

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

**324.11118 Construction permit required; application form; activities subject to construction permit requirements; contents of application; fee; disclosure statement; providing additional information; denial of application; placement on organized mailing list; charge; revolving fund; records; expenses; newspaper notice; calculation of construction permit application fee.**

Sec. 11118. (1) Except as otherwise provided in section 11122, a person shall not establish a treatment, storage, or disposal facility without a construction permit from the department. A person proposing the establishment of a treatment, storage, or disposal facility subject to the construction permit requirement of this part, but not including a limited storage facility, shall make application for a construction permit to the department on a form provided by the department.

(2) If an amendment to this part or to the rules promulgated under this part subjects activities lawfully being conducted at a treatment, storage, or disposal facility at the time the amendment takes effect to the operating license requirements of this part solely because of the amendment, the activities carried out at the facility prior to the effective date of the amendment are not subject to the construction permit requirements of this part, except for an expansion of the facility with respect to such activities beyond its original authorized design capacity or beyond the area specified in an original permit, license, or other authorization or an alteration of the method of hazardous waste treatment or disposal.

(3) The application for a construction permit shall contain the name and residence of the applicant, the location of the proposed treatment, storage, or disposal facility, and other information specified in this section, by rule, or by federal regulation issued under the solid waste disposal act. The application shall be accompanied by a construction permit application fee. The fee shall be calculated as provided in subsection (10) or may be based on the actual cost of the construction permit review according to procedures established by rule. Construction permit application fees shall be deposited in the general fund of the state. The application shall include a copy of the actual published notice as described in subsection (9) and a determination of existing hydrogeological characteristics specified in a hydrogeological report and monitoring program consistent with rules promulgated pursuant to this part, an environmental assessment, an engineering plan, and the procedures for closure and postclosure monitoring. The environmental assessment shall include, at a minimum, an evaluation of the proposed facility's impact on the air, water, and other natural resources of the state, and also shall contain an environmental failure mode assessment.

(4) Except as otherwise provided in this subsection, the construction permit application shall include a disclosure statement that includes all of the following:

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

(i) The applicant.

(ii) 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.

(iii) The operator, if known.

(iv) If known, the 3 employees of the operator who will have the most responsibility for the day-to-day operation of the facility.

(v) Any other business entity included within the definition of person that any person required to be listed in subparagraphs (i) to (iv) has at any time had 25% or more of the equity in or debt liability of. The department may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(b) 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 subsection. If debt liability is held by a chartered lending institution, information required in this subsection and subsection (4)(c) and (d) is not required from that institution.

(c) A listing of all environmental permits or licenses issued by a federal, state, Canadian, or Canadian provincial agency held by each person required to be listed under this subsection that were permanently revoked because of noncompliance.

(d) A listing of all activities at property owned or operated by each person required to be listed under this subsection that resulted in a threat or potential threat to the environment and for which public funds were used to finance an activity to mitigate the threat or potential threat to the environment, except if the public funds expended to facilitate the mitigation of environmental contamination were voluntarily and expeditiously recovered from the applicant or other listed person without litigation.

(5) If any information required to be included in the disclosure statement 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 the change or addition.

(6) Notwithstanding any other provision of law, the department may deny an application for a construction permit if there are any listings pursuant to subsection (4)(b), (c), or (d) as originally disclosed or as supplemented.

(7) A person may indicate an interest in being placed on a department organized mailing list to be kept informed of any rules, plans, construction permit applications, contested case hearings, public hearings, or other information or procedures relating to the administration of this part. A charge may be required by the department to cover the cost of the materials.

(8) There is created within the state treasury a revolving fund. When a site construction permit application is referred to a site review board by the department, the applicant shall pay a \$25,000.00 fee to be placed in this fund. The \$25,000.00 fee shall be in addition to the application fee required under subsection (3). This fund shall cover the expenses of the site review board members, the chairperson, a mediator, and any other expenses necessary to the deliberations of the board. The department shall administer the fund and authorize expenditures. The department shall maintain records to support any expenses charged to the fund. If expenses payable from the fund exceed the \$25,000.00 fee paid by the applicant, the additional expenses shall be paid from money appropriated by the legislature to the revolving fund created in this subsection. Any unexpended portion of an applicant's \$25,000.00 fee that is not expended to pay the expenses listed in this subsection shall be reimbursed to the applicant after the site review board process is concluded.

(9) An application for a site construction permit shall not be complete unless it includes a copy of a newspaper notice which the applicant published at least 30 days prior to submittal of the application in a newspaper having major circulation in the municipality and the immediate vicinity of the proposed treatment, storage, or disposal facility. The required published notice shall contain a map indicating the location of the proposed treatment, storage, or disposal facility and information on the nature and size of the proposed facility. In addition, the notice shall contain all of the following information provided by the department:

(a) A description of the application review process.

(b) The location where the complete application package may be reviewed.

(c) An explanation of how copies of the complete application package may be obtained.

(10) An applicant for a construction permit for a treatment, storage, or disposal facility shall calculate the applicable construction permit application fee required under subsection (3) by totaling the following for each construction permit application:

(a) For a landfill, surface impoundment, land treatment, or waste pile facility..... \$ 9,000.00

(b) For an incinerator or treatment facility other than a treatment facility in subdivision (a)..... \$ 7,200.00

(c) For a storage facility, other than storage that is associated with treatment or disposal activities that may be regulated under a single permit..... \$ 500.00

(d) For the permitted site size of a landfill, surface impoundment, land treatment, or waste pile facility, except waste piles meeting the requirements of 40 C.F.R. 264.250(c), the following:

(i) Less than 5 acres..... \$ 100.00

(ii) 5 to 19 acres..... \$ 170.00

(iii) 20 to 79 acres..... \$ 240.00

(iv) 80 acres or more..... \$ 320.00

(e) For the permitted site size of a treatment or storage facility, other than a facility listed in subdivision (d), the following:

(i) Less than 5 acres..... \$ 50.00

(ii) 5 to 19 acres..... \$ 100.00

(iii) 20 to 79 acres..... \$ 100.00

(iv) 80 acres or more..... \$ 100.00

(f) For the projected waste volume per day for a landfill, surface impoundment, land treatment, or waste pile facility, except waste piles meeting the requirements of 40 C.F.R. 264.250(c), the following:

(i) Less than 50 cubic yards or 10,000 gallons..... \$ 60.00

(ii) 50 to 100 cubic yards or 10,000 to 20,000 gallons..... \$ 80.00

(iii) 101 to 700 cubic yards or 20,001 to 140,000 gallons..... \$ 100.00

- (iv) More than 700 cubic yards or more than 140,000  
gallons..... \$ 130.00
- (g) For the projected waste volume per day for a treatment or storage facility, other than a facility listed in subdivision (f), the following:
  - (i) Less than 50 cubic yards or 10,000  
gallons..... \$ 50.00
  - (ii) 50 to 100 cubic yards or 10,000 to 20,000  
gallons..... \$ 100.00
  - (iii) 101 to 700 cubic yards or 20,001 to 140,000  
gallons..... \$ 100.00
  - (iv) More than 700 cubic yards or more than 140,000  
gallons..... \$ 150.00
- (h) For the hydrogeological characteristics of a landfill, surface impoundment, land treatment, or waste pile facility, except waste piles meeting the requirements of 40 C.F.R. 264.250(c), the following:
  - (i) Natural clay..... \$ 40.00
  - (ii) Natural sand..... \$ 60.00
  - (iii) Compacted clay..... \$ 70.00
  - (iv) Artificially lined (other materials)..... \$ 100.00
  - (v) Any combination of the above..... \$ 100.00
- (i) For the hydrogeological characteristics of surface water in a treatment or storage facility, other than a facility listed in subdivision (h)..... \$ 75.00

**History:** 1994, Act 451, Eff. Mar. 30, 1995.

**Popular name:** Act 451

**Popular name:** Hazardous Waste Act

**Popular name:** NREPA

**Administrative rules:** R 299.9101 et seq. of the Michigan Administrative Code.