

SUBSTITUTE FOR
SENATE BILL NO. 252

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 3111 and 3113 (MCL 324.3111 and 324.3113)
and by adding sections 3120 and 3121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3111. (1) A person doing business within this state
2 who discharges to the waters of the state or to any sewer system
3 wastewater that contains wastes ~~in addition to~~ **other than**
4 sanitary sewage shall file an annual report on a form provided by
5 the department. The report described in this section shall set
6 forth the nature of the enterprise, indicating the quantities of
7 materials used in and incidental to its manufacturing processes
8 and including by-products and waste products that appear on a
9 register of critical materials compiled by the department and the
10 estimated annual total number of gallons of wastewater,

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1 including, but not limited to, process and cooling water to be
2 discharged to the waters of the state or to any sewer system.

3 (2) The information **collected under subsection (1)** shall be
4 used by the department only for purposes of water pollution
5 control<< and to supplement the department's data for purposes of water
6 quality monitoring>>. The department shall provide proper and adequate
7 facilities and procedures to safeguard the confidentiality of
8 manufacturing proprietary processes, except that confidentiality
9 shall not extend to waste products discharged to the waters of
10 the state.

11 (3) Beginning 2 years after the effective date of the
12 amendatory act that added this subsection, the department shall
13 compile the information collected under subsection (1) and shall
14 make that compilation available on the department's website.

15 (4) Operations of a business or industry that violate this
16 section may be enjoined by an action commenced by the attorney
17 general in a court of competent jurisdiction.

18 (5) The department shall promulgate rules as it considers
19 necessary to ~~effectuate the administration of~~ **implement** this
20 section, including, ~~where~~ **if** necessary to meet special
21 circumstances, reporting more frequently than annually.

22 Sec. 3113. (1) A person who seeks a new or increased use of
23 the waters of the state for sewage or other waste disposal
24 purposes shall file with the department an application setting
25 forth the information required by the department, including the
26 nature of the enterprise or development contemplated, the amount
27 of water required to be used, its source, the proposed point of
28 discharge of the wastes into the waters of the state, **pollution**

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1 **prevention efforts evaluated and undertaken**, the estimated amount
 2 to be discharged, and a statement setting forth the expected
 3 bacterial, physical, chemical, and other known characteristics of
 4 the wastes.

<<(2) Until October 1, 2007, an application for a permit under this part authorizing a discharge into surface water, other than a stormwater discharge, shall be accompanied by an application fee as follows:

(a) For an EPA major facility permit, \$1,000.00.

(b) For an EPA minor facility individual permit, \$500.00.

(c) For an EPA minor facility general permit, \$100.00.

(d) For a major modification of an existing permit, \$500.00.>>

5 **<<(3)<2>>** Within 180 days after receipt of a complete application,
 6 the department shall either grant or deny a permit, unless the
 7 applicant and the department agree to extend this time period. **A**
 8 **permit shall be reissued by September 30 of the year following**
 9 **submittal of an administratively complete application.**

10 **<<(4)>>** If a permit is granted, the department shall condition
 11 the permit upon such restrictions that the department considers
 12 necessary to adequately guard against unlawful uses of the waters
 13 of the state as are set forth in section 3109.

14 **<<(5)>>** ~~-(3)-~~ If the permit or denial of a new or increased use
 15 is not acceptable to the permittee, the applicant, or any other
 16 person, the permittee, the applicant, or other person may file a
 17 sworn petition with the department setting forth the grounds and
 18 reasons for the complaint and asking for a contested case hearing
 19 on the matter pursuant to the administrative procedures act of
 20 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
 21 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL**
 22 **24.201 to 24.328.** A petition filed more than 60 days after
 23 action on the permit application may be rejected by the
 24 commission as being untimely.

25 **<<(6)>>** As used in this section, "EPA minor facility" and "EPA
 26 major facility" mean those terms as they are defined in section
 27 3120.

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Sec. 3120. (1) Until October 1, 2007, a person who receives a permit under this part authorizing a discharge into surface water, other than a stormwater discharge, is subject to an annual permit fee as follows:

(a) For an EPA major facility, <<\$9,822.00>>.

(b) For an EPA minor facility, the following amounts:

(i) For a general permit for a low-flow facility, <<\$559.00>>.

(ii) For a general permit for a high-flow facility, <<\$838.00>>.

(iii) For an individual permit for a low-flow facility,
<<\$2,101.00>>.

(iv) For an individual permit for a high-flow facility,
<<\$4,380.00>>.

(c) For a municipal facility that is an EPA major facility, the following amounts:

(i) For an individual permit for a facility discharging 500 MGD or more, <<\$66,918.00>>.

(ii) For an individual permit for a facility discharging 50 MGD or more but less than 500 MGD, <<\$20,596.00>>.

(iii) For an individual permit for a facility discharging 10 MGD or more but less than 50 MGD, <<\$13,044.00>>.

(iv) For an individual permit for a facility discharging less than 10 MGD, <<\$5,608.00>>.

(d) For a municipal facility that is an EPA minor facility, the following amounts:

(i) For an individual permit for a facility discharging 10 MGD or more, \$3,775.00.

(ii) For an individual permit for a facility discharging 1

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1 MGD or more but less than 10 MGD, <<\$3,114.00>>.

2 (iii) For an individual permit for a facility discharging
3 less than 1 MGD, <<\$1,970.00>>.

4 (iv) For a general permit for a high-flow facility, <<\$716.00>>.

5 (v) For a general permit for a low-flow facility, <<\$476.00>>.

6 (e) For a municipal facility that is a CSO facility,
7 <<\$6,504.00>>.

8 (f) For an individual permit for a wastewater stabilization
9 lagoon, <<\$1,583.00>>.

10 (g) For a facility that holds a permit issued under this part
11 but has no discharge or discharges only to a municipal wastewater
12 treatment system, an annual permit maintenance fee of \$100.00.

13 (2) If the person required to pay the annual permit fee under
14 subsection (1) is a municipality, the municipality may pass on
15 the annual permit fee to each user of the municipal facility.

16 (3) The department shall send invoices for annual permit fees
17 under subsection (1) to all permit holders by December 1 of each
18 year. A person subject to an annual permit fee shall pay the fee
19 not later than January 15 of each year. The department shall
20 forward annual permit fees received under this section to the
21 state treasurer for deposit into the national pollutant discharge
22 elimination system fund created in section 3121.

23 (4) The department shall assess a penalty on all annual
24 permit fee payments submitted under this section after the due
25 date. The penalty shall be an amount equal to 0.75% of the
26 payment due for each month or portion of a month the payment
27 remains past due.

1 (5) Following payment of an annual permit fee, if a permittee
2 wishes to challenge its annual permit fee under this section, the
3 owner or operator shall submit the challenge in writing to the
4 department. The department shall not process the challenge
5 unless it is received by the department by March 1 of the year
6 the payment is due. A challenge shall identify the facility and
7 state the grounds upon which the challenge is based. Within 30
8 calendar days after receipt of the challenge, the department
9 shall determine the validity of the challenge and provide the
10 permittee with notification of a revised annual permit fee and a
11 refund, if appropriate, or a statement setting forth the reason
12 or reasons why the annual permit fee was not revised. If the
13 owner or operator of a facility desires to further challenge its
14 annual permit fee, the owner or operator of the facility has an
15 opportunity for a contested case hearing as provided for under
16 the administrative procedures act of 1969, 1969 PA 306, MCL
17 24.201 to 24.328.

18 (6) The attorney general may bring an action for the
19 collection of the annual permit fee imposed under this section.

20 (7) As used in this section:

21 (a) "Combined sewer overflow" means a discharge from a
22 combined sewer system that occurs when the flow capacity of the
23 combined sewer system is exceeded at a point prior to the
24 headworks of a publicly owned treatment works during wet weather
25 conditions.

26 (b) "Combined sewer system" means a sewer designed and used
27 to convey both storm water runoff and sanitary sewage, and which

1 contains lawfully installed regulators and control devices that
2 allow for delivery of sanitary flow to treatment during dry
3 weather periods and divert storm water and sanitary sewage to
4 surface waters during storm flow periods.

5 (c) "CSO facility" means a facility whose discharge is solely
6 a combined sewer overflow.

7 (d) "EPA major facility" means a facility that is designated
8 by the United States environmental protection agency as being a
9 major facility under 40 C.F.R. 122.2.

10 (e) "EPA minor facility" means a facility that is not an EPA
11 major facility.

12 (f) "General permit" means a permit suitable for use at
13 facilities meeting eligibility criteria as specified in the
14 permit. With a general permit, the discharge from a specific
15 facility is acknowledged through a certificate of coverage issued
16 to the facility.

