

MICHIGAN'S HAZARDOUS WASTE MANAGEMENT ACT

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Improper hazardous waste disposal has affected many Michigan communities. Wells in Montague and Muskegon have been contaminated. A neighborhood in Pontiac was threatened by risk of explosion, fire and toxic vapors until a storage site was cleaned up. Recognizing these and other problems, the Michigan Legislature began to consider possible solutions. After extensive consideration, the Legislature passed, nearly unanimously, the Hazardous Waste Management Act, Act 64, P.A. 1979, to ensure that hazardous wastes are managed in a way that will protect the environment and the health and safety of Michigan's citizens. The purpose of this publication is to provide an overview of the responsibilities and opportunities which the state, local government and citizens have under Act 64. The sections of Act 64 which describe each provision are referenced in the margin.

What is hazardous waste?

Many different qualities can cause a waste to be hazardous. A hazardous waste can be toxic, corrosive, infectious, ignitable and/or reactive.

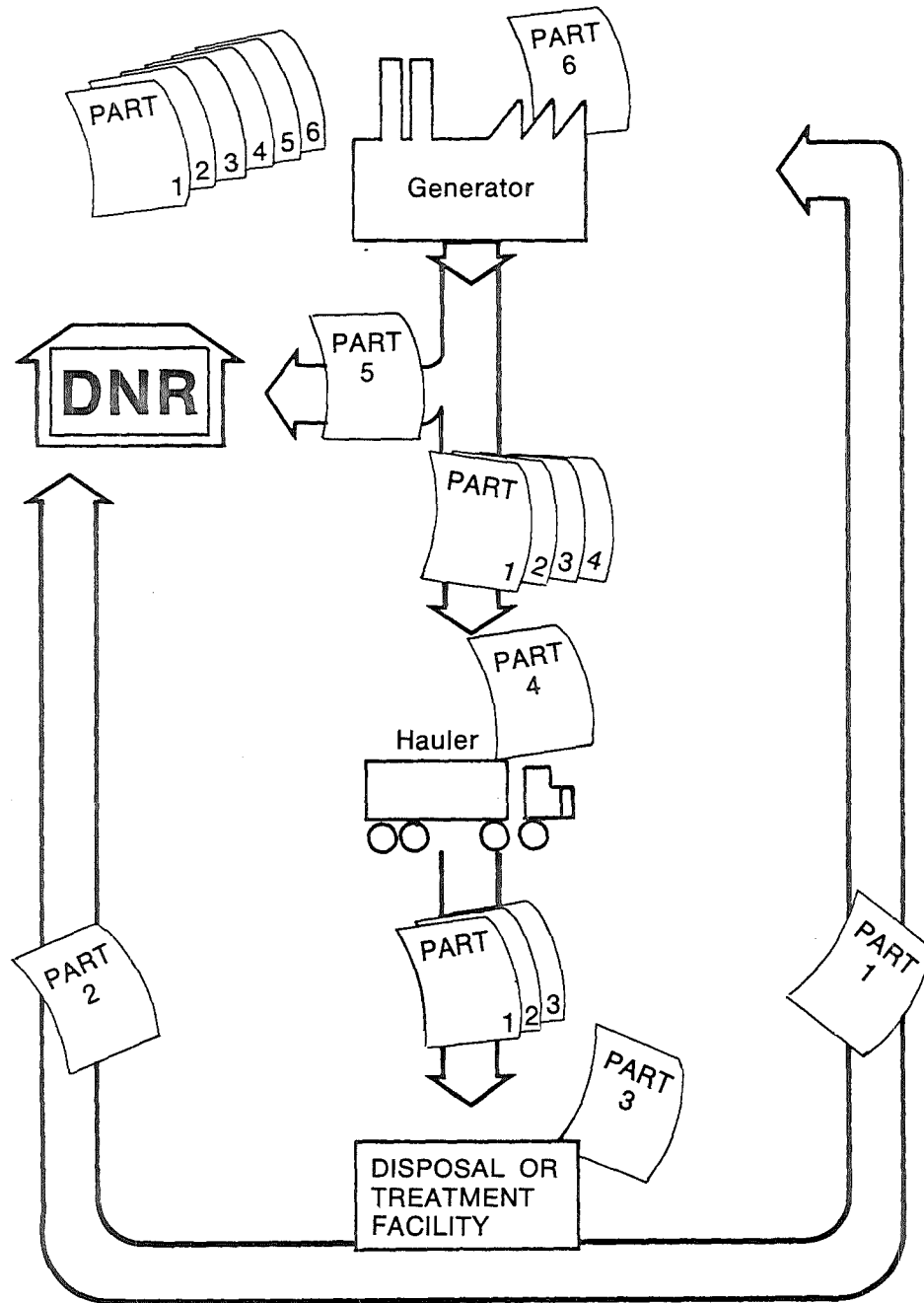
Hazardous wastes may result from the manufacturing of cars, clothes, televisions, plastics, paper, electronic equipment, photographic film, and thousands of other commonly used products.

Materials sold for recycling or treatment and stored for one year or less, and some wastes regulated by other laws, are not considered hazardous waste under Act 64. Nuclear wastes, for example, are regulated by the Federal Atomic Energy Act of 1954, not by Act 64. Hazardous

Section 4

FIGURE 1.
The DNR MANIFEST SYSTEM for tracking the
transportation of hazardous waste.

The manifest is a six-part document



materials which are not wastes, such as those used in industrial manufacturing, are not covered under Act 64. If these materials are emitted to the air or water, however, they are subject to air and water pollution control requirements under state law.

Tracking Hazardous Wastes: The Manifest & Certificate of Disposal

A major provision of Act 64 is the process for tracking hazardous wastes from their point of generation to disposal -- the manifest system, illustrated in figure 1.

The manifest system has three main purposes. The first purpose is to assure that wastes are delivered to the designated licensed disposal facility. Second, the manifest will provide assurances that wastes are transported by a licensed hauler with safe equipment. Last, the manifest forms will provide information on the volume, type and location of hazardous waste generated.

Section 29

Hazardous waste generators are required to complete a manifest form for each load of hazardous waste leaving their facilities. The manifest form identifies the disposal location, the type of waste, and the name of the waste hauler. One copy of the manifest is forwarded to the Department of Natural Resources by the generator within 10 days after the end of the month in which the waste is shipped.

The hazardous waste hauler must certify acceptance of hazardous wastes for transportation and is required to deliver the waste and the manifest form only to the facility designated by the generator on the manifest. Hazardous waste haulers, and all their vehicles, must be licensed under Act 64 by the DNR.

Section 33

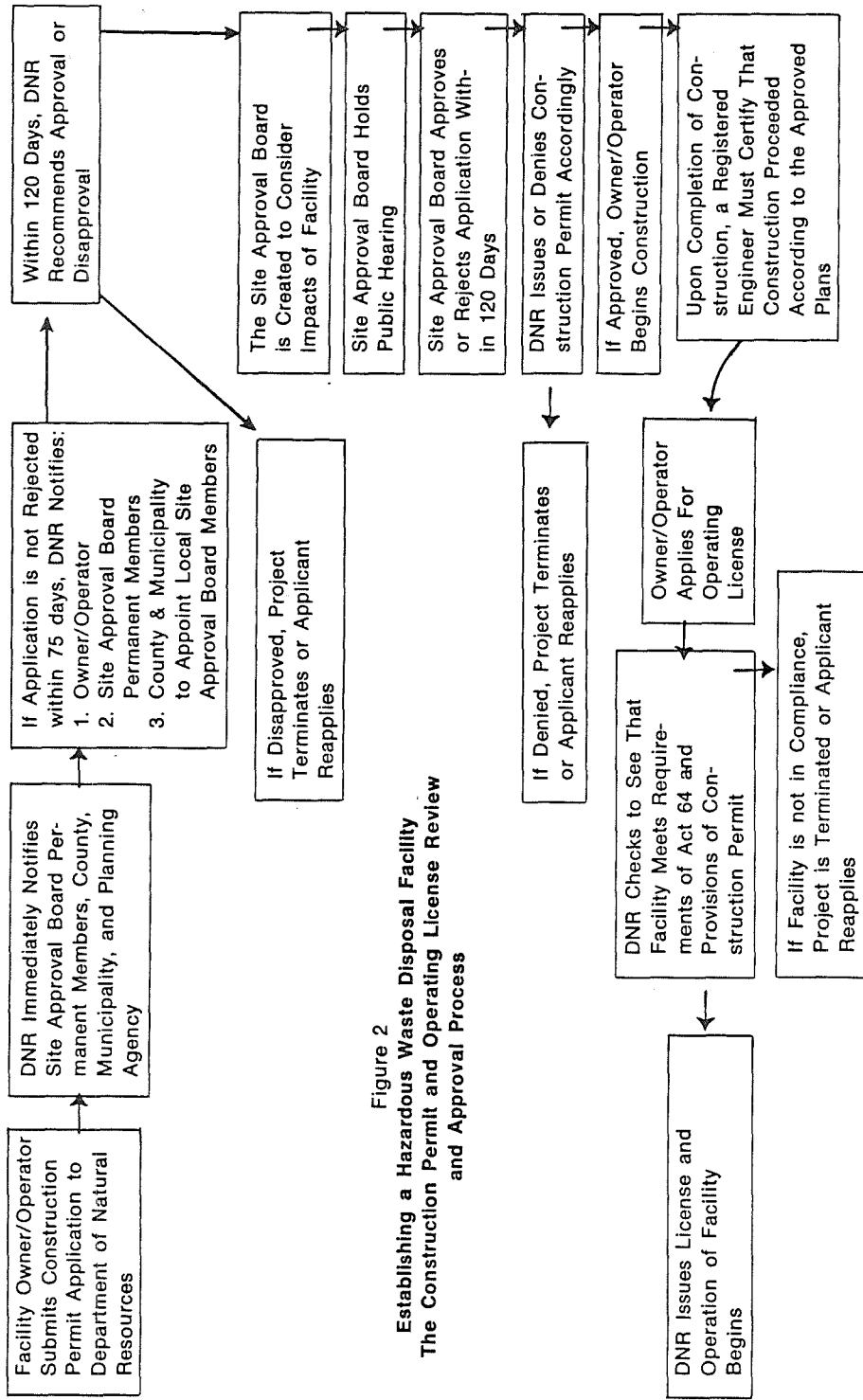


Figure 2
Establishing a Hazardous Waste Disposal Facility
The Construction Permit and Operating License Review
and Approval Process

A treatment or disposal facility operator may only accept delivery of waste if the facility's name is on the manifest accompanying the waste. The operator must certify acceptance of the waste and return one copy of the manifest to the DNR within 10 days after the end of the month in which the waste is received.

Section 35

Within 10 days after disposal, the disposal facility operator must return a certificate of disposal to the generator, hauler, and DNR. The certificate of disposal will identify the generator, disposal facility, type and quantity of waste, and disposal method. Receipt of the disposal certificate relieves the generator of further liability.

Section 3

Disposal Facilities

Before a hazardous waste disposal facility can be constructed, the owner or operator of the facility must obtain a construction permit. A construction permit application must contain comprehensive information about the size, intended use, impacts, and future care of the facility site, including detailed hydrogeological information, an engineering plan, and an environmental assessment. Figure 2 summarizes the facility construction permit and operating license review and approval process.

