

Act No. 150
Public Acts of 2011
Approved by the Governor
September 20, 2011
Filed with the Secretary of State
September 21, 2011
EFFECTIVE DATE: September 21, 2011

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senator Kahn

ENROLLED SENATE BILL No. 450

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 11108 (MCL 324.11108), as amended by 2001 PA 165.

The People of the State of Michigan enact:

Sec. 11108. (1) Except as otherwise provided in this section, each owner or operator of a landfill shall pay to the department a fee assessed on hazardous waste disposed of in a landfill. The fee shall be based on the quantity of hazardous waste specified on the manifest or monthly operating report and shall be \$10.00 per ton, \$10.00 per cubic yard, or 1/2 cent per pound depending on the unit of measure used by the owner or operator to calculate the fee. The fee for fractional quantities of hazardous waste shall be proportional. If the hazardous waste is required to be listed on a manifest and the owner or operator of the landfill determines that the hazardous waste quantity on the manifest is not accurate, the owner or operator shall correct the hazardous waste quantity on all manifest copies accompanying the shipment, note the reason for the change in the discrepancy indication space on the manifest, and assess the fee in accordance with the corrected hazardous waste quantity. Payment shall be made within 30 days after the close of each quarter. The landfill owner or operator shall assess off-site generators the fee. The fee for hazardous waste that is generated and disposed of on the site of a landfill owner or operator shall be paid by that owner or operator.

(2) Except as otherwise provided in this section, each owner or operator of a solidification facility licensed pursuant to section 11123 shall pay to the department a fee assessed on hazardous waste received at the solidification facility. The fee shall be based on the quantity of hazardous waste specified on the manifest or monthly operating report and shall be \$10.00 per ton, \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound depending on the unit of measure used by the owner or operator to calculate the fee. The fee for fractional quantities of hazardous waste shall be proportional. If the hazardous waste is required to be listed on a manifest and the owner or operator of the solidification facility determines that the hazardous waste quantity on the manifest is not accurate, the owner or operator shall correct the hazardous waste quantity on all manifest copies accompanying the shipment, note the reason for the change in the discrepancy indication space on the manifest, and assess the fee in accordance with the corrected hazardous waste quantity. Payment shall be made within 30 days after the close of each quarter. The solidification facility owner or operator shall assess off-site generators the fee. The fee for hazardous waste that is generated and solidified on the site of a solidification owner or operator shall be paid by that owner or operator.

(3) The following hazardous waste is exempt from the fees provided for in this section:

(a) Ash that results from the incineration of hazardous waste or the incineration of solid waste as defined in part 115.

(b) Hazardous waste exempted by rule because of its character or the treatment it has received.

(c) Hazardous waste that is removed as part of a site cleanup activity at the expense of the state or federal government.

(d) Solidified hazardous waste produced by a solidification facility licensed pursuant to section 11123 and destined for land disposal.

(e) Hazardous waste generated pursuant to a 1-time closure or site cleanup activity in this state if the closure or cleanup activity has been authorized in writing by the department. Hazardous waste resulting from the cleanup of inadvertent releases which occur after March 30, 1988 is not exempt from the fees.

(f) Primary and secondary wastewater treatment solids from a wastewater treatment plant that includes an aggressive biological treatment facility as defined in 42 USC 6295.

(g) Emission control dust or sludge from the primary production of steel in electric furnaces.

(4) An owner or operator of a landfill or solidification facility shall assess or pay the fee described in this section unless the generator provides a signed written certification indicating that the hazardous waste is exempt from the fee. If the hazardous waste that is exempt from the fee is required to be listed on a manifest, the certification shall contain the manifest number of the shipment and the specific fee exemption for which the hazardous waste qualifies. If the hazardous waste that is exempt from the fee is not required to be listed on a manifest, the certification shall provide the volume of exempt hazardous waste, the waste code or waste codes of the exempt waste, the date of disposal or solidification, and the specific fee exemption for which the hazardous waste qualifies. The owner or operator of the landfill or solidification facility shall retain this certification for 4 years from the date of receipt.

(5) The department or a health department certified pursuant to section 11145 shall evaluate the accuracy of generator fee exemption certifications and shall take enforcement action against a generator who files a false certificate. In addition, the department shall take enforcement action to collect fees that are not paid as required by this section.

(6) The landfill owner or operator and the solidification facility owner or operator shall forward to the department the fee revenue due under this section with a completed form that is provided or approved by the department. The owner or operator shall certify that all information provided in the form is accurate. The form shall include the following information:

(a) The volume of hazardous waste subject to a fee.

(b) The name of each generator who was assessed a fee, the generator's identification number, manifest numbers, hazardous waste volumes, and the amount of the fee assessed.

(7) A generator who documents to the department, on a form provided by the department, a reduction in the amount of hazardous waste generated as a result of a process change, or documents a reduction in the amount of hazardous waste that is being disposed of in a landfill, either directly or following solidification at a solidification facility, as a result of a process change or the generator's increased use of source separation, input substitution, process reformulation, recycling, treatment, or an exchange of hazardous waste that results in a utilization of that hazardous waste, is eligible for a refund from this state. The refund shall be in the amount of \$10.00 per ton, \$10.00 per cubic yard, 4 cents per gallon, or 1/2 cent per pound of hazardous waste reduced or managed through an alternative to landfill disposal. A generator is not eligible to receive a refund for that portion of a reduction in the amount of hazardous waste generated that is attributable to a decrease in the generator's level of production of the products that resulted in the generation of the hazardous waste.

(8) A generator seeking a refund shall calculate the refund due by comparing hazardous waste generation, treatment, and disposal activity in the calendar year immediately preceding the date of filing with hazardous waste generation, treatment, and disposal activity in the calendar year 2 years prior to the date of filing.

(9) To be eligible for a refund, a generator shall file a request with the department by June 30 of the year following the year for which the refund is being claimed.

(10) A refund shall not exceed the total fees paid by the generator to the landfill operator or owner and the solidification facility operator or owner.

(11) A form submitted by the generator as provided for in subsection (7) shall be certified by the generator or the generator's authorized agent.

(12) The department shall maintain information regarding the landfill disposal fees received and refunds provided under this section.

(13) The fees collected under this section shall be forwarded to the state treasurer and deposited in the waste reduction fund created in subsection (14).

(14) The waste reduction fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the waste reduction fund. The state treasurer shall direct the investment of the

waste reduction fund. The state treasurer shall credit to the waste reduction fund interest and earnings from waste reduction fund investments. Money in the waste reduction fund at the close of the fiscal year shall remain in the waste reduction fund and shall not lapse to the general fund. Money from the waste reduction fund shall be expended, upon appropriation, only for 1 or more of the following purposes:

- (a) To pay refunds to generators under this section.
- (b) To fund programs created under part 143 and part 145.
- (c) Not more than \$500,000.00 to implement section 3103a.
- (d) To fund the permit to install program established under section 5505.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor