



# SENATE BILL No. 1293

November 10, 1994, Introduced by Senator BERRYMAN and referred to the Committee on Natural Resources and Environmental Affairs

A bill to amend sections 4, 7a, 17, 18, and 20 of Act No 64 of the Public Acts of 1979, entitled as amended

"Hazardous waste management act,"

section 4 as amended by Act No 87 of the Public Acts of 1992, section 7a as amended by Act No 284 of the Public Acts of 1992, sections 17 and 20 as amended by Act No 228 of the Public Acts of 1987, and section 18 as amended by Act No 106 of the Public Acts of 1990, being sections 299 504, 299 507a, 299 517, 299 518, and 299 520 of the Michigan Compiled Laws and to add sections 17a, 17b, 18a, and 18b

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 4, 7a, 17, 18, and 20 of Act No 64 of  
2 the Public Acts of 1979, section 4 as amended by Act No 87 of  
3 the Public Acts of 1992, section 7a as amended by Act No 284 of  
4 the Public Acts of 1992, sections 17 and 20 as amended by Act

1 No 228 of the Public Acts of 1987, and section 18 as amended by  
2 Act No 106 of the Public Acts of 1990, being sections 299 504,  
3 299 507a, 299 517, 299 518, and 299 520 of the Michigan Compiled  
4 Laws, are amended and sections 17a, 17b, 18a, and 18b are added  
5 to read as follows

6       Sec 4     (1) "Generation" means the act or process of  
7 producing hazardous waste

8       (2) "Generator" means any person, by site, whose act or pro-  
9 cess, produces hazardous waste as identified or listed pursuant  
10 to section 27 or whose act first causes a hazardous waste to  
11 become subject to regulation under this act

12       (3) "Hazardous waste" means waste or a combination of waste  
13 and other discarded material including solid, liquid, semisolid,  
14 or contained gaseous material which because of its quantity  
15 quality concentration or physical, chemical, or infectious  
16 characteristics may cause or significantly contribute to an  
17 increase in mortality or increase in serious irreversible illness  
18 or serious incapacitating, but reversible illness, or pose a sub-  
19 stantial present or potential hazard to human health or the envi-  
20 ronment if improperly treated, stored, transported, disposed of,  
21 or otherwise managed     Hazardous waste does not include material  
22 which is solid or dissolved material in domestic sewage dis-  
23 charge, or solid or dissolved material in an irrigation return  
24 flow discharge, or industrial discharge which is a point source  
25 subject to permits under section 402 of title IV of the federal  
26 water pollution control act, chapter 758, 86 Stat 880, 33  
27 U S C 1342, or is a source, special nuclear, or by-product

1 material as defined by the atomic energy act of 1954, chapter  
2 1073, 68 Stat 919

3 (4) "HAZARDOUS WASTE INCINERATOR" MEANS A COMBUSTION UNIT  
4 DESIGNED AND USED FOR THE BURNING OF HAZARDOUS WASTE AND ANY  
5 APPURTENANT EQUIPMENT

6 (5) ~~-(4)-~~ "Hazardous waste management" means the systematic  
7 control of the collection, source separation, storage, transpor-  
8 tation, processing, treatment, recovery, recycling, and disposal  
9 of hazardous waste

10 (6) ~~-(5)-~~ "Landfill" means a disposal facility or part of a  
11 facility where hazardous waste is placed in or on land and which  
12 is not a pile, land treatment facility, a surface impoundment, an  
13 injection well, a salt dome formation, a salt bed formation, or  
14 an underground mine or cave

15 (7) ~~-(6)-~~ "Land treatment facility" means a treatment facil-  
16 ity or part of a treatment facility at which hazardous waste is  
17 applied onto or incorporated into the soil surface If waste  
18 will remain after closure, a facility described in this subsec-  
19 tion is a disposal facility

20 (8) ~~-(7)-~~ "Limited storage facility" means a storage facil-  
21 ity that meets all of the following conditions

22 (a) Has a maximum storage capacity that does not exceed  
23 25,000 gallons of hazardous waste

24 (b) Storage occurs only in tanks or containers

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

1 (d) Does not store hazardous waste on site for more than  
2 90 days

3 (e) Does not receive hazardous waste from a treatment, stor-  
4 age, or disposal facility

5 (9) ~~-(8)-~~ "Manifest" means a form approved by the ~~director~~  
6 DEPARTMENT used for identifying the quantity, composition,  
7 origin, routing, and destination of hazardous waste during its  
8 transportation from the point of generation to the point of dis-  
9 posal, treatment, or storage

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

14 (11) ~~-(10)-~~ "Mechanism" means a letter of credit a finan-  
15 cial test which demonstrates the financial strength of the com-  
16 pany owning a treatment, storage, or disposal facility or a  
17 parent company guaranteeing financial assurance for a subsidiary  
18 or an insurance policy that will provide funds for closure or  
19 postclosure care of a treatment, storage, or disposal facility

20 (12) ~~-(11)-~~ "Municipal solid waste incinerator" means an  
21 incinerator that is owned or operated by any person, and meets  
22 all of the following requirements

23 (a) The incinerator receives solid waste from off site and  
24 burns only household waste from single and multiple dwellings,  
25 hotels, motels, and other residential sources, or this household  
26 waste together with solid waste from commercial, institutional,  
27 municipal, county, or industrial sources that, if disposed of,

1 would not be required to be placed in a disposal facility  
2 licensed under this act

3 (b) The incinerator has established contractual requirements  
4 or other notification or inspection procedures sufficient to  
5 assure that the incinerator receives and burns only waste  
6 referred to in subdivision (a)

7 (c) The incinerator meets the requirements of this act and  
8 the rules promulgated under this act

9 (d) The incinerator is not an industrial furnace as defined  
10 in 40 C F R 260.10

11 (13) ~~-(12)-~~ "Municipal solid waste incinerator ash" means  
12 the substances remaining after combustion in a municipal solid  
13 waste incinerator

14 (14) ~~-(13)-~~ "Municipality" means a city, village, township,  
15 or Indian tribe

16 (15) ~~-(14)-~~ "On site" means on the same or geographically  
17 contiguous property that may be divided by a public or private  
18 right of way if the entrance and exit between the pieces of prop-  
19 erty are at a crossroads intersection and access is by crossing  
20 rather than going along the right of way On site property  
21 includes noncontiguous pieces of property owned by the same  
22 person but connected by a right of way that the owner controls  
23 and to which the public does not have access

24 Sec 7a (1) Except as otherwise provided in this section,  
25 ~~and commencing on January 1, 1989,~~ each owner or operator of a  
26 landfill OR HAZARDOUS WASTE INCINERATOR shall pay to the  
27 department a fee assessed on hazardous waste disposed of in a

1 landfill OR HAZARDOUS WASTE INCINERATOR The fee shall be based  
2 on the quantity of waste specified on the manifest or monthly  
3 operating report and shall be ~~-\$10-00-~~ \$20 00 per ton, ~~-\$10-00-~~  
4 \$20 00 per cubic yard, or ~~-1/2-~~ 1 cent per pound depending on the  
5 unit of measure used by the owner or operator to calculate the  
6 fee The fee for fractional quantities of hazardous waste shall  
7 be proportional If the waste is required to be listed on a man-  
8 ifest and the owner or operator of the landfill OR HAZARDOUS  
9 WASTE INCINERATOR determines that the waste quantity figure on  
10 the manifest is not accurate, the owner or operator shall correct  
11 the waste quantity figure on all manifest copies accompanying the  
12 shipment, note the reason for the changes in the discrepancy  
13 indication space on the manifest, and assess the fee in accord-  
14 ance with the corrected waste quantity figure Payment shall be  
15 made within 30 days after the close of each quarter The land-  
16 fill OR HAZARDOUS WASTE INCINERATOR owner or operator shall  
17 assess off-site generators the fee The fee for hazardous waste  
18 that is generated and disposed of on the site of a landfill OR  
19 HAZARDOUS WASTE INCINERATOR owner or operator shall be paid by  
20 that owner or operator

21 (2) Except as otherwise provided in this section and com-  
22 mencing on January 1, 1989, each owner or operator of a solidifi-  
23 cation facility licensed pursuant to section 22 shall pay to the  
24 department a fee assessed on hazardous waste received at the  
25 solidification facility The fee shall be based on the quantity  
26 of waste specified on the manifest or monthly operating report  
27 and shall be ~~-\$10-00-~~ \$20 00 per ton, ~~-\$10-00-~~ \$20 00 per cubic

1 yard, ~~4~~ 8 cents per gallon, or ~~1/2~~ 1 cent per pound depending  
2 on the unit of measure used by the owner or operator to calculate  
3 the fee The fee for fractional quantities of hazardous waste  
4 shall be proportional If the waste is required to be listed on  
5 a manifest and the owner or operator of the solidification facil-  
6 ity determines that the waste quantity figure on the manifest is  
7 not accurate, the owner or operator shall correct the waste quan-  
8 tity figure on all manifest copies accompanying the shipment,  
9 note the reason for the change in the discrepancy indication  
10 space on the manifest, and assess the fee in accordance with the  
11 corrected waste quantity figure Payment shall be made within 30  
12 days after the close of each quarter The solidification facil-  
13 ity owner or operator shall assess off-site generators the fee  
14 The fee for hazardous waste that is generated and solidified on  
15 the site of a solidification owner or operator shall be paid by  
16 that owner or operator

17 (3) The following hazardous waste ~~shall be~~ IS exempt from  
18 the fees provided for in this section

19 (a) Ash that results from the incineration of hazardous  
20 waste or the incineration of solid waste as defined in the solid  
21 waste management act, Act No 641 of the Public Acts of 1978,  
22 being sections 299 401 to 299 437 of the Michigan Compiled Laws

23 (b) Hazardous waste exempted by rule because of its charac-  
24 ter or the treatment it has received

25 (c) Hazardous waste that is removed from a site of environ-  
26 mental contamination that is included in a list submitted to the  
27 legislature pursuant to section 6 of the environmental response

1 act, Act No 307 of the Public Acts of 1982, being section  
2 299 606 of the Michigan Compiled Laws, or hazardous waste that is  
3 removed as part of a site cleanup activity at the expense of the  
4 state or federal government

5 (d) Solidified hazardous waste produced by a solidification  
6 facility licensed pursuant to section 22 and destined for land  
7 disposal

8 (e) Hazardous waste generated pursuant to a 1-time closure  
9 or site cleanup activity in ~~Michigan~~ THIS STATE where the clo-  
10 sure or cleanup activity has been authorized in writing by the  
11 ~~director or his or her authorized representative~~ DEPARTMENT  
12 Hazardous waste resulting from the cleanup of inadvertent  
13 releases which occur after March 30, 1988 ~~shall~~ IS not ~~be~~  
14 exempt from the fee

15 (f) Primary and secondary wastewater treatment solids from a  
16 wastewater treatment plant which includes an aggressive biologi-  
17 cal treatment facility as defined in section 3005(j)(12)(B) of  
18 subtitle C of title II of the solid waste disposal act, 42  
19 U S C 6925

20 (g) Emission control dust or sludge from the primary produc-  
21 tion of steel in electric furnaces

22 (4) An owner or operator of a landfill or solidification  
23 facility shall assess or pay the fee described in this section  
24 unless a written signed certification is provided by the genera-  
25 tor indicating that the waste is exempt from the fee If the  
26 waste that is exempt from the fee is required to be listed on a  
27 manifest, the certification shall contain the manifest number of



1 the shipment and the specific fee exemption the waste qualifies  
 2 for If the waste that is exempt from the fee is not required to  
 3 be listed on a manifest, the certification shall provide the  
 4 volume of exempt waste, the waste code or waste codes of the  
 5 exempt waste, the date of disposal or solidification, and the  
 6 specific fee exemption the waste qualifies for The owner or  
 7 operator of the landfill or solidification facility shall retain  
 8 this certification for 4 years from the date of receipt

9 (5) The department or a health department certified pursuant  
 10 to section 45 shall evaluate the accuracy of generator fee exemp-  
 11 tion certifications and shall take enforcement action against a  
 12 generator who files a false certificate In addition, the  
 13 department shall take enforcement action to collect fees that are  
 14 not paid as required by this section

15 (6) The landfill owner or operator and the solidification  
 16 facility owner or operator shall forward fee revenue due to the  
 17 department with a completed form that is provided or approved by  
 18 the ~~director~~ DEPARTMENT The owner or operator shall certify  
 19 that all information provided in the form is accurate The form  
 20 shall include the following information

21 (a) The volume of waste subject to a fee

22 (b) The name of each generator who was assessed a fee, the  
 23 generator's identification number, manifest numbers, waste vol-  
 24 umes, and the amount of the fee assessed

25 (7) A generator who documents to the ~~director or an autho-~~  
 26 ~~rized representative of the director~~ DEPARTMENT, on a form  
 27 provided by the department, a reduction in the amount of

1 hazardous waste generated as a result of a process change, or  
2 documents a reduction in the amount of hazardous waste that is  
3 being disposed of in a landfill, either directly or following  
4 solidification at a solidification facility, as a result of a  
5 process change or the generator's increased use of source separa-  
6 tion, input substitution, process reformulation, recycling,  
7 treatment, or an exchange of hazardous waste that results in a  
8 utilization of that waste shall be eligible for a refund from the  
9 state. The refund shall be in the amount of \$10.00 per ton,  
10 \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound  
11 of waste reduced or managed through an alternative to landfill  
12 disposal. A generator ~~shall~~ IS not ~~be~~ eligible to receive a  
13 refund for that portion of a reduction in the amount of hazardous  
14 waste generated that is attributable to a decrease in the  
15 generator's level of production of the products that resulted in  
16 the generation of the hazardous waste.

17 (8) ~~Commencing in 1990 and in each following year a~~ A  
18 generator seeking a refund shall calculate the refund due by com-  
19 paring waste generation, treatment, and disposal activity in the  
20 calendar year immediately preceding the date of filing with waste  
21 generation, treatment, and disposal activity in the calendar year  
22 2 years prior to the date of filing.

23 (9) To be eligible for a refund, a generator must file a  
24 request with the ~~director or an authorized representative of the~~  
25 ~~director~~ DEPARTMENT by June 30 of the year following the year  
26 for which the refund is being claimed.

1       (10) ~~At no time shall a~~ A refund SHALL NOT exceed the  
2 total fees paid by the generator to the landfill operator or  
3 owner and the solidification facility operator or owner

4       (11) A form submitted by the generator as provided for in  
5 subsection (7) shall be certified by the generator or the  
6 generator's authorized agent

7       (12) The department shall maintain information regarding the  
8 landfill disposal fees received and refunds provided pursuant to  
9 this section

10       (13) The fees collected pursuant to this section shall be  
11 forwarded to the state treasurer and deposited in the general  
12 fund to be appropriated to pay refunds to generators under this  
13 section and to fund programs created under the waste minimization  
14 act, Act No ~~-245-~~ 147 of the Public Acts of ~~-1987-~~ 1993, being  
15 sections ~~-299-731 to 299-740-~~ 299 891 TO 299 898 of the Michigan  
16 Compiled Laws, and the waste reduction assistance act, Act  
17 No ~~-247-~~ 148 of the Public Acts of ~~-1987-~~ 1993, being  
18 sections ~~-299-751 to 299-765-~~ 299 871 TO 299 882 of the Michigan  
19 Compiled Laws

20       Sec 17   (1) A site review board shall be established to  
21 review and grant or deny final approval for each site construc-  
22 tion permit application that is referred to the board by the  
23 ~~director~~ DEPARTMENT ~~When~~ IF more than 1 construction permit  
24 application for interrelated facilities on a single site within  
25 the same municipality are submitted by the same applicant,  
26 reviewed concurrently by the department, and referred to the  
27 board by the ~~director~~ DEPARTMENT, a single board shall be

1 established to review the site applications concurrently but  
2 shall grant or deny final approval for each application  
3 individually A board shall consist of 9 voting members and a  
4 nonvoting chairperson to be appointed as provided in subsection  
5 (2)

6 (2) The following 9 members and 1 nonvoting chairperson  
7 shall serve on every board established to review a site construc-  
8 tion permit application

9 (a) Seven members shall be members appointed by the gover-  
10 nor, with the advice and consent of the senate The 7 members on  
11 each board shall include a geologist, a chemical engineer, and a  
12 toxicologist, each of whom are on the faculty of an institution  
13 of higher education within the state, a representative from a  
14 manufacturing industry, 2 representatives of the public, and a  
15 representative of a municipality Subject to the other require-  
16 ments of this subdivision, the governor may appoint more than 1  
17 geologist, chemical engineer, toxicologist, representative from a  
18 manufacturing industry, and representative of a municipality and  
19 more than 2 representatives of the public However, only 1 geol-  
20 ogist, chemical engineer, toxicologist, representative from a  
21 manufacturing industry, and representative of a municipality and  
22 only 2 representatives of the public, as randomly designated by  
23 the ~~director~~ DEPARTMENT, shall serve on a particular board  
24 The member who represents municipalities shall be associated with  
25 a municipality or municipal association that is or represents the  
26 same type of municipality in which a facility is proposed to be  
27 located A member representing a municipality or the public

1 shall not serve on a site review board that is evaluating an  
2 application for a facility located within a county or municipal-  
3 ity which directly employs the member or in which the member  
4 resides A vacancy shall be filled for the unexpired portion of  
5 the period in the same manner as the original appointments All  
6 members appointed by the governor, including a chairperson  
7 appointed pursuant to subdivision (c), shall be appointed to  
8 serve on site review boards for a period of 3 years, and may be  
9 appointed for additional 3-year periods In addition, a member  
10 may serve beyond the expiration of the member's 3-year period of  
11 service for so long a period of time as is necessary to complete  
12 action on construction permit applications pending at the expira-  
13 tion of the member's 3-year period of service

14 (b) One member shall be appointed by the governing body of  
15 the municipality in which the treatment, storage, or disposal  
16 facility is primarily proposed to be located to serve on the  
17 board ~~which~~ THAT is established to consider a particular con-  
18 struction permit application One member shall be appointed by  
19 the county board of commissioners in which the treatment, stor-  
20 age, or disposal facility is proposed to be located and shall be  
21 a resident of the county where the facility is proposed to be  
22 located The members serving pursuant to this subdivision shall  
23 serve until the particular construction permit application  
24 subject to their review is approved, or until the application is  
25 rejected and is no longer subject to review

26 (c) An attorney shall be appointed by the governor, with the  
27 advice and consent of the senate, to serve as a nonvoting

1 chairperson on each board established to review a site  
2 construction permit The chairperson shall have experience in  
3 conducting formal meetings where sworn testimony is received  
4 Subject to the other requirements of this subdivision, the gover-  
5 nor may appoint more than 1 chairperson However, only 1 chair-  
6 person, designated by the director, shall serve on a particular  
7 board

8 (3) The ~~director or an authorized representative of the~~  
9 ~~director~~ DEPARTMENT shall notify the local governing body of the  
10 municipality and county government of a construction permit  
11 application filed with the department

12 (4) Five of the 9 voting members of the board ~~shall~~ con-  
13 stitute a quorum for the transaction of business of the board and  
14 the concurrence of 5 voting members of the board shall constitute  
15 a legal action of the board All meetings of the board shall be  
16 conducted pursuant to the open meetings act, Act No 267 of the  
17 Public Acts of 1976 as amended being sections 15 261 to 15 275  
18 of the Michigan Compiled Laws

19 (5) The ~~director~~ DEPARTMENT shall make staff available to  
20 assist a board in carrying out its responsibilities

21 (6) ~~A site review board that is established before the~~  
22 ~~effective date of the amendatory act that added this subsection~~  
23 ~~shall proceed and fulfill its duties pursuant to the applicable~~  
24 ~~law in effect when the site review board was established~~

25 MEMBERS OF A SITE REVIEW BOARD SHALL RECEIVE PER DIEM COMPENSA-  
26 TION OF \$75 00 PER DAY

1        SEC 17A    BEGINNING ON JANUARY 9, 1992, A PERMIT SHALL NOT  
2 BE ISSUED AUTHORIZING THE CONSTRUCTION OF A HAZARDOUS WASTE  
3 INCINERATOR OR A LANDFILL IN THIS STATE UNTIL THE DIRECTOR  
4 RECEIVES AND REVIEWS THE FIRST ASSESSMENT REQUIRED UNDER SECTION  
5 17B

6        SEC 17B    (1) THREE YEARS AFTER THE EFFECTIVE DATE OF THIS  
7 SECTION, AND EVERY 3 YEARS FOLLOWING THE FIRST ASSESSMENT  
8 REQUIRED UNDER THIS SECTION, THE DEPARTMENT SHALL PREPARE AND  
9 SUBMIT A REPORT TO THE GOVERNOR AND THE LEGISLATURE THAT ASSESSES  
10 THE HAZARDOUS WASTE DISPOSAL CAPACITY WITHIN THIS STATE, REGION,  
11 AND THE NATION    THE ASSESSMENT SHALL DETERMINE THE AMOUNT OF  
12 HAZARDOUS WASTE DISPOSAL CAPACITY NEEDED TO MANAGE THE HAZARDOUS  
13 WASTE EXPECTED TO BE GENERATED IN THIS STATE AND IMPORTED INTO  
14 THIS STATE FOR THE NEXT 20 YEARS    THE ASSESSMENT SHALL INCLUDE  
15 ALL OF THE FOLLOWING

16        (A) A DETERMINATION OF THE AGGREGATE TREATMENT CAPACITY  
17 AUTHORIZED AT LANDFILLS OR HAZARDOUS WASTE INCINERATORS LOCATED  
18 IN THIS STATE, THIS REGION, AND THIS NATION

19        (B) A DETERMINATION OF THE QUANTITY OF HAZARDOUS WASTE GEN-  
20 ERATED IN THIS STATE THAT IS BEING INCINERATED IN A HAZARDOUS  
21 WASTE INCINERATOR OR DISPOSED OF IN A LANDFILL AND PROJECTIONS OF  
22 THE QUANTITY OF HAZARDOUS WASTE GENERATED IN THIS STATE THAT WILL  
23 BE TREATED OR DISPOSED OF AT THOSE FACILITIES

24        (C) A DETERMINATION OF THE QUANTITY OF HAZARDOUS WASTE GEN-  
25 ERATED OUTSIDE THIS STATE THAT IS BEING INCINERATED IN A HAZARD-  
26 OUS WASTE INCINERATOR OR DISPOSED OF IN A LANDFILL LOCATED IN  
27 THIS STATE AND PROJECTIONS OF THE QUANTITY OF HAZARDOUS WASTE

1 GENERATED OUTSIDE THIS STATE THAT WILL BE TREATED OR DISPOSED OF  
2 AT THOSE FACILITIES

3 (D) A DETERMINATION OF THE QUANTITY OF HAZARDOUS WASTE GEN-  
4 ERATED IN THIS STATE THAT IS BEING INCINERATED IN A HAZARDOUS  
5 WASTE INCINERATOR OR DISPOSED OF IN A LANDFILL LOCATED OUTSIDE  
6 THIS STATE, AND PROJECTIONS OF THE QUANTITY OF HAZARDOUS WASTE  
7 GENERATED IN THIS STATE THAT WILL BE TREATED OR DISPOSED OF AT  
8 THOSE FACILITIES

9 (E) THE AMOUNT OF COMMERCIAL HAZARDOUS WASTE INCINERATOR AND  
10 LANDFILL CAPACITY THAT THE DEPARTMENT REASONABLY ANTICIPATES WILL  
11 BE NEEDED DURING THE FIRST 3 YEARS OF THE PLANNING PERIOD TO  
12 MANAGE HAZARDOUS WASTE GENERATED FROM THE REMEDIATION OF CONTAMI-  
13 NATED SITES IN THIS STATE

14 (F) BASED UPON AVAILABLE DATA, PROVIDED THAT THE DATA ARE  
15 RELIABLE AND ARE COMPATIBLE WITH THE DATA BASE OF THE UNITED  
16 STATES ENVIRONMENTAL PROTECTION AGENCY, AN IDENTIFICATION OF ANY  
17 HAZARDOUS WASTE FIRST LISTED AS A HAZARDOUS WASTE IN REGULATIONS  
18 ADOPTED UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976,  
19 90 STAT 2806, 42 U S C A 6921, AS AMENDED, ON OR AFTER THE  
20 EFFECTIVE DATE OF THIS SECTION, AND OF ANY HAZARDOUS WASTE THAT  
21 HAS BEEN PROPOSED FOR LISTING BY PUBLICATION OF A NOTICE IN THE  
22 FEDERAL REGISTER ON OR BEFORE DECEMBER 1 OF THE YEAR IMMEDIATELY  
23 PRECEDING THE TRIENNIAL ASSESSMENT

24 (G) AN ANALYSIS OF OTHER FACTORS THAT MAY RESULT IN CAPACITY  
25 CHANGES OVER THE PERIOD ADDRESSED IN THE ASSESSMENT REPORT,  
26 INCLUDING ALTERNATIVE TREATMENT TECHNOLOGIES AND WASTE REDUCTION  
27 PROJECTIONS



1 (2) AFTER CONSIDERING ALL THE INFORMATION REQUIRED IN THE  
2 ASSESSMENT UNDER SUBSECTION (1), THE DEPARTMENT SHALL DETERMINE  
3 WHETHER IT IS NECESSARY OR APPROPRIATE TO CONTINUE TO PROHIBIT  
4 THE CONSTRUCTION OF HAZARDOUS WASTE LANDFILLS AND INCINERATORS AS  
5 PROVIDED UNDER SECTION 17A FOR THE DURATION OF THE NEXT ASSESS-  
6 MENT PERIOD THE DIRECTOR SHALL CONSIDER ALL OF THE FOLLOWING  
7 WHEN MAKING A DETERMINATION UNDER THIS SUBSECTION

8 (A) THE FINDINGS OF THE ASSESSMENT

9 (B) THE FINDINGS OF AN EVALUATION CONDUCTED BY THE  
10 DEPARTMENT

11 (C) THE EFFECT THAT A NEW HAZARDOUS WASTE INCINERATOR OR  
12 LANDFILL MAY HAVE ON AMBIENT AIR QUALITY IN THIS STATE

13 (D) THE FINDINGS OF A REVIEW OF RELEVANT INFORMATION REGARD-  
14 ING THE IMPACTS OF HAZARDOUS WASTE INCINERATORS AND LANDFILLS ON  
15 HUMAN HEALTH AND THE ENVIRONMENT, SUCH AS HEALTH STUDIES AND RISK  
16 ASSESSMENTS

17 (E) THE FINDINGS OF A REVIEW OF THE OPERATIONAL RECORDS OF  
18 HAZARDOUS WASTE INCINERATORS AND LANDFILLS OPERATING IN THIS  
19 STATE

20 (F) ANY REPORTS OR FINDINGS OF THE INTERNATIONAL JOINT COM-  
21 MISSION REGARDING THE IMPACT OF HAZARDOUS WASTE INCINERATORS AND  
22 LANDFILLS ON THE GREAT LAKES, HUMAN HEALTH, AND THE ENVIRONMENT

23 (G) THE FINDINGS OF ANY REVIEW OF RELEVANT INFORMATION CON-  
24 CERNING THE FOLLOWING

25 (1) EFFORTS BY GENERATORS OF HAZARDOUS WASTE ACCEPTED BY  
26 HAZARDOUS WASTE INCINERATORS AND LANDFILLS TO REDUCE THE AMOUNT

1 OF HAZARDOUS WASTE THAT THEY GENERATE AND THE EFFECT THAT ADDED  
2 CAPACITY MAY HAVE ON WASTE REDUCTION EFFORTS

3 (11) REGULATORY AND LEGISLATIVE CONCERNS THAT MAY INCLUDE  
4 THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF 40 C F R 271 4, AS  
5 THEY EXISTED ON THE EFFECTIVE DATE OF THIS SECTION

6 (3) IF, AFTER CONSIDERING ALL OF THE INFORMATION AND CON-  
7 CERNS THAT THE DIRECTOR IS REQUIRED TO CONSIDER UNDER SUBSECTION  
8 (2), THE DIRECTOR DETERMINES THAT IT IS NECESSARY OR APPROPRIATE  
9 TO TERMINATE THE RESTRICTION ON THE CONSTRUCTION OF HAZARDOUS  
10 WASTE INCINERATORS AND LANDFILLS WITHIN THE STATE IN ORDER TO  
11 PROTECT HUMAN HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT, THE  
12 DIRECTOR SHALL ISSUE AS A FINAL ACTION A DETAILED REPORT SETTING  
13 FORTH THE DEPARTMENT'S CONSIDERATIONS REGARDING THE REQUIREMENTS  
14 OF THIS SECTION IF THE DIRECTOR DETERMINES THAT IT IS NECESSARY  
15 OR APPROPRIATE FOR THOSE PURPOSES TO CONTINUE TO RESTRICT THE  
16 CONSTRUCTION OF HAZARDOUS WASTE INCINERATORS AND LANDFILLS IN  
17 THIS STATE UNTIL THE ISSUANCE OF THE NEXT SUCCEEDING PERIODIC  
18 ASSESSMENT UNDER SUBSECTION (1), THE DIRECTOR SHALL ISSUE AS A  
19 FINAL ACTION A WRITTEN DETERMINATION TO THAT EFFECT

20 Sec 18 (1) Except as otherwise provided in section 21a, a  
21 person shall not establish a treatment, storage, or disposal  
22 facility without a construction permit from the ~~director~~  
23 DEPARTMENT A person proposing the establishment of a treatment,  
24 storage, or disposal facility subject to the construction permit  
25 requirement of this act, but not including a limited storage  
26 facility, shall make application for a construction permit to the

1 ~~director~~ DEPARTMENT on a form provided by the ~~director or an~~  
2 ~~authorized representative of the director~~ DEPARTMENT

3       (2) If an amendment to this act or to the rules promulgated  
4 under this act subjects activities lawfully being conducted at a  
5 treatment, storage, or disposal facility at the time the amend-  
6 ment takes effect to the operating license requirements of this  
7 act solely because of the amendment, the activities carried out  
8 at the facility prior to the effective date of the amendment  
9 shall not be subject to the construction permit requirements of  
10 this act, except for an expansion of the facility with respect to  
11 such activities beyond its original authorized design capacity or  
12 beyond the area specified in an original permit, license, or  
13 other authorization or an alteration of the method of hazardous  
14 waste treatment or disposal

15       (3) The application for a construction permit shall contain  
16 the name and residence of the applicant, the location of the pro-  
17 posed treatment, storage, or disposal facility, and other infor-  
18 mation specified in this section, by rule, or by federal regula-  
19 tion issued under title II of the solid waste disposal act   IN  
20 ADDITION, THE APPLICATION SHALL DESCRIBE THE APPLICANT SITE  
21 SELECTION PROCESS   ALTERNATIVE SITES CONSIDERED, AND THE BASIS  
22 FOR THE SELECTION OF THE PROPOSED SITE   THE APPLICANT SHALL  
23 SUBMIT INFORMATION ESTABLISHING THAT ENVIRONMENTAL LAND RESOURCE  
24 INFORMATION WAS A FACTOR IN THE INITIAL SITE SELECTION, AND THAT  
25 THE INITIAL CONSTRUCTION PLANS ARE COMPATIBLE WITH THE ENVIRON-  
26 MENTAL LAND RESOURCES OF THE SELECTED SITE   ENVIRONMENTAL LAND  
27 RESOURCE INFORMATION SHALL INCLUDE AN INVENTORY OF NATURAL

1 FEATURES, WETLAND, HYDROGEOLOGY, FARMLANDS, AND RELATED

2 RESOURCES The application shall be accompanied by a construction  
 3 permit application fee AND THE APPLICANT'S ASSESSED CONTRIBUTION  
 4 TO THE LOCAL INFORMATION DEVELOPMENT FUND CALCULATED PURSUANT TO  
 5 THIS SECTION AND SECTION 18A The APPLICATION fee shall be calcu-  
 6 lated as provided in subsection (10) or may be based on the  
 7 actual cost of construction permit review according to procedures  
 8 established by rule Construction permit application fees shall  
 9 be deposited in the general fund of the state The application  
 10 shall include a copy of the actual published notice as described  
 11 in subsection (9) and a determination of existing hydrogeological  
 12 characteristics specified in a hydrogeological report and moni-  
 13 toring program consistent with rules promulgated pursuant to this  
 14 act, an environmental assessment, an engineering plan, and the  
 15 procedures for closure and postclosure monitoring The environ-  
 16 mental assessment shall include, at a minimum, an evaluation of  
 17 the proposed facility's impact on the air water and other natu-  
 18 ral resources of the state and also shall contain an environmen-  
 19 tal failure mode assessment

20 (4) Except as otherwise provided in this subsection, the  
 21 construction permit application shall include a disclosure state-  
 22 ment which includes all of the following

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

25 (1) The applicant

26 (11) The 5 persons holding the largest shares of the equity  
 27 in or debt liability of the proposed facility The ~~director~~

1 DEPARTMENT may waive all or any portion of this requirement for  
2 an applicant that is a corporation with publicly traded stock

3 (iii) The operator, if known

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

7 (v) Any other business entity listed in the definition of  
8 person in section 5(2) in which any person required to be listed  
9 in subparagraphs (i) to (iv) has at any time had ~~25%~~ 15% or more  
10 of the equity in or debt liability of that business entity The  
11 ~~director~~ DEPARTMENT may waive all or any portion of this  
12 requirement for an applicant that is a corporation with publicly  
13 traded stock

14 (b) All convictions for criminal violations ALL CIVIL  
15 JUDGMENTS AND FINAL ADMINISTRATIVE ACTIONS REGARDING THE  
16 VIOLATION of any environmental statute enacted by a federal,  
17 state, Canadian, or provincial agency for each person required to  
18 be listed under this subsection If debt liability is held by a  
19 chartered lending institution, information required in this sub-  
20 section and subsection (4)(c) and (d) shall not be required from  
21 that institution

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

26 (d) A listing of all activities at property owned or  
27 operated by each person required to be listed under this

1 subsection, if the incident resulted in a threat or potential  
2 threat to the environment, and public funds were used to finance  
3 an activity to mitigate the threat or potential threat to the  
4 environment, except if the public funds expended to facilitate  
5 the mitigation of environmental contamination were voluntarily  
6 and expeditiously recovered from the applicant or other listed  
7 person without litigation

8 (5) If any information required to be included in the dis-  
9 closure statement changes, or is supplemented after the filing of  
10 the statement, the applicant, permittee, or licensee shall pro-  
11 vide that information to the department in writing, within 30  
12 days of the change or addition

13 (6) Notwithstanding any other provision of law, the  
14 ~~director~~ DEPARTMENT may deny an application for a construction  
15 permit if there are any listings pursuant to subsection (4)(b),  
16 (c), or (d) as originally disclosed or as supplemented

17 (7) A person may indicate an interest in being placed on a  
18 department organized mailing list to be kept informed of any  
19 rules, plans, construction permit applications, contested case  
20 hearings, public hearings, or other information or procedures  
21 relating to the administration of this act A charge may be  
22 required by the ~~director~~ DEPARTMENT to cover the cost of the  
23 materials

24 (8) There is created within the state treasury a revolving  
25 fund When a site construction permit application is referred to  
26 a site review board by the ~~director~~ DEPARTMENT, the applicant  
27 shall pay a \$25,000 00 fee to be placed in this fund The

1 \$25,000 00 fee shall be in addition to the application fee  
2 required under subsection (3) This fund shall cover the  
3 expenses of the site review board members, the chairperson, a  
4 mediator, and any other expenses necessary to the deliberations  
5 of the board The ~~director or an authorized representative of~~  
6 ~~the director~~ DEPARTMENT shall administer the fund and authorize  
7 expenditures The ~~director or an authorized representative of~~  
8 ~~the director~~ DEPARTMENT shall maintain records to support any  
9 expenses charged to the fund If expenses payable from the fund  
10 exceed the \$25,000 00 fee paid by the applicant, the additional  
11 expenses shall be paid from money appropriated by the legislature  
12 to the revolving fund created in this subsection Any unexpended  
13 portion of an applicant's \$25,000 00 fee that is not expended to  
14 pay the expenses listed in this subsection shall be reimbursed to  
15 the applicant after the site review board process is concluded

16 (9) An application for a site construction permit ~~shall~~ IS  
17 not ~~be~~ complete unless it includes a copy of a newspaper notice  
18 which the applicant published at least 30 days prior to submittal  
19 of the application in a newspaper having major circulation in the  
20 municipality and the immediate vicinity of the proposed treat-  
21 ment, storage, or disposal facility The required published  
22 notice shall contain a map indicating the location of the pro-  
23 posed treatment, storage, or disposal facility and information on  
24 the nature and size of the proposed facility In addition, the  
25 notice shall contain all of the following information provided by  
26 the ~~director or an authorized representative of the director~~  
27 DEPARTMENT

1 (a) A description of the application review process

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

4 (c) How copies of the complete application package may be  
5 obtained

6 (10) An applicant for a construction permit for a treatment,  
7 storage, or disposal facility shall calculate the applicable con-  
8 struction permit application fee required under subsection (3) by  
9 totaling the following for each construction permit application

10 (a) For a landfill, surface impoundment, land  
11 treatment, or waste pile facility \$9,000 00

12 (b) For an incinerator or treatment facility other  
13 than a treatment facility in subdivision (a) \$7,200 00

14 (c) For a storage facility, other than storage that  
15 is associated with treatment or disposal activities that  
16 may be regulated under a single permit \$ 500 00

17 (d) For the permitted site size of a landfill, surface  
18 impoundment, land treatment, or waste pile facility, except waste  
19 piles meeting the requirements of 40 C F R 264 250(c), the  
20 following

21 (i) Less than 5 acres \$100 00

22 (ii) 5 to 19 acres \$170 00

23 (iii) 20 to 79 acres \$240 00

24 (iv) 80 acres or more \$320 00



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

4	(i) Less than 5 acres	\$ 50 00
5	(ii) 5 to 19 acres	\$100 00
6	(iii) 20 to 79 acres	\$100 00
7	(iv) 80 acres or more	\$100 00

8 (f) For the projected waste volume per day for a landfill,  
 9 surface impoundment, land treatment, or waste pile facility,  
 10 except waste piles meeting the requirement of 40

11 C F R 264 250(c), the following

12	(i) Less than 50 cubic yards or 10,000 gallons	\$ 60 00
13	(ii) 50 to 100 cubic yards or 10,000 to 20,000	
14	gallons	\$ 80 00
15	(iii) 101 to 700 cubic yards or 20,000 to 140,000	
16	gallons	\$100 00
17	(iv) More than 700 cubic yards or more than 140,000	
18	gallons	\$130 00

19 (g) For the projected waste volume per day for a treatment  
 20 or storage facility, other than a facility listed in  
 21 subdivision (f), the following

22	(i) Less than 50 cubic yards or 10,000 gallons	\$ 50 00
23	(ii) 50 to 100 cubic yards or <del>10,000</del> 10,001 to	
24	20,000 gallons	\$100 00
25	(iii) 101 to 700 cubic yards or <del>20,000</del> 20,001 to	
26	140,000 gallons	\$100 00

1 (iv) More than 700 cubic yards or more than 140,000  
 2 gallons \$150 00

3 (h) For the hydrogeological characteristics of a landfill,  
 4 surface impoundment, land treatment, or waste pile facility,  
 5 except waste piles meeting the requirements of 40  
 6 C F R 264 250(c), the following

7 (i) Natural clay \$ 40 00  
 8 (ii) Natural sand \$ 60 00  
 9 (iii) Compacted clay \$ 70 00  
 10 (iv) Artificially lined (other materials) \$100 00  
 11 (v) Any combination of the above \$100 00

12 (i) For the hydrogeological characteristics of sur-  
 13 face water in a treatment or storage facility, other than  
 14 a facility listed in subdivision (h) \$ 75 00

15 (J) FOR ANY LANDFILL OR HAZARDOUS WASTE INCINERA-  
 16 TOR FOR DEPOSIT IN THE LOCAL INFORMATION DEVELOPMENT

17 FUND \$25,000 00

18 SEC 18A (1) THE LOCAL INFORMATION DEVELOPMENT FUND IS  
 19 CREATED WITHIN THE STATE TREASURY THE STATE TREASURER SHALL  
 20 DIRECT THE INVESTMENT OF THE FUND THE STATE TREASURER SHALL  
 21 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS

22 (2) MONEY IN THE FUND SHALL REMAIN IN THE FUND AT THE CLOSE  
 23 OF THE FISCAL YEAR AND SHALL NOT REVERT TO THE GENERAL FUND

