

HOUSE BILL No. 5763

April 23, 1998, Introduced by Reps. Basham, Varga, Hale, DeHart, Stallworth, Brater, Quarles, Martinez, Schermesser, Bogardus and Scranton and referred to the Committee on Conservation, Environment and Recreation.

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:

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 pro-
4 cess produces hazardous waste as identified or listed pursuant to
5 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 ill-
5 ness 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, dis-
8 posed of, or otherwise managed. Hazardous waste does not include
9 material that is solid or dissolved material in domestic sewage
10 discharge, solid or dissolved material in an irrigation return
11 flow discharge, industrial discharge that is a point source
12 subject to permits under section 402 of title IV of the federal
13 water pollution control act, chapter 758, 86 Stat. 880, 33
14 U.S.C. 1342, or is a source, special nuclear, or by-product mate-
15 rial as defined by the atomic energy act of 1954, chapter 1073,
16 68 Stat. 919.

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

21 (5) "Landfill" means a disposal facility or part of a facil-
22 ity where hazardous waste is placed in or on land and which is
23 not a pile, a land treatment facility, a surface impoundment, an
24 injection well, a salt dome formation, a salt bed formation, or
25 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 dis-
3 posal 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, stor-
14 age, 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 gen-
23 eration 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, insti-
12 tutional, municipal, county, or industrial sources that, if dis-
13 posed of, would not be required to be placed in a disposal facil-
14 ity 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
24 the substances remaining after combustion in a municipal solid
25 waste 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 prop-
4 erty are at a crossroads intersection and access is by crossing
5 rather than going along the right-of-way. On site property
6 includes noncontiguous pieces of property owned by the same
7 person but connected by a right-of-way that the owner controls
8 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 amend-
20 ment takes effect to the operating license requirements of this
21 part solely because of the amendment, the activities carried out
22 at the facility prior to the effective date of the amendment are
23 not subject to the construction permit requirements of this part,
24 except for an expansion of the facility with respect to such
25 activities beyond its original authorized design capacity or
26 beyond the area specified in an original permit, license, or

1 other authorization or an alteration of the method of hazardous
2 waste treatment or disposal.

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

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

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

3 (i) The applicant.

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

8 (iii) The operator, if known.

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

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

18 (b) All convictions for criminal violations of any environ-
19 mental statute enacted by a federal, state, Canadian, or Canadian
20 provincial agency for each person required to be listed under
21 this subsection. If debt liability is held by a chartered lend-
22 ing institution, information required in this ~~subsection and~~
23 ~~subsection (4)(c)~~ SUBDIVISION AND SUBDIVISIONS (C) and (d) is
24 not required from that institution.

25 (c) A listing of all environmental permits or licenses
26 issued by a federal, state, Canadian, or Canadian provincial
27 agency held by each person required to be listed under this

1 subsection that were permanently revoked because of
2 noncompliance.

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

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

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

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

1 (8) There is created within the state treasury a revolving
2 fund. When a site construction permit application is referred to
3 a site review board by the department, the applicant shall pay a
4 ~~-\$25,000.00-~~ \$50,000.00 fee to be placed in this fund. The
5 ~~-\$25,000.00-~~ \$50,000.00 fee shall be in addition to the applica-
6 tion fee required under subsection (3). ~~-This-~~ THE fund shall
7 cover the expenses of the site review board members, the chair-
8 person, a mediator, and any other expenses necessary to the
9 deliberations of the board. UP TO \$10,000.00 OF THIS FUND MAY BE
10 USED TO REIMBURSE THE MUNICIPALITY IN WHICH THE TREATMENT, STOR-
11 AGE, OR DISPOSAL FACILITY IS LOCATED FOR EXPENSES TO CONDUCT AN
12 EXPERT REVIEW, CRITIQUE, AND STUDY OF THE TECHNICAL INFORMATION
13 RELEVANT TO THE APPLICATION, BUT THIS FUND SHALL NOT BE USED TO
14 PAY FOR LEGAL FEES TO OPPOSE THE FACILITY. The department shall
15 administer the fund and authorize expenditures. The department
16 shall maintain records to support any expenses charged to the
17 fund. If expenses payable from the fund exceed the ~~-\$25,000.00-~~
18 \$50,000.00 fee paid by the applicant, the additional expenses
19 shall be paid from money appropriated by the legislature to the
20 ~~revolving~~ fund. ~~created in this subsection.~~ Any unexpended
21 portion of an applicant's ~~-\$25,000.00-~~ \$50,000.00 fee that is not
22 expended to pay the expenses listed in this subsection shall be
23 reimbursed to the applicant after the site review board process
24 is concluded.