Section 18

The DNR reviews the construction permit application. If the DNR recommends approval, the site approval board then evaluates the application. The DNR and the site approval board each have no more than 120 days in which to make a decision. Act 64 establishes a site approval board to grant or deny final approval for each hazardous waste disposal facility construction permit which has been recommended for approval by the DNR. These boards provide a forum for responding to both state and local concerns

Section 19

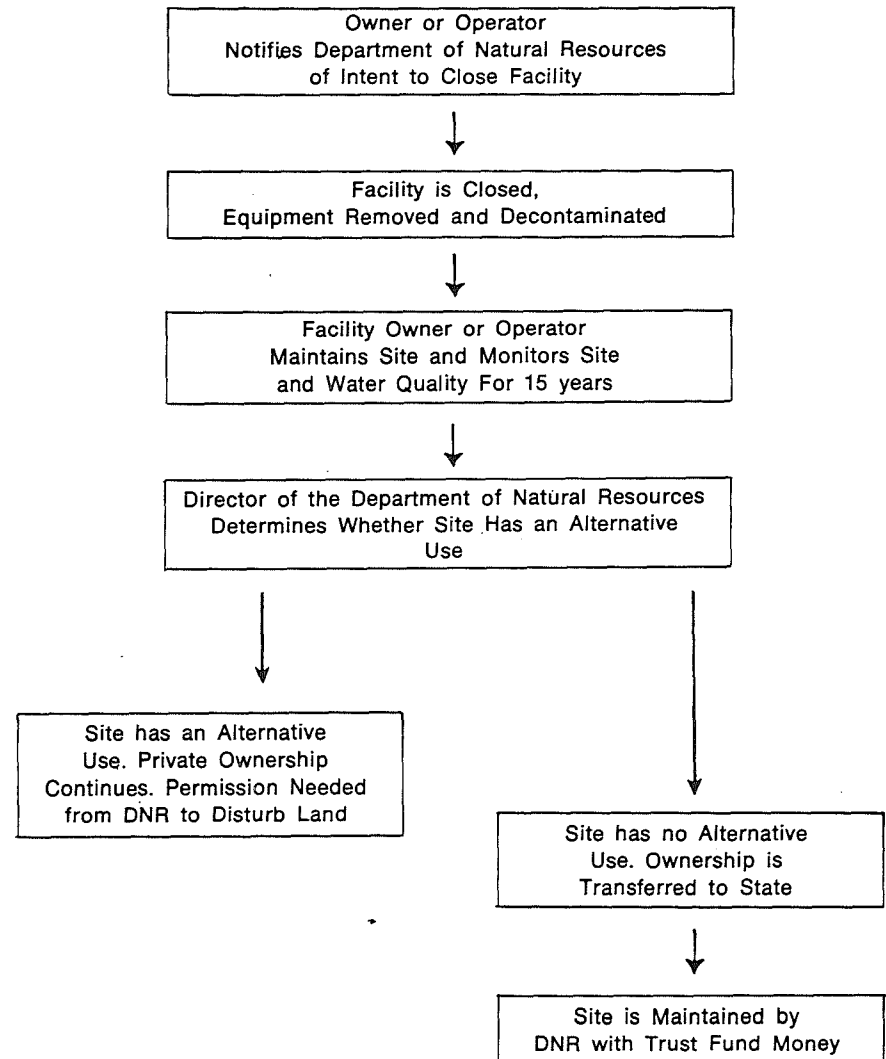
associated with facility siting. Boards are required by law to solicit public input. The board may attach stipulations to a construction permit in order to help alleviate the concerns of local citizens or which integrate the provisions of local ordinances. No local ordinance can prevent construction of a disposal facility if the permit is approved by the site approval board.

Section 17 Each site approval board consists of five permanent members who are members of every board and four temporary members who participate on the board only for a particular proposed facility. Three of the permanent positions are filled by representatives of the Departments of Natural Resources, Public Health and State Police for two year terms. The other two permanent positions -- a geologist and a chemical engineer - - are filled by appointment of the Governor with the advice and consent of the Senate, for three year terms.

Section 17 Two of the temporary site approval board members are designated by the governing body of the municipality in which a facility is proposed to be located. The other two temporary members must be residents of the county in which the facility is proposed and will be appointed by the county board of commissioners. One of the county appointees must reside in the affected municipality. The DNR representative on the site approval boards will serve as chairperson for each site approval board created.

