

SUBSTITUTE FOR
SENATE BILL NO. 510

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 3118 and 3119 (MCL 324.3118 and 324.3119),
section 3118 as amended by 1999 PA 35 and section 3119 as amended
by 1999 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3118. (1) Until October 1, ~~2003~~ **2007**, the department
2 shall collect storm water discharge fees from persons who apply
3 for or have been issued storm water discharge permits as
4 follows:

5 (a) ~~The~~ **A 1-time fee of \$400.00 is required** for a permit
6 related solely to a site of construction activity ~~is a 1-time~~
7 ~~fee of \$125.00 per~~ **for each** permitted site. The fee shall be
8 submitted by the permit applicant with his or her application for
9 ~~a general or~~ **an individual permit or for a certificate of**

1 coverage under a general permit. ~~If rules promulgated under~~
2 ~~this part provide for~~ For a permit by rule, the fee shall be
3 submitted by the construction **site** permittee along with his or
4 her notice of coverage. A person needing more than 1 permit may
5 submit a single payment for more than 1 permit and receive
6 appropriate credit. Payment of the fee under this subdivision or
7 verification of prepayment is a necessary part of a valid permit
8 application or notice of coverage under a permit by rule.

9 (b) ~~The fee for a permit not related solely to a site of~~
10 ~~construction activity is \$200.00. For each fiscal year, a person~~
11 ~~possessing a permit not related solely to a site of construction~~
12 ~~activity as of January 1 of that fiscal year shall be assessed~~
13 ~~the fee. The department shall notify those persons of their fee~~
14 ~~assessments by February 1 of that fiscal year. Payment shall be~~
15 ~~postmarked no later than March 15 of that fiscal year. An annual~~
16 **fee of \$260.00 is required for a permit related solely to a storm**
17 **water discharge associated with industrial activity or from a**
18 **commercial site for which the department determines a permit is**
19 **needed.**

20 (c) An annual fee of \$500.00 is required for a permit for a
21 municipal separate storm sewer system, unless the permit is
22 issued to a city, a village, a township, or a county or is a
23 single permit authorization for municipal separate storm sewer
24 systems in multiple locations statewide.

25 (d) An annual fee for a permit for a municipal separate storm
26 sewer system issued to a city, village, or township shall be
27 determined by its population in an urbanized area as defined by

1 the United States bureau of the census. The fee shall be based
2 on the latest available decennial census as follows:

3 (i) For a population of 1,000 people or fewer, the annual fee
4 is \$500.00.

5 (ii) For a population of more than 1,000 people, but fewer
6 than 3,001 people, the annual fee is \$1,000.00.

7 (iii) For a population of more than 3,000 people, but fewer
8 than 10,001 people, the annual fee is \$2,000.00.

9 (iv) For a population of more than 10,000 people, but fewer
10 than 30,001 people, the annual fee is \$3,000.00.

11 (v) For a population of more than 30,000 people, but fewer
12 than 50,001 people, the annual fee is \$4,000.00.

13 (vi) For a population of more than 50,000 people, but fewer
14 than 75,001 people, the annual fee is \$5,000.00.

15 (vii) For a population of more than 75,000 people, but fewer
16 than 100,001 people, the annual fee is \$6,000.00.

17 (viii) For a population of more than 100,000 people, the
18 annual fee is \$7,000.00.

19 (e) An annual fee of \$3,000.00 is required for a permit for a
20 municipal separate storm sewer system issued to a county.

21 (f) An annual fee for a single municipal separate storm sewer
22 systems permit authorizing a state or federal agency to operate
23 municipal separate storm sewer systems in multiple locations
24 statewide shall be determined in accordance with a memorandum of
25 understanding between that state or federal agency and the
26 department and shall be based on the projected needs by the
27 department to administer the permit.

1 (2) The permit fees identified in subsection (1) are
2 nonrefundable.

3 (3) A person possessing a permit not related solely to a site
4 of construction activity as of January 1 shall be assessed a
5 fee. The department shall notify those persons of their fee
6 assessments by February 1. Payment shall be postmarked no later
7 than March 15. Failure by the department to send a fee
8 assessment notification by the deadline, or failure of a person
9 to receive a fee assessment notification, does not relieve that
10 person of his or her obligation to pay the fee. If the
11 department does not meet the February deadline for sending the
12 fee assessment, the fee assessment is due not later than 45 days
13 after receiving a fee notification.

14 (4) ~~-(2)-~~ The department shall assess interest on all fee
15 payments submitted under this section after the due date. The
16 permittee shall pay an additional amount equal to 0.75% of the
17 payment due for each month or portion of a month the payment
18 remains past due.

19 (5) ~~-(3)-~~ The department shall forward all fees **and interest**
20 **payments** collected under this section to the state treasurer for
21 deposit into the fund.

22 (6) ~~-(4)-~~ The department shall make payment of the required
23 fee assessed under this section a condition of **issuance or**
24 **reissuance of** a permit not related solely to a site of
25 construction activity. ~~at the time of permit issuance or~~
26 ~~reissuance.~~

27 ~~(5) If a person fails to pay the fee required under this~~

~~1 section in full, plus any interest accrued, by October 1 of the
2 year following the date of notification of the fee assessment,
3 the department may revoke the permit held by that person. The
4 failure by a person to pay a fee imposed by this section is a
5 violation of this part and subjects that person to the penalty
6 provisions in section 3115.~~

~~7 (6) Within 1 year after the reauthorization of the clean
8 water act, the department shall convene a committee to review the
9 storm water discharge fee system provided in this section. The
10 committee shall be composed of a member of the department and
11 representatives of groups affected by the storm water discharge
12 fee. The committee shall make recommendations for changes in the
13 fee system to the department and to the chairpersons of the house
14 and senate appropriations committees.~~

15 (7) In addition to any other penalty provided in this part,
16 if a person fails to pay the fee required under this section by
17 its due date, the person is in violation of this part and the
18 department may undertake enforcement actions as authorized under
19 this part. Additionally, the department may immediately suspend
20 or revoke the person's permit in accordance with the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328.

23 (8) If a permit is revoked under subsection (7), the person
24 is not eligible for a new permit before 3 years from the
25 effective date of the revocation. The fee for obtaining a new
26 permit following the revocation period is \$500.00. This fee is
27 in addition to the annual fee assessment.

1 (9) If the permit is for a municipal separate storm sewer
2 system and the population served by that system is different than
3 the latest decennial census, the permittee may appeal the annual
4 fee determination and submit written verification of actual
5 population served by the municipal separate storm sewer system.

6 (10) A person who wishes to appeal either a fee or a penalty
7 assessed under this section is limited to an administrative
8 appeal, in accordance with section 631 of the revised judicature
9 act of 1961, 1961 PA 236, MCL 600.631. The appeal shall be filed
10 within 30 days of the department's fee notification under
11 subsection (3).

12 (11) ~~(7)~~ As used in this section and section 3119:

13 (a) "Certificate of coverage" means a document issued by the
14 department that authorizes a discharge under a general permit.

15 (b) ~~(a)~~ "Clean water act" means the federal water pollution
16 control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252,
17 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, **1273 to**
18 **1274**, 1281, 1282 to 1293, 1294 to ~~1299~~ **1301**, 1311 to 1313, 1314
19 to 1330, 1341 to ~~1345~~ **1346**, 1361 to **1375**, **1376 to** 1377, and
20 1381 to 1387.

21 (c) ~~(b)~~ "Construction activity" means a human-made earth
22 change or disturbance in the existing cover or topography of land
23 that is 5 acres or more in size, for which a national permit is
24 required pursuant to 40 C.F.R. 122.26(a), and which is described
25 as a construction activity in 40 C.F.R. 122.26(b)(14)(x).

26 Construction activity includes clearing, grading, and excavating
27 activities. Construction activity does not include the practice

1 of clearing, plowing, tilling soil, and harvesting for the
2 purpose of crop production.

3 (d) ~~(e)~~ "Fee" means a storm water discharge fee authorized
4 under this section.

5 ~~(d) "Fiscal year" means the state fiscal year beginning~~
6 ~~October 1 and ending September 30.~~

7 (e) "Fund" means the storm water fund created in section
8 3119.

9 (f) "General permit" means a permit issued authorizing a
10 category of similar discharges.

11 (g) "Individual permit" means a site-specific permit.

12 (h) "Municipal separate storm sewer system" means all
13 separate storm sewers that are owned or operated by the United
14 States or a state, city, village, township, county, district,
15 association, or other public body created by or pursuant to state
16 law, having jurisdiction over disposal of sewage, industrial
17 wastes, storm water, or other wastes, including special districts
18 under state law, such as a sewer district, flood control
19 district, or drainage district or similar entity, or a designated
20 or approved management agency under section 208 of the clean
21 water act, 33 U.S.C. 1288, that discharges to waters of the
22 state. Municipal separate storm sewer system includes systems
23 similar to separate storm sewer systems in municipalities, such
24 as systems at military bases, large hospital or prison complexes,
25 and highways and other thoroughfares. Municipal separate storm
26 sewer system does not include separate storm sewers in very
27 discrete areas, such as individual buildings.

1 (i) "Notice of coverage" means a notice that a person
2 engaging in construction activity agrees to comply with a permit
3 by rule for that activity.

4 (j) ~~(f)~~ "Permit" or "storm water discharge permit" means a
5 permit authorizing the discharge of wastewater or any other
6 substance to surface waters of the state under the national
7 pollutant discharge elimination system, pursuant to the clean
8 water act or this part and the rules and regulations promulgated
9 under that act or this part.

10 (k) "Public body" means the United States, the state of
11 Michigan, a city, village, township, county, school district,
12 public college or university, or single purpose governmental
13 agency, or any other body which is created by federal or state
14 statute or law.

15 (l) "Separate storm sewer system" means a system of drainage,
16 including, but not limited to, roads, catch basins, curbs,
17 gutters, parking lots, ditches, conduits, pumping devices, or
18 man-made channels, which has the following characteristics:

19 (i) The system is not a combined sewer where storm water
20 mixes with sanitary wastes.

21 (ii) The system is not part of a publicly owned treatment
22 works.

23 (m) ~~(g)~~ "Storm water" means storm water runoff, snowmelt
24 runoff, and surface runoff and drainage.

25 (n) "Storm water discharge associated with industrial
26 activity" means a point source discharge of storm water from a
27 facility which is defined as an industrial activity under 40

1 **C.F.R. 122.26(b)(14)(i-ix and xi).**

2 Sec. 3119. (1) The storm water fund is created within the
3 state treasury.

4 (2) The state treasurer may receive money or other assets
5 from any source for deposit into the fund. The state treasurer
6 shall direct the investment of the fund. The state treasurer
7 shall credit to the fund interest and earnings from fund
8 investments.

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

11 (4) The department shall expend money from the fund, upon
12 appropriation, only for 1 or more of the following purposes:

13 (a) Review of storm water permit applications.

14 (b) Storm water permit development, issuance, reissuance,
15 modification, and termination.

16 (c) Surface water monitoring to support the storm water
17 permitting process.

18 (d) Assessment of compliance with storm water permit
19 conditions.

20 (e) Enforcement against storm water permit violations.

21 (f) Classification of storm water control facilities.

22 (g) Not more than 10% of the money in the fund for training
23 for certification of storm water operators and educational
24 material to assist persons regulated under this part.

25 **(h) Regional or statewide public education to enhance the**
26 **effectiveness of storm water permits.**

27 (5) Money in the fund shall not be used to support the direct

1 costs of litigation undertaken to enforce this part.

2 (6) Upon the expenditure or appropriation of money raised in
3 section 3118 for any other purpose than those specifically listed
4 in this section, authorization to collect fees under section 3118
5 shall be suspended until such time as the money expended or
6 appropriated for purposes other than those listed in this section
7 is returned to the fund.

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

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

22 (i) Permit issuance and development.

23 (ii) Compliance.

24 (iii) Enforcement.

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

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

1 (d) The number of permit modifications requested in the
2 preceding year.

3 (e) The number of staff hours dedicated to each of the fee
4 categories listed in section 3118.

5 (f) The number of permits issued for fee categories listed in
6 section 3118.

7 (g) The average number of days required for review of a
8 permit from the date the permit application is determined to be
9 administratively complete.

10 (h) The number of permit applications denied.

11 (i) The number of permit applications withdrawn by the
12 applicant.

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

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

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

22 (m) The percentage and number of permit renewals and
23 modifications processed within the required time.

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

25 (o) The number of unfilled positions dedicated to the
26 department's storm water program.

27 (p) The amount of revenue in the fund at the end of the

Senate Bill No. 510 as amended June 18, 2003

1 fiscal year.

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