

SENATE BILL No. 1564

November 4, 2010, Introduced by Senator BIRKHOLZ and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11102, 11107, 11118a, 11121, 11123, 11124,
11125, 11129, 11140, and 11153 (MCL 324.11102, 324.11107,
324.11118a, 324.11121, 324.11123, 324.11124, 324.11125,
324.11129, 324.11140, and 324.11153), section 11118a as added by
1996 PA 182 and section 11153 as amended by 2008 PA 403; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11102. ~~(1) "Board" means a site review board created in~~
2 ~~section 11117.~~

3 (1) ~~(2)~~ "Contaminant" means any of the following:

4 (a) Hazardous waste as defined in R 299.9203 of the Michigan

1 administrative code.

2 (b) Any hazardous waste or hazardous constituent listed in
3 **40 CFR PART 261**, appendix VIII ~~of part 261 or 40 CFR PART 264,~~
4 ~~appendix IX. of part 264 of title 40 of the code of federal~~
5 ~~regulations.~~

6 (2) ~~(3)~~ "Corrective action" means an action determined by
7 the department to be necessary to protect the public health,
8 safety, or welfare, or the environment, and includes, but is not
9 limited to, investigation, evaluation, cleanup, removal,
10 remediation, monitoring, containment, isolation, treatment,
11 storage, management, temporary relocation of people, and
12 provision of alternative water supplies, or any corrective action
13 allowed under ~~title II of the solid waste disposal act or~~
14 regulations promulgated pursuant to that act.

15 (3) ~~(4)~~ "Designated facility" means a hazardous waste
16 treatment, storage, or disposal facility that has received a
17 permit or has interim status under the solid waste disposal act
18 or has a permit from a state authorized under section 3006 of
19 subtitle C of the solid waste disposal act, 42 ~~U.S.C.~~ **USC** 6926,
20 and which, if located in this state, has an operating license
21 issued under this part, has a legally binding agreement with the
22 department that authorizes operation, or is subject to the
23 requirements of section ~~11123(5)~~ **11123(8)**.

24 (4) ~~(5)~~ "Disposal" means the discharge, deposit, injection,
25 dumping, spilling, leaking, or placing of a hazardous waste into
26 or on land or water in a manner that the hazardous waste or a
27 constituent of the hazardous waste may enter the environment, be

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

3 (5) ~~(6)~~—"Disposal facility" means a facility or a part of a
4 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 (6) ~~(7)~~—"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. 11107. The department, ~~and the board,~~ in the conduct of
11 ~~their~~ **ITS** duties as prescribed under this part, shall assist in
12 encouraging, developing, and implementing methods of hazardous
13 waste management that are environmentally sound, that maximize
14 the utilization of valuable resources, ~~and that encourage~~
15 resource conservation, including source separation, recycling,
16 and waste reduction, and that are consistent with the plan to be
17 provided by the department ~~of public health~~ pursuant to section
18 ~~12103(d)~~ **12103(1)(D)** of the public health code, ~~Act No. 368 of~~
19 ~~the Public Acts of 1978, being section 333.12103 of the Michigan~~
20 ~~Compiled Laws 1978 PA 368, MCL 333.12103.~~ In addition, ~~the~~
21 ~~director,~~ the department, ~~and the board,~~ in the conduct of ~~their~~
22 **ITS** duties as prescribed by this part, shall assist in
23 implementing the policy of this state to minimize the placement
24 of untreated hazardous waste in disposal facilities.

25 Sec. 11118a. (1) As used in this section, "multisource
26 commercial hazardous waste disposal well" has the meaning
27 ascribed to that term in section 62506a.

(2) A multisource commercial hazardous waste disposal well shall maintain on site a treatment facility and a storage facility that have obtained ~~a construction permit under section 11118~~ and an operating license under section 11123.

(3) THE OWNER OR OPERATOR OF A TREATMENT AND STORAGE FACILITY WITH A MULTISOURCE COMMERCIAL HAZARDOUS WASTE DISPOSAL WELL SHALL PROVIDE TO THE DEPARTMENT A BUSINESS PLAN FOR THE WELL OPERATIONS. THE BUSINESS PLAN SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

(A) THE TYPE, ESTIMATED QUANTITIES, AND POTENTIAL SOURCES OF WASTES TO BE DISPOSED OF IN THE WELL.

(B) THE CURRENT AND PROJECTED MARKET INFORMATION, INCLUDING A FEASIBILITY STUDY ON THE VIABILITY OF THE DISPOSAL WELL OPERATIONS.

(C) A PLAN FOR MAINTAINING PROFITABILITY.

(D) THE EXISTING AND POTENTIAL ALTERNATIVE DISPOSAL METHODS AND COSTS.

(E) THE EFFECT OF THE PROPOSED DISPOSAL WELL OPERATIONS ON DISPOSAL FACILITIES IN THIS STATE THAT HANDLE SIMILAR WASTES.

(F) ADDITIONAL BUSINESS PLAN INFORMATION REQUESTED BY THE DEPARTMENT.

Sec. 11121. A local ordinance, permit requirement, or other requirement does not prohibit the construction of a treatment, storage, or disposal facility, except as otherwise provided in section ~~11122-11123~~.

Sec. 11123. (1) Unless a person is complying with subsection ~~(5)-(9)~~ or a rule promulgated under section 11127(4), a person

1 shall not **ESTABLISH, CONSTRUCT**, conduct, manage, maintain, or
2 operate a treatment, storage, or disposal facility within this
3 state without an operating license from the department.

4 (2) **AN APPLICATION FOR AN OPERATING LICENSE FOR A PROPOSED**
5 **TREATMENT, STORAGE, OR DISPOSAL FACILITY OR THE EXPANSION,**
6 **ENLARGEMENT, OR ALTERATION OF A TREATMENT, STORAGE, OR DISPOSAL**
7 **FACILITY BEYOND ITS ORIGINAL AUTHORIZED DESIGN CAPACITY OR BEYOND**
8 **THE AREA SPECIFIED IN AN EXISTING OPERATING LICENSE, ORIGINAL**
9 **CONSTRUCTION PERMIT, OR OTHER AUTHORIZATION SHALL BE SUBMITTED ON**
10 **A FORM PROVIDED BY THE DEPARTMENT AND CONTAIN ALL OF THE**
11 **FOLLOWING:**

12 (A) **THE NAME AND RESIDENCE OF THE APPLICANT.**

13 (B) **THE LOCATION OF THE PROPOSED TREATMENT, STORAGE, OR**
14 **DISPOSAL FACILITY PROJECT.**

15 (C) **A COPY OF AN ACTUAL PUBLISHED NOTICE THAT THE APPLICANT**
16 **PUBLISHED AT LEAST 30 DAYS BEFORE SUBMITTAL OF THE APPLICATION IN**
17 **A NEWSPAPER HAVING MAJOR CIRCULATION IN THE MUNICIPALITY AND THE**
18 **IMMEDIATE VICINITY OF THE PROPOSED TREATMENT, STORAGE, OR**
19 **DISPOSAL FACILITY PROJECT. THE NOTICE SHALL CONTAIN A MAP**
20 **INDICATING THE LOCATION OF THE PROPOSED TREATMENT, STORAGE, OR**
21 **DISPOSAL FACILITY PROJECT AND INFORMATION ON THE NATURE AND SIZE**
22 **OF THE PROPOSED FACILITY. IN ADDITION, AS PROVIDED BY THE**
23 **DEPARTMENT, THE NOTICE SHALL CONTAIN A DESCRIPTION OF THE**
24 **APPLICATION REVIEW PROCESS, THE LOCATION WHERE THE COMPLETE**
25 **APPLICATION MAY BE REVIEWED, AND AN EXPLANATION OF HOW COPIES OF**
26 **THE COMPLETE APPLICATION MAY BE OBTAINED.**

27 (D) **A WRITTEN SUMMARY OF THE COMMENTS RECEIVED AT THE PUBLIC**

1 PREAPPLICATION MEETING REQUIRED BY RULE AND THE APPLICANT'S
 2 RESPONSE TO THE COMMENTS, INCLUDING ANY REVISIONS TO THE
 3 APPLICATION.

4 (E) A DETERMINATION OF EXISTING HYDROGEOLOGICAL
 5 CHARACTERISTICS SPECIFIED IN A HYDROGEOLOGICAL REPORT AND
 6 MONITORING PROGRAM CONSISTENT WITH RULES PROMULGATED UNDER THIS
 7 PART.

8 (F) AN ENVIRONMENTAL ASSESSMENT. THE ENVIRONMENTAL
 9 ASSESSMENT SHALL INCLUDE, AT A MINIMUM, AN EVALUATION OF THE
 10 PROPOSED FACILITY'S IMPACT ON THE AIR, WATER, AND OTHER NATURAL
 11 RESOURCES OF THIS STATE, AND ALSO SHALL CONTAIN AN ENVIRONMENTAL
 12 FAILURE MODE ASSESSMENT.

13 (G) THE PROCEDURES FOR CLOSURE AND POSTCLOSURE MONITORING.

14 (H) AN ENGINEERING PLAN.

15 (I) OTHER INFORMATION SPECIFIED BY RULE OR BY FEDERAL
 16 REGULATION ISSUED UNDER THE SOLID WASTE DISPOSAL ACT.

17 (J) AN APPLICATION FEE. THE APPLICATION FEE SHALL BE
 18 DEPOSITED IN THE ENVIRONMENTAL POLLUTION PREVENTION FUND CREATED
 19 IN SECTION 11130. PURSUANT TO PROCEDURES ESTABLISHED BY RULE, THE
 20 APPLICATION FEE SHALL BE THE SUM OF \$25,000.00 PLUS ALL OF THE
 21 FOLLOWING, AS APPLICABLE:

22 (i) FOR A LANDFILL, SURFACE	
23 IMPOUNDMENT, LAND TREATMENT,	
24 OR WASTE PILE FACILITY.....	\$9,000.00
25 (ii) FOR AN INCINERATOR OR	
26 TREATMENT FACILITY OTHER THAN	

1 A TREATMENT FACILITY DESCRIBED IN
 2 SUBPARAGRAPH (i) \$7,200.00
 3 (iii) FOR A STORAGE FACILITY, OTHER
 4 THAN STORAGE THAT IS ASSOCIATED WITH
 5 TREATMENT OR DISPOSAL ACTIVITIES THAT
 6 MAY BE REGULATED UNDER A SINGLE
 7 LICENSE..... \$500.00

8 (K) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, A
 9 DISCLOSURE STATEMENT THAT INCLUDES ALL OF THE FOLLOWING:

10 (i) THE FULL NAME AND BUSINESS ADDRESS OF ALL OF THE
 11 FOLLOWING:

12 (A) THE APPLICANT.

13 (B) THE 5 PERSONS HOLDING THE LARGEST SHARES OF THE EQUITY
 14 IN OR DEBT LIABILITY OF THE PROPOSED FACILITY. THE DEPARTMENT MAY
 15 WAIVE ALL OR ANY PORTION OF THIS REQUIREMENT FOR AN APPLICANT
 16 THAT IS A CORPORATION WITH PUBLICLY TRADED STOCK.

