

HOUSE BILL No. 5562

March 6, 1990, Introduced by Reps. Emerson, Knight, Perry Bullard, Scott, Jondahl, DeMars and Ostling and referred to the Committee on Appropriations.

A bill to amend the title and section 13 of Act No. 245 of the Public Acts of 1929, entitled as amended

"An act to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the Great Lakes, to have control over the alteration of the watercourses and the flood plains of all rivers and streams, with powers to make rules governing the same, and to prescribe the powers and duties of such commission; to require the registration of manufacturing products, production materials and waste products where certain wastes are discharged; to provide for surveillance fees upon discharges to the waters of the state in order to provide for investigation, monitoring and surveillance necessary to prevent and abate water pollution; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation of this act,"

1 Section 1. The title and section 13 of Act No. 245 of the
2 Public Acts of 1929, as amended by Act No. 116 of the Public Acts
3 of 1981, being section 323.13 of the Michigan Compiled Laws, are
4 amended to read as follows:

6 An act to create a water resources commission to protect and
7 conserve the water resources of the state, to have control over
8 the pollution of any waters of the state and the Great Lakes, to
9 have control over the alteration of the watercourses and the
10 flood plains of all rivers and streams, with powers to make rules
11 governing the same, and to prescribe the powers and duties of
12 ~~such~~ THE commission; to require the registration of manufactur-
13 ing products, production materials, and waste products where cer-
14 tain wastes are discharged; to provide for ~~surveillance fees~~
15 ~~upon discharges to the waters of the state in order to provide~~
16 ~~for investigation, monitoring and surveillance necessary to pre-~~
17 ~~vent and abate water pollution~~ CERTAIN FEES AND THE DISPOSITION

18 OF THOSE FEES; to require permits to regulate the discharge or
19 storage of any substance which may affect the quality of the
20 waters of the state and to establish restrictions to assure com-
21 pliance with applicable state standards and to authorize the
22 establishment of permit restrictions and programs to assure
23 compliance with applicable federal law and regulations; to
24 prohibit the pollution of any waters of the state and the Great

1 Lakes; to prohibit the obstruction of the floodways of the rivers
2 and streams of the state; to designate the commission as the
3 state agency to cooperate and negotiate with other governments
4 and agencies in matters concerning the water resources of the
5 state; and to ~~provide~~ PRESCRIBE penalties AND PROVIDE REMEDIES
6 for the violation of this act.

7 Sec. 13. ~~(1) In order to provide for increased surveil-~~
8 ~~lance, investigation, monitoring, and other activities necessary~~
9 ~~to provide greater protection of the quality of waters of this~~
10 ~~state, an annual surveillance fee is payable by a person, com-~~
11 ~~pany, corporation, but not a municipality, that discharges~~
12 ~~water borne waste directly or indirectly into the waters of this~~
13 ~~state from a manufacturing facility, or from any other commercial~~
14 ~~establishment that generates a discharge inconsistent with the~~
15 ~~protection of waters of this state. The fee shall be for the~~
16 ~~cost of surveillance of industrial and commercial discharges and~~
17 ~~receiving waters. The cost of necessary surveillance of munici-~~
18 ~~pal discharges shall not be financed from annual surveillance~~
19 ~~fees, but may be financed as otherwise provided by law. The~~
20 ~~total surveillance fees assessed annually on discharges shall not~~
21 ~~exceed the total amount appropriated to the commission or other~~
22 ~~appropriate state agency. Surveillance fees shall be restricted~~
23 ~~to:~~

24 ~~(a) Surveillance, inspection, and pollution prevention~~
25 ~~including necessary data collection, compliance sampling and~~
26 ~~analysis directly related to the operations of the fee payers in~~
27 ~~the aggregate.~~

1 ~~(b) Evaluation and issuance of permits to surveillance fee~~
2 ~~payers.~~

3 ~~(c) Administrative support, including laboratory, sampling~~
4 ~~and monitoring equipment directly related to the dischargers who~~
5 ~~pay surveillance fees in the aggregate.~~

6 ~~(2) Before February 2, of each year the commission shall~~
7 ~~inform each discharger and the state treasurer of the annual sur-~~
8 ~~veillance fee due from each plant location or major manufacturing~~
9 ~~component and commercial enterprise, as provided by rule. Except~~
10 ~~as provided in subsection (6), if notice is not made before~~
11 ~~February 2 in any year, the surveillance fee shall remain the~~
12 ~~same as the previous year. High quality agricultural wastewater,~~
13 ~~which is not discharged directly into a lake or stream but is~~
14 ~~diverted in accordance with an approved agromanagement plan for~~
15 ~~irrigation at a rate which approximates the rate of plant uptake~~
16 ~~and results from normal agricultural operations such as cooling,~~
17 ~~heating, washing, conveying, transporting, or holding fruit or~~
18 ~~vegetables shall be exempt from the surveillance fee.~~

19 ~~(3) Before March 2 of each year a discharger shall pay to~~
20 ~~the state treasurer the amount of surveillance fee due. The~~
21 ~~state treasurer shall deposit the fee in the general fund of this~~
22 ~~state. The treasurer shall report the total amount collected to~~
23 ~~the governor and the legislature before April 16 of each year.~~

24 ~~(4) The annual surveillance fee shall be based on an admin-~~
25 ~~istrative fee of \$50.00 and an additional fee set by the~~
26 ~~commission. The additional fee shall be determined on a~~
27 ~~graduated basis using a formula developed by rules of the~~

~~1 commission promulgated pursuant to Act No. 306 of the Public
2 Acts of 1969, as amended, being sections 24.201 to 24.315 of the
3 Michigan Compiled Laws. The formula shall include the volume and
4 nature of discharge, number of discharge locations, variability
5 of flow volume, stream characteristics, required laboratory
6 tests, area surveillance, difficulty of survey setup, history of
7 compliance and provisions for compliance, and other factors that
8 the commission considers appropriate to establish the total
9 annual surveillance fee. The maximum annual fee assessed shall
10 not exceed \$18,000.00 per manufacturing location. For the fiscal
11 year beginning October 1, 1980, the legislative appropriations
12 conversion factor, which is used to match the total surveillance
13 fee billings with the authorized appropriation, shall not exceed
14 5.00. A discharger shall not be assessed a fee if the total fee
15 calculated by the formula is \$50.00 or less. A discharge into a
16 municipal sewerage system shall be assessed only the \$50.00
17 administrative fee. However, if the discharge, after municipal
18 treatment, is or will become injurious to the waters of this
19 state under section 6, the assessment will be based upon the same
20 considerations as if the discharge, after treatment, were being
21 discharged by the manufacturing facility or commercial establish-
22 ment directly into the waters of this state. The commission
23 shall promulgate rules necessary to implement this section.~~

~~24 (5) The total surveillance fees assessed annually shall not
25 exceed the total amount appropriated to the department of natural
26 resources or other appropriate state or local agency for
27 surveillance. The total amount of revenue generated annually by~~

~~1 water pollution surveillance fees shall not comprise more than~~
~~2 41% of the total funding support from all sources for the fiscal~~
~~3 year beginning October 1, 1980, 30% for the fiscal year beginning~~
~~4 October 1, 1981, 20% for the fiscal year beginning October 1,~~
~~5 1982, 10% for the fiscal year beginning October 1, 1983, and 0%~~
~~6 for the fiscal year beginning October 1, 1984 and thereafter, as~~
~~7 appropriated by the legislature, of the state water pollution~~
~~8 control and abatement programs authorized by this act. All sur-~~
~~9 veillance fees shall be reduced each year by a percentage equal~~
~~10 to the percentage by which total surveillance fees are reduced~~
~~11 from the previous fiscal year pursuant to this subsection.~~

~~12 (6) For the year 1981 only, the commission shall inform a~~
~~13 discharger and the state treasurer of the annual surveillance fee~~
~~14 due from each plant location or major manufacturing component and~~
~~15 commercial enterprise, as provided by rule not later than 2 weeks~~
~~16 after the effective date of this subsection. For the year 1981~~
~~17 only, a discharger shall pay to the state treasurer the amount of~~
~~18 surveillance fees due not later than 6 weeks after the effective~~
~~19 date of this subsection. (1) AS USED IN THIS SECTION:~~

~~20 (A) "COMBINED SEWER OVERFLOW" MEANS THE DISCHARGE OF COM-~~
~~21 BINED STORM WATER AND SANITARY WASTEWATER TO A SURFACE WATER FROM~~
~~22 A SEWER SYSTEM DESIGNED TO TRANSPORT STORM WATER AND SANITARY~~
~~23 WASTEWATER.~~

~~24 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.~~

~~25 (C) "DESIGN FLOW" MEANS THE DAILY VOLUME OF WASTEWATER~~
~~26 AUTHORIZED FOR DISCHARGE UNDER A PERMIT OR EXEMPTION. FLOWS FROM~~
~~27 MULTIPLE DISCHARGES AUTHORIZED IN A SINGLE PERMIT OR EXEMPTION~~

1 SHALL BE ADDED TOGETHER. IF THIS INFORMATION IS ABSENT FROM THE
2 PERMIT OR EXEMPTION, THE DESIGN FLOW SHALL BE THAT WHICH THE
3 DISCHARGER'S WASTEWATER TREATMENT FACILITY WAS DESIGNED TO
4 TREAT. DESIGN FLOWS FOR SEASONAL DISCHARGES SHALL BE CALCULATED
5 BY DIVIDING THE AUTHORIZED ANNUAL DISCHARGE BY 365.

6 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS
7 OR HER DESIGNEE.

8 (E) "EXEMPTION" MEANS AN EXEMPTION ISSUED BY THE COMMISSION
9 FROM THE REQUIREMENT TO OBTAIN A PERMIT THAT AUTHORIZES THE DIS-
10 CHARGE OF WASTEWATER TO THE GROUNDWATERS OF THE STATE.

11 (F) "FACILITY" MEANS A SITE FOR WHICH A PERMIT IS ISSUED
12 UNDER THIS ACT ALLOWING THE HOLDER TO DISCHARGE INTO THE WATERS
13 OF THIS STATE OR A SITE FOR WHICH AN EXEMPTION IS ISSUED.

14 (G) "FEE" MEANS A SURFACE WATER PROTECTION FEE OR A GROUND-
15 WATER PROTECTION FEE AUTHORIZED UNDER THIS SECTION.

16 (H) "INDUSTRIAL OR COMMERCIAL FACILITY" MEANS A FACILITY
17 THAT IS NOT A MUNICIPAL FACILITY, INCLUDING, BUT NOT LIMITED TO,
18 A DISCHARGER OF NONCONTACT COOLING WATER, STORM WATER, SANITARY
19 WASTEWATER, AND PROCESS WASTEWATER, OR ANY COMBINATION OF THESE
20 WATERS. FACILITIES AT DIFFERENT GEOGRAPHIC LOCATIONS SHALL BE
21 CONSIDERED SEPARATE FACILITIES. EACH FACILITY THAT HOLDS A
22 PERMIT SHALL BE CONSIDERED A SEPARATE FACILITY.

23 (I) "INDUSTRIAL PRETREATMENT PROGRAM" MEANS A PROGRAM DEVEL-
24 OPED AND IMPLEMENTED BY A MUNICIPALITY PURSUANT TO "GENERAL PRE-
25 TREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION",
26 40 C.F.R. PART 403, OR WATER RESOURCES COMMISSION RULE,
27 R 323.2162 OF THE MICHIGAN ADMINISTRATIVE CODE, OR SUCH OTHER

1 RULES PROMULGATED BY THE AGENCY OR ENTITY HAVING JURISDICTION
2 OVER THE ACTIVITY FOR THE PURPOSE OF CONTROLLING DISCHARGES FROM
3 NONDOMESTIC SOURCES OF WASTEWATER TO PUBLICLY OWNED SANITARY
4 SEWER SYSTEMS.

5 (J) "MUNICIPAL FACILITY" MEANS A FACILITY THAT IS DESIGNED
6 TO COLLECT OR TREAT STORM WATER OR SANITARY WASTEWATER, OR BOTH,
7 AND IS EITHER PUBLICLY OWNED OR SERVES A RESIDENTIAL AREA.
8 MUNICIPAL FACILITY INCLUDES FACILITIES OWNED BY THE STATE; A
9 MUNICIPALITY, OR A GROUP OF MUNICIPALITIES COMPOSING A DISTRICT
10 OR AUTHORITY; A PUBLIC OR PRIVATE EDUCATIONAL INSTITUTION; OR A
11 DISCHARGE FROM A FACILITY SERVING A RESIDENTIAL SUBDIVISION OR
12 MOBILE HOME PARK THAT TREATS SANITARY WASTEWATER.