25 (9) An application for a site construction permit ~~shall~~ IS
26 not ~~be~~ complete unless it includes a copy of a newspaper notice
27 ~~which~~ THAT the applicant published at least 30 days prior to

1 submittal of the application in a newspaper having major
 2 circulation in the municipality and the immediate vicinity of the
 3 proposed treatment, storage, or disposal facility. The required
 4 published notice shall contain a map indicating the location of
 5 the proposed treatment, storage, or disposal facility and infor-
 6 mation on the nature and size of the proposed facility. In addi-
 7 tion, the notice shall contain all of the following information
 8 provided by the department:

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

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

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

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

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

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

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

25 (d) For the permitted site size of a landfill, surface
 26 impoundment, land treatment, or waste pile facility, except waste

1 piles meeting the requirements of 40 C.F.R. 264.250(c), the
 2 following:

- 3 (i) Less than 5 acres..... \$100.00
- 4 (ii) 5 to 19 acres..... \$170.00
- 5 (iii) 20 to 79 acres..... \$240.00
- 6 (iv) 80 acres or more..... \$320.00

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

- 10 (i) Less than 5 acres..... \$ 50.00
- 11 (ii) 5 to 19 acres..... \$100.00
- 12 (iii) 20 to 79 acres..... \$100.00
- 13 (iv) 80 acres or more..... \$100.00

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

- 18 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 60.00
- 19 (ii) 50 to 100 cubic yards or 10,000 to 20,000
 20 gallons..... \$ 80.00
- 21 (iii) 101 to 700 cubic yards or 20,001 to 140,000
 22 gallons..... \$100.00
- 23 (iv) More than 700 cubic yards or more than 140,000
 24 gallons..... \$130.00

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

1 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 50.00
 2 (ii) 50 to 100 cubic yards or 10,000 to 20,000
 3 gallons..... \$100.00
 4 (iii) 101 to 700 cubic yards or 20,001 to 140,000
 5 gallons..... \$100.00
 6 (iv) More than 700 cubic yards or more than 140,000
 7 gallons..... \$150.00
 8 (h) For the hydrogeological characteristics of a landfill,
 9 surface impoundment, land treatment, or waste pile facility,
 10 except waste piles meeting the requirements of 40
 11 C.F.R. 264.250(c), the following:
 12 (i) Natural clay..... \$ 40.00
 13 (ii) Natural sand..... \$ 60.00
 14 (iii) Compacted clay..... \$ 70.00
 15 (iv) Artificially lined (other materials)..... \$100.00
 16 (v) Any combination of the above..... \$100.00
 17 (i) For the hydrogeological characteristics of sur-
 18 face water in a treatment or storage facility, other than
 19 a facility listed in subdivision (h)..... \$ 75.00
 20 Sec. 11118a. ~~(1) As used in this section, "multisource~~
 21 ~~commercial hazardous waste disposal well" has the meaning~~
 22 ~~ascribed to that term in section 62506a. (2) A multisource com-~~
 23 ~~mercial hazardous waste disposal well shall maintain on site a~~
 24 ~~treatment facility and a storage facility that have obtained a~~
 25 ~~construction permit under section 11118 and an operating license~~
 26 ~~under section 11123.~~

1 Sec. 11120. (1) The department shall notify those members
2 appointed by the governor who will serve on the board within 75
3 days after receipt of a construction permit application, if the
4 department has not notified the applicant of the intent to deny
5 the application, or at the time the department refers an applica-
6 tion to the board, or at the time an application is automatically
7 referred to the board pursuant to section 11119(4), whichever is
8 earlier. At that time the department also shall notify the
9 county and the municipality in which the proposed treatment,
10 storage, or disposal facility is to be located and request the
11 appointment of the members of the board as provided in section
12 11117(2)(b). The notification shall include a notice of intent
13 to issue all departmental permits required for the construction,
14 pending recommendations of the board and approval by the
15 department. Within 45 days after the notification, the county
16 and the municipality shall select the members to serve on the
17 board. The board shall be created at that time and notification
18 of the creation of the board shall be made to the chairperson.