17 (g) "High-flow facility" means a facility that discharges 1
18 MGD or more.

19 (h) "Individual permit" means a permit developed for a
20 particular facility, taking into account that facility's specific
21 characteristics.

22 (i) "Low-flow facility" means a facility that discharges less
23 than 1 MGD.

24 (j) "MGD" means 1,000,000 gallons per day.

25 (k) "Municipal facility" means a facility owned or operated
26 by a local unit, authority, or other public body, including an
27 intermunicipal agency of 2 or more municipalities, authorized or

1 created under state law.

2 (l) "Wastewater stabilization lagoon" means a type of
3 treatment system constructed of ponds or basins designed to
4 receive, hold, and treat sanitary wastewater for a predetermined
5 amount of time. Wastewater is treated through a combination of
6 physical, biological, and chemical processes.

7 Sec. 3121. (1) The national pollutant discharge elimination
8 system fund is created within the state treasury.

9 (2) The state treasurer may receive money or other assets
10 from any source for deposit into the fund. The state treasurer
11 shall direct the investment of the fund. The state treasurer
12 shall credit to the fund interest and earnings from fund
13 investments.

14 (3) Money in the fund at the close of the fiscal year shall
15 remain in the fund and shall not lapse to the general fund.

16 (4) The department shall expend money from the fund, upon
17 appropriation, only to administer the national pollutant
18 discharge elimination system program under this part including,
19 but not limited to, all of the following:

20 (a) Water quality standards development and maintenance.

21 (b) Permit development and issuance.

22 (c) Maintenance of program data.

23 (d) Ambient water quality monitoring conducted to determine
24 permit conditions and evaluate the effectiveness of permit
25 requirements.

26 (e) Activities conducted to determine a discharger's permit
27 compliance status, including, but not limited to, inspections,

1 discharge monitoring, and review of submittals.

2 (f) Laboratory services.

3 (g) Enforcement.

4 (h) Program administration activities.

5 (5) By January 1, 2006 and by January 1 of each year
6 thereafter, the department shall prepare and submit to the
7 governor, the legislature, the chairs of the standing committees
8 of the senate and house of representatives with primary
9 responsibility for issues related to natural resources and the
10 environment, and the chairs of the subcommittees of the senate
11 and house appropriations committees with primary responsibility
12 for appropriations to the department a report that details the
13 departmental activities of the previous fiscal year in
14 administering the department's national pollutant discharge
15 elimination system program that were funded by the fund. This
16 report shall include, at a minimum, all of the following as it
17 relates to the department:

18 (a) The number of full-time equated positions performing each
19 of the following functions:

20 (i) Permit issuance and development.

21 (ii) Compliance.

22 (iii) Enforcement.

23 (b) The number of new permit applications received by the
24 department in the preceding year.

25 (c) The number of renewal permits in the preceding year.

26 (d) The number of permit modifications requested in the
27 preceding year.

1 (e) The number of staff hours dedicated to each of the fee
2 categories listed in section 3120.

3 (f) The number of permits issued for fee categories listed in
4 section 3120.

5 (g) The average number of days for review of a permit from
6 the date the permit was determined to be administratively
7 complete.

8 (h) The number of permit applications denied.

9 (i) The number of permit applications withdrawn by the
10 applicant.

11 (j) The percentage and number of permit applications that
12 were reviewed for administrative completeness within 10 days of
13 receipt by the department.

14 (k) The percentage and number of permit applications
15 submitted to the department that were administratively complete
16 as received.

17 (l) The percentage and number of new permit applications for
18 which a final action was taken by the department within 180
19 days.

20 (m) The percentage and number of permit renewals and
21 modifications processed within the time required under this
22 part.

23 (n) The number of permits reopened by the department.

24 (o) The number of unfilled positions dedicated to the
25 national pollutant discharge elimination system program.

26 (p) The amount of revenue in the fund at the end of the
27 fiscal year.

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1 (6) As used in this section:

2 (a) "Fund" means the national pollutant discharge elimination
3 system fund created in subsection (1).

4 (b) "National pollutant discharge elimination system program"
5 means the national pollutant discharge elimination system program
6 delegated to the department under section 402 of title IV of the
7 federal water pollution control act, chapter 758, 86 Stat. 880,
8 33 U.S.C. 1342, and implemented under this part.

<<Enacting section 1. This amendatory act takes effect October 1,
2003.>>