

# SENATE BILL No. 129

February 9, 2017, Introduced by Senator CASPERSON and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3118, 9115, and 63201 (MCL 324.3118, 324.9115, and 324.63201), section 3118 as amended by 2015 PA 82, section 9115 as amended by 2011 PA 214, and section 63201 as added by 2004 PA 449, and by adding part 634.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3118. (1) Except as otherwise provided in this section,  
2 until October 1, 2019, the department shall collect ~~storm-water~~  
3 **STORMWATER** discharge fees from persons who apply for or have been  
4 issued ~~storm-water~~ **STORMWATER** discharge permits as follows:

5           (a) A 1-time fee of \$400.00 is required for a permit related  
6 solely to a site of construction activity for each permitted site.  
7 The fee shall be submitted by the permit applicant with his or her

1 application for an individual permit or for a certificate of  
2 coverage under a general permit. For a permit by rule, the fee  
3 shall be submitted by the construction site permittee along with  
4 his or her notice of coverage. A person needing more than 1 permit  
5 may 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) An annual fee of \$260.00 is required for a permit related  
10 solely to a ~~storm water~~ **STORMWATER** discharge associated with  
11 industrial activity or from a commercial site for which the  
12 department determines a permit is needed.

13 (c) An annual fee of \$500.00 is required for a permit for a  
14 municipal separate storm sewer system, unless the permit is issued  
15 to a city, a village, a township, or a county or is a single permit  
16 authorization for municipal separate storm sewer systems in  
17 multiple locations statewide.

18 (d) An annual fee for a permit for a municipal separate storm  
19 sewer system issued to a city, village, or township shall be  
20 determined by its population in an urbanized area as defined by the  
21 United States Bureau of the Census. The fee shall be based on the  
22 latest available decennial census as follows:

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

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

27 (iii) For a population of more than 3,000 people, but fewer

1 than 10,001 people, the annual fee is \$2,000.00.

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

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

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

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

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

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

14 (f) An annual fee for a single municipal separate storm sewer  
15 systems permit authorizing a state or federal agency to operate  
16 municipal separate storm sewer systems in multiple locations  
17 statewide shall be determined in accordance with a memorandum of  
18 understanding between that state or federal agency and the  
19 department and shall be based on the projected needs by the  
20 department to administer the permit.

21 (2) A ~~storm-water~~**STORMWATER** discharge permit is not required  
22 for a municipality that does not own or operate a separate storm  
23 sewer system. The department shall not collect ~~storm-water~~  
24 **STORMWATER** discharge fees under this section from a municipality  
25 that does not own or operate a separate storm sewer system.

26 (3) Permit fees required under this section are nonrefundable.

27 (4) A person possessing a permit not related solely to a site

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

11 (5) If a ~~storm water~~**STORMWATER** permit is issued for a  
12 drainage district, the drainage district is responsible for the  
13 applicable fee under this section.

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

18 (7) The department shall forward all fees and interest  
19 payments collected under this section to the state treasurer for  
20 deposit into the fund.

21 (8) The department shall make payment of the required fee  
22 assessed under this section a condition of issuance or reissuance  
23 of a permit not related solely to a site of construction activity.

24 (9) In addition to any other penalty provided in this part, if  
25 a person fails to pay the fee required under this section by its  
26 due date, the person is in violation of this part and the  
27 department may undertake enforcement actions as authorized under

1 this part.

2 (10) The attorney general may bring an action to collect  
3 overdue fees and interest payments imposed under this section.

4 (11) If the permit is for a municipal separate storm sewer  
5 system and the population served by that system is different than  
6 **THAT DETERMINED BY** the latest decennial census, the permittee may  
7 appeal the annual fee determination and submit written verification  
8 of actual population served by the municipal separate storm sewer  
9 system.

10 (12) A person who wishes to appeal either a fee or a penalty  
11 assessed under this section is limited to an administrative appeal,  
12 in accordance with section 631 of the revised judicature act of  
13 1961, 1961 PA 236, MCL 600.631. The appeal shall be filed within 30  
14 days of the department's fee notification under subsection (4).

15 (13) As used in this section and section 3119:

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

18 (b) "Clean water act" means the federal water pollution  
19 control act, 33 USC 1251 to ~~1387-1376~~.

20 (c) "Construction activity" means a human-made earth change or  
21 disturbance in the existing cover or topography of land that is 5  
22 acres or more in size, for which a national permit is required  
23 pursuant to 40 CFR 122.26(a), and which is described as a  
24 construction activity in 40 CFR ~~122.26(b)-(14)(x)~~. **122.26(B)(14)(X)** .  
25 Construction activity includes clearing, grading, and excavating  
26 activities. Construction activity does not include the practice of  
27 clearing, plowing, tilling soil, and harvesting for the purpose of

1 crop production.

2 (d) "Fee" means a ~~storm water~~**STORMWATER** discharge fee  
3 authorized under this section.

4 (e) "Fund" means the ~~storm water~~**STORMWATER** fund created in  
5 section 3119.

6 (f) "General permit" means a permit issued authorizing a  
7 category of similar discharges.

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

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

24 (i) "Notice of coverage" means a notice that a person engaging  
25 in construction activity agrees to comply with a permit by rule for  
26 that activity. **A NOTICE OF COVERAGE IS NOT REQUIRED TO INCLUDE A**  
27 **COPY OF AN INDIVIDUAL PERMIT ISSUED UNDER PART 91 IF THE NOTICE OF**

1 COVERAGE INCLUDES A COPY OF A PERMIT FOR THE CONSTRUCTION ACTIVITY  
2 ISSUED UNDER PART 615, 625, 631, 632, OR 634, ALONG WITH ANY FORMS  
3 OR DIAGRAMS PERTAINING TO SOIL EROSION AND SEDIMENTATION CONTROL  
4 THAT WERE PART OF THE APPLICATION FOR THAT PERMIT.

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

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

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

20 (i) The system is not a combined sewer where ~~storm water~~  
21 **STORMWATER** mixes with sanitary wastes.

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

24 (m) "~~Storm water~~"**STORMWATER** means ~~storm water~~**STORMWATER**  
25 runoff, snowmelt runoff, and surface runoff and drainage.

26 (n) "~~Storm water~~"**STORMWATER** discharge associated with  
27 industrial activity" means a point source discharge of ~~storm water~~

1 **STORMWATER** from a facility that is defined as an industrial  
2 activity under 40 CFR ~~122.26(b)(14)(i) to (ix) and~~  
3 ~~(xi)~~. **122.26(B)(14)(I) TO (IX) AND (XI)**.

4 Sec. 9115. (1) Subject to subsection (2), a person engaged in  
5 the logging industry, the mining industry, or the plowing or  
6 tilling of land for the purpose of crop production or the  
7 harvesting of crops is not required to obtain a permit under this  
8 part. However, all earth changes associated with the activities  
9 listed in this section shall conform to the same standards as if  
10 they required a permit under this part. The exemption from  
11 obtaining a permit under this subsection does not include either of  
12 the following:

13 (a) Access roads to and from the site where active mining or  
14 logging is taking place.

15 (b) Ancillary activities associated with logging and mining.

16 (2) This part does not apply to a metallic mineral mining  
17 activity that is regulated under a mining and reclamation plan  
18 **UNDER PART 631 OR 634** or a mining, reclamation, and environmental  
19 protection plan **UNDER PART 632**, if the plan contains soil erosion  
20 and sedimentation control provisions and is approved by the  
21 department. ~~under part 631 or 632, respectively.~~

22 (3) A person is not required to obtain a permit from a county  
23 enforcing agency or a municipal enforcing agency for earth changes  
24 associated with well locations, surface facilities, flowlines, or  
25 access roads relating to oil or gas exploration and development  
26 activities regulated under part 615 **OR MINERAL WELL EXPLORATION AND**  
27 **DEVELOPMENT ACTIVITIES REGULATED UNDER PART 625**, if the application



1 for a permit to drill and operate ~~under part 615~~ contains a soil  
2 erosion and sedimentation control plan that is approved by the  
3 department under part 615 **OR 625**. However, those earth changes  
4 shall conform to the same standards as required for a permit under  
5 this part. This subsection does not apply to a multisource  
6 commercial hazardous waste disposal well as defined in section  
7 62506a.

8 (4) As used in this section, "mining" does not include the  
9 removal of clay, gravel, sand, peat, or topsoil.

10 Sec. 63201. As used in this part:

11 (a) "Administratively complete" ~~means~~ **DESCRIBES** an application  
12 for a mining permit under this part that ~~is determined by the~~  
13 ~~department to contain~~ **CONTAINS** all of the documents and information  
14 required under this part and any rules promulgated under this part.

15 (b) "Affected area" means an area outside of the mining area  
16 where the land surface, surface water, groundwater, or air  
17 resources are determined through an environmental impact assessment  
18 to be potentially affected by mining operations within the proposed  
19 mining area.

20 (c) "Department" means the department of environmental  
21 quality.

22 (d) "Emergency management coordinator" means that term as  
23 defined in section 2 of the emergency management act, 1976 PA 390,  
24 MCL 30.402.

25 (e) "Fund" means the nonferrous metallic mineral surveillance  
26 fund created in section 63217.

27 (f) "Metallic product" means a commercially salable mineral

1 produced primarily for its nonferrous metallic mineral content in  
2 its final marketable form or state.

3 (g) "Mining", **EXCEPT AS PROVIDED IN SUBDIVISION (H)**, means the  
4 excavation or removal of more than 10,000 tons of earth material **IN**  
5 a **CALENDAR** year or disturbing more than 1 acre of land **IN** a  
6 **CALENDAR** year in the regular operation of a business for the  
7 purpose of extracting a nonferrous metallic mineral or minerals by  
8 1 or both of the following:

9 (i) Removing the overburden lying above natural deposits of a  
10 mineral and excavating directly from the natural deposits thus  
11 exposed or by excavating directly from deposits lying exposed in  
12 their natural state.

13 (ii) Excavating from below the surface of the ground by means  
14 of shafts, tunnels, or other subsurface openings.

15 **(H) MINING DOES NOT INCLUDE AN OPERATION THAT IS SUBJECT TO**  
16 **PART 634.**

17 **(I)** ~~(h)~~—"Mining area" means an area of land from which earth  
18 material is removed in connection with nonferrous metallic mineral  
19 mining, the lands on which material from that mining is stored or  
20 deposited, the lands on which beneficiating or treatment plants and  
21 auxiliary facilities are located, the lands on which the water  
22 reservoirs used in the nonferrous metallic mineral mining process  
23 are located, and auxiliary lands that are used in connection with  
24 the mining.

25 **(J)** ~~(i)~~—"Mining permit" means a permit issued under this part  
26 for conducting nonferrous metallic mineral mining and reclamation  
27 operations.

1           (K) ~~(j)~~—"Nonferrous metallic mineral" means any ore or  
2 material to be excavated from the natural deposits on or in the  
3 earth for its metallic content, but not primarily for its iron or  
4 iron mineral content, to be used for commercial or industrial  
5 purposes.

6           (I) ~~(k)~~—"Nonferrous metallic mineral operator" or "operator"  
7 means a permittee or other person who is engaged in, or who is  
8 preparing to engage in, mining operations for nonferrous metallic  
9 minerals, whether individually or jointly, or through agents,  
10 employees, or contractors.

11           (M) ~~(l)~~—"Permittee" means a person who holds a mining permit.

12           (N) ~~(m)~~—"Postclosure monitoring period" means a period  
13 following closure of a nonferrous metallic mineral mine during  
14 which the permittee is required to conduct monitoring of  
15 groundwater and surface water.

16           (O) ~~(n)~~—"Stockpile" means material, including, but not limited  
17 to, surface overburden, rock, or lean ore, that in the process of  
18 mining and beneficiation or treatment has been removed from the  
19 earth and stored on the surface. Stockpile does not include  
20 materials that are being treated in the production of metallic  
21 products and the metallic product that has been produced by that  
22 operation.

23           (P) ~~(o)~~—"Tailings basin" means land on which is deposited, by  
24 hydraulic or other means, the material that is separated from the  
25 metallic product in the beneficiation or treatment of minerals  
26 ~~including~~ **AND INCLUDES** any surrounding dikes constructed to contain  
27 the material.

## PART 634

## SMALL NATIVE COPPER MINES

SEC. 63401. AS USED IN THIS PART:

(A) "ADMINISTRATIVELY COMPLETE" REFERS TO AN APPLICATION FOR A MINING PERMIT UNDER THIS PART THAT INCLUDES THE FEE AND ALL OF THE DOCUMENTS AND OTHER INFORMATION REQUIRED UNDER THIS PART AND ANY RULES PROMULGATED UNDER THIS PART.

(B) "CONFORMANCE BOND" MEANS A SURETY BOND THAT HAS BEEN EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE, CASH, A CERTIFICATE OF DEPOSIT, A LETTER OF CREDIT, OR OTHER SECURITY FILED BY A PERSON AND ACCEPTED BY THE DEPARTMENT TO ENSURE COMPLIANCE WITH THIS PART OR RULES PROMULGATED UNDER THIS PART.

(C) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

(D) "FUND" MEANS THE SMALL NATIVE COPPER MINE SURVEILLANCE FUND CREATED IN SECTION 63415.

