

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5095**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 3112 (MCL 324.3112), as amended by 2005 PA 33.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3112. (1) A person shall not discharge any waste or waste
2 effluent into the waters of this state unless the person is in
3 possession of a valid permit from the department.

4 (2) An application for a permit under subsection (1) shall be
5 submitted to the department. Within 30 days after an application
6 for a new or increased use is received, the department shall
7 determine whether the application is administratively complete.
8 Within 90 days after an application for reissuance of a permit is
9 received, the department shall determine whether the application is

1 administratively complete. If the department determines that an
2 application is not complete, the department shall notify the
3 applicant in writing within the applicable time period. If the
4 department does not make a determination as to whether the
5 application is complete within the applicable time period, the
6 application shall be considered to be complete.

7 (3) The department shall condition the continued validity of a
8 permit upon the permittee's meeting the effluent requirements that
9 the department considers necessary to prevent unlawful pollution by
10 the dates that the department considers to be reasonable and
11 necessary and to ~~assure~~**ENSURE** compliance with applicable federal
12 law. ~~and regulations.~~ If the department finds that the terms of a
13 permit have been, are being, or may be violated, it may modify,
14 suspend, or revoke the permit or grant the permittee a reasonable
15 period of time in which to comply with the permit. The department
16 may reissue a revoked permit upon a showing satisfactory to the
17 department that the permittee has corrected the violation. A person
18 who has had a permit revoked may apply for a new permit.

19 (4) If the department determines that a person is causing or
20 is about to cause unlawful pollution of the waters of this state,
21 the department may notify the alleged offender of its determination
22 and enter an order requiring the person to abate the pollution or
23 **MAY** refer the matter to the attorney general for legal action, or
24 both.

25 (5) A person who is aggrieved by an order of abatement of the
26 department or by the reissuance, modification, suspension, or
27 revocation of an existing permit of the department executed

1 pursuant to this section may file a sworn petition with the
2 department setting forth the grounds and reasons for the complaint
3 and asking for ~~REQUESTING~~ a contested case hearing on the matter
4 pursuant to the administrative procedures act of 1969, 1969 PA 306,
5 MCL 24.201 to 24.328. A petition filed more than 60 days after
6 action on the order or permit may be rejected by the department as
7 being untimely.

8 (6) ~~Beginning January 1, 2007, all~~ **ALL** oceangoing vessels
9 engaging in port operations in this state shall obtain a permit
10 from the department. The department shall issue a permit for an
11 oceangoing vessel only if the applicant can demonstrate that the
12 oceangoing vessel ~~will not discharge aquatic nuisance species or if~~
13 ~~the oceangoing vessel discharges ballast water or other waste or~~
14 ~~waste effluent, that the operator of the vessel will utilize~~
15 ~~environmentally sound technology and methods, as determined by the~~
16 ~~department, that can be used to prevent the discharge of aquatic~~
17 ~~nuisance species. The department shall cooperate to the fullest~~
18 ~~extent practical with other Great Lakes basin states, the Canadian~~
19 ~~Great Lakes provinces, the Great Lakes panel on aquatic nuisance~~
20 ~~species, the Great Lakes fishery commission, the international~~
21 ~~joint commission, and the Great Lakes commission to ensure~~
22 ~~development of standards for the control of aquatic nuisance~~
23 ~~species that are broadly protective of the waters of the state and~~
24 ~~other natural resources. COMPLIES WITH 33 CFR 151.1510 AS THEN IN~~
25 ~~EFFECT OR THE OCEANGOING VESSEL WILL UTILIZE ENVIRONMENTALLY SOUND~~
26 ~~TECHNOLOGY AND METHODS APPROVED BY THE DEPARTMENT THAT PREVENT THE~~
27 ~~DISCHARGE OF AQUATIC NUISANCE SPECIES. HOWEVER, ALL OF THE~~

House Bill No. 5095 as amended June 12, 2018

1 FOLLOWING SHALL APPLY:

2 (A) THE GRANT BY THE COAST GUARD OF AN EXTENSION TO THE
3 IMPLEMENTATION SCHEDULE UNDER 33 CFR 151.1513 OR THE EXCHANGE OF
4 BALLAST WATER UNDER 33 CFR 151.1510(A) (1) <<OR SALTWATER FLUSHING UNDER
5 33 CFR 401.30>> ALONE IS NOT CONSIDERED
6 COMPLIANCE WITH THE FEDERAL AQUATIC NUISANCE RULE FOR THE PURPOSES
7 OF THIS SECTION.

