



SENATE BILL No. 767

November 28, 1995, Introduced by Senators BERRYMAN,
DE BEAUSSAERT and A. SMITH and referred to the Committee
on Natural Resources and Environmental Affairs.

A bill to amend section 11118 of Act No. 451 of the Public
Acts of 1994, entitled
"Natural resources and environmental protection act,"
being section 324.11118 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11118 of Act No. 451 of the Public Acts
2 of 1994, being section 324.11118 of the Michigan Compiled Laws,
3 is amended to read as follows:

4 Sec. 11118. (1) Except as otherwise provided in
5 section 11122, a person shall not establish a treatment, storage,
6 or disposal facility without a construction permit from the
7 department. A person proposing the establishment of a treatment,
8 storage, or disposal facility subject to the construction permit
9 requirement of this part, but not including a limited storage

1 facility, shall ~~make application~~ APPLY for a construction
2 permit to the department on a form provided by the department.

3 (2) If an amendment to this part or to the rules promulgated
4 under this part subjects activities lawfully being conducted at a
5 treatment, storage, or disposal facility at the time the amend-
6 ment takes effect to the operating license requirements of this
7 part solely because of the amendment, the activities carried out
8 at the facility ~~prior to~~ BEFORE the effective date of the
9 amendment are not subject to the construction permit requirements
10 of this part. ~~, except for~~ HOWEVER, THIS EXEMPTION DOES NOT
11 APPLY TO an expansion of ~~the~~ A TREATMENT, STORAGE, OR DISPOSAL
12 facility ~~with respect to such activities~~ beyond its original
13 authorized design capacity or beyond the area specified in an
14 original permit, license, or other authorization or an alteration
15 of the method of hazardous waste treatment or disposal.

16 (3) The application for a construction permit shall contain
17 the name and residence of the applicant, the location of the pro-
18 posed treatment, storage, or disposal facility, and other infor-
19 mation specified in this section, by rule, or by federal regula-
20 tion issued under the solid waste disposal act. The application
21 shall be accompanied by a construction permit application fee.
22 The fee shall be calculated as provided in subsection (10) or may
23 be based on the actual cost of the construction permit review
24 according to procedures established by rule. Construction permit
25 application fees shall be deposited in the general fund of the
26 state. The application shall include a copy of the actual
27 published notice as described in subsection (9) and a

1 determination of existing hydrogeological characteristics
2 specified in a hydrogeological report and monitoring program con-
3 sistent with rules promulgated pursuant to this part, an environ-
4 mental assessment, an engineering plan, and the procedures for
5 closure and postclosure monitoring. The environmental assessment
6 shall include, at a minimum, an evaluation of the proposed
7 facility's impact on the air, water, and other natural resources
8 of the state, and ~~also shall contain~~ an environmental failure
9 mode assessment.

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

13 (a) The full name and business address of all of the
14 following:

15 (i) The applicant.

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

20 (iii) The operator, if known.

21 (iv) If known, the 3 employees of the operator who will have
22 the most responsibility for the day-to-day operation of the
23 facility.

24 (v) Any other business entity included within the definition
25 of person that ~~any~~ A person required to be listed in subpara-
26 graphs (i) to (iv) has at any time had 25% or more of the equity
27 in or debt liability of. The department may waive all or ~~any~~ A

1 portion of this requirement for an applicant that is a
2 corporation with publicly traded stock.

3 (b) All convictions for criminal violations of ~~any~~ AN
4 environmental statute enacted by a federal, state, Canadian, or
5 Canadian provincial agency for each person required to be listed
6 under this subsection. If debt liability is held by a chartered
7 lending institution, information required in this ~~subsection and~~
8 ~~subsection (4)(c) and (d) is~~ SUBDIVISION AND SUBDIVISIONS (C),
9 (D), AND (E) ARE not required from that institution.

10 (c) A listing of all environmental permits or licenses
11 issued by a federal, state, Canadian, or Canadian provincial
12 agency held by each person required to be listed under this sub-
13 section that were permanently revoked because of noncompliance.

14 (d) A listing of all activities at property owned or oper-
15 ated by each person required to be listed under this subsection
16 that resulted in a threat or potential threat to the environment
17 and for which public funds were used to finance an activity to
18 mitigate the threat or potential threat to the environment. ~~→~~
19 ~~except~~ HOWEVER, THIS REQUIREMENT DOES NOT APPLY if the public
20 funds expended to facilitate the mitigation of environmental con-
21 tamination were voluntarily and expeditiously recovered from the
22 applicant or other listed person without litigation.

23 (E) A LIST OF ALL CIVIL VIOLATIONS OF AN ENVIRONMENTAL STAT-
24 UTE ENACTED BY A FEDERAL, STATE, CANADIAN, OR CANADIAN PROVINCIAL
25 AGENCY, INCLUDING BUT NOT LIMITED TO CIVIL VIOLATIONS THAT WERE
26 REMEDIED BY CONSENT.

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

6 (6) Notwithstanding any other provision of law, the depart-
7 ment may deny an application for a construction permit if there
8 ~~are any listings pursuant to~~ IS A LISTING UNDER
9 subsection (4)(b), (c), ~~or~~ (d), OR (E) as originally disclosed
10 or as supplemented. IN ADDITION, THE DIRECTOR MAY GRANT A PERMIT
11 TO AN APPLICANT DESPITE THE EXISTENCE OF A LISTING UNDER SUBSEC-
12 TION (4)(B), (C), (D), OR (E) AS ORIGINALLY DISCLOSED OR AS SUP-
13 PLEMENTED AND PLACE CONDITIONS UPON THE EXECUTION OF THE PERMIT
14 BASED UPON THE INFORMATION OBTAINED UNDER SUBSECTION (4).
15 HOWEVER, THE DIRECTOR SHALL DENY AN APPLICATION FOR A CONSTRUC-
16 TION PERMIT IF THE APPLICANT HAS BEEN CONVICTED OF A CRIMINAL
17 VIOLATION OF AN ENVIRONMENTAL STATUTE ENACTED BY A FEDERAL,
18 STATE, CANADIAN, OR CANADIAN PROVINCIAL AGENCY.

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

25 (8) There is created within the state treasury a revolving
26 fund. When a site construction permit application is referred to
27 a site review board by the department, the applicant shall pay a

1 \$25,000.00 fee to be placed in this fund. The \$25,000.00 fee
2 shall be in addition to the application fee required under sub-
3 section (3). This fund shall cover the expenses of the site
4 review board members, the chairperson, a mediator, and any other
5 expenses necessary to the deliberations of the board. The
6 department shall administer the fund and authorize expenditures.
7 The department shall maintain records to support any expenses
8 charged to the fund. If expenses payable from the fund exceed
9 the \$25,000.00 fee paid by the applicant, the additional expenses
10 shall be paid from money appropriated by the legislature to the
11 revolving fund created in this subsection. ~~Any unexpended~~ A
12 portion of an applicant's \$25,000.00 fee that is not expended to
13 pay the expenses listed in this subsection shall be reimbursed to
14 the applicant after the site review board process is concluded.

15 (9) An application for a site construction permit ~~shall~~ IS
16 not ~~be~~ complete unless it includes a copy of a newspaper notice
17 ~~which~~ THAT the applicant published at least 30 days ~~prior to~~
18 BEFORE submittal of the application in a newspaper having major
19 circulation in the municipality and the immediate vicinity of the
20 proposed treatment, storage, or disposal facility. The required
21 published notice shall contain a map indicating the location of
22 the proposed treatment, storage, or disposal facility and infor-
23 mation on the nature and size of the proposed facility. In addi-
24 tion, the notice shall contain all of the following information
25 provided by the department:

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

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

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

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

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

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

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

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

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

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

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

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

24 (e) For the permitted site size of a treatment or storage
25 facility, other than a facility listed in subdivision (d), the
26 following:

- 1 (i) Less than 5 acres..... \$ 50.00
- 2 (ii) 5 to 19 acres..... \$100.00
- 3 (iii) 20 to 79 acres..... \$100.00
- 4 (iv) 80 acres or more..... \$100.00

5 (f) For the projected waste volume per day for a landfill,
 6 surface impoundment, land treatment, or waste pile facility,
 7 except waste piles meeting the requirements of 40

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

- 9 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 60.00
- 10 (ii) 50 to 100 cubic yards or 10,000 to 20,000
 11 gallons..... \$ 80.00
- 12 (iii) 101 to 700 cubic yards or 20,001 to 140,000
 13 gallons..... \$100.00
- 14 (iv) More than 700 cubic yards or more than 140,000
 15 gallons..... \$130.00

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

- 19 (i) Less than 50 cubic yards or 10,000 gallons..... \$ 50.00
- 20 (ii) 50 to 100 cubic yards or 10,000 to 20,000
 21 gallons..... \$100.00
- 22 (iii) 101 to 700 cubic yards or 20,001 to 140,000
 23 gallons..... \$100.00
- 24 (iv) More than 700 cubic yards or more than 140,000
 25 gallons..... \$150.00

26 (h) For the hydrogeological characteristics of a landfill,
 27 surface impoundment, land treatment, or waste pile facility,

1 except waste piles meeting the requirements of 40

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

- 3 (i) Natural clay..... \$ 40.00
- 4 (ii) Natural sand..... \$ 60.00
- 5 (iii) Compacted clay..... \$ 70.00
- 6 (iv) Artificially lined (other materials)..... \$100.00
- 7 (v) Any combination of the above..... \$100.00
- 8 (i) For the hydrogeological characteristics of sur-
- 9 face water in a treatment or storage facility, other than
- 10 a facility listed in subdivision (h)..... \$ 75.00