

SENATE BILL No. 84

January 28, 2003, Introduced by Senators BASHAM and PATTERSON 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 11103, 11118, 11118a, 11120, 11123, and 11125 (MCL 324.11103, 324.11118, 324.11118a, 324.11120, 324.11123, and 324.11125), section 11118a as added by 1996 PA 182 and section 11120 as amended by 1995 PA 61.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SENATE BILL No. 84

1 Sec. 11103. (1) "Generation" means the act or process of
2 producing hazardous waste.

3 (2) "Generator" means any person, by site, whose act or
4 process produces hazardous waste as identified or listed pursuant
5 to section 11128 or whose act first causes a hazardous waste to
6 become subject to regulation under this part.

7 (3) "Hazardous waste" means waste or a combination of waste
8 and other discarded material including solid, liquid, semisolid,

1 or contained gaseous material that because of its quantity,
2 quality, concentration, or physical, chemical, or infectious
3 characteristics may cause or significantly contribute to an
4 increase in mortality or an increase in serious irreversible
5 illness or serious incapacitating but reversible illness, or may
6 pose a substantial present or potential hazard to human health or
7 the environment if improperly treated, stored, transported,
8 disposed of, or otherwise managed. Hazardous waste does not
9 include material that is solid or dissolved material in domestic
10 sewage discharge, solid or dissolved material in an irrigation
11 return flow discharge, industrial discharge that is a point
12 source subject to permits under section 402 of title IV of the
13 federal water pollution control act, chapter 758, 86 Stat. 880,
14 33 U.S.C. 1342, or is a source, special nuclear, or by-product
15 material as defined by the atomic energy act of 1954, chapter
16 1073, 68 Stat. 919.

17 (4) "Hazardous waste management" means the systematic control
18 of the collection, source separation, storage, transportation,
19 processing, treatment, recovery, recycling, and disposal of
20 hazardous waste.

21 (5) "Landfill" means a disposal facility or part of a
22 facility where hazardous waste is placed in or on land and which
23 is not a pile, a land treatment facility, a surface impoundment,
24 an injection well, a salt dome formation, a salt bed formation,
25 or an underground mine or cave.

26 (6) "Land treatment facility" means a treatment facility or
27 part of a treatment facility at which hazardous waste is applied

1 onto or incorporated into the soil surface. If waste will remain
2 after closure, a facility described in this subsection is a
3 disposal facility.

4 (7) "Limited storage facility" means a storage facility that
5 meets all of the following conditions:

6 (a) Has a maximum storage capacity that does not exceed
7 25,000 gallons of hazardous waste.

8 (b) Storage occurs only in tanks or containers.

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

11 (d) Does not store hazardous waste on site for more than
12 90 days.

13 (e) Does not receive hazardous waste from a treatment,
14 storage, or disposal facility.

15 (8) "Manifest" means a form approved by the department used
16 for identifying the quantity, composition, origin, routing, and
17 destination of hazardous waste during its transportation from the
18 point of generation to the point of disposal, treatment, or
19 storage.

20 (9) "Manifest system" means the system used for identifying
21 the quantity, composition, origin, routing, and destination of
22 hazardous waste during its transportation from the point of
23 generation to the point of disposal, treatment, or storage.

24 (10) "Mechanism" means a letter of credit, a financial test
25 that demonstrates the financial strength of the company owning a
26 treatment, storage, or disposal facility or a parent company
27 guaranteeing financial assurance for a subsidiary, or an

1 insurance policy that will provide funds for closure or
2 postclosure care of a treatment, storage, or disposal facility.

3 **(11) "Multisource commercial hazardous waste disposal well"**
4 **has the meaning ascribed to that term in section 62501.**

5 **(12) —(11)—** "Municipal solid waste incinerator" means an
6 incinerator that is owned or operated by any person, and that
7 meets all of the following requirements:

8 (a) The incinerator receives solid waste from off site and
9 burns only household waste from single and multiple dwellings,
10 hotels, motels, and other residential sources, or burns this
11 household waste together with solid waste from commercial,
12 institutional, municipal, county, or industrial sources that, if
13 disposed of, would not be required to be placed in a disposal
14 facility licensed under this part.

15 (b) The incinerator has established contractual requirements
16 or other notification or inspection procedures sufficient to
17 assure that the incinerator receives and burns only waste
18 referred to in subdivision (a).

19 (c) The incinerator meets the requirements of this part and
20 the rules promulgated under this part.

21 (d) The incinerator is not an industrial furnace as defined
22 in 40 C.F.R. 260.10.

23 **(13) —(12)—** "Municipal solid waste incinerator ash" means the
24 substances remaining after combustion in a municipal solid waste
25 incinerator.

26 **(14) —(13)—** "Municipality" means a city, village, township,
27 or Indian tribe.

1 (15) ~~(14)~~ "On site" means on the same or geographically
2 contiguous property that may be divided by a public or private
3 right-of-way if the entrance and exit between the pieces of
4 property are at a crossroads intersection and access is by
5 crossing rather than going along the right-of-way. On site
6 property includes noncontiguous pieces of property owned by the
7 same person but connected by a right-of-way that the owner
8 controls and to which the public does not have access.

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

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

1 waste treatment or disposal.

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

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

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

1 (i) The applicant.

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

6 (iii) The operator, if known.

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

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

16 (b) All convictions for criminal violations of any
17 environmental statute enacted by a federal, state, Canadian, or
18 Canadian provincial agency for each person required to be listed
19 under this subsection. If debt liability is held by a chartered
20 lending institution, information required in this ~~subsection and~~
21 ~~subsection (4)(e)~~ **subdivision and subdivisions (c)** and (d) is
22 not required from that institution.

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

27 (d) A listing of all activities at property owned or operated

1 by each person required to be listed under this subsection that
2 resulted in a threat or potential threat to the environment and
3 for which public funds were used to finance an activity to
4 mitigate the threat or potential threat to the environment,
5 except if the public funds expended to facilitate the mitigation
6 of environmental contamination were voluntarily and expeditiously
7 recovered from the applicant or other listed person without
8 litigation.

9 (5) If any information required to be included in the
10 disclosure statement changes or is supplemented after the filing
11 of the statement, the applicant, permittee, or licensee shall
12 provide that information to the department in writing within 30
13 days of the change or addition.

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

18 (7) A person may indicate an interest in being placed on a
19 department organized mailing list to be kept informed of any
20 rules, plans, construction permit applications, contested case
21 hearings, public hearings, or other information or procedures
22 relating to the administration of this part. A charge may be
23 required by the department to cover the cost of the 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 department, the applicant shall pay a
27 ~~-\$25,000.00-~~ **\$50,000.00** fee to be placed in this fund. The

1 ~~-\$25,000.00-~~ **\$50,000.00** fee shall be in addition to the
 2 application fee required under subsection (3). ~~This-~~ **The** fund
 3 shall cover the expenses of the site review board members, the
 4 chairperson, a mediator, and any other expenses necessary to the
 5 deliberations of the board. **Up to \$10,000.00 of this fund may be**
 6 **used to reimburse the municipality in which the treatment,**
 7 **storage, or disposal facility is located for expenses to conduct**
 8 **an expert review, critique, and study of the technical**
 9 **information relevant to the application, but this fund shall not**
 10 **be used to pay for legal fees to oppose the facility.** The
 11 department shall administer the fund and authorize expenditures.
 12 The department shall maintain records to support any expenses
 13 charged to the fund. If expenses payable from the fund exceed
 14 the ~~-\$25,000.00-~~ **\$50,000.00** fee paid by the applicant, the
 15 additional expenses shall be paid from money appropriated by the
 16 legislature to the ~~revolving~~ fund. ~~created in this~~
 17 ~~subsection.~~ Any unexpended portion of an applicant's
 18 ~~-\$25,000.00-~~ **\$50,000.00** fee that is not expended to pay the
 19 expenses listed in this subsection shall be reimbursed to the
 20 applicant after the site review board process is concluded.