8 (B) A VESSEL DISCHARGING BALLAST WATER MUST EMPLOY A BALLAST
9 WATER <<MANAGEMENT>> SYSTEM BEGINNING ON THE ENACTMENTDATE OF THE
10 AMENDATORY ACT THAT ADDED THIS SUBDIVISION.

11 (C) A VESSEL MUST CARRY OUT AN EXCHANGE OF BALLAST WATER OR
12 SALTWATER FLUSHING AND COMPLY WITH OTHER APPLICABLE REQUIREMENTS OF
13 33 CFR PART 151, SUBPART C, AND 33 CFR 401.30.

14 <<(D) A VESSEL USING WATER FROM A PUBLIC WATER SYSTEM UNDER 33 CFR
15 151.1510(A) (4) SHALL UTILIZE A METHOD TO SUFFICIENTLY CLEAN BALLAST WATER
16 TANKS PRIOR TO USING WATER FROM A PUBLIC WATER SUPPLY SYSTEM AS BALLAST
17 WATER AS APPROVED BY THE DEPARTMENT.>>

18 <<(E)>> A DISCHARGE THAT MAY CAUSE OR CONTRIBUTE TO A VIOLATION OF
19 A WATER QUALITY STANDARD << >> IS NOT AUTHORIZED BY A PERMIT
20 DESCRIBED IN THIS SUBSECTION.

21 <<(F)>> IF THE FEDERAL AQUATIC NUISANCE RULE IS AMENDED AFTER THE
22 ENACTMENT DATE OF THE 2018 AMENDATORY ACT THAT ADDED SUBSECTION
23 (7), AND THE DIRECTOR DETERMINES THAT THE AMENDED VERSION OF THE
24 FEDERAL AQUATIC NUISANCE RULE IS LESS PROTECTIVE OF THE WATERS OF
25 THIS STATE FROM AQUATIC NUISANCE SPECIES, THE APPLICANT SHALL
26 DEMONSTRATE THAT THE OCEANGOING VESSEL COMPLIES WITH THE FEDERAL
27 AQUATIC NUISANCE RULE AS IN EFFECT IMMEDIATELY BEFORE THE EFFECTIVE
DATE OF THAT AMENDMENT TO THE FEDERAL AQUATIC NUISANCE RULE.

28 <<(G)>> IF PURSUANT TO A COMPACT OF GREAT LAKES STATES OF WHICH
29 THIS STATE IS A PART, THIS STATE ADOPTS STANDARDS MORE PROTECTIVE
30 OF THE WATERS OF THIS STATE FROM AQUATIC NUISANCE SPECIES THAN THE
31 VERSION OF THE FEDERAL AQUATIC NUISANCE RULE OTHERWISE APPLICABLE

1 UNDER THIS SUBSECTION, THE STANDARDS ADOPTED PURSUANT TO THE
2 COMPACT APPLY.

3 (7) THE INTENT OF THE LEGISLATURE IN ADOPTING THE FEDERAL
4 AQUATIC NUISANCE RULE BY REFERENCE IS TO HELP HARMONIZE REGULATORY
5 PROGRAMS IN GREAT LAKES STATES FOR PREVENTING THE INTRODUCTION AND
6 SPREAD OF AQUATIC NUISANCE SPECIES IN THE GREAT LAKES, INCLUDING
7 BALLAST WATER MANAGEMENT PROGRAMS, AND TO ALLOW REGULATORY AGENCIES
8 TO COOPERATE IN DEVELOPING STRONGER PROGRAMS.

9 (8) Permit fees for permits under ~~this subsection (6)~~ shall be
10 assessed as provided in section 3120. The permit fees for an
11 individual permit issued under ~~this subsection shall be (6)~~ ARE the
12 fees specified in section 3120(1)(a) and (5)(a). The permit fees
13 for a general permit issued under ~~this subsection shall be (6)~~ ARE
14 the fees specified in section 3120(1)(c) and (5)(b)(i). Permits
15 under ~~this subsection (6)~~ shall be issued in accordance with the
16 timelines provided in section 3120. The department may promulgate
17 rules to implement ~~this subsection.~~ SUBSECTIONS (6) TO (8).

18 (9) AS USED IN THIS SECTION, "FEDERAL AQUATIC NUISANCE RULE"
19 MEANS 33 CFR PART 151, SUBPART C, AND APPLICABLE REQUIREMENTS OF 33
20 CFR 151.2050, 151.2060, AND 151.2070.