17 (C) THE OPERATOR. IF A WAIVER IS OBTAINED UNDER SUB-
 18 SUBPARAGRAPH (B), DETAILED INFORMATION REGARDING THE PROPOSED
 19 OPERATOR SHALL BE INCLUDED IN THE DISCLOSURE STATEMENT.

20 (D) IF KNOWN, THE 3 EMPLOYEES OF THE OPERATOR WHO WILL HAVE
 21 THE MOST RESPONSIBILITY FOR THE DAY-TO-DAY OPERATION OF THE
 22 FACILITY, INCLUDING THEIR PREVIOUS EXPERIENCE WITH OTHER
 23 HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES.

24 (E) ANY OTHER PARTNERSHIP, CORPORATION, ASSOCIATION, OR
 25 OTHER LEGAL ENTITY IF ANY PERSON REQUIRED TO BE LISTED UNDER SUB-
 26 SUBPARAGRAPHS (A) TO (D) HAS AT ANY TIME HAD 25% OR MORE OF THE
 27 EQUITY IN OR DEBT LIABILITY OF THAT LEGAL ENTITY. THE DEPARTMENT

1 MAY WAIVE ALL OR ANY PORTION OF THIS REQUIREMENT FOR AN APPLICANT
2 THAT IS A CORPORATION WITH PUBLICLY TRADED STOCK.

3 (ii) A LIST OF ALL CONVICTIONS FOR CRIMINAL VIOLATIONS OF ANY
4 ENVIRONMENTAL STATUTE ENACTED BY A FEDERAL, STATE, CANADIAN, OR
5 CANADIAN PROVINCIAL AGENCY FOR EACH PERSON REQUIRED TO BE LISTED
6 UNDER THIS SUBDIVISION. IF DEBT LIABILITY IS HELD BY A CHARTERED
7 LENDING INSTITUTION, INFORMATION REQUIRED IN THIS SUBPARAGRAPH
8 AND SUBPARAGRAPHS (iii) AND (iv) IS NOT REQUIRED FROM THAT
9 INSTITUTION.

10 (iii) A LIST OF ALL ENVIRONMENTAL PERMITS OR LICENSES ISSUED
11 BY A FEDERAL, STATE, LOCAL, CANADIAN, OR CANADIAN PROVINCIAL
12 AGENCY HELD BY EACH PERSON REQUIRED TO BE LISTED UNDER THIS
13 SUBDIVISION THAT WERE PERMANENTLY REVOKED BECAUSE OF
14 NONCOMPLIANCE.

15 (iv) A LIST OF ALL ACTIVITIES AT PROPERTY OWNED OR OPERATED
16 BY EACH PERSON REQUIRED TO BE LISTED UNDER THIS SUBDIVISION THAT
17 RESULTED IN A THREAT OR POTENTIAL THREAT TO THE ENVIRONMENT AND
18 FOR WHICH PUBLIC FUNDS WERE USED TO FINANCE AN ACTIVITY TO
19 MITIGATE THE THREAT OR POTENTIAL THREAT TO THE ENVIRONMENT,
20 EXCEPT IF THE PUBLIC FUNDS EXPENDED TO FACILITATE THE MITIGATION
21 OF ENVIRONMENTAL CONTAMINATION WERE VOLUNTARILY AND EXPEDITIOUSLY
22 RECOVERED FROM THE APPLICANT OR OTHER LISTED PERSON WITHOUT
23 LITIGATION.

24 (l) A DEMONSTRATION THAT THE APPLICANT HAS CONSIDERED EACH OF
25 THE FOLLOWING:

26 (i) THE RISK AND IMPACT OF ACCIDENT DURING THE TRANSPORTATION
27 OF HAZARDOUS WASTE TO THE TREATMENT, STORAGE, OR DISPOSAL

1 FACILITY.

2 (ii) THE RISK AND IMPACT OF FIRES OR EXPLOSIONS FROM IMPROPER
3 TREATMENT, STORAGE, AND DISPOSAL METHODS AT THE TREATMENT,
4 STORAGE, OR DISPOSAL FACILITY.

5 (iii) THE IMPACT ON THE MUNICIPALITY WHERE THE PROPOSED
6 TREATMENT, STORAGE, OR DISPOSAL FACILITY IS TO BE LOCATED IN
7 TERMS OF HEALTH, SAFETY, COST, AND CONSISTENCY WITH LOCAL
8 PLANNING AND EXISTING DEVELOPMENT, INCLUDING PROXIMITY TO
9 HOUSING, SCHOOLS, AND PUBLIC FACILITIES.

10 (iv) THE NATURE OF THE PROBABLE ENVIRONMENTAL IMPACT,
11 INCLUDING THE SPECIFICATION OF THE PREDICTABLE ADVERSE EFFECTS ON
12 EACH OF THE FOLLOWING:

13 (A) THE NATURAL ENVIRONMENT AND ECOLOGY.

14 (B) PUBLIC HEALTH AND SAFETY.

15 (C) SCENIC, HISTORIC, CULTURAL, AND RECREATIONAL VALUES.

16 (D) WATER AND AIR QUALITY AND WILDLIFE.

17 (M) A SUMMARY OF MEASURES EVALUATED TO MITIGATE THE IMPACTS
18 IDENTIFIED IN SUBDIVISION (I) AND A DETAILED DESCRIPTION OF THE
19 MEASURES TO BE IMPLEMENTED BY THE APPLICANT.