13 (K) "NONCONTACT COOLING WATER" MEANS WATER USED FOR COOLING
14 THAT DOES NOT COME INTO DIRECT CONTACT WITH A RAW MATERIAL,
15 INTERMEDIATE PRODUCT, BYPRODUCT, WASTE PRODUCT, OR FINISHED
16 PRODUCT.

17 (L) "NONDOMESTIC SOURCE" MEANS AN INDUSTRY, COMMERCIAL
18 ESTABLISHMENT, OR OTHER ENTITY THAT DISCHARGES WASTEWATER TO A
19 MUNICIPAL FACILITY OTHER THAN, OR IN ADDITION TO, WATER CARRIED
20 WASTES FROM TOILET, KITCHEN, LAUNDRY, BATHING, OR OTHER FACILI-
21 TIES USED FOR HOUSEHOLD PURPOSES.

22 (M) "PERMIT" MEANS A PERMIT AUTHORIZING THE DISCHARGE OF
23 WASTEWATER OR ANY OTHER SUBSTANCE TO SURFACE WATERS OF THE STATE
24 ISSUED UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
25 PURSUANT TO THE FEDERAL WATER POLLUTION CONTROL ACT, CHAPTER 758,
26 86 STAT. 816, 33 U.S.C. 1251 TO 1252, 1253 TO 1254, 1255 TO 1257,
27 1258 TO 1263, 1265 TO 1268, 1281, 1282 TO 1293, 1294 TO 1299,

1 1311 TO 1313, 1314 TO 1326, 1328 TO 1330, 1341 TO 1345, 1361 TO
2 1377, AND 1381 TO 1387, PUBLIC LAW 92-500, AND PURSUANT TO THIS
3 ACT.

4 (N) "PROCESS WASTEWATER" MEANS WASTEWATER OTHER THAN NONCON-
5 TACT COOLING WATER, STORM WATER, AND SANITARY WASTEWATER.

6 (O) "SANITARY WASTEWATER" MEANS TREATED OR UNTREATED WASTE-
7 WATERS THAT CONTAIN HUMAN METABOLIC AND DOMESTIC WASTEWATER.

8 (P) "STORM WATER" MEANS WATER THAT IS GENERATED BY RUNOFF
9 FROM RAINFALL EVENTS OR SNOWMELT.

10 (Q) "SURFACE WATERS" MEANS ALL OF THE FOLLOWING WITHIN THIS
11 STATE OR THE WATERS OVER WHICH THIS STATE HAS JURISDICTION, BUT
12 DOES NOT INCLUDE DRAINAGE WAYS AND PONDS USED SOLELY FOR WASTEWA-
13 TER CONVEYANCE, TREATMENT, OR CONTROL:

14 (i) GREAT LAKES AND THEIR CONNECTING WATERS.

15 (ii) ALL INLAND LAKES.

16 (iii) RIVERS.

17 (iv) STREAMS.

18 (v) IMPOUNDMENTS.

19 (vi) OPEN DRAINS.

20 (vii) OTHER SURFACE WATER BODIES.

21 (2) AN ANNUAL SURFACE WATER PROTECTION FEE SYSTEM IS ESTAB-
22 LISHED TO BE ADMINISTERED BY THE DEPARTMENT TO PROVIDE FINANCIAL
23 SUPPORT FOR THIS STATE'S SURFACE WATER PROTECTION PROGRAM.

24 (3) REVENUES GENERATED FROM FEES SHALL NOT BE USED TO SUP-
25 PORT THE DIRECT COSTS OF LITIGATION UNDERTAKEN TO ENFORCE THIS
26 ACT.

1 (4) THE DEPARTMENT IS AUTHORIZED TO DESIGN A SYSTEM TO LEVY
2 AND COLLECT THE FOLLOWING ANNUAL FEES FROM FACILITIES IN THIS
3 STATE THAT HOLD SURFACE WATER DISCHARGE PERMITS:

4 (A) THE TOTAL ANNUAL FEES COLLECTED BY THE DEPARTMENT SHALL
5 BE \$3,156,100.00 IN THE FISCAL YEAR ENDING SEPTEMBER 30, 1991 AND
6 \$5,456,100.00 IN THE FISCAL YEAR ENDING SEPTEMBER 30, 1992.

7 (B) THE TOTAL ANNUAL FEES COLLECTED IN YEARS AFTER THE
8 FISCAL YEAR ENDING SEPTEMBER 30, 1992 SHALL BE \$5,456,100.00,
9 EXCEPT AS PROVIDED IN SUBDIVISION (C).

10 (C) ANNUAL FEES COLLECTED IN THE FISCAL YEAR ENDING
11 SEPTEMBER 30, 1992 AND IN LATER FISCAL YEARS SHALL BE ADJUSTED BY
12 THE CUMULATIVE TOTAL OF THE ECONOMIC ADJUSTMENT FACTORS IN THE
13 ANNUAL APPROPRIATIONS FROM THE FISCAL YEAR ENDING SEPTEMBER 30,
14 1991 TO THE APPROPRIATE BUDGET YEAR.

15 (5) THE DEPARTMENT IS AUTHORIZED TO DESIGN A SYSTEM TO LEVY
16 AND COLLECT THE FOLLOWING ANNUAL FEES FROM FACILITIES IN THIS
17 STATE THAT HOLD GROUNDWATER DISCHARGE PERMITS OR EXEMPTIONS:

18 (A) THE TOTAL ANNUAL FEES COLLECTED BY THE DEPARTMENT SHALL
19 BE \$900,000.00 IN THE FISCAL YEAR ENDING SEPTEMBER 30, 1991;
20 \$1,400,000.00 FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1992;
21 \$1,900,000.00 FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1993; AND
22 \$2,400,000.00 FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1994,
23 EXCEPT AS PROVIDED IN SUBDIVISION (C).

24 (B) THE TOTAL ANNUAL FEES COLLECTED IN YEARS AFTER THE
25 FISCAL YEAR ENDING SEPTEMBER 30, 1994 SHALL BE \$2,400,000.00,
26 EXCEPT AS PROVIDED IN SUBDIVISION (C).

1 (C) ANNUAL FEES COLLECTED IN THE FISCAL YEAR ENDING
 2 SEPTEMBER 30, 1992 AND IN LATER FISCAL YEARS SHALL BE ADJUSTED BY
 3 THE CUMULATIVE TOTAL OF THE ECONOMIC ADJUSTMENT FACTORS IN THE
 4 ANNUAL APPROPRIATIONS FROM THE FISCAL YEAR ENDING SEPTEMBER 30,
 5 1991 TO THE APPROPRIATE BUDGET YEAR.

6 (6) THE ANNUAL SURFACE WATER PROTECTION FEE FOR EACH FACIL-
 7 ITY DISCHARGING TO SURFACE WATER SHALL BE PROPORTIONAL TO THE
 8 DEGREE OF EFFORT ASSOCIATED WITH PERMIT DEVELOPMENT, ISSUANCE,
 9 AND RELATED COMPLIANCE ACTIVITIES. THE PROPORTIONAL LEVEL OF
 10 EFFORT SHALL BE CALCULATED FOR EACH FACILITY USING THE FOLLOWING
 11 FORMULA:

12 (A) FEE POINTS = FACILITY FLOW FACTOR X FACILITY COMPLEXITY
 13 FACTOR.

14 (B) FACILITY FLOW FACTORS SHALL BE DETERMINED AS FOLLOWS:

15	FACILITY DESIGN		FACILITY
16	FLOW CATEGORY		FLOW
17	(MILLION GALLONS PER DAY)		<u>FACTOR</u>
18	<u>AT LEAST</u>	<u>BUT LESS THAN</u>	
19	0	0.001	1
20	0.001	0.01	2
21	0.01	0.1	3
22	0.1	1.0	4
23	1	10	5
24	10	100	6
25	100	1,000	7

1	1,000	10,000	8
2	10,000	NO LIMIT	9

3 (C) FACILITY COMPLEXITY FACTORS FOR INDUSTRIAL AND COMMER-
 4 CIAL FACILITIES SHALL BE DETERMINED ACCORDING TO THE TABLE IN
 5 THIS SUBDIVISION. FACILITIES DISCHARGING MORE THAN 1 TYPE OF
 6 WASTEWATER SHALL BE ASSIGNED TO THE CATEGORY WITH THE HIGHEST
 7 APPROPRIATE FACILITY COMPLEXITY FACTOR. THE NUMBER OF PARAMETERS
 8 USED IN ASSIGNING FACILITY COMPLEXITY FACTORS TO PROCESS WASTEWA-
 9 TER DISCHARGES SHALL INCLUDE LIMITATIONS IN THE PERMIT OR MEA-
 10 SUREMENTS AND OBSERVATIONS REQUIRED TO BE MONITORED BY THE
 11 PERMIT, EXCLUDING SPECIAL CONDITIONS.

12		FACILITY
13		COMPLEXITY
14	<u>FACILITY COMPLEXITY CATEGORY</u>	<u>FACTOR</u>
15	NONCONTACT COOLING WATER.....	1
16	STORM WATER.....	2
17	SANITARY WASTEWATER.....	2
18	STORM WATER AND SANITARY WASTEWATER.....	3
19	PROCESS WASTEWATER.....	
20	LOW NUMBER OF PARAMETERS (1-3).....	4
21	MODERATE NUMBER OF PARAMETERS (4-10).....	7
22	HIGH NUMBER OF PARAMETERS (11-19).....	10
23	VERY HIGH NUMBER OF PARAMETERS (20 OR MORE).	15
24	(D) FACILITY COMPLEXITY FACTORS FOR MUNICIPAL FACILITIES	
25	SHALL BE DETERMINED ACCORDING TO THE TABLE IN THIS SUBDIVISION.	

1 STAFF RESOURCE INTENSIVE PROGRAMS ARE COMBINED SEWER OVERFLOW
2 CONTROL, INDUSTRIAL PRETREATMENT, AND STORM WATER CONTROL.

3		FACILITY-
4		COMPLEXITY
5	<u>FACILITY COMPLEXITY CATEGORY</u>	<u>FACTOR</u>
6	STORM WATER ONLY.....	2
7	SANITARY WASTEWATER ONLY.....	2
8	COMBINED SEWER OVERFLOW CONTROL ONLY.....	5
9	SANITARY WASTEWATER AND INVOLVEMENT IN 1 STAFF	
10	RESOURCE INTENSIVE PROGRAM.....	5
11	SANITARY WASTEWATER AND INVOLVEMENT IN 2 OR	
12	MORE STAFF RESOURCE INTENSIVE PROGRAMS.....	10

13 (E) EACH FACILITY HAVING A SURFACE WATER DISCHARGE PERMIT
14 SHALL BE ASSESSED ANNUALLY ITS SHARE OF THE AMOUNT OF THE SURFACE
15 WATER PROTECTION FEES AUTHORIZED BY THIS SECTION BY DETERMINING A
16 COST PER FACILITY FEE POINT AND MULTIPLYING THE COST BY EACH
17 INDIVIDUAL FACILITY'S FEE POINTS. THE COST PER FEE POINT SHALL
18 BE DETERMINED BY DIVIDING THE AMOUNT OF THE SURFACE WATER PROTEC-
19 TION FEES AUTHORIZED BY THIS SECTION BY THE SUMMATION OF FACILITY
20 FEE POINTS STATEWIDE. A MINIMUM FEE OF \$500.00 SHALL BE CHARGED
21 TO ALL FACILITIES. ALL CALCULATED FEES OF LESS THAN \$500.00
22 SHALL BE ADJUSTED UPWARD TO MEET THE \$500.00 MINIMUM FEE.

23 (7) THE ANNUAL GROUNDWATER PROTECTION FEE FOR EACH FACILITY
24 DISCHARGING TO GROUNDWATER SHALL BE PROPORTIONAL TO THE DEGREE OF
25 EFFORT ASSOCIATED WITH PERMIT OR EXEMPTION DEVELOPMENT, ISSUANCE,
26 AND RELATED COMPLIANCE ACTIVITIES. THE PROPORTIONAL LEVEL OF

1 EFFORT SHALL BE CALCULATED FOR EACH PERMITTED FACILITY USING THE
2 FOLLOWING FORMULA:

3 (A) FEE POINTS = FACILITY FLOW FACTOR X FACILITY COMPLEXITY
4 FACTOR.

5 (B) FACILITY FLOW FACTORS SHALL BE DETERMINED AS FOLLOWS:

6	FACILITY DESIGN		FACILITY
7	FLOW CATEGORY		FLOW
8	<u>(MILLION GALLONS PER DAY)</u>		<u>FACTOR</u>
9	<u>AT LEAST</u>	<u>BUT LESS THAN</u>	
10	0	0.001	1
11	0.001	0.01	2
12	0.01	0.1	3
13	0.1	1.0	4
14	1	10	5
15	10	100	6
16	100	1,000	7
17	1,000	10,000	8
18	10,000	NO LIMIT	9

19 (C) FACILITY COMPLEXITY FACTORS SHALL BE DETERMINED ACCORD-
20 ING TO THE FOLLOWING TABLE. FACILITIES DISCHARGING MORE THAN 1
21 TYPE OF WASTEWATER SHALL BE ASSIGNED TO THE CATEGORY WITH THE
22 HIGHEST APPROPRIATE FACILITY COMPLEXITY FACTOR.

23	COMPLEXITY FACTORS	
24	<u>FACILITY TYPE</u>	<u>FACTOR</u>
25	AGRICULTURAL PRODUCTS	1

1	CONSTRUCTION	2
2	HEALTH CARE/NURSING	2
3	MOBILE HOME PARK/CAMPGROUND	2
4	MUNICIPAL	2
5	SERVICES	2
6	AUTOWASH/AUTO	3
7	LAUNDROMATS	3
8	MANUFACTURING	3
9	MINING	3

10 (D) ANNUALLY, EACH FACILITY HAVING A GROUNDWATER DISCHARGE
 11 PERMIT SHALL BE ASSESSED ITS SHARE OF THE AMOUNT OF THE WATER
 12 PROTECTION FEES AUTHORIZED BY THIS SECTION BY DETERMINING A COST
 13 PER FACILITY FEE POINT AND MULTIPLYING THE COST BY EACH INDIVID-
 14 UAL FACILITY'S FEE POINTS. THE COST PER FEE POINT SHALL BE
 15 DETERMINED BY DIVIDING THE AMOUNT OF THE WATER PROTECTION FEES
 16 AUTHORIZED BY THIS SECTION BY THE SUMMATION OF FACILITY FEE
 17 POINTS STATEWIDE. A MINIMUM FEE OF \$500.00 SHALL BE CHARGED TO
 18 ALL FACILITIES. ALL CALCULATED FEES OF LESS THAN \$500.00 SHALL
 19 BE ADJUSTED UPWARD TO THE \$500.00 MINIMUM.

20 (E) ALL FACILITIES HAVING AN EXEMPTION SHALL BE ASSESSED AN
 21 ANNUAL FEE OF \$500.00.

22 (8) ON OR BEFORE OCTOBER 15 OF EACH YEAR, FEES SHALL BE
 23 ASSESSED AGAINST FACILITIES THAT HAVE PERMITS ISSUED. THE DIVI-
 24 SION SHALL NOTIFY EACH FACILITY OF ITS ASSESSED FEE IN NOVEMBER
 25 OF EACH YEAR. CHANGES MADE TO PERMITS AFTER OCTOBER 15 AND PRIOR
 26 TO THE NOTIFICATION SHALL NOT IMPACT THE ASSESSED FEE UNTIL A

1 LATER YEAR. A FACILITY HOLDING A PERMIT FOR ANY PART OF THE YEAR
2 SHALL BE REQUIRED TO PAY THE FULL FEE FOR THE YEAR.

3 (9) PAYMENT OF THE REQUIRED FEE UNDER THIS SECTION SHALL BE
4 MADE A CONDITION OF THE PERMIT AND SHALL BE DUE WITHIN 45 CALEN-
5 DAR DAYS OF THE MAILING DATE OF THE FEE NOTIFICATION. PAYMENT
6 SHALL BE SUBMITTED DIRECTLY TO THE DEPARTMENT OF TREASURY FOR
7 DEPOSIT IN THE SUBACCOUNT DESCRIBED IN SUBSECTION (13).

8 (10) IF A FACILITY CHALLENGES ITS ASSESSED FEE, IT SHALL PAY
9 THE FEE IN FULL AND APPEAL THE FEE IN WRITING BY THE DATE ON
10 WHICH THE FEE IS DUE. THE APPEAL SHALL BE SUBMITTED TO THE DIVI-
11 SION AND SHALL IDENTIFY THE FACILITY AND STATE THE GROUNDS UPON
12 WHICH IT IS BASED. THE DEPARTMENT SHALL DETERMINE THE VALIDITY
13 OF AN APPEAL WITHIN 180 DAYS. IF THE APPEAL IS SUCCESSFUL, THE
14 FACILITY SHALL RECEIVE A REFUND EQUAL TO THE DIFFERENCE BETWEEN
15 THE FEE PAID AND THE REVISED FEE AMOUNT FROM THE SUBACCOUNT
16 DESCRIBED IN SUBSECTION (13). IF THE DIVISION DENIES THE APPEAL,
17 THE FACILITY SHALL HAVE AN OPPORTUNITY FOR A CONTESTED CASE HEAR-
18 ING IN THE SAME MANNER AS PROVIDED FOR UNDER THE ADMINISTRATIVE
19 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
20 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

21 (11) INTEREST SHALL BE ASSESSED ON FEE PAYMENTS THAT ARE
22 LATE. THE AMOUNT OF INTEREST DUE SHALL FOLLOW THE SCHEDULE IN
23 ACT NO. 279 OF THE PUBLIC ACTS OF 1984, BEING SECTIONS 17.51 TO
24 17.57 OF THE MICHIGAN COMPILED LAWS, THAT IDENTIFIES INTEREST THE
25 STATE MUST ADD TO LATE PAYMENTS. FAILURE BY A FACILITY TO PAY
26 THE FEE IN FULL, PLUS ANY INTEREST ACCRUED, BY OCTOBER 1 OF THE

1 YEAR FOLLOWING THE DATE OF NOTIFICATION OF THE ASSESSED FEE SHALL
2 CONSTITUTE GROUNDS TO REVOKE A PERMIT HELD BY THE FACILITY.

3 (12) BEGINNING OCTOBER 1, 1992, UNLESS WAIVED BY THE PERMIT
4 HOLDER, THE DEPARTMENT SHALL PROVIDE:

5 (A) A \$500.00 REFUND OF FEES PAID BY A FACILITY FROM THE
6 SUBACCOUNT DESCRIBED IN SUBSECTION (13) FOR FAILURE BY THE DIVI-
7 SION TO RECOMMEND TO THE WATER RESOURCES COMMISSION, WITHIN THE
8 FISCAL YEAR IN WHICH THE FACILITY'S PERMIT EXPIRES, THAT THE
9 PERMIT BE REISSUED OR DENIED REISSUANCE IF THE FACILITY HAS SUB-
10 MITTED AN ADMINISTRATIVELY AND TECHNICALLY COMPLETE APPLICATION
11 AT LEAST 180 DAYS PRIOR TO THE EXPIRATION DATE.

12 (B) A \$500.00 CREDIT TO A FACILITY SEEKING A NEW USE PERMIT
13 IF THE DIVISION FAILS TO RECOMMEND TO THE WATER RESOURCES COMMIS-
14 SION, WITHIN 180 DAYS OF RECEIPT BY THE DIVISION OF AN ADMINIS-
15 TRATIVELY COMPLETE PERMIT APPLICATION, THAT THE NEW USE PERMIT BE
16 ISSUED OR DENIED ISSUANCE.

17 (13) THERE IS ESTABLISHED IN THE ENVIRONMENTAL POLLUTION
18 PREVENTION FUND CREATED IN THE HAZARDOUS WASTE MANAGEMENT ACT,
19 ACT NO. 64 OF THE PUBLIC ACTS OF 1979, BEING SECTIONS 299.501 TO
20 299.551 OF THE MICHIGAN COMPILED LAWS, A CLEAN WATERS
21 SUBACCOUNT. ALL FEES COLLECTED UNDER THIS SECTION SHALL BE
22 DEPOSITED IN THE CLEAN WATERS SUBACCOUNT. THE LEGISLATURE MAY
23 APPROPRIATE ANNUALLY FROM THE CLEAN WATERS SUBACCOUNT MONEY
24 NEEDED FOR PROGRAM ACTIVITIES CARRIED OUT UNDER THIS ACT AND THE
25 RULES PROMULGATED UNDER THIS ACT.