(E) "LIFE OF THE MINE" MEANS THE PERIOD FROM INITIATION OF MINING ACTIVITIES THROUGH THE COMPLETION OF RECLAMATION.

(F) "MINE" OR "MINING" MEANS AN OPERATION TO EXCAVATE OR REMOVE EARTH MATERIAL THAT GENERATES NOT LESS THAN 10,000 TONS AND NOT MORE THAN 75,000 TONS OF WASTE ROCK IN A CALENDAR YEAR OR DISTURBS NOT LESS THAN 1 ACRE AND NOT MORE THAN 10 ACRES OF LAND IN A CALENDAR YEAR IN THE REGULAR OPERATION OF A BUSINESS FOR THE PRIMARY PURPOSE OF EXTRACTING NATIVE COPPER BY 1 OR BOTH OF THE FOLLOWING:

(i) REMOVING THE OVERBURDEN LYING ABOVE NATURAL DEPOSITS OF NATIVE COPPER AND EXCAVATING DIRECTLY FROM THE NATURAL DEPOSITS

1 THUS EXPOSED OR BY EXCAVATING DIRECTLY FROM DEPOSITS LYING EXPOSED  
2 IN THEIR NATURAL STATE.

3 (ii) EXCAVATING FROM BELOW THE SURFACE OF THE GROUND BY MEANS  
4 OF SHAFTS, TUNNELS, OR OTHER SUBSURFACE OPENINGS.

5 (G) "MINING ACTIVITY" MEANS ANY OF THE FOLLOWING ACTIVITIES  
6 WITHIN A MINING AREA FOR THE PURPOSE OF, OR ASSOCIATED WITH,  
7 MINING:

8 (i) CLEARING AND GRADING OF LAND.

9 (ii) DRILLING AND BLASTING.

10 (iii) EXCAVATION OF EARTH MATERIALS TO ACCESS OR REMOVE ORE.

11 (iv) CRUSHING, GRINDING, OR SEPARATION ACTIVITIES.

12 (v) RECLAMATION.

13 (vi) TRANSPORTATION OF OVERBURDEN, WASTE ROCK, ORE, AND  
14 TAILINGS WITHIN THE MINING AREA.

15 (vii) STORAGE, RELOCATION, AND DISPOSAL OF OVERBURDEN, WASTE  
16 ROCK, ORE, AND TAILINGS WITHIN A MINING AREA, INCLUDING BACKFILLING  
17 OF MINED AREAS.

18 (viii) CONSTRUCTION OF WATER IMPOUNDMENT AND DRAINAGE  
19 FEATURES.

20 (ix) CONSTRUCTION OF HAUL ROADS.

21 (x) CONSTRUCTION OF UTILITIES OR EXTENSION OF EXISTING  
22 UTILITIES.

23 (xi) WITHDRAWAL, TRANSPORTATION, AND DISCHARGE OF WATER IN  
24 CONNECTION WITH MINING.

25 (H) "MINING AREA" MEANS ALL OF THE FOLLOWING:

26 (i) LAND FROM WHICH MATERIAL IS REMOVED BY SURFACE OR OPEN PIT  
27 MINING METHODS.

1           (ii) LAND ON WHICH ADITS, SHAFTS, OR OTHER OPENINGS BETWEEN  
2 THE LAND SURFACE AND UNDERGROUND MINE WORKINGS ARE LOCATED.

3           (iii) LAND ON WHICH MATERIAL FROM MINING IS DEPOSITED.

4           (iv) LAND ON WHICH CRUSHING, GRINDING, OR SEPARATION  
5 FACILITIES ARE LOCATED.

6           (v) LAND ON WHICH WATER RESERVOIRS USED IN CONNECTION WITH  
7 MINING ARE LOCATED.

8           (I) "MINING PERMIT" OR "PERMIT" MEANS A PERMIT ISSUED UNDER  
9 SECTION 63405 FOR CONDUCTING MINING ACTIVITIES.

10          (J) "NATIVE COPPER" MEANS COPPER IN ITS ELEMENTAL FORM.

11          (K) "OPERATOR" MEANS A PERSON THAT IS ENGAGED IN OR PREPARING  
12 TO ENGAGE IN MINING ACTIVITIES, WHETHER INDIVIDUALLY OR JOINTLY, OR  
13 THROUGH AGENTS, EMPLOYEES, OR CONTRACTORS, AND THAT HAS OVERALL  
14 RESPONSIBILITY FOR THE MINING ACTIVITIES.

15          (L) "PERMITTEE" MEANS A PERSON THAT HOLDS A MINING PERMIT.

16          (M) "WASTE ROCK" MEANS EARTH MATERIAL THAT IS EXCAVATED DURING  
17 MINING, FROM WHICH THE ECONOMICALLY RECOVERABLE NATIVE COPPER HAS  
18 BEEN SEPARATED, AND THAT IS STORED ON THE SURFACE FOR 1 YEAR OR  
19 MORE. WASTE ROCK DOES NOT INCLUDE EARTH MATERIAL FROM EXCAVATION OR  
20 GRADING DONE IN PREPARATION FOR COMMENCEMENT OF MINING.

21          SEC. 63403. (1) THE DEPARTMENT SHALL ADMINISTER AND ENFORCE  
22 THIS PART. IN ADDITION TO OTHER POWERS GRANTED TO IT, THE  
23 DEPARTMENT MAY PROMULGATE RULES IT CONSIDERS NECESSARY TO CARRY OUT  
24 ITS DUTIES UNDER THIS PART.

25          (2) THE DEPARTMENT MAY ENTER AT ANY REASONABLE TIME IN OR UPON  
26 A MINING AREA FOR THE PURPOSE OF INSPECTING AND INVESTIGATING  
27 CONDITIONS RELATING TO MINING ACTIVITIES.

1           (3) SUBJECT TO SUBSECTIONS (4) AND (5), A LOCAL UNIT OF  
2 GOVERNMENT SHALL NOT REGULATE OR CONTROL MINING OR RECLAMATION  
3 ACTIVITIES THAT ARE SUBJECT TO THIS PART, INCLUDING CONSTRUCTION,  
4 OPERATION, CLOSURE, POSTCLOSURE MONITORING, RECLAMATION, AND  
5 REMEDIATION ACTIVITIES, AND DOES NOT HAVE JURISDICTION CONCERNING  
6 THE ISSUANCE OF PERMITS FOR THOSE ACTIVITIES.

7           (4) A LOCAL UNIT OF GOVERNMENT MAY ENACT, MAINTAIN, AND  
8 ENFORCE ORDINANCES OR REGULATIONS AFFECTING MINING IF THE  
9 ORDINANCES OR REGULATIONS DO NOT DUPLICATE, CONTRADICT, OR CONFLICT  
10 WITH THIS PART AND ARE REASONABLE IN ACCOMMODATING CUSTOMARY MINING  
11 ACTIVITIES.

12           (5) SUBSECTIONS (3) AND (4) DO NOT PROHIBIT A LOCAL UNIT OF  
13 GOVERNMENT FROM CONDUCTING WATER QUALITY MONITORING.

14           SEC. 63405. (1) A PERSON SHALL NOT ENGAGE IN MINING ACTIVITIES  
15 EXCEPT AS AUTHORIZED BY A MINING PERMIT ISSUED BY THE DEPARTMENT. A  
16 SEPARATE MINING PERMIT IS REQUIRED FOR EACH MINE.

17           (2) AN APPLICATION FOR A MINING PERMIT SHALL BE SUBMITTED BY  
18 THE OPERATOR TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE  
19 DEPARTMENT. THE APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING:

20           (A) A PERMIT APPLICATION FEE OF \$5,000.00. THE DEPARTMENT  
21 SHALL FORWARD THE PERMIT APPLICATION FEE TO THE STATE TREASURER FOR  
22 DEPOSIT IN THE FUND.

23           (B) PROVISIONS FOR A CONFORMANCE BOND AS DESCRIBED IN SECTION  
24 63409.

25           (C) A MINING AND RECLAMATION PLAN AS DESCRIBED IN SUBSECTION  
26 (3) THAT ADDRESSES MINING ACTIVITIES PROPOSED IN THE APPLICATION.

27           (3) THE MINING AND RECLAMATION PLAN REQUIRED IN SUBSECTION (2)

Senate Bill No. 129 as amended March 7 and 9, 2017

1 SHALL INCLUDE ALL OF THE FOLLOWING:

2 (A) A MAP OR MAPS SHOWING THE LOCATIONS AND DIMENSIONS OF THE  
3 FOLLOWING:

4 (i) PROPOSED ADITS, SHAFTS, UNDERGROUND MINE WORKINGS, AND  
5 SURFACE PITS.

6 (ii) PROPOSED OVERBURDEN, WASTE ROCK, AND ORE STOCKPILES.

7 (iii) ANY CRUSHING, GRINDING, OR SEPARATION EQUIPMENT THAT  
8 WILL BE UTILIZED.

9 (B) A DESCRIPTION OF THE MINING METHODS THAT WILL BE UTILIZED.

10 (C) PLANS AND DESCRIPTIONS OF MEASURES THAT WILL MINIMIZE SOIL  
11 EROSION AND SEDIMENTATION DURING MINING ACTIVITIES.

12 (D) A MAP AND DESCRIPTION OF FENCING OR OTHER TECHNIQUES TO  
13 MINIMIZE PUBLIC SAFETY HAZARDS.

14 (E) PLANS AND SCHEDULES FOR RECLAMATION OF THE MINING AREA  
15 FOLLOWING CESSATION OF MINING ACTIVITIES. THE PLANS AND SCHEDULES  
16 SHALL ADDRESS MINING ACTIVITIES PROPOSED IN THE APPLICATION AND  
17 PROVIDE FOR GRADING, REVEGETATION, AND STABILIZATION THAT WILL DO  
18 ALL OF THE FOLLOWING:

19 (i) MINIMIZE SOIL EROSION AND SEDIMENTATION.

20 (ii) PROTECT PUBLIC SAFETY.

21 (iii) ESTABLISH CONDITIONS THAT PROMOTE FUTURE BENEFICIAL USE  
22 AND DO NOT REQUIRE PERPETUAL CARE.

<<(F) PLANS AND SCHEDULES FOR BASELINE WATER QUALITY SAMPLING,  
WHICH MUST BE CONDUCTED BEFORE MINING COMMENCES. SAMPLES SHALL BE  
COLLECTED FROM THE EXISTING WATER SUPPLY WELLS AVAILABLE FOR SAMPLING  
AND LOCATED WITHIN 1,320 FEET OF THE PROPOSED MINING AREA. HOWEVER,  
SAMPLES ARE NOT REQUIRED FROM MORE THAN 3 SUCH WATER SUPPLY WELLS.  
IN ADDITION, SAMPLES SHALL BE COLLECTED FROM THE NEAREST SURFACE  
WATER BODY LOCATED WITHIN 1,320 FEET OF THE PROPOSED MINING AREA,  
IF ANY. THE SAMPLES SHALL BE ANALYZED FOR PH, COPPER, AND NITRATE USING  
LABORATORY METHODS APPROVED BY THE UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY.>>

23 (4) WITHIN 7 DAYS AFTER RECEIVING AN APPLICATION FOR A MINING  
24 PERMIT, THE DEPARTMENT SHALL GIVE NOTICE IN WRITING TO THE COUNTY  
25 AND MUNICIPALITY WHERE THE MINE IS PROPOSED TO BE LOCATED OF THE  
26 SPECIFIC LOCATION OF THE PROPOSED MINE. WITHIN 14 DAYS AFTER  
27 RECEIVING AN APPLICATION FOR A MINING PERMIT, THE DEPARTMENT SHALL



1 PUBLISH NOTICE OF THE APPLICATION IN A NEWSPAPER OF LOCAL  
2 DISTRIBUTION IN THE AREA OF THE PROPOSED MINE AND SHALL POST A COPY  
3 OF THE APPLICATION ON ITS WEBSITE.

4 (5) SUBJECT TO SUBSECTION (6), EFFECTIVE 14 DAYS AFTER THE  
5 DEPARTMENT RECEIVES AN APPLICATION FOR A MINING PERMIT, THE  
6 APPLICATION SHALL BE CONSIDERED TO BE ADMINISTRATIVELY COMPLETE.

7 (6) IF, BEFORE THE DATE INDICATED BY SUBSECTION (5), THE  
8 DEPARTMENT NOTIFIES THE APPLICANT THAT THE APPLICATION IS NOT  
9 ADMINISTRATIVELY COMPLETE, SPECIFYING THE INFORMATION OR FEE  
10 NECESSARY TO MAKE THE APPLICATION ADMINISTRATIVELY COMPLETE, THE  
11 RUNNING OF THE 14-DAY PERIOD UNDER SUBSECTION (5) IS TOLLED UNTIL  
12 THE APPLICANT SUBMITS TO THE DEPARTMENT THE SPECIFIED INFORMATION  
13 OR FEE.

14 (7) SUBJECT TO SUBSECTION (8), THE DEPARTMENT SHALL GRANT OR  
15 DENY A MINING PERMIT WITHIN 45 DAYS AFTER AN APPLICATION IS  
16 CONSIDERED OR DETERMINED TO BE ADMINISTRATIVELY COMPLETE UNDER  
17 SUBSECTION (5) OR (6). IF A MINING PERMIT IS DENIED, THE REASONS  
18 SHALL BE STATED IN A WRITTEN REPORT TO THE APPLICANT.