20 (N) A SCHEDULE FOR SUBMITTAL OF ALL OF THE FOLLOWING
21 POSTCONSTRUCTION DOCUMENTATION:

22 (i) ANY CHANGES IN, OR ADDITIONS TO, THE PREVIOUSLY SUBMITTED
23 DISCLOSURE INFORMATION, OR A CERTIFICATION THAT THE DISCLOSURE
24 LISTINGS PREVIOUSLY SUBMITTED CONTINUE TO BE CORRECT, FOLLOWING
25 COMPLETION OF CONSTRUCTION OF THE TREATMENT, STORAGE, OR DISPOSAL
26 FACILITY.

27 (ii) A CERTIFICATION UNDER THE SEAL OF A LICENSED

1 PROFESSIONAL ENGINEER VERIFYING THAT THE CONSTRUCTION OF THE
2 TREATMENT, STORAGE, OR DISPOSAL FACILITY HAS PROCEEDED ACCORDING
3 TO THE PLANS APPROVED BY THE DEPARTMENT AND, IF APPLICABLE, THE
4 APPROVED CONSTRUCTION PERMIT, INCLUDING AS-BUILT PLANS.

5 (iii) A CERTIFICATION OF THE TREATMENT, STORAGE, OR DISPOSAL
6 FACILITY'S CAPABILITY OF TREATING, STORING, OR DISPOSING OF
7 HAZARDOUS WASTE IN COMPLIANCE WITH THIS PART.

8 (iv) PROOF OF FINANCIAL ASSURANCE AS REQUIRED BY RULE.

9 (3) IF ANY INFORMATION REQUIRED TO BE INCLUDED IN THE
10 DISCLOSURE STATEMENT UNDER SUBSECTION (2) (K) CHANGES OR IS
11 SUPPLEMENTED AFTER THE FILING OF THE STATEMENT, THE APPLICANT OR
12 LICENSEE SHALL PROVIDE THAT INFORMATION TO THE DEPARTMENT IN
13 WRITING NOT LATER THAN 30 DAYS AFTER THE CHANGE OR ADDITION.

14 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
15 DEPARTMENT MAY DENY AN APPLICATION FOR AN OPERATING LICENSE IF
16 THERE ARE ANY LISTINGS PURSUANT TO SUBSECTION (2) (K) (ii), (iii), OR
17 (iv) AS ORIGINALLY DISCLOSED OR AS SUPPLEMENTED.

18 (5) THE APPLICATION FOR AN OPERATING LICENSE FOR A PROPOSED
19 LIMITED STORAGE FACILITY, WHICH IS SUBJECT TO THE REQUIREMENTS
20 PERTAINING TO STORAGE FACILITIES, SHALL BE SUBMITTED ON A FORM
21 PROVIDED BY THE DEPARTMENT AND CONTAIN ALL OF THE FOLLOWING:

22 (A) THE NAME AND RESIDENCE OF THE APPLICANT.

23 (B) THE LOCATION OF THE PROPOSED FACILITY.

24 (C) A DETERMINATION OF EXISTING HYDROGEOLOGICAL
25 CHARACTERISTICS SPECIFIED IN A HYDROGEOLOGICAL REPORT AND
26 MONITORING PROGRAM CONSISTENT WITH RULES PROMULGATED UNDER THIS
27 PART.

1 (D) AN ENVIRONMENTAL ASSESSMENT. THE ENVIRONMENTAL
2 ASSESSMENT SHALL INCLUDE, AT A MINIMUM, AN EVALUATION OF THE
3 PROPOSED FACILITY'S IMPACT ON THE AIR, WATER, AND OTHER NATURAL
4 RESOURCES OF THIS STATE, AND ALSO SHALL CONTAIN AN ENVIRONMENTAL
5 FAILURE MODE ASSESSMENT.

6 (E) THE PROCEDURES FOR CLOSURE.

7 (F) AN ENGINEERING PLAN.

8 (G) PROOF OF FINANCIAL RESPONSIBILITY.

9 (H) A RESOLUTION OR OTHER FORMAL DETERMINATION OF THE
10 GOVERNING BODY OF EACH MUNICIPALITY IN WHICH THE PROPOSED LIMITED
11 STORAGE FACILITY WOULD BE LOCATED INDICATING THAT THE LIMITED
12 STORAGE FACILITY IS COMPATIBLE WITH THE ZONING ORDINANCE OF THAT
13 MUNICIPALITY, IF ANY. HOWEVER, IN THE ABSENCE OF A RESOLUTION OR
14 OTHER FORMAL DETERMINATION, THE APPLICATION SHALL INCLUDE A COPY
15 OF A REGISTERED LETTER SENT TO THE MUNICIPALITY AT LEAST 60 DAYS
16 BEFORE THE APPLICATION SUBMITTAL, INDICATING THE INTENT TO
17 CONSTRUCT A LIMITED STORAGE FACILITY, AND REQUESTING A FORMAL
18 DETERMINATION ON WHETHER THE PROPOSED FACILITY IS COMPATIBLE WITH
19 THE ZONING ORDINANCE OF THAT MUNICIPALITY, IF ANY, IN EFFECT ON
20 THE DATE THE LETTER IS RECEIVED, AND INDICATING THAT FAILURE TO
21 PASS A RESOLUTION OR MAKE A FORMAL DETERMINATION WITHIN 60 DAYS
22 OF RECEIPT OF THE LETTER MEANS THAT THE PROPOSED FACILITY IS TO
23 BE CONSIDERED COMPATIBLE WITH ANY APPLICABLE ZONING ORDINANCE.
24 IF, WITHIN 60 DAYS OF RECEIVING A REGISTERED LETTER, A
25 MUNICIPALITY DOES NOT MAKE A FORMAL DETERMINATION CONCERNING
26 WHETHER A PROPOSED LIMITED STORAGE FACILITY IS COMPATIBLE WITH A
27 ZONING ORDINANCE OF THAT MUNICIPALITY AS IN EFFECT ON THE DATE

1 THE LETTER IS RECEIVED, THE LIMITED STORAGE FACILITY IS
2 CONSIDERED COMPATIBLE WITH ANY ZONING ORDINANCE OF THAT
3 MUNICIPALITY, AND INCOMPATIBILITY WITH A ZONING ORDINANCE OF THAT
4 MUNICIPALITY SHALL NOT BE A BASIS FOR DENIAL OF THE LICENSE BY
5 THE DEPARTMENT.