21 (9) An application for a site construction permit ~~shall~~ **is**
 22 not ~~be~~ complete unless it includes a copy of a newspaper notice
 23 ~~which~~ **that** the applicant published at least 30 days prior to
 24 submittal of the application in a newspaper having major
 25 circulation in the municipality and the immediate vicinity of the
 26 proposed treatment, storage, or disposal facility. The required
 27 published notice shall contain a map indicating the location of

1 the proposed treatment, storage, or disposal facility and
2 information on the nature and size of the proposed facility. In
3 addition, the notice shall contain all of the following
4 information provided by the department:

5 (a) A description of the application review process.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (iv) More than 700 cubic yards or more than 140,000
20 gallons..... \$130.00

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

24 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 50.00

25 (ii) 50 to 100 cubic yards or 10,000 to 20,000
26 gallons..... \$100.00

27 (iii) 101 to 700 cubic yards or 20,001 to 140,000

1 gallons..... \$100.00

2 (iv) More than 700 cubic yards or more than 140,000

3 gallons..... \$150.00

4 (h) For the hydrogeological characteristics of a landfill,

5 surface impoundment, land treatment, or waste pile facility,

6 except waste piles meeting the requirements of 40

7 C.F.R. 264.250(c), the following:

8 (i) Natural clay..... \$ 40.00

9 (ii) Natural sand..... \$ 60.00

10 (iii) Compacted clay..... \$ 70.00

11 (iv) Artificially lined (other materials)..... \$100.00

12 (v) Any combination of the above..... \$100.00

13 (i) For the hydrogeological characteristics of

14 surface water in a treatment or storage facility, other

15 than a facility listed in subdivision (h)..... \$ 75.00

16 Sec. 11118a. ~~(1) As used in this section, "multisource~~

17 ~~commercial hazardous waste disposal well" has the meaning~~

18 ~~ascribed to that term in section 62506a. (2) A multisource~~

19 commercial hazardous waste disposal well shall maintain on site a

20 treatment facility and a storage facility that have obtained a

21 construction permit under section 11118 and an operating license

22 under section 11123.

23 Sec. 11120. (1) The department shall notify those members

24 appointed by the governor who will serve on the board within 75

25 days after receipt of a construction permit application, if the

26 department has not notified the applicant of the intent to deny

27 the application, or at the time the department refers an

1 application to the board, or at the time an application is
2 automatically referred to the board pursuant to section 11119(4),
3 whichever is earlier. At that time the department also shall
4 notify the county and the municipality in which the proposed
5 treatment, storage, or disposal facility is to be located and
6 request the appointment of the members of the board as provided
7 in section 11117(2)(b). The notification shall include a notice
8 of intent to issue all departmental permits required for the
9 construction, pending recommendations of the board and approval
10 by the department. Within 45 days after the notification, the
11 county and the municipality shall select the members to serve on
12 the board. The board shall be created at that time and
13 notification of the creation of the board shall be made to the
14 chairperson.

15 (2) Within 30 days after creation of a board, the board shall
16 meet to review and establish a timetable for the consideration of
17 an application for a proposed treatment, storage, or disposal
18 facility.

19 (3) The board shall do all of the following:

20 (a) Set a date and arrange for publication of notice of a
21 public hearing in a newspaper having major circulation in the
22 vicinity of the proposed site, at its first meeting. The public
23 notice shall do both of the following:

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

1 obtained.

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

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

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

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

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

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

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

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

1 and all affected parties.

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

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

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

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

1 for the decision. A representative of the municipality and a
2 representative of the county in which the facility is proposed to
3 be located shall each be automatically entitled to participate.

4 During the board's formal hearings process, the board shall:

5 (a) Receive sworn testimony.

6 (b) Cross-examine witnesses.

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

9 (d) Request participation as needed.

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

12 (11) The board shall deliberate on the impact of the proposed
13 treatment, storage, or disposal facility on the municipality in
14 which it is to be located, ~~and~~ **how and why the location of the**
15 **facility was selected, and whether additional treatment, storage,**
16 **or disposal capacity is needed for the type of facility that is**
17 **proposed. Following its deliberations, the board shall** make a
18 final determination as to its recommendation to the department
19 regarding the construction permit application.

20 (12) The board shall consider, at a minimum, all of the
21 following:

22 (a) The risk and impact of accident during the transportation
23 of hazardous waste.

24 (b) The risk and impact of contamination of ground and
25 surface water by leaching and runoff from the proposed treatment,
26 storage, or disposal facility.

27 (c) The risk of fires or explosions from improper treatment,

1 storage, and disposal methods.

2 (d) The impact on the municipality where the proposed
3 treatment, storage, or disposal facility is to be located in
4 terms of health, safety, cost, and consistency with local
5 planning and existing development. The board also shall consider
6 local ordinances, permits, or other requirements and their
7 potential relationship to the proposed treatment, storage, or
8 disposal facility.

9 (e) The nature of the probable environmental impact,
10 including the specification of the predictable adverse effects on
11 the following:

12 (i) The natural environment and ecology.

13 (ii) Public health and safety.

14 (iii) Scenic, historic, cultural, and recreational value.

15 (iv) Water and air quality and wildlife.

16 (f) An evaluation of measures to mitigate adverse effects.

17 **(g) The treatment, storage, and disposal capacity for the**
18 **type of facility that is proposed.**

19 **(h) ~~-(g)-~~ The ~~board shall consider the~~ information**
20 **contained in the construction permit application disclosure**
21 **statement.**

22 **(i) The site selection process used by the applicant, and the**
23 **basis for the selection of the proposed site.**

24 **(j) For a commercial treatment, storage, or disposal**
25 **facility, the need for the facility based on existing and future**
26 **hazardous waste management capacity and needs within the state.**

27 (13) The board also shall consider the concerns and

1 objections submitted by the public. The board shall facilitate
2 efforts to provide that the concerns and objections are mitigated
3 by establishing additional stipulations specifically applicable
4 to the treatment, storage, or disposal facility and operation at
5 that site. Through deliberations, the board may modify the
6 construction permit application in response to its findings. To
7 the fullest extent practicable, the board also shall integrate by
8 stipulation the provisions of the local ordinances, permits, or
9 requirements.

10 (14) The board may seek the advice of any person in order to
11 render a decision to issue its recommendation to the department
12 to approve or deny the construction permit application.

13 (15) Within 180 days after the first meeting of the board,
14 the board shall make a decision on the negotiated agreement and
15 the final best offer from each party on each issue and shall
16 recommend to the department that the department either approve or
17 reject the construction permit application. The 180-day time
18 period may be extended as provided in ~~subdivision~~ **subsection**
19 (6)(c). However, an extension shall not exceed 60 days.

20 (16) If the board recommends to the department the approval
21 of the construction permit application and the department follows
22 the recommendation, the department shall prepare a draft
23 construction permit and initiate a public participation process
24 equivalent to that required by the applicable provisions of the
25 solid waste disposal act or regulations promulgated under that
26 act. Upon completion of the public participation process, the
27 department shall review all comments made during that process and

1 shall issue or revise and issue the construction permit or
2 reconvene the board to consider issues specified by the
3 department that were raised during the public participation
4 process. Within 30 days after having been reconvened under this
5 subsection, the board shall recommend to the department the
6 rejection of the application or recommend the revision and
7 issuance of the construction permit, or recommend that the
8 department revise the draft construction permit and initiate a
9 public participation process equivalent to that required by the
10 applicable provisions of the solid waste disposal act or
11 regulations promulgated under that act.

12 (17) If the board recommends the rejection of the
13 construction permit application, the board shall do all of the
14 following:

15 (a) State its reasons in writing and indicate the necessary
16 changes to make the application acceptable if a new application
17 is made.

18 (b) Recommend that the department deny the construction
19 permit and initiate a public participation process equivalent to
20 that required by the applicable provisions of the solid waste
21 disposal act, or regulations promulgated under that act.

