

STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Reps. Lauwers, Barrett, Hernandez, Frederick, Marino, Victory, Bellino, Hornberger,
Cole, Glenn, Roberts and VanderWall

ENROLLED HOUSE BILL No. 5095

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 protect the people's right to hunt and fish; 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 3112 (MCL 324.3112), as amended by 2005 PA 33.

The People of the State of Michigan enact:

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

(2) An application for a permit under subsection (1) shall be submitted to the department. Within 30 days after an application for a new or increased use is received, the department shall determine whether the application is administratively complete. Within 90 days after an application for reissuance of a permit is received, the department shall determine whether the application is administratively complete. If the department determines that an application is not complete, the department shall notify the applicant in writing within the applicable time period. If the department does not make a determination as to whether the application is complete within the applicable time period, the application shall be considered to be complete.

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

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

(5) A person who is aggrieved by an order of abatement of the department or by the reissuance, modification, suspension, or revocation of an existing permit of the department executed pursuant to this section may file a sworn petition with the department setting forth the grounds and reasons for the complaint and requesting a contested case hearing on the matter pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than 60 days after action on the order or permit may be rejected by the department as being untimely.

(6) All oceangoing vessels engaging in port operations in this state shall obtain a permit from the department. The department shall issue a permit for an oceangoing vessel only if the applicant can demonstrate that the oceangoing vessel complies with 33 CFR 151.1510 as then in effect or the oceangoing vessel will utilize environmentally sound technology and methods approved by the department that prevent the discharge of aquatic nuisance species. However, all of the following shall apply:

(a) The grant by the coast guard of an extension to the implementation schedule under 33 CFR 151.1513 or the exchange of ballast water under 33 CFR 151.1510(a)(1) or saltwater flushing under 33 CFR 401.30 alone is not considered compliance with the federal aquatic nuisance rule for the purposes of this section.

(b) A vessel discharging ballast water must employ a ballast water management system beginning on the enactment date of the amendatory act that added this subdivision.

(c) A vessel must carry out an exchange of ballast water or saltwater flushing and comply with other applicable requirements of 33 CFR part 151, subpart C, and 33 CFR 401.30.

(d) A vessel using water from a public water system under 33 CFR 151.1510(a)(4) shall utilize a method to sufficiently clean ballast water tanks prior to using water from a public water supply system as ballast water as approved by the department.

(e) A discharge that may cause or contribute to a violation of a water quality standard is not authorized by a permit described in this subsection.

(f) If the federal aquatic nuisance rule is amended after the enactment date of the 2018 amendatory act that added subsection (7), and the director determines that the amended version of the federal aquatic nuisance rule is less protective of the waters of this state from aquatic nuisance species, the applicant shall demonstrate that the oceangoing vessel complies with the federal aquatic nuisance rule as in effect immediately before the effective date of that amendment to the federal aquatic nuisance rule.

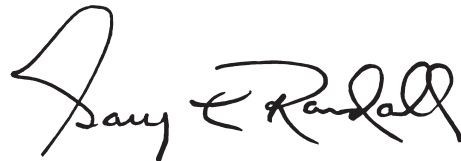
(g) If pursuant to a compact of Great Lakes states of which this state is a part, this state adopts standards more protective of the waters of this state from aquatic nuisance species than the version of the federal aquatic nuisance rule otherwise applicable under this subsection, the standards adopted pursuant to the compact apply.

(7) The intent of the legislature in adopting the federal aquatic nuisance rule by reference is to help harmonize regulatory programs in Great Lakes states for preventing the introduction and spread of aquatic nuisance species in the Great Lakes, including ballast water management programs, and to allow regulatory agencies to cooperate in developing stronger programs.

(8) Permit fees for permits under subsection (6) shall be assessed as provided in section 3120. The permit fees for an individual permit issued under subsection (6) are the fees specified in section 3120(1)(a) and (5)(a). The permit fees for a general permit issued under subsection (6) are the fees specified in section 3120(1)(c) and (5)(b)(i). Permits under subsection (6) shall be issued in accordance with the timelines provided in section 3120. The department may promulgate rules to implement subsections (6) to (8).

(9) As used in this section, "federal aquatic nuisance rule" means 33 CFR part 151, subpart C, and applicable requirements of 33 CFR 151.2050, 151.2060, and 151.2070.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor