UNDER THIS ACT:

9 (A) GENERATE, DISPOSE, STORE, TREAT, OR TRANSPORT REGULATED
10 WASTES THAT WERE NOT REGULATED UNDER THIS ACT PRIOR TO THE EFFEC-
11 TIVE DATE OF THIS SECTION.

12 (B) PRODUCE, BURN, DISTRIBUTE, OR MARKET FUEL OR OTHER PROD-
13 UCTS CONTAINING HAZARDOUS WASTE OR REGULATED WASTES THAT WERE NOT
14 REGULATED UNDER THIS ACT PRIOR TO THE EFFECTIVE DATE OF THIS
15 SECTION.

16 SEC. 15A. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS SEC-
17 TION, CONSISTENT WITH THE PLAN, THE DIRECTOR SHALL REQUIRE COR-
18 RECTIVE ACTION FOR ALL RELEASES OF HAZARDOUS WASTE OR CONSTITU-
19 ENTS FROM A SOLID WASTE MANAGEMENT UNIT, REGARDLESS OF WHEN THE
20 WASTE WAS PLACED IN THE SOLID WASTE MANAGEMENT UNIT OR FACILITY.
21 PERMITS AND LICENSES ISSUED OR REISSUED UNDER THIS ACT SHALL CON-
22 TAIN BOTH OF THE FOLLOWING:

23 (A) SCHEDULES OF COMPLIANCE FOR CORRECTIVE ACTION IF CORREC-
24 TIVE ACTION CANNOT BE COMPLETED BEFORE THE ISSUANCE OF THE PERMIT
25 OR LICENSE.

26 (B) ASSURANCES OF FINANCIAL RESPONSIBILITY FOR COMPLETING
27 THE CORRECTIVE ACTION.

1 (2) BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, A
2 PERMIT OR LICENSE ISSUED OR REISSUED UNDER THIS ACT FOR A TREAT-
3 MENT, STORAGE, OR DISPOSAL FACILITY SHALL REQUIRE THAT CORRECTIVE
4 ACTION BE TAKEN BEYOND THE FACILITY BOUNDARY IF THE DIRECTOR
5 DETERMINES THAT THE CORRECTIVE ACTION IS NECESSARY TO PROTECT
6 HUMAN HEALTH AND THE ENVIRONMENT, REGARDLESS OF WHEN THE WASTE
7 WAS PLACED AT THE FACILITY. THIS REQUIREMENT APPLIES TO ALL OF
8 THE FOLLOWING:

9 (A) A FACILITY THAT HOLDS A LICENSE OR PERMIT UNDER THIS
10 ACT.

11 (B) A REGULATED SOLID WASTE MANAGEMENT UNIT, AS DEFINED IN
12 THE ADMINISTRATIVE RULES, THAT RECEIVES HAZARDOUS WASTE AFTER
13 JULY 26, 1982.

14 (C) A FACILITY THAT HOLDS A POST-CLOSURE PERMIT UNDER THIS
15 ACT.

16 (3) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, CONSIS-
17 TENT WITH THE HAZARDOUS WASTE MANAGEMENT PLAN, THE DIRECTOR SHALL
18 REQUIRE CORRECTIVE ACTION FOR ALL RELEASES OF HAZARDOUS WASTE OR
19 CONSTITUENTS FROM A SOLID WASTE MANAGEMENT UNIT, REGARDLESS OF
20 WHEN THE WASTE WAS PLACED IN THE SOLID WASTE MANAGEMENT UNIT OR
21 FACILITY. CORRECTIVE ACTION ORDERS AND ADMINISTRATIVE ACTIONS
22 ISSUED OR TAKEN UNDER THIS ACT SHALL CONTAIN SCHEDULES OF COMPLI-
23 ANCE FOR CORRECTIVE ACTION AND ASSURANCES OF FINANCIAL RESPONSI-
24 BILITY FOR COMPLETING THE CORRECTIVE ACTION.

25 (4) BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, A COR-
26 RECTIVE ACTION ORDER OR ADMINISTRATIVE ACTION ISSUED OR TAKEN
27 UNDER THIS ACT FOR AN INTERIM STATUS TREATMENT, STORAGE, OR

1 DISPOSAL FACILITY SHALL REQUIRE THAT CORRECTIVE ACTION BE TAKEN
2 BEYOND THE FACILITY BOUNDARY IF THE DIRECTOR DETERMINES THAT THE
3 CORRECTIVE ACTION IS NECESSARY TO PROTECT HUMAN HEALTH AND THE
4 ENVIRONMENT, REGARDLESS OF WHEN THE WASTE WAS PLACED AT THE
5 FACILITY. THIS REQUIREMENT APPLIES TO ALL OF THE FOLLOWING:

6 (A) ALL FACILITIES THAT ARE UNDERGOING CLOSURE UNDER THIS
7 ACT.

8 (B) ALL REGULATED UNITS, AS DEFINED IN THE ADMINISTRATIVE
9 RULES, THAT RECEIVE HAZARDOUS WASTE AFTER JULY 26, 1982.

10 Sec. 22. (1) Unless a person is complying with ~~subsections~~
11 ~~(4), (5), and (6)~~ SUBSECTION (5) or a rule promulgated under
12 section 26(4), a person shall not conduct, manage, maintain, or
13 operate a treatment, storage, or disposal facility within this
14 state without an operating license from the director.

15 (2) The application for an operating license shall contain
16 the name and residence of the applicant, the location of the pro-
17 posed or existing treatment, storage, or disposal facility, and
18 other information considered necessary by the director including
19 proof of financial responsibility. In addition, the application
20 for the initial operating license after issuance of a construc-
21 tion permit shall contain all of the disclosure information
22 called for in section 18(4) ~~which~~ THAT was not provided as part
23 of the construction permit application and any changes in or
24 additions to the previously submitted disclosure information. In
25 addition, the owner and operator shall certify that the disclo-
26 sure listings previously submitted ~~are still~~ CONTINUE TO BE
27 correct. An applicant for an operating license for a treatment,

1 storage, or disposal facility ~~which~~ THAT is a surface
2 impoundment, landfill, or land treatment facility shall demon-
3 strate financial responsibility for claims arising from nonsudden
4 and accidental occurrences relating to the operation of the
5 facility that cause injury to persons or property. The applica-
6 tion shall be accompanied by a fee of \$500.00. The license fees
7 shall be deposited in the general fund of the state.

8 (3) The applicant also shall submit to the director a certi-
9 fication under the seal of a registered professional engineer
10 verifying that the construction of the treatment, storage, or
11 disposal facility has proceeded according to the plans approved
12 by the director and, if applicable, the approved construction
13 permit. The director shall require additional certification
14 periodically during the operation or to verify proper closure of
15 the site. The director shall require from those treatment, stor-
16 age, or disposal facilities ~~which~~ THAT are permitted to operate
17 pursuant to section 16, certification of the treatment, storage,
18 or disposal facilities' capability of treating, storing, or dis-
19 posing of hazardous waste in compliance with this act.

20 ~~(4) A person owning or operating a storage facility which~~
21 ~~is in existence on March 30, 1983 and at which managed hazardous~~
22 ~~wastes, as defined by rule, are stored, who becomes subject to~~
23 ~~the operating license requirements of this section as a result of~~
24 ~~the changes resulting from the 1982 amendatory act which added~~
25 ~~this subsection, shall have until June 28, 1983 to provide the~~
26 ~~director with a detailed written description of the hazardous~~
27 ~~waste activities carried on at the storage facility.~~

1 (4) ~~(5)~~ The director shall establish a schedule for
2 requiring each person subject to subsection ~~(4)~~ (5) to submit
3 an operating license application. The director may adjust this
4 schedule as necessary. Each person subject to subsection ~~(4)~~
5 (5) shall submit a complete operating license application within
6 120 days of the date requested to do so by the director.

7 (5) ~~(6) Any person described in subsection (4)~~ A PERSON
8 WHO OWNS OR OPERATES A TREATMENT, STORAGE, OR DISPOSAL FACILITY
9 THAT IS IN EXISTENCE ON THE EFFECTIVE DATE OF AN AMENDMENT OF
10 THIS ACT OR OF A RULE PROMULGATED UNDER THIS ACT THAT RENDERS ALL
11 OR PORTIONS OF THE FACILITY SUBJECT TO THE OPERATING LICENSE
12 REQUIREMENTS OF THIS SECTION may continue to operate ~~a storage~~
13 THOSE PORTIONS OF THE facility until an operating license appli-
14 cation is approved or denied if all of the following conditions
15 have been met:

16 (A) A COMPLETE OPERATING LICENSE APPLICATION IS SUBMITTED
17 WITHIN 120 DAYS OF THE DATE REQUESTED BY THE DIRECTOR UNDER
18 SUBSECTION (4).

19 (B) ~~(a)~~ The person has met the requirements of
20 ~~subsections (4) and (5)~~ THIS SUBSECTION.

21 (C) ~~(b)~~ The person is in compliance with all rules
22 ~~regarding storage facilities~~ promulgated under this act and
23 with all other state laws.

24 (D) ~~(c)~~ The person QUALIFIES FOR INTERIM STATUS AS DEFINED
25 IN TITLE II OF THE SOLID WASTE DISPOSAL ACT, is in compliance
26 with interim status standards established by federal regulation

1 under title II of the solid waste disposal act, AND HAS NOT HAD
2 INTERIM STATUS TERMINATED.

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~~ HAS 30 days after
18 the 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 shall make the decision to
5 grant or deny the request. When the commission of natural
6 resources makes a decision to grant a request, the information
7 requested shall not be released until 3 days have elapsed after
8 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~~ CONSIDERED confidential pursuant to subsection
19 (2), to the United States environmental protection agency, THE
20 UNITED STATES AGENCY FOR TOXIC SUBSTANCE DISEASE REGISTRY, OR
21 OTHER AGENCY AUTHORIZED TO RECEIVE INFORMATION, INCLUDING CONFI-
22 DENTIAL INFORMATION, UNDER TITLE II OF THE SOLID WASTE DISPOSAL
23 ACT.

24 Sec. 41. An owner or operator of a treatment, storage, or
25 disposal facility shall file as a part of the application for a
26 license to operate, a surety bond or other suitable instrument or
27 mechanism, or establish a secured trust fund, as approved by the

1 director, to cover the cost of closing the treatment, storage, or
2 disposal facility after its capacity is reached or operations
3 have otherwise terminated. In addition, the owner or operator of
4 a disposal facility shall also file a surety bond or other suit-
5 able instrument or mechanism, or establish a secured trust fund,
6 approved by the director, to cover the cost of postclosure moni-
7 toring and maintenance of the facility. An owner or operator may
8 use a combination of bonds, instruments, mechanisms, or funds, as
9 approved by the director, to satisfy the requirements of this
10 section. IN PROMULGATING RULES TO IMPLEMENT THIS SECTION, THE
11 DIRECTOR MAY SPECIFY POLICIES OR OTHER CONTRACTUAL TERMS, CONDI-
12 TIONS, OR DEFENSES THAT THE DIRECTOR DETERMINES ARE NECESSARY OR
13 ARE UNNECESSARY OR UNACCEPTABLE IN ESTABLISHING EVIDENCE OF
14 FINANCIAL RESPONSIBILITY IN ORDER TO EFFECTUATE THIS ACT. The
15 bond, instrument, mechanism, or fund, or combination of these
16 methods of assurance, shall be in an amount equal to a reasonable
17 estimate of the cost required to adequately close the facility,
18 based on the level of operations proposed in the operating
19 license application, and, with respect to a disposal facility, to
20 monitor and maintain the site for a period of at least 30 years.
21 The bond, instrument, mechanism, or fund, or the combination of
22 these methods of assurance, shall be adjusted periodically as
23 determined by rule to account for inflation or changes in the
24 permitted level of operations. Failure to maintain the bond,
25 instrument, mechanism, or fund, or combination of these methods
26 of assurance, ~~constitutes~~ IS a violation of this act. However,
27 an owner or operator of a licensed treatment, storage, or

1 disposal facility ~~which~~ THAT is not in compliance with this
2 section ~~as amended by this 1982 amendatory act shall have~~ HAS
3 90 days from ~~the effective date of this 1982 amendatory act~~
4 MARCH 30, 1983 to comply.

5 SEC. 41A. (1) IF AN OWNER OR OPERATOR OF A DISPOSAL, TREAT-
6 MENT, OR STORAGE FACILITY IS IN LIQUIDATION, REORGANIZATION, OR
7 ANOTHER ARRANGEMENT PURSUANT TO TITLE 11 OF THE UNITED STATES
8 CODE, 11 U.S.C. 101 TO 1330, THE FEDERAL BANKRUPTCY CODE, OR IF,
9 WITH REASONABLE DILIGENCE, JURISDICTION IN A STATE COURT OR A
10 FEDERAL COURT CANNOT BE OBTAINED OVER AN OWNER OR OPERATOR LIKELY
11 TO BE SOLVENT AT THE TIME OF JUDGMENT, A CLAIM ARISING FROM CON-
12 DUCT FOR WHICH EVIDENCE OF FINANCIAL RESPONSIBILITY IS REQUIRED
13 TO BE PROVIDED UNDER SECTIONS 21A AND 22 MAY BE ASSERTED DIRECTLY
14 AGAINST THE GUARANTOR WHO PROVIDED EVIDENCE OF FINANCIAL RESPON-
15 SIBILITY FOR THE OWNER OR OPERATOR. IN AN ACTION PURSUANT TO
16 THIS SUBSECTION, A GUARANTOR MAY INVOKE ALL RIGHTS AND DEFENSES
17 THAT WOULD HAVE BEEN AVAILABLE TO THE OWNER OR OPERATOR IF AN
18 ACTION HAD BEEN BROUGHT AGAINST THE OWNER OR OPERATOR BY THE
19 CLAIMANT AND THAT WOULD HAVE BEEN AVAILABLE TO THE GUARANTOR IF
20 AN ACTION HAD BEEN BROUGHT AGAINST THE GUARANTOR BY THE OWNER OR
21 OPERATOR.

22 (2) THE TOTAL LIABILITY OF A GUARANTOR UNDER THIS SECTION IS
23 LIMITED TO THE AGGREGATE AMOUNT THAT THE GUARANTOR PROVIDED AS
24 EVIDENCE OF FINANCIAL RESPONSIBILITY TO THE OWNER OR OPERATOR OF
25 A DISPOSAL, TREATMENT, OR STORAGE FACILITY UNDER THIS ACT. THIS
26 SUBSECTION DOES NOT DO EITHER OF THE FOLLOWING:

1 (A) LIMIT ANY OTHER STATE OR FEDERAL STATUTORY, CONTRACTUAL,
2 OR COMMON LAW LIABILITY OF A GUARANTOR TO AN OWNER OR OPERATOR,
3 INCLUDING, BUT NOT LIMITED TO, THE LIABILITY OF THE GUARANTOR FOR
4 BAD FAITH EITHER IN NEGOTIATING OR IN FAILING TO NEGOTIATE THE
5 SETTLEMENT OF A CLAIM.

6 (B) DIMINISH THE LIABILITY OF A PERSON UNDER SECTION 107 OR
7 111 OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND
8 LIABILITY ACT OF 1980, PUBLIC LAW 96-510, 42 U.S.C. 9607 AND
9 9611; THE ENVIRONMENTAL RESPONSE ACT, ACT NO. 307 OF THE PUBLIC
10 ACTS OF 1982, BEING SECTIONS 299.601 TO 299.618 OF THE MICHIGAN
11 COMPILED LAWS; OR OTHER APPLICABLE LAW.

12 SEC. 48A. (1) IF THE DIRECTOR DETERMINES THAT HAZARDOUS
13 WASTE OR CONSTITUENTS FROM A HAZARDOUS WASTE MANAGEMENT UNIT HAS
14 BEEN OR IS BEING RELEASED INTO THE ENVIRONMENT FROM A FACILITY
15 AUTHORIZED TO OPERATE UNDER SECTION 22(5), THE DIRECTOR MAY ISSUE
16 AN ORDER REQUIRING CORRECTIVE ACTION OR OTHER RESPONSE MEASURES
17 AS HE OR SHE CONSIDERS NECESSARY TO PROTECT HUMAN HEALTH OR THE
18 ENVIRONMENT. AN ORDER ISSUED UNDER THIS SUBSECTION MAY INCLUDE A
19 SUSPENSION OR REVOCATION OF AUTHORIZATION TO OPERATE UNDER
20 SECTION 22(5), AND SHALL STATE WITH REASONABLE SPECIFICITY THE
21 NATURE OF THE REQUIRED CORRECTIVE ACTION OR OTHER RESPONSE MEAS-
22 SURE, AND SHALL SPECIFY A TIME FOR COMPLIANCE. IF A FACILITY
23 FAILS TO COMPLY WITH A CORRECTIVE ACTION ORDER ISSUED UNDER THIS
24 SECTION, THE DIRECTOR MAY COMMENCE A CIVIL ACTION IN A COURT OF
25 COMPETENT JURISDICTION FOR APPROPRIATE RELIEF, INCLUDING A TEMPO-
26 RARY OR PERMANENT INJUNCTION.

1 (2) A PERSON WHO VIOLATES A CORRECTIVE ACTION ORDER IS
2 LIABLE FOR A CIVIL FINE OF NOT LESS THAN \$25,000.00 PER DAY OF
3 NONCOMPLIANCE.