22 Sec. 11123. (1) Unless a person is complying with
23 subsection (5) or a rule ~~promulgated under~~ **referred to in**
24 section 11127(4), a person shall not conduct, manage, maintain,
25 or operate a treatment, storage, or disposal facility within this
26 state without an operating license from the department.

27 (2) The application for an operating license shall contain

1 the name and residence of the applicant, the location of the
2 proposed or existing treatment, storage, or disposal facility,
3 and other information considered necessary by the department
4 including proof of financial responsibility. **If the treatment,**
5 **storage, or disposal facility includes a multisource commercial**
6 **hazardous waste disposal well, the application shall specify**
7 **whether the applicant has received all necessary permits under**
8 **state and federal law to operate the multisource commercial**
9 **hazardous waste disposal well.** In addition, the application for
10 the initial operating license after issuance of a construction
11 permit shall contain all of the disclosure information called for
12 in section 11118(4) that was not provided as part of the
13 construction permit application and any changes in or additions
14 to the previously submitted disclosure information. In addition,
15 the owner and operator shall certify that the disclosure listings
16 previously submitted continue to be correct. An applicant for an
17 operating license for a treatment, storage, or disposal facility
18 that is a surface impoundment, landfill, or land treatment
19 facility shall demonstrate financial responsibility for claims
20 arising from nonsudden and accidental occurrences relating to the
21 operation of the facility that cause injury to persons or
22 property. The application shall be accompanied by a fee of
23 \$500.00. The license fees shall be deposited in the general fund
24 of the state.

25 (3) The applicant also shall submit to the department a
26 certification under the seal of a registered professional
27 engineer verifying that the construction of the treatment,

1 storage, or disposal facility has proceeded according to the
2 plans approved by the department and, if applicable, the approved
3 construction permit. The department shall require additional
4 certification periodically during the operation or in order to
5 verify proper closure of the site. The department shall require
6 from those treatment, storage, or disposal facilities that are
7 permitted to operate pursuant to section 11116, certification of
8 the treatment, storage, or disposal facilities' capability of
9 treating, storing, or disposing of hazardous waste in compliance
10 with this part.

11 (4) The department shall establish a schedule for requiring
12 each person subject to subsection (5) to submit an operating
13 license application. The department may adjust this schedule as
14 necessary. Each person subject to subsection (5) shall submit a
15 complete operating license application within 180 days of the
16 date requested to do so by the department.

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

26 (a) A complete operating license application is submitted
27 within 180 days of the date requested by the department under

1 subsection (4).

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

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

10 Sec. 11125. (1) The department shall provide notice and an
11 opportunity for a public hearing before making a final decision
12 on an operating license application. The department shall make a
13 final decision on an operating license application within 140
14 days after the department receives a complete application.
15 However, if the state's hazardous waste management program is
16 authorized by the United States environmental protection agency
17 under sections 3006 to 3009 of subtitle C of the solid waste
18 disposal act, title II of Public Law 89-272, 42 U.S.C. 6926 to
19 6929, 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. A local ordinance, permit, or
24 other requirement shall not prohibit the operation of a licensed
25 treatment, storage, or disposal facility.

26 (2) If any information required to be included in the
27 disclosure statement required under section 11118 changes or is

1 supplemented after the filing of the statement, the applicant,
2 permittee, or licensee shall provide that information to the
3 department in writing within 30 days of the change or addition.

4 (3) The department may deny an operating license application
5 submitted pursuant to section 11123 if there are any listings
6 pursuant to section 11118(4)(b) to (d) that were not identified
7 during the site review board process or were not disclosed as
8 required in section 11123(2) or this section.

9 (4) **The department shall not issue an operating license for a**
10 **treatment, storage, or disposal facility that includes a**
11 **multisource commercial hazardous waste disposal well unless the**
12 **applicant has received all other necessary permits under state**
13 **and federal law to operate the multisource commercial hazardous**
14 **waste disposal well.**

15 Enacting section 1. This amendatory act does not take
16 effect unless Senate Bill No. 79 or House Bill No. _____
17 (request no. 00648'03) of the 92nd Legislature is enacted into
18 law.