Section 22 Before a disposal facility may begin operation, the owner or operator must obtain certification from a registered engineer that the facility has been developed according to approved plans. The owner or operator must also obtain a facility operating license from the DNR. Upon receipt of an operating license application, the DNR will

Figure 3
HAZARDOUS WASTE DISPOSAL FACILITY CLOSURE PROCESS



inspect the site to ensure that all requirements have been met, and will then grant or deny the operating license.

Long-Term Care of Facility Sites

Section 41

Under Act 64, before receiving a license to operate, a facility owner or operator is required to submit a plan for closure and post-closure monitoring and maintenance of the site and to establish a secured trust fund or other financial instrument to ensure that funds are available to properly close and maintain the facility site for at least 15 years. After 15 years, a determination of continuing responsibility of the owner or operator of the facility will be made. If the DNR director determines that the site does not have potential for alternative uses, ownership and liability for the site may be transferred to the state. Figure 3 shows the facility closure process.

Section 39

For landfills, Act 64 requires that a restrictive covenant be filed with the deed at the office of the registrar of deeds in the county in which the facility is located. The restrictive covenant is a stipulation attached to the deed which states that the land has been or may be used as a landfill for hazardous waste and that no one may build, excavate or otherwise disturb the land without authorization of the DNR director.

Special Funds

Act 64 establishes two funds: one to provide for long-term care of facilities and one to respond to hazardous waste emergencies.

Section 42

Each owner or operator of a disposal facility must pay a surcharge on the amount of waste handled. The money is deposited in a trust fund

which may not exceed \$30,000,000. Collection of fees in any one year may not exceed \$2,000,000. The trust fund will be used by the state to cover the costs of long-term care of closed facility sites which have been transferred to state ownership. This fund provides further assurances that closed facilities will be carefully monitored and maintained so that no environmental damage or public danger will result.

Act 64 also provides for a hazardous waste service fund of not less than \$1,000,000 to deal with hazardous waste emergencies. After an expenditure from the fund, the state will immediately request the Attorney General to initiate legal proceedings to recover the amount of the expenditure from the person or firm responsible for the emergency.

Section 43

Local Health Department Participation

Act 64 provides that the DNR may certify a city, county, or district health department to administer and enforce portions of the Act. Under the Act, an annual grant program is to be established which will reimburse 100 percent of the costs incurred by a certified local health department.

Section 45

Compliance and Enforcement

Proper operation of a facility will be monitored by the DNR or certified local health department staff who must inspect a site at least four times per year and file a written report. Any citizen may file a complaint against a disposal facility, hauler, or other person violating this law. A complaint by a municipality must be investigated by the DNR within five business days, or earlier if the complaint is of a highly serious nature.

Section 44

Section 47 The director of the DNR in collaboration with the Director of the Michigan Department of Public Health may order a facility to take corrective action or to close down, based upon finding of imminent threat to the environment or human health. The DNR director may also revoke a permit or license for cause.

Section 48 The director of the DNR may request that the Attorney General begin legal action to stop an illegal activity. The courts may fine violators up to \$25,000 for each day of non-compliance. If the violator has been previously convicted, the fine may be increased to \$50,000 per day. The Attorney General may seek to recover the full costs of damages to the natural resources of the state.

Hazardous Waste Planning

Section 8 Act 64 provides for a 14 member Hazardous Waste Management Planning Committee to prepare a hazardous waste management plan by January 1, 1982. Committee members represent a broad range of interests including city, county and township government; hazardous waste haulers, generators, and disposal facility operators, environmental or conservation groups; the public and the Departments of Natural Resources, Public Health and Commerce.

Section 9 The plan will provide for disposal facilities to meet existing and future needs and will assist in encouraging, developing and implementing methods of hazardous waste management which are environmentally sound and conserve resources.

Section 15 After the plan is adopted by the Natural Resources Commission, the DNR may issue construction permits only to facilities which are consistent with the plan.