19 (8) IF THE DEPARTMENT DETERMINES THAT INFORMATION IN THE  
20 APPLICATION IS INSUFFICIENT TO DETERMINE WHETHER A PERMIT MAY BE  
21 GRANTED, THE DEPARTMENT MAY REQUEST ADDITIONAL INFORMATION OR  
22 CLARIFICATION FROM THE APPLICANT. THE 45-DAY PERIOD UNDER  
23 SUBSECTION (7) IS TOLLED UNTIL THE APPLICANT SUBMITS THE REQUESTED  
24 INFORMATION.

25 SEC. 63407. (1) A MINING PERMIT IS VALID FOR THE LIFE OF THE  
26 MINE. HOWEVER, THE DEPARTMENT MAY REVOKE A PERMIT IF THE PERMITTEE  
27 HAS NOT COMMENCED MINING ACTIVITIES COVERED BY THE PERMIT WITHIN 3

1 YEARS AFTER THE DATE OF ISSUANCE OF THE PERMIT.

2 (2) THE DEPARTMENT MAY TERMINATE A MINING PERMIT UPON REQUEST  
3 OF THE PERMITTEE IF THE DEPARTMENT DETERMINES THAT THE PERMITTEE  
4 HAS COMPLIED WITH ALL APPLICABLE PROVISIONS OF THIS PART.

5 (3) A MINING PERMIT MAY BE TRANSFERRED WITH APPROVAL OF THE  
6 DEPARTMENT. THE PERSON SEEKING TO ACQUIRE THE PERMIT SHALL SUBMIT A  
7 REQUEST FOR TRANSFER OF THE PERMIT TO THE DEPARTMENT ON FORMS  
8 PROVIDED BY THE DEPARTMENT. THE PERSON ACQUIRING THE PERMIT SHALL  
9 ACCEPT THE CONDITIONS OF THE EXISTING PERMIT AND ADHERE TO THE  
10 REQUIREMENTS SET FORTH IN THE APPROVED MINING AND RECLAMATION PLAN  
11 AND PROVIDE A CONFORMANCE BOND AS SET FORTH IN SECTION 63409.  
12 PENDING THE TRANSFER OF THE EXISTING PERMIT, THE PERSON SEEKING TO  
13 ACQUIRE THE PERMIT SHALL NOT OPERATE THE MINE.

14 (4) A MINING PERMIT SHALL NOT BE TRANSFERRED TO A PERSON WHO  
15 HAS BEEN DETERMINED BY THE DEPARTMENT TO BE IN VIOLATION OF THIS  
16 PART, RULES PROMULGATED UNDER THIS PART, OR A CONDITION OF A PERMIT  
17 ISSUED UNDER THIS PART, UNTIL THE PERSON ACQUIRING THE PERMIT HAS  
18 CORRECTED THE VIOLATION OR THE DEPARTMENT HAS ACCEPTED A COMPLIANCE  
19 SCHEDULE AND THE PERSON THAT WILL ACQUIRE THE PERMIT HAS ENTERED  
20 INTO A WRITTEN CONSENT AGREEMENT TO CORRECT THE VIOLATION.

21 (5) IF THE PERMITTEE HAS BEEN NOTIFIED BY THE DEPARTMENT OF A  
22 VIOLATION OF THIS PART, RULES PROMULGATED UNDER THIS PART, OR A  
23 CONDITION OF THE PERMIT ISSUED UNDER THIS PART AT THE MINING AREA  
24 INVOLVED IN THE TRANSFER, THE MINING PERMIT SHALL NOT BE  
25 TRANSFERRED TO A PERSON UNTIL THE PERMITTEE HAS CORRECTED THE  
26 VIOLATION OR THE PERSON THAT WILL ACQUIRE THE PERMIT HAS ENTERED  
27 INTO A WRITTEN CONSENT AGREEMENT TO CORRECT THE VIOLATION.

1           (6) A MINING PERMIT MAY BE AMENDED UPON SUBMISSION TO THE  
2 DEPARTMENT OF A REQUEST BY THE PERMITTEE. THE DEPARTMENT SHALL  
3 DETERMINE WHETHER THE REQUESTED AMENDMENT CONSTITUTES A SIGNIFICANT  
4 CHANGE TO THE MINING AND RECLAMATION PLAN. IF THE DEPARTMENT  
5 DETERMINES THAT THE REQUESTED AMENDMENT CONSTITUTES A SIGNIFICANT  
6 CHANGE, THE DEPARTMENT SHALL SUBMIT THE REQUEST FOR AMENDMENT TO  
7 THE SAME REVIEW PROCESS AS PROVIDED FOR A NEW PERMIT APPLICATION IN  
8 SECTION 63405(4) TO (8). IF THE DEPARTMENT DETERMINES THAT THE  
9 REQUESTED AMENDMENT DOES NOT CONSTITUTE A SIGNIFICANT CHANGE, THE  
10 DEPARTMENT SHALL APPROVE THE REQUEST WITHIN 14 DAYS AFTER RECEIVING  
11 THE REQUEST.

