

Act No. 47  
Public Acts of 1993  
Approved by the Governor  
May 30, 1993  
Filed with the Secretary of State  
June 01, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Senator Van Regenmorter

# **ENROLLED SENATE BILL No. 42**

AN ACT to amend 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 to provide for the safe management and disposal of hazardous waste; to regulate the operation of and require corrective action regarding contaminants at 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, being sections 299.501 to 299.551 of the Michigan Compiled Laws, by adding section 21b; and to repeal certain parts of the act on a specific date.

*The People of the State of Michigan enact:*

Section 1. Act No. 64 of the Public Acts of 1979, as amended, being sections 299.501 to 299.551 of the Michigan Compiled Laws, is amended by adding section 21b to read as follows:

Sec. 21b. (1) Except as provided in this subsection, a person who generates or collects samples for the purpose of conducting treatability studies is not subject to part 2, 3, or 4 of the rules promulgated under this act, being R 299.9201 to R 299.9412 of the Michigan administrative code, or the notification requirements of section 3010 of subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6930, and the samples are not included in the quantity determinations of R 299.9205 and R 299.9306(4) of the Michigan administrative code if the sample is being collected and prepared for transportation by the generator or sample collector, the sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility, or the sample is being transported to a laboratory or testing facility for the purpose of conducting a treatability study. The exemption in this subsection is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies if all of the following circumstances are met:

(a) The generator or sample collector uses no more than 1,000 kg of any nonacute hazardous waste, 1 kg of acute or severely toxic hazardous waste, or 250 kg of soils, water, or debris contaminated with acute or severely toxic hazardous waste for each process being evaluated for each generated waste stream in a treatability study.

(b) The mass of each sample shipment does not exceed 1,000 kg of nonacute hazardous waste, 1 kg of acute or severely toxic hazardous waste, or 250 kg of soils, water, or debris contaminated with acute or severely toxic hazardous waste.

(c) The sample is packaged and transported so that the sample will not leak, spill, or vaporize from its packaging during shipment and is packaged so that either of the following requirements are met:

(i) The transportation of each sample shipment complies with shipping requirements of the United States department of transportation, the United States postal service, and any other applicable shipping requirements.

(ii) If the United States department of transportation, the United States postal service, or any other applicable shipping requirements do not apply to the shipment of the sample, all of the following information shall accompany the sample:

(A) The name, mailing address, and telephone number of the originator of the sample.

(B) The name, address, and telephone number of the facility that will perform the treatability study.

(C) The quantity of the sample.

(D) The date of shipment.

(E) A description of the sample, including the hazardous waste number assigned to the sample.

(d) The sample is shipped to a laboratory or testing facility that is exempt under subsection (3) or has an appropriate resource conservation and recovery act permit, state hazardous waste license, or interim status.

(e) The generator or sample collector maintains the following records for a period of at least 3 years after completion of the treatability study:

(i) Copies of the shipping documents.

(ii) A copy of the contract with the facility conducting the treatability study.

(iii) Documentation showing all of the following:

(A) The amount of waste shipped under this exemption.

(B) The name, address, and identification number assigned by the director or the United States environmental protection agency of the laboratory or testing facility that received the waste.

(C) The date the shipment was made.

(D) Whether or not unused samples and residues were returned to the generator.

(f) The generator reports the information required under subdivision (e)(iii) in its biennial report.

(2) The department may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsection (1)(a) for up to an additional 500 kg of nonacute hazardous waste, 1 kg of acute or severely toxic hazardous waste, and 250 kg of soils, water, or debris contaminated with acute or severely toxic hazardous waste, to conduct further treatability study evaluation if there has been an equipment or mechanical failure during the conduct of a treatability study, there is a need to verify the results of a previously conducted treatability study, there is a need to study and analyze alternative techniques within a previously evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment. The additional quantities allowed are subject to all the provisions of this section. The generator or sample collector shall apply to the director of the department responsible for environmental protection of the state where the sample is collected and provide in writing all of the following information:

(a) The reason why the generator or sample collector requires an additional quantity of the sample for the treatability study evaluation and the additional quantity needed.

(b) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study.

(c) A description of the technical modifications or change in specifications that will be evaluated and the expected results.

(d) If further study is required due to equipment or mechanical failure, the applicant shall include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns.

(e) Other information that the director considers necessary.

(3) Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies, to the extent the facilities are not otherwise subject to requirements of this act or rules promulgated under this act, are not subject to any requirement of this act or rules promulgated under this act, or to the notification requirements of section 3010 of subtitle C of the solid waste disposal act, title II of Public Law 89-272, 42 U.S.C. 6930, if the conditions of this subsection are met. A mobile treatment unit may qualify as a testing facility subject to this subsection. If a group of mobile treatment units are located at the same site, the limitations specified in this subsection apply to the entire group of mobile treatment units collectively as if the group were 1 mobile treatment unit. The requirements of this subsection are as follows:

(a) At least 45 days before conducting treatability studies, the facility shall notify the director or his or her designee, in writing, that it intends to conduct treatability studies under this section.

(b) The laboratory or testing facility conducting the treatability study has an identification number assigned by the director or the United States environmental protection agency.

(c) No more than a total of 250 kg of "as received" hazardous waste is subjected to the initiation of treatment in all treatability studies in any single day. "As received" waste refers to waste as received in the shipment from the generator or sample collector.

(d) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 1,000 kg, the total of which may include 500 kg of soils, water, or debris contaminated with acute or severely toxic hazardous waste or 1 kg of acute or severely toxic hazardous waste. This quantity limitation does not include any of the following:

(i) Treatability study residues.

(ii) Treatment materials, including nonhazardous waste, added to "as received" hazardous waste.

(e) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than 1 year has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date occurs first.

(f) The treatability study does not involve the placement of hazardous waste on the land or the open burning of hazardous waste.

(g) The facility maintains records for 3 years following completion of each study that show compliance with the treatment rate limits, storage time, and quantity limits. The following specific information shall be included for each treatability study conducted:

(i) The name, address, and United States environmental protection agency identification number of the generator or sample collector of each waste sample.

(ii) The date the shipment was received.

(iii) The quantity of waste accepted.

(iv) The quantity of "as received" waste in storage each day.

(v) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day.

(vi) The date the treatability study was concluded.

(vii) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the environmental protection agency identification number.

(h) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years after the completion date of each treatability study.

(i) The facility prepares and submits a report to the director, or his or her designee, by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(i) The name, address, and identification number assigned by the director or the United States environmental protection agency of the facility conducting the treatability studies.

(ii) The types, by process, of treatability studies conducted.

(iii) The names and addresses of persons for whom studies have been conducted, including their identification numbers assigned by the director or the United States environmental protection agency.

(iv) The total quantity of waste in storage each day.

(v) The total quantity and types of waste subjected to treatability studies.

(vi) When each treatability study was conducted.

(vii) The final disposition of residues and unused sample from each treatability study.

(j) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under R 299.9203 of the Michigan administrative code and, if so, are subject to rules promulgated under this act, unless the residues and unused samples are returned to the sample originator under the exemption in subsection (1).

(k) The facility notifies the director, or his or her designee, by letter if the facility is no longer planning to conduct any treatability studies at the site.

(4) As used in this section:

(a) "Acute hazardous waste" and "severely toxic hazardous waste" have the meanings attributed to these terms in part 2 of the rules promulgated under this act, being R 299.9201 to R 299.9226 of the Michigan administrative code.

(b) "Treatability study" means a study in which a hazardous waste is subjected to a treatment process that is not a means to commercially treat or dispose of the hazardous waste but is designed to determine 1 or more of the following:

(i) Whether the waste is amenable to the treatment process.

(ii) What pretreatment, if any, is required.

(iii) The optimal process conditions needed to achieve the desired treatment.

(iv) The efficiency of a treatment process for a specific waste or wastes.

(v) The characteristics and volumes of residuals from a particular treatment process. For the purpose of R 299.9204(7) and (8) of the Michigan administrative code, treatability studies include liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies.

Section 2. Section 21b of Act No. 64 of the Public Acts of 1979, being section 299.521b of the Michigan Compiled Laws, is repealed effective January 1, 1994.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.