19 (2) Within 30 days after creation of a board, the board
20 shall meet to review and establish a timetable for the considera-
21 tion of an application for a proposed treatment, storage, or dis-
22 posal facility.

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

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

1 (i) Contain a map indicating the location of the proposed
2 treatment, storage, or disposal facility, a description of the
3 proposed action, and the location where the application for a
4 construction permit may be reviewed and where copies may be
5 obtained.

6 (ii) Identify the time, place, and location for the public
7 hearing held to receive public comment and input on the applica-
8 tion for a construction permit.

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

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

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

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

21 (6) A negotiation process shall take place between the
22 applicant and the affected parties, who shall be identified by
23 the board. A representative of the municipality and a represen-
24 tative of the county in which the facility is proposed to be
25 located shall each be considered an affected party. If requested
26 by any affected party or the applicant, the board shall appoint a

1 mediator to assist during negotiations. The negotiation process
2 shall:

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

4 (b) Address the list of issues referred by the board and any
5 other issues unanimously agreed to be considered by the applicant
6 and all affected parties.

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

15 (7) On each negotiation issue which has not reached a nego-
16 tiated settlement, the board shall select between final best
17 offers presented by affected parties. The final best offer or
18 the negotiated settlement shall not be less stringent than the
19 requirements of the law or pertinent decisions of the board,
20 whichever is the most stringent.

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

24 (9) The formal hearings process shall be conducted by the
25 board to receive information from technical experts on disputed
26 issues. Any affected party may request permission by the board
27 to participate in the board's formal hearings within 15 days

1 after the board's public hearing. The board shall determine
2 which affected parties shall participate in the board's formal
3 hearing. If the board denies the request of an affected party to
4 participate in the board's formal hearing, the board shall give
5 the affected party notice of the board's decision and the reasons
6 for the decision. A representative of the municipality and a
7 representative of the county in which the facility is proposed to
8 be located shall each be automatically entitled to participate.
9 During the board's formal hearings process, the board shall:

10 (a) Receive sworn testimony.

11 (b) Cross-examine witnesses.

12 (c) Allow representatives of affected parties to
13 cross-examine witnesses.

14 (d) Request participation as needed.

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

17 (11) The board shall deliberate on the impact of the pro-
18 posed treatment, storage, or disposal facility on the municipal-
19 ity in which it is to be located, ~~and~~ HOW AND WHY THE LOCATION
20 OF THE FACILITY WAS SELECTED, AND WHETHER ADDITIONAL TREATMENT,
21 STORAGE, OR DISPOSAL CAPACITY IS NEEDED FOR THE TYPE OF FACILITY
22 THAT IS PROPOSED. FOLLOWING ITS DELIBERATIONS, THE BOARD SHALL
23 make a final determination as to its recommendation to the
24 department regarding the construction permit application.

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

1 (a) The risk and impact of accident during the
2 transportation of hazardous waste.

3 (b) The risk and impact of contamination of ground and sur-
4 face water by leaching and runoff from the proposed treatment,
5 storage, or disposal facility.

6 (c) The risk of fires or explosions from improper treatment,
7 storage, and disposal methods.

8 (d) The impact on the municipality where the proposed treat-
9 ment, storage, or disposal facility is to be located in terms of
10 health, safety, cost, and consistency with local planning and
11 existing development. The board also shall consider local ordi-
12 nances, permits, or other requirements and their potential rela-
13 tionship to the proposed treatment, storage, or disposal
14 facility.

15 (e) The nature of the probable environmental impact, includ-
16 ing the specification of the predictable adverse effects on the
17 following:

18 (i) The natural environment and ecology.

19 (ii) Public health and safety.

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

21 (iv) Water and air quality and wildlife.

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

23 (G) THE TREATMENT, STORAGE, AND DISPOSAL CAPACITY FOR THE
24 TYPE OF FACILITY THAT IS PROPOSED.

25 (H) ~~-(g)- The board shall consider the~~ information con-
26 tained in the construction permit application disclosure
27 statement.

1 (I) THE SITE SELECTION PROCESS USED BY THE APPLICANT, AND
2 THE BASIS FOR THE SELECTION OF THE PROPOSED SITE.

3 (J) FOR A COMMERCIAL TREATMENT, STORAGE, OR DISPOSAL FACILI-
4 TY, THE NEED FOR THE FACILITY BASED ON EXISTING AND FUTURE HAZ-
5 ARDOUS WASTE MANAGEMENT CAPACITY AND NEEDS WITHIN THE STATE.

6 (13) The board also shall consider the concerns and objec-
7 tions submitted by the public. The board shall facilitate
8 efforts to provide that the concerns and objections are mitigated
9 by establishing additional stipulations specifically applicable
10 to the treatment, storage, or disposal facility and operation at
11 that site. Through deliberations, the board may modify the con-
12 struction permit application in response to its findings. To the
13 fullest extent practicable, the board also shall integrate by
14 stipulation the provisions of the local ordinances, permits, or
15 requirements.

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

19 (15) Within 180 days after the first meeting of the board,
20 the board shall make a decision on the negotiated agreement and
21 the final best offer from each party on each issue and shall rec-
22 ommend to the department that the department either approve or
23 reject the construction permit application. The 180-day time
24 period may be extended as provided in ~~subdivision~~ SUBSECTION
25 (6)(c). However, an extension shall not exceed 60 days.

26 (16) If the board recommends to the department the approval
27 of the construction permit application and the department follows

1 the recommendation, the department shall prepare a draft
2 construction permit and initiate a public participation process
3 equivalent to that required by the applicable provisions of the
4 solid waste disposal act or regulations promulgated under that
5 act. Upon completion of the public participation process, the
6 department shall review all comments made during that process and
7 shall issue or revise and issue the construction permit or recon-
8 vene the board to consider issues specified by the department
9 that were raised during the public participation process. Within
10 30 days after having been reconvened under this subsection, the
11 board shall recommend to the department the rejection of the
12 application or recommend the revision and issuance of the con-
13 struction permit, or recommend that the department revise the
14 draft construction permit and initiate a public participation
15 process equivalent to that required by the applicable provisions
16 of the solid waste disposal act or regulations promulgated under
17 that act.

18 (17) If the board recommends the rejection of the construc-
19 tion permit application, the board shall do all of the
20 following:

21 (a) State its reasons in writing and indicate the necessary
22 changes to make the application acceptable if a new application
23 is made.

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

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

6 (2) The application for an operating license shall contain
7 the name and residence of the applicant, the location of the pro-
8 posed or existing treatment, storage, or disposal facility, and
9 other information considered necessary by the department includ-
10 ing proof of financial responsibility. IF THE TREATMENT, STOR-
11 AGE, OR DISPOSAL FACILITY INCLUDES A MULTISOURCE COMMERCIAL HAZ-
12 ARDOUS WASTE DISPOSAL WELL, THE APPLICATION SHALL SPECIFY WHETHER
13 THE APPLICANT HAS RECEIVED ALL NECESSARY PERMITS UNDER STATE AND
14 FEDERAL LAW TO OPERATE THE MULTISOURCE COMMERCIAL HAZARDOUS WASTE
15 DISPOSAL WELL. In addition, the application for the initial oper-
16 ating license after issuance of a construction permit shall con-
17 tain all of the disclosure information called for in
18 section 11118(4) that was not provided as part of the construc-
19 tion permit application and any changes in or additions to the
20 previously submitted disclosure information. In addition, the
21 owner and operator shall certify that the disclosure listings
22 previously submitted continue to be correct. An applicant for an
23 operating license for a treatment, storage, or disposal facility
24 that is a surface impoundment, landfill, or land treatment facil-
25 ity shall demonstrate financial responsibility for claims arising
26 from nonsudden and accidental occurrences relating to the
27 operation of the facility that cause injury to persons or

1 property. The application shall be accompanied by a fee of
2 \$500.00. The license fees shall be deposited in the general fund
3 of the state.