24 (3) THE FUND SHALL CONSIST OF CONTRIBUTIONS FROM APPLICANTS  
 25 CALCULATED BY THE APPLICANT PURSUANT TO SECTION 18(10) (J) AND IF  
 26 AN APPLICATION FOR A PERMIT IS REFERRED TO THE SITE REVIEW BOARD  
 27 AN ADDITIONAL \$75,000 00 AND 1/2% OF THE TOTAL ESTIMATED PROJECT

1 COST AND ANY OTHER FUNDS APPROPRIATED BY THE LEGISLATURE THE  
2 DEPARTMENT SHALL EXPEND MONEY FROM THE FUND ONLY TO PROVIDE FUNDS  
3 TO MUNICIPALITIES IN WHICH AN APPLICATION FOR A CONSTRUCTION  
4 PERMIT FOR A TREATMENT, STORAGE, OR DISPOSAL FACILITY HAS BEEN  
5 SUBMITTED AND IS PENDING TO ENABLE THAT MUNICIPALITY OR CITIZENS  
6 GROUPS DESIGNATED BY THE MUNICIPALITY TO DO 1 OR MORE OF THE  
7 FOLLOWING

8 (A) DEVELOP INFORMATION REGARDING THE PROPOSED FACILITY AS  
9 SPECIFIED BY THE DEPARTMENT PRIOR TO THE SITE REVIEW BOARD DECI-  
10 SION REGARDING A PROPOSED SITE

11 (B) PAY FOR EXPERT REVIEW, CRITIQUE, AND STUDIES OF TECHNI-  
12 CAL INFORMATION RELEVANT TO THE APPLICATION

13 (4) MONEY FROM THE LOCAL DEVELOPMENT FUND SHALL NOT BE USED  
14 TO PAY FOR LEGAL FEES OR LEGAL ACTION IN REGARD TO OPPOSITION TO  
15 THE FACILITY

16 (5) THE DEPARTMENT SHALL PROMPTLY DISBURSE MONEY FROM THE  
17 LOCAL INFORMATION DEVELOPMENT FUND TO A MUNICIPALITY THAT SUBMITS  
18 A WORK PLAN AND PROPOSED BUDGET FOR THE USE OF MONEY FROM THE  
19 LOCAL INFORMATION DEVELOPMENT FUND AS AUTHORIZED UNDER SUBSECTION

20 (3) THE LOCAL UNIT OF GOVERNMENT SHALL SUBMIT TO THE DEPARTMENT  
21 A DETAILED ACCOUNTING OF EXPENDITURES OF MONEY FROM THE LOCAL  
22 INFORMATION DEVELOPMENT FUND AFTER THOSE FUNDS ARE UTILIZED

23 SEC 18B (1) THE DEPARTMENT SHALL DEVELOP PRINTED OR  
24 AUDIOVISUAL EDUCATIONAL MATERIALS, OR BOTH, REGARDING THE HAZARD-  
25 OUS WASTE FACILITY CITING PROCESS AND THE ROLE OF CITIZENS AND  
26 SITE REVIEW BOARDS IN THAT PROCESS THE MATERIALS SHALL BE  
27 DESIGNED TO ORIENT THE PUBLIC ABOUT THE MANAGEMENT OF HAZARDOUS

1 WASTE AND THE ROLE THE DEPARTMENT, THE SITE REVIEW BOARDS, AND  
2 THE PUBLIC HAVE IN THAT PROCESS THE MATERIALS SHALL BE DEVEL-  
3 OPED IN COORDINATION WITH PERSONS REPRESENTING THE CONCERNS OF  
4 CITIZENS IN THE MUNICIPALITY WHERE A SITE IS OR MAY BE LOCATED,  
5 MUNICIPALITIES, THE REGULATED COMMUNITY, AND THE ENVIRONMENTAL  
6 COMMUNITY

7 (2) THE DEPARTMENT SHALL DEVELOP FOR MEMBERS OF SITE REVIEW  
8 BOARDS TRAINING SESSIONS AND MATERIALS REGARDING HAZARDOUS WASTE  
9 MANAGEMENT AND THE SITE REVIEW BOARD PROCESS THE TIMES AND LOCA-  
10 TIONS OF THE TRAINING SESSIONS SHALL BE CONVENIENT THE DEPART-  
11 MENT SHALL ENCOURAGE PARTICIPATION BY MEMBERS OF SITE REVIEW  
12 BOARDS IN THE TRAINING SESSIONS THE TRAINING SESSIONS MAY BE  
13 CONDUCTED AND THE TRAINING MATERIALS DEVELOPED BY THE DEPARTMENT,  
14 OR THE DEPARTMENT MAY ENTER INTO A CONTRACT TO PROVIDE THIS  
15 SERVICE

16 (3) THE DEPARTMENT SHALL PROVIDE MEMBERS OF SITE REVIEW  
17 BOARDS WITH AVAILABLE DATA AND STUDIES REGARDING HAZARDOUS WASTE  
18 CAPACITY AND NEEDS ON A STATEWIDE, REGIONAL, AND SITE-SPECIFIC  
19 BASIS FOR USE BY THE SITE REVIEW BOARDS IN FULFILLING THEIR  
20 RESPONSIBILITIES UNDER THIS ACT

21 Sec 20 (1) The ~~director or an authorized representative~~  
22 ~~of the director~~ DEPARTMENT shall notify those members appointed  
23 by the governor who will serve on the board within 75 days after  
24 receipt of a construction permit application, if the ~~director~~  
25 DEPARTMENT has not notified the applicant of the intent to deny  
26 the application, or at the time the ~~director~~ DEPARTMENT refers  
27 an application to the board, or at the time an application is

1 automatically referred to the board pursuant to section 19(4),  
2 whichever is earlier At that time the department also shall  
3 notify the county and the municipality in which the proposed  
4 treatment, storage, or disposal facility is to be located and  
5 request the appointment of the members of the board as provided  
6 in section 17(2)(b) The notification shall include a notice of  
7 intent to issue all departmental permits required for the con-  
8 struction pending approval by the board Within 45 days after  
9 the notification, the county and the municipality shall select  
10 the members to serve on the board The board shall be created at  
11 that time and notification of the creation of the board shall be  
12 made to the chairperson

13 (2) Within 30 days after creation of a board, the board  
14 shall meet to review and establish a timetable for the considera-  
15 tion of an application for a proposed treatment, storage, or dis-  
16 posal facility

17 (3) The board shall

18 (a) Set a date and arrange for publication of notice of a  
19 public hearing in a newspaper having major circulation in the  
20 vicinity of the proposed site, at its first meeting The public  
21 notice shall

22 (1) Contain a map indicating the location of the proposed  
23 treatment, storage, or disposal facility, a description of the  
24 proposed action, and the location where the application for a  
25 construction permit may be reviewed and where copies may be  
26 obtained

1       (11) Identify the time, place, and location for the public  
2 hearing held to receive public comment and input on the  
3 application for a construction permit

