

HOUSE BILL NO. 4808

July 02, 2019, Introduced by Rep. Robinson and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11123 and 11124 (MCL 324.11123 and 324.11124),
section 11123 as amended by 2014 PA 254 and section 11124 as
amended by 2010 PA 357.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 11123. (1) Unless a person is complying with subsection
- 2 ~~(8)~~—(9) or a rule promulgated under section 11127(4), a person
- 3 shall not establish, construct, conduct, manage, maintain, or



1 operate a treatment, storage, or disposal facility within this
2 state without an operating license from the department.

3 (2) The department shall not approve an application for an
4 operating license for the expansion or enlargement of a treatment
5 or storage facility beyond its original authorized design capacity
6 or beyond the area specified in an existing operating license,
7 original construction permit, or other authorization.

8 (3) ~~(2)~~ An application for an operating license for a proposed
9 treatment, storage, or disposal facility or the ~~expansion,~~
10 ~~enlargement, or alteration,~~ **other than expansion or enlargement as**
11 **described in subsection (2),** of a treatment, storage, or disposal
12 facility ~~beyond its original authorized design capacity or beyond~~
13 ~~the area specified in an existing operating license, original~~
14 ~~construction permit, or other authorization~~ shall be submitted on a
15 form provided by the department and contain all of the following:

16 (a) The name and ~~residence~~ **address** of the applicant.

17 (b) The location of the proposed treatment, storage, or
18 disposal facility project.

19 (c) A copy of an actual ~~published~~ notice that the applicant
20 published at least 30 days before submittal of the application in a
21 newspaper having major circulation in the municipality ~~and the~~
22 ~~immediate vicinity of~~ **in which** the proposed treatment, storage, or
23 disposal facility project **is to be located and in the immediate**
24 **vicinity of the project.** The notice shall contain a map indicating
25 the location of the proposed treatment, storage, or disposal
26 facility project and information on the nature and size of the
27 proposed facility. In addition, as provided by the department, the
28 notice shall contain a description of the application review
29 process, the location where the complete application may be



1 reviewed, and an explanation of how copies of the complete
2 application may be obtained.

3 (d) A written summary of the comments received at the public
4 preapplication meeting required by rule and the applicant's
5 response to the comments, including any revisions to the
6 application.

7 (e) A determination of existing hydrogeological
8 characteristics specified in a hydrogeological report and
9 monitoring program consistent with rules promulgated under this
10 part.

11 (f) An environmental assessment. The environmental assessment
12 shall include, at a minimum, an evaluation of the proposed
13 facility's impact on the air, water, and other natural resources of
14 this state, and also shall contain an environmental failure mode
15 assessment.

16 (g) The procedures for closure and postclosure monitoring.

17 (h) An engineering plan.

18 (i) Other information specified by rule or by federal
19 regulation issued under the solid waste disposal act.

20 (j) An application fee. The application fee shall be deposited
21 in the environmental pollution prevention fund created in section
22 11130. Pursuant to procedures established by rule, the application
23 fee shall be \$25,000.00 plus all of the following, as applicable:

- | | | | |
|----|------|---|-------------|
| 24 | (i) | For a landfill, surface impoundment, land | |
| 25 | | treatment, or waste pile facility | \$ 9,000.00 |
| 26 | (ii) | For an incinerator or treatment facility | |
| 27 | | other than a treatment facility described | |
| 28 | | in subparagraph (i) | \$ 7,200.00 |



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

(k) Except as otherwise provided in this subdivision, a disclosure statement that includes all of the following:

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

(A) The applicant.

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

(C) The operator ~~—If and, if~~ a waiver is obtained under subparagraph (B), detailed information regarding the proposed operator. ~~shall be included in the disclosure statement.~~

(D) If known, the 3 employees of the operator who will have the most responsibility for the day-to-day operation of the facility, including their previous experience with other hazardous waste treatment, storage, or disposal facilities.

(E) Any other partnership, corporation, association, or other legal entity if any person required to be listed under subparagraphs (A) to (D) has at any time had 25% or more of the equity in or debt liability of that legal entity. The department may waive all or any portion of this requirement for an applicant that is a corporation with publicly traded stock.

(ii) For each person required to be listed under this subdivision, a list of all convictions for criminal violations of any statute enacted by a federal, state, Canadian, or Canadian provincial agency if the statute is an environmental statute, if



1 the violation was a misdemeanor committed in furtherance of
2 obtaining an operating license under this part not more than 5
3 years before the application is filed, or if the violation was a
4 felony committed in furtherance of obtaining an operating license
5 under this part not more than 10 years before the application is
6 filed. If debt liability is held by a chartered lending
7 institution, information required in this subparagraph and
8 subparagraphs (iii) and (iv) is not required from that institution.
9 The department shall submit to the legislature a report on the 2014
10 act that amended this subparagraph, including the number of permits
11 denied as a result of that act and whether this subparagraph should
12 be further amended. The report shall cover the 5-year period after
13 the effective date of that act and shall be submitted within 60
14 days after the expiration of that 5-year period. The report may be
15 submitted electronically.

16 (iii) A list of all environmental permits or licenses issued by
17 a federal, state, local, Canadian, or Canadian provincial agency
18 held by each person required to be listed under this subdivision
19 that were permanently revoked because of noncompliance.

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

28 (l) A demonstration that the applicant has considered each of
29 the following:



1 (i) The risk and impact of accident during the transportation
2 of hazardous waste to the treatment, storage, or disposal facility.

3 (ii) The risk and impact of fires or explosions from improper
4 treatment, storage, and disposal methods at the treatment, storage,
5 or disposal facility.

6 (iii) The impact on the municipality where the proposed
7 treatment, storage, or disposal facility is to be located in terms
8 of health, safety, cost, and consistency with local planning and
9 existing development, including proximity to housing, schools, and
10 public facilities.

11 (iv) The nature of the probable environmental impact, including
12 the specification of the predictable adverse effects on each of the
13 following:

14 (A) The natural environment and ecology.

15 (B) Public health and safety.

16 (C) Scenic, historic, cultural, and recreational values.

17 (D) Water and air quality and wildlife.

18 (m) A summary of measures evaluated to mitigate the impacts
19 identified in subdivision (l) and a detailed description of the
20 measures to be implemented by the applicant.

21 (n) A schedule for submittal of all of the following
22 postconstruction documentation:

23 (i) Any changes in, or additions to, the previously submitted
24 disclosure ~~information, statement,~~ or a certification that the
25 disclosure ~~listings-statement~~ previously submitted ~~continue~~
26 **continues** to be **complete and** correct, ~~following-after~~ completion of
27 construction of the treatment, storage, or disposal facility.

28 (ii) A certification under the seal of a licensed professional
29 engineer verifying that the construction of the treatment, storage,



1 or disposal facility has proceeded according to the plans approved
 2 by the department and, if applicable, the approved construction
 3 permit, including as-built plans.

4 (iii) A certification of the treatment, storage, or disposal
 5 facility's capability of treating, storing, or disposing of
 6 hazardous waste in compliance with this part.

7 (iv) Proof of financial assurance as required by rule.

8 (4) ~~(3)~~ If any information required to be included in the
 9 disclosure statement under subsection ~~(2)(k)~~ **(3)(k)** changes ~~or is~~
 10 ~~supplemented~~ after the filing of the statement, the applicant or
 11 licensee shall provide ~~that~~ **the updated or supplemented** information
 12 to the department in writing not later than 30 days after the
 13 change or addition.

14 (5) ~~(4)~~ Notwithstanding any other provision of law, the
 15 department may deny an application for an operating license if
 16 there are any listings pursuant to subsection ~~(2)(k)(ii)~~, **(3)(k)(ii)**,
 17 (iii), or (iv) as originally disclosed or as supplemented.

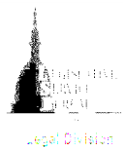
18 (6) ~~(5)~~ The application for an operating license for a
 19 proposed limited storage facility, which is subject to the
 20 requirements pertaining to storage facilities, shall be submitted
 21 on a form provided by the department and contain all of the
 22 following:

23 (a) The name and residence of the applicant.

24 (b) The location of the proposed facility.

25 (c) A determination of existing hydrogeological
 26 characteristics specified in a hydrogeological report and
 27 monitoring program consistent with rules promulgated under this
 28 part.

29 (d) An environmental assessment. The environmental assessment



1 shall include, at a minimum, an evaluation of the proposed
2 facility's impact on the air, water, and other natural resources of
3 this state ~~, and also shall contain an environmental failure mode~~
4 assessment.

5 (e) The procedures for closure.

6 (f) An engineering plan.

7 (g) Proof of financial responsibility.

8 (h) A resolution or other formal determination of the
9 governing body of each municipality in which the proposed limited
10 storage facility would be located indicating that the limited
11 storage facility is compatible with the zoning ordinance of that
12 municipality, if any. However, in the absence of a resolution or
13 other formal determination, the application shall include a copy of
14 a registered letter sent to the municipality at least 60 days
15 before the application submittal, indicating the intent to
16 construct a limited storage facility, and requesting a formal
17 determination on whether the proposed facility is compatible with
18 the zoning ordinance of that municipality, if any, in effect on the
19 date the letter is received, and indicating that failure to pass a
20 resolution or make a formal determination within 60 days of receipt
21 of the letter means that the proposed facility is to be considered
22 compatible with any applicable zoning ordinance. If, within 60 days
23 of receiving a registered letter, a municipality does not make a
24 formal determination concerning whether a proposed limited storage
25 facility is compatible with a zoning ordinance of that municipality
26 as in effect on the date the letter is received, the limited
27 storage facility is considered compatible with any zoning ordinance
28 of that municipality, and incompatibility with a zoning ordinance
29 of that municipality is not a basis for the department to deny the



1 license.

2 (i) An application fee of \$500.00. The application fee shall
3 be deposited in the environmental pollution prevention fund created
4 in section 11130.

5 (j) Other information specified by rule or by federal
6 regulation issued under the solid waste disposal act.

7 **(7)** ~~(6)~~—The application for an operating license for a
8 treatment, storage, or disposal facility other than a facility
9 identified in subsection ~~(2) or (5)~~ **(3) or (6)** shall be made on a
10 form provided by the department and include all of the following:

11 (a) The name and residence of the applicant.

12 (b) The location of the existing treatment, storage, or
13 disposal facility.

14 (c) Other information considered necessary by the department
15 or specified in this section, by rule, or by federal regulation
16 issued under the solid waste disposal act.

17 (d) Proof of financial responsibility. An applicant for an
18 operating license for a treatment, storage, or disposal facility
19 that is a surface impoundment, landfill, or land treatment facility
20 shall demonstrate financial responsibility for claims arising from
21 nonsudden and accidental occurrences relating to the operation of
22 the facility that cause injury to persons or property.

23 (e) A fee of \$500.00. The fee shall be deposited in the
24 environmental pollution prevention fund created in section 11130.

25 **(8)** ~~(7)~~—The department shall establish a schedule for
26 requiring each person subject to subsection ~~(8)~~ **(9)** to submit an
27 operating license application. The department may adjust this
28 schedule as necessary. Each person subject to subsection ~~(8)~~ **(9)**
29 shall submit a complete operating license application within 180



1 days ~~of~~**after** the date requested to do so by the department.

2 (9) ~~(8)~~—A person who owns or operates a treatment, storage, or
3 disposal facility that is in existence on the effective date of an
4 amendment of this part or of a rule promulgated under this part
5 that renders all or portions of the facility subject to the
6 operating license requirements of this section may continue to
7 operate the facility or portions of the facility that are subject
8 to the operating license requirements until an operating license
9 application is approved or denied if all of the following
10 conditions have been met:

11 (a) A complete operating license application is **timely**
12 submitted ~~within 180 days of the date requested by the department~~
13 under subsection ~~(7)~~**(8)**.

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

16 (c) The person qualifies for interim status as defined in the
17 solid waste disposal act, is in compliance with interim status
18 standards established by federal regulation under subtitle C of the
19 solid waste disposal act, 42 USC 6921 to 6939e, and has not had
20 interim status terminated.

21 (10) ~~(9)~~—A person may request to be placed on a department-
22 organized mailing list to be kept informed of any rules, plans,
23 operating license applications, contested case hearings, public
24 hearings, or other information or procedures relating to the
25 administration of this part. The department may charge a fee to
26 cover the cost of the materials.

27 Sec. 11124. (1) ~~Following~~**After** the construction of the
28 proposed treatment, storage, or disposal facility or, **subject to**
29 **section 11123(2)**, the expansion, enlargement, or alteration of a



1 treatment, storage, or disposal facility beyond its original
2 authorized design capacity or beyond the area specified in an
3 existing operating license, original construction permit, or other
4 authorization, and **after** the receipt of the postconstruction
5 documentation required under section 11123, the department shall
6 inspect the site and determine if the proposed treatment, storage,
7 or disposal facility complies with this part, the rules promulgated
8 under this part, and the stipulations included in the approved
9 treatment, storage, or disposal facility operating license. An
10 inspection report ~~shall~~**must** be filed in writing by the department
11 before ~~issuing~~**the department issues** final authorization to manage,
12 maintain, and operate the treatment, storage, or disposal facility.
13 ~~and shall be made~~**The department shall make the inspection report**
14 available for public review.

15 (2) Upon receipt of an operating license application meeting
16 the requirements of section ~~11123(6)~~**, 11123(7)**, the department
17 shall inspect the site and determine if the treatment, storage, or
18 disposal facility complies with this part and the rules promulgated
19 under this part. An inspection report shall be filed in writing by
20 the department before issuing an operating license.

