

Act No. 53
Public Acts of 1989
Approved by the Governor
June 12, 1989
Filed with the Secretary of State
June 12, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Rep. Griffin

ENROLLED HOUSE BILL No. 4304

AN ACT to amend sections 4 and 5 of Act No. 64 of the Public Acts of 1979, entitled as amended "An act to protect the public health and the natural resources of the state and to license and regulate persons engaged in generating, transporting, treating, storing, and disposing of hazardous waste; to provide for hazardous waste management facilities; to create a means for establishing hazardous waste site review boards; to provide for the inspection and licensing of equipment; to prescribe the powers and duties of certain state agencies; to develop a plan which provides for the safe management and disposal of hazardous waste; to regulate the operation of treatment, storage, and disposal facilities; to establish a list and criteria of hazardous waste requiring treatment, storage, or disposal at approved treatment, storage, or disposal facilities; to establish a manifest system to track hazardous waste; to establish a hazardous waste service fund; to consider waste management and disposal needs of this state; and to prescribe remedies and penalties," section 4 as amended by Act No. 195 of the Public Acts of 1987 and section 5 as amended by Act No. 246 of the Public Acts of 1987, being sections 299.504 and 299.505 of the Michigan Compiled Laws; and to add section 6a.

The People of the State of Michigan enact:

Section 1. Sections 4 and 5 of Act No. 64 of the Public Acts of 1979, section 4 as amended by Act No. 195 of the Public Acts of 1987 and section 5 as amended by Act No. 246 of the Public Acts of 1987, being sections 299.504 and 299.505 of the Michigan Compiled Laws, are amended and section 6a is added to read as follows:

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

(2) "Generator" means any person, by site, whose act or process, produces hazardous waste as identified or listed pursuant to section 27 or whose act first causes a hazardous waste to become subject to regulation under this act.

(3) "Hazardous waste" means waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material which because of its quantity; quality; concentration; or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste does not include material which is solid or dissolved material in domestic sewage discharge, or solid or dissolved material in an irrigation return flow discharge, or industrial discharge which is a point source subject to permits under section 402 of title IV of the federal water pollution control act, chapter 758, 86 Stat. 880, 33 U.S.C. 1342, or is a source, special nuclear, or by-product material as defined by the atomic energy act of 1954, chapter 1073, 68 Stat. 919.

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

(5) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

(6) "Land treatment facility" means a treatment facility or part of a treatment facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

(7) "Limited storage facility" means a storage facility as defined in section 5(6) that meets all of the following conditions:

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

(b) Storage occurs only in tanks or containers.

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

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

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

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

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

(10) "Mechanism" means a letter of credit; a financial test which demonstrates the financial strength of the company owning a treatment, storage, or disposal facility or a parent company guaranteeing financial assurance for a subsidiary; or an insurance policy that will provide funds for closure or postclosure care of a treatment, storage, or disposal facility.

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

(a) The incinerator receives solid waste from off site and burns only household waste from single and multiple dwellings, hotels, motels, and other residential sources, or this household waste together with solid waste from commercial, institutional, municipal, county, or industrial sources that, if disposed of, would not be required to be placed in a disposal facility licensed under the hazardous waste management act, Act No. 64 of the Public Acts of 1979, being sections 299.501 to 299.551 of the Michigan Compiled Laws.

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

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

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

(12) "Municipal solid waste incinerator ash" means the substances remaining after combustion in a municipal solid waste incinerator.

(13) "Municipality" means a city, village, township, or Indian tribe.

(14) "On site" means on the same or geographically contiguous property which may be divided by a public or private right of way if the entrance and exit between the pieces of property are at a crossroads intersection and access is by crossing rather than going along the right of way. Noncontiguous pieces of property owned by the same person but connected by a right of way which the owner controls and to which the public does not have access is also considered on site property.

Sec. 5. (1) "Operator" means the person responsible for the overall operation of a disposal, treatment, or storage facility with approval of the director either by contract or license.

(2) "Person" means an individual; partnership; the state; trust; firm; joint stock company; federal agency; corporation, including a government corporation; association; municipality; commission; political subdivision of a state; any interstate body; and any other public body created by or pursuant to state law.

(3) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(4) "Solid waste" means that term as it is defined in the solid waste management act, Act No. 641 of the Public Acts of 1978, being sections 299.401 to 299.437 of the Michigan Compiled Laws.

(5) "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

(6) "Storage facility" means a facility or part of a facility where managed hazardous waste, as defined by rule, is subject to storage. A generator who accumulates managed hazardous waste, as defined by rule, on site in containers or tanks for less than 91 days or a period of time prescribed by rule is not a storage facility.

(7) "Surface impoundment" or "impoundment" means a treatment, storage, or disposal facility or part of a treatment, storage, or disposal facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(8) "Title II of the solid waste disposal act" means title II of Public Law 89-272, 42 U.S.C. 6901, 6902 to 6911, 6912 to 6931, 6933 to 6941, 6942 to 6979a, 6981 to 6987, and 6991 to 6991i.

(9) "Transporter" means a person engaged in the off site transportation of hazardous waste by air, rail, highway, or water.

(10) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, so as to neutralize the waste, so as to recover energy or material resources from the waste, or so as to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, amenable to recovery, amenable to storage, or reduced in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(11) "Treatment facility" means a facility or part of a facility where managed hazardous waste, as defined by rule, is subject to treatment.

(12) "Updated plan" means the updated state hazardous waste management plan prepared under section 9.

(13) "Vehicle" means a device used to transport hazardous waste. Each cargo carrying body is a separate transport vehicle.

Sec. 6a. Following the effective date of this section, the generation, transportation, treatment, storage, disposal, reuse, and recycling of municipal solid waste incinerator ash shall be regulated under the solid waste management act, Act No. 641 of the Public Acts of 1978, being sections 299.401 to 299.437 of the Michigan Compiled Laws, and not under this act.

Section 2. This amendatory act shall not take effect unless House Bill No. 4311 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved.....

Governor.