4       (b) Hold a public hearing within 45 days of the first board  
5 meeting

6       (c) Publish the notice not less than 30 days before the date  
7 of the public hearing

8       (4) Comment and input on the proposed treatment, storage, or  
9 disposal facility may be presented orally or in writing at the  
10 public hearing, and shall continue to be accepted in writing by  
11 the board for 15 days after the public hearing date

12       (5) After the public hearing comment period has been closed,  
13 the board shall list the issues that are to be addressed through  
14 a negotiation process and list the issues to be evaluated by the  
15 board through its deliberations

16       (6) A negotiation process shall take place between the  
17 applicant and the affected parties who shall be identified by the  
18 board   A representative of the municipality and a representative  
19 of the county in which the facility is proposed to be located  
20 shall each be considered an affected party   If requested by any  
21 affected party or the applicant, the board shall appoint a medi-  
22 ator to assist during negotiations   The negotiation process  
23 shall

24       (a) Proceed concurrently with the board's hearings process

25       (b) Address the list of issues referred by the board and any  
26 other issues unanimously agreed to be considered by the applicant  
27 and all affected parties

1 (c) Be completed within 150 days after the first meeting of  
2 the board unless the applicant and 1 or more affected parties  
3 involved in the negotiation process jointly request an extension  
4 of not more than 60 days and the extension is approved by the  
5 board The board shall not grant extensions in excess of 60  
6 days An extension granted under this subdivision may extend the  
7 time period in which the board either approves or rejects the  
8 construction permit application as specified in subsection (15)

9 (7) On each negotiation issue ~~which~~ THAT has not reached a  
10 negotiated settlement, the board shall select between final best  
11 offers presented by affected parties The final best offer or  
12 the negotiated settlement shall not be less stringent than the  
13 requirements of the law or pertinent decisions of the board,  
14 whichever is the most stringent

15 (8) The board shall conduct formal or informal hearings to  
16 receive evidence on the disputed issues not subject to the nego-  
17 tiation process described in subsections (6) and (7)

18 (9) The formal hearings process shall be conducted by the  
19 board to receive information from technical experts on disputed  
20 issues Any affected party may request permission by the board  
21 to participate in the board's formal hearings within 15 days  
22 after the board's public hearing The board shall determine  
23 which affected parties shall participate in the board's formal  
24 hearing If the board denies the request of an affected party to  
25 participate in the board's formal hearing, the board shall give  
26 the affected party notice of the board's decision and the reasons  
27 for the decision A representative of the municipality and a

1 representative of the county in which the facility is proposed to  
2 be located shall each be automatically entitled to participate  
3 During the board's formal hearings process, the board shall

4 (a) Receive sworn testimony

5 (b) Cross-examine witnesses

6 (c) Allow representatives of affected parties to  
7 cross-examine witnesses

8 (d) Request participation as needed

9 (10) Comments made at informal hearings shall not be made  
10 under oath and no cross-examination shall occur

11 (11) The board shall deliberate on the impact of the pro-  
12 posed treatment, storage, or disposal facility on the municipal-  
13 ity in which it is to be located and make a final determination  
14 on the construction permit application

15 (12) The board shall consider, at a minimum all of the  
16 following

17 (a) The risk and impact of accident during the transporta-  
18 tion of hazardous waste

19 (b) The risk and impact of contamination of ground and sur-  
20 face water by leaching and runoff from the proposed treatment,  
21 storage, or disposal facility

22 (c) The risk of fires or explosions from improper treatment,  
23 storage, and disposal methods

24 (d) The impact on the municipality where the proposed treat-  
25 ment, storage, or disposal facility is to be located in terms of  
26 the health, safety, cost, and consistency with local planning and  
27 existing development The board also shall consider local



1 ordinances, permits, or other requirements and their potential  
2 relationship to the proposed treatment, storage, or disposal  
3 facility

4 (e) The nature of the probable environmental impact, includ-  
5 ing the specification of the predictable adverse effects on the  
6 following

7 (1) The natural environment and ecology

8 (11) Public health and safety

9 (111) Scenic, historic, cultural, and recreational value

10 (1v) Water and air quality, and wildlife

11 (f) An evaluation of measures to mitigate adverse effects

12 (g) The board shall consider the information contained in  
13 the construction permit application disclosure statement

14 (13) The board also shall consider the concerns and objec-  
15 tions submitted by the public The board shall facilitate  
16 efforts to provide that the concerns and objections are mitigated  
17 by establishing additional stipulations specifically applicable  
18 to the treatment, storage, or disposal facility and operation at  
19 that site Through deliberations, the board may modify the con-  
20 struction permit application in response to its findings The  
21 board also shall to the fullest extent practicable integrate by  
22 stipulation the provisions of the local ordinances, permits, or  
23 requirements

24 (14) The board may seek the advice of any person in order to  
25 render a decision to approve or deny the construction permit  
26 application

1 (15) Within 180 days after the first meeting of the board,  
2 the board shall make a decision on the negotiated agreement, and  
3 the final best offer from each party on each issue and shall  
4 either approve or reject the construction permit application  
5 The 180-day time period may be extended as provided in subdivi-  
6 sion (6)(c) however, no extension shall exceed 60 days

7 (16) If the board approves the construction permit applica-  
8 tion, the board shall direct the ~~director or an authorized rep-~~  
9 ~~resentative of the director~~ DEPARTMENT to prepare a draft con-  
10 struction permit and initiate a public participation process  
11 equivalent to that required by the applicable provisions of title  
12 II of the solid waste disposal act or regulations promulgated  
13 under that title The ~~director or an authorized representative~~  
14 ~~of the director~~ DEPARTMENT shall act in accord with the direc-  
15 tion of the board Upon completion of the public participation  
16 process, the ~~director~~ DEPARTMENT shall review all comments made  
17 during that process and shall issue or revise and issue the con-  
18 struction permit or reconvene the board to consider issues speci-  
19 fied by the director which were raised during the public partici-  
20 pation process Within 30 days after having been reconvened  
21 under this subsection, the board shall reject the application and  
22 direct the ~~director~~ DEPARTMENT to act accordingly, direct the  
23 ~~director~~ DEPARTMENT to issue or to revise and issue the con-  
24 struction permit, or direct the ~~director~~ DEPARTMENT to revise  
25 the draft construction permit and initiate a public participation  
26 process equivalent to that required by the applicable provisions

1 of title II of the solid waste disposal act or regulations  
2 promulgated under that title

3 (17) If the board rejects the construction permit applica-  
4 tion, the board shall

5 (a) State its reasons in writing and indicate the necessary  
6 changes to make the application acceptable if a new application  
7 is made

8 (b) Direct the ~~director~~ DEPARTMENT to deny the construc-  
9 tion permit and initiate a public participation process equiva-  
10 lent to that required by the applicable provisions of title II of  
11 the solid waste disposal act, or regulations promulgated under  
12 that act The ~~director~~ DEPARTMENT shall act in accord with the  
13 direction of the board