6 (I) AN APPLICATION FEE OF \$500.00. THE APPLICATION FEE SHALL
7 BE DEPOSITED IN THE ENVIRONMENTAL POLLUTION PREVENTION FUND
8 CREATED IN SECTION 11130.

9 (J) OTHER INFORMATION SPECIFIED BY RULE OR BY FEDERAL
10 REGULATION ISSUED UNDER THE SOLID WASTE DISPOSAL ACT.

11 (6) ~~(2)~~ The application for an operating license shall
12 ~~contain the~~ FOR A TREATMENT, STORAGE, OR DISPOSAL FACILITY OTHER
13 THAN A FACILITY IDENTIFIED IN SUBSECTION (2) OR (5) SHALL BE MADE
14 ON A FORM PROVIDED BY THE DEPARTMENT AND INCLUDE ALL OF THE
15 FOLLOWING:

16 (A) THE name and residence of the applicant. ~~, the~~

17 (B) THE location of the ~~proposed or existing~~ treatment,
18 storage, or disposal facility. ~~, and other~~

19 (C) OTHER information considered necessary by the department
20 ~~including proof~~ OR SPECIFIED IN THIS SECTION, BY RULE, OR BY
21 FEDERAL REGULATION ISSUED UNDER THE SOLID WASTE DISPOSAL ACT.

22 (D) PROOF of financial responsibility. ~~In addition, the~~
23 ~~application for the initial operating license after issuance of a~~
24 ~~construction permit shall contain all of the disclosure~~
25 ~~information called for in section 11118(4) that was not provided~~
26 ~~as part of the construction permit application and any changes in~~
27 ~~or additions to the previously submitted disclosure information.~~

~~In addition, the owner and operator shall certify that the disclosure listings previously submitted continue to be correct.~~
An applicant for an operating license for a treatment, storage, or disposal facility that is a surface impoundment, landfill, or land treatment facility shall demonstrate financial responsibility for claims arising from nonsudden and accidental occurrences relating to the operation of the facility that cause injury to persons or property. ~~The application shall be accompanied by a~~

(E) A fee of \$500.00. The ~~license fees~~ **FEE** shall be deposited in the ~~general~~ **ENVIRONMENTAL POLLUTION PREVENTION** fund of the state **CREATED IN SECTION 11130**.

~~(3) The applicant also shall submit to the department a certification under the seal of a registered professional engineer verifying that the construction of the treatment, storage, or disposal facility has proceeded according to the plans approved by the department and, if applicable, the approved construction permit. The department shall require additional certification periodically during the operation or in order to verify proper closure of the site. The department shall require from those treatment, storage, or disposal facilities that are permitted to operate pursuant to section 11116, certification of the treatment, storage, or disposal facilities' capability of treating, storing, or disposing of hazardous waste in compliance with this part.~~

(7) ~~(4)~~ The department shall establish a schedule for requiring each person subject to subsection ~~(5)~~ **(8)** to submit an

operating license application. The department may adjust this schedule as necessary. Each person subject to subsection ~~(5)~~ **(8)** shall submit a complete operating license application within 180 days of the date requested to do so by the department.

(8) ~~(5)~~—A person who owns or operates a treatment, storage, or disposal facility that is in existence on the effective date of an amendment of this part or of a rule promulgated under this part that renders all or portions of the facility subject to the operating license requirements of this section may continue to operate the facility or portions of the facility that are subject to the operating license **REQUIREMENTS** until an operating license application is approved or denied if all of the following conditions have been met:

(a) A complete operating license application is submitted within 180 days of the date requested by the department under subsection ~~(4)~~ **(7)**.

(b) The person is in compliance with all rules promulgated under this part and with all other state laws.

(c) The person qualifies for interim status as defined in the solid waste disposal act, is in compliance with interim status standards established by federal regulation under subtitle C of the solid waste disposal act, ~~title II of Public Law 89-272,~~ ~~42 U.S.C. 6921 to 6931 and 6933 to 6939b~~ **42 USC 6921 TO 6939E**, and has not had interim status terminated.

(9) A PERSON MAY REQUEST TO BE PLACED ON A DEPARTMENT-ORGANIZED MAILING LIST TO BE KEPT INFORMED OF ANY RULES, PLANS, OPERATING LICENSE APPLICATIONS, CONTESTED CASE HEARINGS, PUBLIC

1 HEARINGS, OR OTHER INFORMATION OR PROCEDURES RELATING TO THE
2 ADMINISTRATION OF THIS PART. THE DEPARTMENT MAY CHARGE A FEE TO
3 COVER THE COST OF THE MATERIALS.

