

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 20

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 11123 (MCL 324.11123), as amended by 2010 PA
357.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11123. (1) Unless a person is complying with subsection
2 (8) or a rule promulgated under section 11127(4), a person shall
3 not establish, construct, conduct, manage, maintain, or operate a
4 treatment, storage, or disposal facility within this state
5 without an operating license from the department.

6 (2) An application for an operating license for a proposed
7 treatment, storage, or disposal facility or the expansion,
8 enlargement, or alteration of a treatment, storage, or disposal

1 facility beyond its original authorized design capacity or beyond
2 the area specified in an existing operating license, original
3 construction permit, or other authorization shall be submitted on
4 a form provided by the department and contain all of the
5 following:

6 (a) The name and residence of the applicant.

7 (b) The location of the proposed treatment, storage, or
8 disposal facility project.

9 (c) A copy of an actual published notice that the applicant
10 published at least 30 days before submittal of the application in
11 a newspaper having major circulation in the municipality and the
12 immediate vicinity of the proposed treatment, storage, or
13 disposal facility project. The notice shall contain a map
14 indicating the location of the proposed treatment, storage, or
15 disposal facility project and information on the nature and size
16 of the proposed facility. In addition, as provided by the
17 department, the notice shall contain a description of the
18 application review process, the location where the complete
19 application may be reviewed, and an explanation of how copies of
20 the complete application may be obtained.

21 (d) A written summary of the comments received at the public
22 preapplication meeting required by rule and the applicant's
23 response to the comments, including any revisions to the
24 application.

25 (e) A determination of existing hydrogeological
26 characteristics specified in a hydrogeological report and
27 monitoring program consistent with rules promulgated under this

1 part.

2 (f) An environmental assessment. The environmental
3 assessment shall include, at a minimum, an evaluation of the
4 proposed facility's impact on the air, water, and other natural
5 resources of this state, and also shall contain an environmental
6 failure mode assessment.

7 (g) The procedures for closure and postclosure monitoring.

8 (h) An engineering plan.

9 (i) Other information specified by rule or by federal
10 regulation issued under the solid waste disposal act.

11 (j) An application fee. The application fee shall be
12 deposited in the environmental pollution prevention fund created
13 in section 11130. Pursuant to procedures established by rule, the
14 application fee shall be ~~the sum of~~ \$25,000.00 plus all of the
15 following, as applicable:

16	(i)	For a landfill, surface impoundment,	
17		land treatment, or waste pile	
18		facility.....	\$ 9,000.00
19	(ii)	For an incinerator or treatment	
20		facility other than a treatment facility	
21		described in subparagraph (i).....	\$ 7,200.00
22	(iii)	For a storage facility, other than	
23		storage that is associated with	
24		treatment or disposal activities that	
25		may be regulated under a single license..	\$ 500.00

26 (k) Except as otherwise provided in this subdivision, a
27 disclosure statement that includes all of the following:

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

(A) The applicant.

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

(C) The operator. If a waiver is obtained under subparagraph (B), detailed information regarding the proposed operator shall be included in the disclosure statement.

(D) If known, the 3 employees of the operator who will have the most responsibility for the day-to-day operation of the facility, including their previous experience with other hazardous waste treatment, storage, or disposal facilities.

(E) Any other partnership, corporation, association, or other legal entity if any person required to be listed under subparagraphs (A) to (D) has at any time had 25% or more of the equity in or debt liability of that legal entity. The department may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(ii) ~~A~~ **FOR EACH PERSON REQUIRED TO BE LISTED UNDER THIS SUBDIVISION, A** list of all convictions for criminal violations of any ~~environmental~~ statute enacted by a federal, state, Canadian, or Canadian provincial agency ~~for each person required to be listed under this subdivision.~~ **IF THE STATUTE IS AN ENVIRONMENTAL STATUTE, IF THE VIOLATION WAS A MISDEMEANOR COMMITTED IN FURTHERANCE OF OBTAINING AN OPERATING LICENSE UNDER THIS PART NOT**

1 MORE THAN 5 YEARS BEFORE THE APPLICATION IS FILED, OR IF THE
2 VIOLATION WAS A FELONY COMMITTED IN FURTHERANCE OF OBTAINING AN
3 OPERATING LICENSE UNDER THIS PART NOT MORE THAN 10 YEARS BEFORE
4 THE APPLICATION IS FILED. If debt liability is held by a
5 chartered lending institution, information required in this
6 subparagraph and subparagraphs (iii) and (iv) is not required from
7 that institution. THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE
8 A REPORT ON THE 2014 ACT THAT AMENDED THIS SUBPARAGRAPH,
9 INCLUDING THE NUMBER OF PERMITS DENIED AS A RESULT OF THAT ACT
10 AND WHETHER THIS SUBPARAGRAPH SHOULD BE FURTHER AMENDED. THE
11 REPORT SHALL COVER THE 5-YEAR PERIOD AFTER THE EFFECTIVE DATE OF
12 THAT ACT AND SHALL BE SUBMITTED WITHIN 60 DAYS AFTER THE
13 EXPIRATION OF THAT 5-YEAR PERIOD. THE REPORT MAY BE SUBMITTED
14 ELECTRONICALLY.

15 (iii) A list of all environmental permits or licenses issued
16 by a federal, state, local, Canadian, or Canadian provincial
17 agency held by each person required to be listed under this
18 subdivision that were permanently revoked because of
19 noncompliance.

20 (iv) A list of all activities at property owned or operated
21 by each person required to be listed under this subdivision that
22 resulted in a threat or potential threat to the environment and
23 for which public funds were used to finance an activity to
24 mitigate the threat or potential threat to the environment,
25 except if the public funds expended to facilitate the mitigation
26 of environmental contamination were voluntarily and expeditiously
27 recovered from the applicant or other listed person without

1 litigation.

2 (l) A demonstration that the applicant has considered each of
3 the following:

4 (i) The risk and impact of accident during the transportation
5 of hazardous waste to the treatment, storage, or disposal
6 facility.

7 (ii) The risk and impact of fires or explosions from improper
8 treatment, storage, and disposal methods at the treatment,
9 storage, or disposal facility.

10 (iii) The impact on the municipality where the proposed
11 treatment, storage, or disposal facility is to be located in
12 terms of health, safety, cost, and consistency with local
13 planning and existing development, including proximity to
14 housing, schools, and public facilities.

15 (iv) The nature of the probable environmental impact,
16 including the specification of the predictable adverse effects on
17 each of the following:

18 (A) The natural environment and ecology.

19 (B) Public health and safety.

20 (C) Scenic, historic, cultural, and recreational values.

21 (D) Water and air quality and wildlife.

22 (m) A summary of measures evaluated to mitigate the impacts
23 identified in subdivision (l) and a detailed description of the
24 measures to be implemented by the applicant.

25 (n) A schedule for submittal of all of the following
26 postconstruction documentation:

27 (i) Any changes in, or additions to, the previously submitted

1 disclosure information, or a certification that the disclosure
2 listings previously submitted continue to be correct, following
3 completion of construction of the treatment, storage, or disposal
4 facility.

5 (ii) A certification under the seal of a licensed
6 professional engineer verifying that the construction of the
7 treatment, storage, or disposal facility has proceeded according
8 to the plans approved by the department and, if applicable, the
9 approved construction permit, including as-built plans.

10 (iii) A certification of the treatment, storage, or disposal
11 facility's capability of treating, storing, or disposing of
12 hazardous waste in compliance with this part.

13 (iv) Proof of financial assurance as required by rule.

14 (3) If any information required to be included in the
15 disclosure statement under subsection (2)(k) changes or is
16 supplemented after the filing of the statement, the applicant or
17 licensee shall provide that information to the department in
18 writing not later than 30 days after the change or addition.

19 (4) Notwithstanding any other provision of law, the
20 department may deny an application for an operating license if
21 there are any listings pursuant to subsection (2)(k)(ii), (iii), or
22 (iv) as originally disclosed or as supplemented.

23 (5) The application for an operating license for a proposed
24 limited storage facility, which is subject to the requirements
25 pertaining to storage facilities, shall be submitted on a form
26 provided by the department and contain all of the following:

27 (a) The name and residence of the applicant.

1 (b) The location of the proposed facility.

2 (c) A determination of existing hydrogeological
3 characteristics specified in a hydrogeological report and
4 monitoring program consistent with rules promulgated under this
5 part.

6 (d) An environmental assessment. The environmental
7 assessment shall include, at a minimum, an evaluation of the
8 proposed facility's impact on the air, water, and other natural
9 resources of this state, and also shall contain an environmental
10 failure mode assessment.

11 (e) The procedures for closure.

12 (f) An engineering plan.

13 (g) Proof of financial responsibility.

14 (h) A resolution or other formal determination of the
15 governing body of each municipality in which the proposed limited
16 storage facility would be located indicating that the limited
17 storage facility is compatible with the zoning ordinance of that
18 municipality, if any. However, in the absence of a resolution or
19 other formal determination, the application shall include a copy
20 of a registered letter sent to the municipality at least 60 days
21 before the application submittal, indicating the intent to
22 construct a limited storage facility, and requesting a formal
23 determination on whether the proposed facility is compatible with
24 the zoning ordinance of that municipality, if any, in effect on
25 the date the letter is received, and indicating that failure to
26 pass a resolution or make a formal determination within 60 days
27 of receipt of the letter means that the proposed facility is to

1 be considered compatible with any applicable zoning ordinance.
2 If, within 60 days of receiving a registered letter, a
3 municipality does not make a formal determination concerning
4 whether a proposed limited storage facility is compatible with a
5 zoning ordinance of that municipality as in effect on the date
6 the letter is received, the limited storage facility is
7 considered compatible with any zoning ordinance of that
8 municipality, and incompatibility with a zoning ordinance of that
9 municipality ~~shall not be~~ **IS NOT** a basis for ~~denial of the~~

10 ~~license by the department.~~ **THE DEPARTMENT TO DENY THE LICENSE.**

11 (i) An application fee of \$500.00. The application fee shall
12 be deposited in the environmental pollution prevention fund
13 created in section 11130.

14 (j) Other information specified by rule or by federal
15 regulation issued under the solid waste disposal act.

16 (6) The application for an operating license for a
17 treatment, storage, or disposal facility other than a facility
18 identified in subsection (2) or (5) shall be made on a form
19 provided by the department and include all of the following:

20 (a) The name and residence of the applicant.

21 (b) The location of the existing treatment, storage, or
22 disposal facility.

23 (c) Other information considered necessary by the department
24 or specified in this section, by rule, or by federal regulation
25 issued under the solid waste disposal act.

26 (d) Proof of financial responsibility. An applicant for an
27 operating license for a treatment, storage, or disposal facility

1 that is a surface impoundment, landfill, or land treatment
2 facility shall demonstrate financial responsibility for claims
3 arising from nonsudden and accidental occurrences relating to the
4 operation of the facility that cause injury to persons or
5 property.

6 (e) A fee of \$500.00. The fee shall be deposited in the
7 environmental pollution prevention fund created in section 11130.

8 (7) The department shall establish a schedule for requiring
9 each person subject to subsection (8) to submit an operating
10 license application. The department may adjust this schedule as
11 necessary. Each person subject to subsection (8) shall submit a
12 complete operating license application within 180 days of the
13 date requested to do so by the department.

14 (8) A person who owns or operates a treatment, storage, or
15 disposal facility that is in existence on the effective date of
16 an amendment of this part or of a rule promulgated under this
17 part that renders all or portions of the facility subject to the
18 operating license requirements of this section may continue to
19 operate the facility or portions of the facility that are subject
20 to the operating license requirements until an operating license
21 application is approved or denied if all of the following
22 conditions have been met:

23 (a) A complete operating license application is submitted
24 within 180 days of the date requested by the department under
25 subsection (7).

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

1 (c) The person qualifies for interim status as defined in
2 the solid waste disposal act, is in compliance with interim
3 status standards established by federal regulation under subtitle
4 C of the solid waste disposal act, 42 USC 6921 to 6939e, and has
5 not had interim status terminated.

6 (9) A person may request to be placed on a department-
7 organized mailing list to be kept informed of any rules, plans,
8 operating license applications, contested case hearings, public
9 hearings, or other information or procedures relating to the
10 administration of this part. The department may charge a fee to
11 cover the cost of the materials.