4 (3) The applicant also shall submit to the department a cer-
5 tification under the seal of a registered professional engineer
6 verifying that the construction of the treatment, storage, or
7 disposal facility has proceeded according to the plans approved
8 by the department and, if applicable, the approved construction
9 permit. The department shall require additional certification
10 periodically during the operation or in order to verify proper
11 closure of the site. The department shall require from those
12 treatment, storage, or disposal facilities that are permitted to
13 operate pursuant to section 11116, certification of the treat-
14 ment, storage, or disposal facilities' capability of treating,
15 storing, or disposing of hazardous waste in compliance with this
16 part.

17 (4) The department shall establish a schedule for requiring
18 each person subject to subsection (5) to submit an operating
19 license application. The department may adjust this schedule as
20 necessary. Each person subject to subsection (5) shall submit a
21 complete operating license application within 180 days of the
22 date requested to do so by the department.

23 (5) A person who owns or operates a treatment, storage, or
24 disposal facility that is in existence on the effective date of
25 an amendment of this part or of a rule promulgated under this
26 part that renders all or portions of the facility subject to the
27 operating license requirements of this section may continue to

1 operate the facility or portions of the facility that are subject
2 to the operating license until an operating license application
3 is approved or denied if all of the following conditions have
4 been met:

5 (a) A complete operating license application is submitted
6 within 180 days of the date requested by the department under
7 subsection (4).

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

10 (c) The person qualifies for interim status as defined in
11 the solid waste disposal act, is in compliance with interim
12 status standards established by federal regulation under subtitle
13 C of the solid waste disposal act, title II of Public Law 89-272,
14 42 U.S.C. 6921 to ~~6931 and 6933 to 6939b~~ 6939e, and has not had
15 interim status terminated.

16 Sec. 11125. (1) The department shall provide notice and an
17 opportunity for a public hearing before making a final decision
18 on an operating license application. The department shall make a
19 final decision on an operating license application within 140
20 days after the department receives a complete application.
21 However, if the state's hazardous waste management program is
22 authorized by the United States environmental protection agency
23 under sections 3006 to 3009 of subtitle C of the solid waste dis-
24 posal act, title II of Public Law 89-272, 42 U.S.C. 6926 to 6929,
25 the department may extend the deadline beyond the limitation pro-
26 vided in this section in order to fulfill the public
27 participation requirements of the solid waste disposal act. The

1 operating license may contain stipulations specifically
2 applicable to site and operation. A local ordinance, permit, or
3 other requirement shall not prohibit the operation of a licensed
4 treatment, storage, or disposal facility.

5 (2) If any information required to be included in the dis-
6 closure statement required under section 11118 changes or is sup-
7 plemented after the filing of the statement, the applicant, per-
8 mittee, or licensee shall provide that information to the depart-
9 ment in writing within 30 days of the change or addition.

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

15 (4) THE DEPARTMENT SHALL NOT ISSUE AN OPERATING LICENSE FOR
16 A TREATMENT, STORAGE, OR DISPOSAL FACILITY THAT INCLUDES A MULTI-
17 SOURCE COMMERCIAL HAZARDOUS WASTE DISPOSAL WELL UNLESS THE APPLI-
18 CANT HAS RECEIVED ALL OTHER NECESSARY PERMITS UNDER STATE AND
19 FEDERAL LAW TO OPERATE THE MULTISOURCE COMMERCIAL HAZARDOUS WASTE
20 DISPOSAL WELL.

21 Enacting section 1. This amendatory act does not take
22 effect unless Senate Bill No. _____ or House Bill No. _____
23 (request no. 04475'97 *) of the 89th Legislature is enacted into
24 law.