4 Sec. 11124. (1) ~~Upon receipt of an operating license~~
5 ~~application meeting the requirements of~~ FOLLOWING THE
6 CONSTRUCTION OF THE PROPOSED TREATMENT, STORAGE, OR DISPOSAL
7 FACILITY OR THE EXPANSION, ENLARGEMENT, OR ALTERATION OF A
8 TREATMENT, STORAGE, OR DISPOSAL FACILITY BEYOND ITS ORIGINAL
9 AUTHORIZED DESIGN CAPACITY OR BEYOND THE AREA SPECIFIED IN AN
10 EXISTING OPERATING LICENSE, ORIGINAL CONSTRUCTION PERMIT, OR
11 OTHER AUTHORIZATION, AND THE RECEIPT OF THE POSTCONSTRUCTION
12 DOCUMENTATION REQUIRED UNDER section 11123, the department shall
13 inspect the site and determine if the proposed treatment,
14 storage, or disposal facility complies with this part, the rules
15 promulgated under this part, and the stipulations included in the
16 approved treatment, storage, or disposal facility ~~construction~~
17 ~~permit~~ OPERATING LICENSE. An inspection report shall be filed in
18 writing by the department before issuing ~~an operating license~~
19 FINAL AUTHORIZATION TO MANAGE, MAINTAIN, AND OPERATE THE
20 TREATMENT, STORAGE, OR DISPOSAL FACILITY and shall be made
21 available for public review.

22 (2) UPON RECEIPT OF AN OPERATING LICENSE APPLICATION MEETING
23 THE REQUIREMENTS OF SECTION 11123(6), THE DEPARTMENT SHALL
24 INSPECT THE SITE AND DETERMINE IF THE TREATMENT, STORAGE, OR
25 DISPOSAL FACILITY COMPLIES WITH THIS PART AND THE RULES
26 PROMULGATED UNDER THIS PART. AN INSPECTION REPORT SHALL BE FILED
27 IN WRITING BY THE DEPARTMENT BEFORE ISSUING AN OPERATING LICENSE.

1 Sec. 11125. (1) UPON RECEIPT OF AN OPERATING LICENSE
2 APPLICATION THAT COMPLIES WITH THE REQUIREMENTS OF SECTION
3 11123(2), THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

4 (A) NOTIFY THE MUNICIPALITY AND COUNTY IN WHICH THE
5 TREATMENT, STORAGE, OR DISPOSAL FACILITY IS LOCATED OR PROPOSED
6 TO BE LOCATED; A LOCAL SOIL EROSION AND SEDIMENTATION CONTROL
7 AGENCY APPOINTED PURSUANT TO PART 91; EACH DIVISION WITHIN THE
8 DEPARTMENT THAT HAS RESPONSIBILITY IN LAND, AIR, OR WATER
9 MANAGEMENT; A REGIONAL PLANNING AGENCY ESTABLISHED BY EXECUTIVE
10 DIRECTIVE OF THE GOVERNOR; AND OTHER APPROPRIATE AGENCIES. THE
11 NOTICE SHALL DESCRIBE THE PROCEDURE BY WHICH THE LICENSE MAY BE
12 APPROVED OR DENIED.

13 (B) REVIEW THE PLANS OF THE PROPOSED TREATMENT, STORAGE, OR
14 DISPOSAL FACILITY TO DETERMINE IF THE PROPOSED OPERATION COMPLIES
15 WITH THIS PART AND THE RULES PROMULGATED UNDER THIS PART. THE
16 REVIEW SHALL BE MADE WITHIN THE DEPARTMENT. THE REVIEW SHALL
17 INCLUDE, BUT NEED NOT BE LIMITED TO, A REVIEW OF AIR QUALITY,
18 WATER QUALITY, WASTE MANAGEMENT, HYDROGEOLOGY, AND THE
19 APPLICANT'S DISCLOSURE STATEMENT. A WRITTEN AND SIGNED REVIEW BY
20 EACH PERSON WITHIN THE DEPARTMENT REVIEWING THE APPLICATION AND
21 PLANS SHALL BE RECEIVED AND FILED IN THE DEPARTMENT'S LICENSE
22 APPLICATION RECORDS BEFORE AN OPERATING LICENSE IS ISSUED OR
23 DENIED BY THE DEPARTMENT.

24 (C) INTEGRATE THE RELEVANT PROVISIONS OF ALL PERMITS THAT
25 THE APPLICANT IS REQUIRED TO OBTAIN FROM THE DEPARTMENT TO
26 CONSTRUCT THE PROPOSED TREATMENT, STORAGE, OR DISPOSAL FACILITY
27 INTO THE OPERATING LICENSE REQUIRED BY THIS PART.

1 (D) CONSIDER THE MITIGATION MEASURES PROPOSED TO BE
2 IMPLEMENTED AS IDENTIFIED IN SECTION 11123(2)(M).

3 (E) HOLD A PUBLIC HEARING NOT MORE THAN 60 DAYS AFTER
4 RECEIPT OF THE APPLICATION.

5 (2) THE DEPARTMENT MAY ESTABLISH OPERATING LICENSE
6 CONDITIONS SPECIFICALLY APPLICABLE TO THE TREATMENT, STORAGE, OR
7 DISPOSAL FACILITY AND OPERATION AT THAT SITE TO MITIGATE ADVERSE
8 IMPACTS.

9 (3) ~~(1)~~—The department shall provide notice and an
10 opportunity for a public hearing before making a final decision
11 on an operating license application.

12 (4) The department shall make a final decision on an
13 operating license application within 140 days after the
14 department receives a complete application. However, if the
15 state's hazardous waste management program is authorized by the
16 United States environmental protection agency under ~~sections~~
17 **SECTION 3006 to 3009** of subtitle C of the solid waste disposal
18 act, ~~title II of Public Law 89-272, 42 U.S.C. 6926 to 6929~~ **42 USC**
19 **6926**, the department may extend the deadline beyond the
20 limitation provided in this section in order to fulfill the
21 public participation requirements of the solid waste disposal
22 act. The operating license may contain stipulations specifically
23 applicable to site and operation.

24 (5) A local ordinance, permit, or other requirement shall
25 not prohibit the operation of a licensed treatment, storage, or
26 disposal facility.

27 (6) ~~(2)~~—If any information required to be included in the

disclosure statement required under section ~~11118~~ **11123** 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~~ **AFTER** the change or addition.

(7) ~~(3)~~ The department may deny an operating license application submitted pursuant to section 11123 if ~~there are any listings pursuant to section 11118(4)(b) to (d) that were not identified during the site review board process or were~~ **ANY INFORMATION DESCRIBED IN SECTION 11123(2)(K)(ii) TO (iv) WAS** not disclosed as required in section 11123(2) or this section.

(8) **THE DEPARTMENT SHALL PROVIDE NOTICE OF THE FINAL DECISION TO PERSONS ON THE ORGANIZED MAILING LIST FOR THE FACILITY.**

(9) **FOLLOWING THE CONSTRUCTION OF A NEW, EXPANDED, ENLARGED, OR ALTERED TREATMENT, STORAGE, OR DISPOSAL FACILITY, THE DEPARTMENT SHALL REVIEW ALL INFORMATION REQUIRED TO BE SUBMITTED BY THE OPERATING LICENSE. IF THE DEPARTMENT FINDS THAT THE OWNER OR OPERATOR HAS DEVIATED FROM THE SPECIFIC CONDITIONS ESTABLISHED IN THE OPERATING LICENSE, THE DEPARTMENT SHALL DETERMINE IF CAUSE EXISTS FOR MODIFICATION OR REVOCATION OF THE OPERATING LICENSE, IN ACCORDANCE WITH PROVISIONS ESTABLISHED BY RULE. AT A MINIMUM, THE POSTCONSTRUCTION DOCUMENTATION SHALL INCLUDE ALL OF THE FOLLOWING:**

(A) **UPDATED DISCLOSURE INFORMATION OR A CERTIFICATION AS DESCRIBED IN SECTION 11123(2)(N)(i).**

(B) **A CERTIFICATION OF CONSTRUCTION AS DESCRIBED IN SECTION**

1 11123(2) (N) (ii) . THE DEPARTMENT SHALL REQUIRE ADDITIONAL
 2 CERTIFICATION PERIODICALLY DURING THE OPERATION OR IN ORDER TO
 3 VERIFY PROPER CLOSURE OF THE SITE.

4 (C) A CERTIFICATION OF CAPABILITY SIGNED AND SEALED BY A
 5 LICENSED PROFESSIONAL ENGINEER AS DESCRIBED IN SECTION
 6 11123(2) (N) (iii) .

7 (D) INFORMATION REGARDING ANY DEVIATIONS FROM THE SPECIFIC
 8 CONDITIONS IN THE OPERATING LICENSE.

9 (E) PROOF OF FINANCIAL RESPONSIBILITY.

10 Sec. 11129. (1) Except as provided in subsections (2) and
 11 (3), information obtained by the department under this part is a
 12 public record **SUBJECT TO DISCLOSURE** as provided in the freedom of
 13 information act, ~~Act No. 442 of the Public Acts of 1976, being~~
 14 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws 1976 PA~~
 15 **442, MCL 15.231 TO 15.246.**

16 (2) A person regulated under this part may designate a
 17 record, permit application, other information, or a portion of a
 18 record, permit application, or other information furnished to or
 19 obtained by the department or its agents as being only for the
 20 confidential use of the department. ~~and the board.~~ The department
 21 shall notify the regulated person of a request for public records
 22 under section 5 of ~~Act No. 442 of the Public Acts of 1976, being~~
 23 ~~section 15.235 of the Michigan Compiled Laws~~ **THE FREEDOM OF**
 24 **INFORMATION ACT, 1976 PA 442, MCL 15.235**, whose scope includes
 25 information designated as confidential. The person regulated
 26 under this part has 30 days after the receipt of the notice to
 27 demonstrate to the department that the information designated as

1 confidential should not be disclosed because the information is a
2 trade secret or secret process or is production, commercial, or
3 financial information the disclosure of which would jeopardize
4 the competitive position of the person from whom the information
5 was obtained and make available information not otherwise
6 publicly available. The department shall grant the request for
7 the information unless the person regulated under this part makes
8 a satisfactory demonstration to the department that the
9 information should not be disclosed. If there is a dispute
10 between the owner or operator of a treatment, storage, or
11 disposal facility and the person requesting information under ~~Act~~
12 ~~No. 442 of the Public Acts of 1976, the commission~~ **THE FREEDOM OF**
13 **INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, THE DIRECTOR**
14 **OF THE DEPARTMENT** shall make the decision to grant or deny the
15 request. When the department makes a decision to grant a request,
16 the information requested shall not be released until 3 days have
17 elapsed after the decision is made.

18 (3) Data on the quantity or composition of hazardous waste
19 generated, transported, treated, stored, or disposed of; air and
20 water emission factors, rates and characterizations; emissions
21 during malfunctions of equipment required under this part on
22 treatment, storage, or disposal facilities; or the efficiency of
23 air and water pollution control devices is not rendered as
24 confidential information by this section.

25 (4) The department may release any information obtained
26 under this part, including a record, permit application, or other
27 information considered confidential pursuant to subsection ~~(2)~~

(1), to the United States environmental protection agency, the United States agency for toxic substance disease registry, or other agency authorized to receive information, including confidential information, under the solid waste disposal act.

Sec. 11140. (1) The owner or operator of a treatment, storage, or disposal facility shall submit a closure plan to the department as part of the application for ~~a construction permit~~ **AN OPERATING LICENSE** under section ~~11118-11123~~. In addition, the owner or operator of a disposal facility shall submit a postclosure monitoring and maintenance plan to the department as part of the application. At a minimum, the closure plan shall include a description of how the facility shall be closed, possible uses of the land after closure, anticipated time until closure, estimated time for closure, and each anticipated partial closure. Those facilities described in section ~~11116-11123(6) AND~~ (8) shall submit a closure and, if required by rule, a postclosure plan with their operating license application.

(2) The department shall promulgate rules regarding notification before closure **OF A TREATMENT, STORAGE, OR DISPOSAL FACILITY**, length of time permitted for closure, ~~of the treatment, storage, or disposal facility,~~ removal and decontamination of equipment, security, groundwater and leachate monitoring system, sampling analysis and reporting requirements, and any other pertinent requirements.

Sec. 11153. (1) A generator, transporter, or treatment, storage, or disposal facility shall obtain and utilize a site identification number assigned by the United States environmental

1 protection agency or the department. Until October 1, 2011, the
2 department shall assess a site identification number user charge
3 of \$50.00 for each site identification number it issues. The
4 department shall not issue a site identification number under
5 this subsection unless the site identification number user charge
6 and the tax identification number for the person applying for the
7 site identification number have been received by the department.

8 (2) Until October 1, 2011, except as provided in subsection
9 (9), the department shall annually assess hazardous waste
10 management program user charges as follows:

11 (a) A generator shall pay a handler user charge that is the
12 highest of the following applicable fees:

13 (i) A generator who generates more than 100 kilograms but
14 less than 1,000 kilograms of hazardous waste in any month during
15 the calendar year shall pay to the department an annual handler
16 user charge of \$100.00.

17 (ii) A generator who generates 1,000 kilograms or more of
18 hazardous waste in any month during the calendar year and who
19 generates less than 900,000 kilograms during the calendar year
20 shall pay to the department an annual handler user charge of
21 \$400.00.

22 (iii) A generator who generates 1,000 kilograms or more of
23 hazardous waste in any month during the calendar year and who
24 generates 900,000 kilograms or more of hazardous waste during the
25 calendar year shall pay to the department an annual handler user
26 charge of \$1,000.00.

27 (b) An owner or operator of a treatment, storage, or

1 disposal facility for which an operating license is required
2 under section 11123 or for which an operating license has been
3 issued under section ~~11122~~ or 11125 shall pay to the department
4 an annual handler user charge of \$2,000.00.

5 (c) A used oil processor or rerefiner, a used oil burner, or
6 a used oil fuel marketer as defined in the rules promulgated
7 under this part shall pay to the department an annual handler
8 user charge of \$100.00.

9 (3) A handler shall pay the handler user charge specified in
10 subsection (2)(a) to (c) for each of the activities conducted
11 during the previous calendar year.

12 (4) Payment of the handler user charges shall be made using
13 a form provided by the department. The handler shall certify that
14 the information on the form is accurate. The department shall
15 send forms to the handlers by March 30 of each year unless the
16 handler user charges have been suspended as provided for in
17 subsection (9). A handler shall return the completed forms and
18 the appropriate payment to the department by April 30 of each
19 year unless the handler user charges have been suspended as
20 provided for in subsection (9).

21 (5) A handler who fails to provide timely and accurate
22 information, a complete form, or the appropriate handler user
23 charge is in violation of this part and is subject to both of the
24 following:

25 (a) Payment of the handler user charge and an administrative
26 fine of 5% of the amount owed for each month that the payment is
27 delinquent. Any payments received after the 15th of the month

1 after the due date shall be considered delinquent for that month.
2 However, the administrative fine shall not exceed 25% of the
3 total amount owed.

4 (b) Beginning 5 months after the date payment of the handler
5 user charge is due, ~~but not paid~~ **IF THE AMOUNT OWED UNDER**
6 **SUBDIVISION (A) IS NOT PAID IN FULL**, at the request of the
7 department, an action by the attorney general for the collection
8 of the amount owed under subdivision (a) and the actual cost to
9 the department in attempting to collect the amount owed under
10 subdivision (a).

11 (6) The department shall maintain information regarding the
12 site identification number user charges ~~under subsection (1) and~~
13 the handler user charges ~~received~~ **COLLECTED** under this section as
14 necessary to satisfy the reporting requirements of subsection
15 (8).

16 (7) The site identification number user charges and the
17 handler user charges collected under this section and any amounts
18 collected under subsection (5) for a violation of this section
19 shall be forwarded to the state treasurer and deposited in the
20 environmental pollution prevention fund created in section 11130
21 and credited to the hazardous waste and liquid industrial waste
22 users account created in section 11130(5).

23 (8) The department shall evaluate the effectiveness and
24 adequacy of the site identification number user charges and the
25 handler user charges collected under this section relative to the
26 overall revenue needs of the ~~state's~~ hazardous waste management
27 program administered under this part. Not later than April 1 of

1 each even-numbered year, the department shall summarize its
2 findings under this subsection in a report and shall provide that
3 report to the legislature.

4 (9) Notwithstanding any other provision in this section, if
5 the balance of the hazardous waste and liquid industrial waste
6 users account created in section 11130(5), as of December 31 of
7 any year, exceeds \$3,200,000.00, the department shall suspend the
8 handler user charges until October of the following year.

9 (10) As used in this section:

10 (a) "Handler" means the person required to pay the handler
11 user charge.

12 (b) "Handler user charge" means the annual hazardous waste
13 management program user charge provided for in subsection (2).

14 Enacting section 1. Sections 11116, 11117, 11118, 11119,
15 11120, and 11122 of the natural resources and environmental
16 protection act, 1994 PA 451, MCL 324.11116, 324.11117, 324.11118,
17 324.11119, 324.11120, and 324.11122, are repealed.