12           SEC. 63409. (1) FOR EACH MINE, AN OPERATOR SHALL MAINTAIN A  
13 CONFORMANCE BOND IN THE AMOUNT OF \$50,000.00 DURING MINING  
14 ACTIVITIES AND UNTIL THE DEPARTMENT DETERMINES THAT ALL RECLAMATION  
15 HAS BEEN COMPLETED IN COMPLIANCE WITH THE MINING PERMIT.

16           (2) IF AN OPERATOR VIOLATES SUBSECTION (1), THE DEPARTMENT MAY  
17 ORDER IMMEDIATE SUSPENSION OF MINING ACTIVITIES, INCLUDING THE  
18 REMOVAL OF NATIVE COPPER FROM THE SITE.

19           SEC. 63411. (1) AN OPERATOR SHALL COMPLY WITH ALL OTHER  
20 APPLICABLE REQUIREMENTS OF THIS ACT.

21           (2) AN OPERATOR SHALL CONDUCT MINING ACTIVITIES AT A MINING  
22 AREA IN CONFORMANCE WITH THE APPROVED MINING AND RECLAMATION PLAN.

23           (3) IF MINING ACTIVITIES ARE SUSPENDED FOR A CONTINUOUS PERIOD  
24 EXCEEDING 240 DAYS, THE OPERATOR SHALL MAINTAIN, MONITOR, AND  
25 SECURE THE MINING AREA AND SHALL CONDUCT ANY INTERIM SLOPING OR  
26 STABILIZING OF SURFACES NECESSARY TO PROTECT THE ENVIRONMENT,  
27 NATURAL RESOURCES, OR PUBLIC HEALTH AND SAFETY IN ACCORDANCE WITH

1 THE MINING PERMIT.

2 (4) SUBJECT TO SUBSECTION (5), AN OPERATOR SHALL BEGIN FINAL  
3 RECLAMATION OF A MINING AREA WITHIN 3 YEARS AFTER THE DATE OF  
4 CESSATION OF OTHER MINING ACTIVITIES AND SHALL COMPLETE RECLAMATION  
5 WITHIN THE TIME SET FORTH IN THE MINING AND RECLAMATION PLAN  
6 APPROVED BY THE DEPARTMENT UNDER SECTION 63405.

7 (5) UPON WRITTEN REQUEST OF THE OPERATOR, THE DEPARTMENT MAY  
8 APPROVE AN EXTENSION OF TIME TO BEGIN OR COMPLETE FINAL  
9 RECLAMATION.

10 (6) COMPLIANCE WITH THIS PART DOES NOT RELIEVE A PERSON OF THE  
11 RESPONSIBILITY TO COMPLY WITH ALL OTHER APPLICABLE STATE OR FEDERAL  
12 STATUTES OR REGULATIONS.

13 SEC. 63413. (1) FOR PURPOSES OF SURVEILLANCE, MONITORING,  
14 ADMINISTRATION, AND ENFORCEMENT OF THIS PART, AN OPERATOR SHALL PAY  
15 THE DEPARTMENT BY FEBRUARY 15 EACH YEAR AN OPERATING FEE OF  
16 \$5,000.00 FOR EACH MINE WHERE MINING ACTIVITIES WERE ONGOING AS OF  
17 DECEMBER 31 OF THE PREVIOUS YEAR. THE FEE IS DUE EACH YEAR UNTIL  
18 THE MINING ACTIVITIES CEASE AND THE DEPARTMENT HAS RELEASED THE  
19 CONFORMANCE BOND.

20 (2) THE DEPARTMENT SHALL ASSESS A PENALTY EQUAL TO 2% OF THE  
21 AMOUNT DUE AGAINST THE OPERATOR FOR EACH MONTH OR PART OF A MONTH  
22 DURING WHICH AN OPERATING FEE HAS NOT BEEN PAID AFTER THE DUE DATE.

23 (3) THE DEPARTMENT SHALL FORWARD ALL ANNUAL OPERATING FEES AND  
24 PENALTIES COLLECTED UNDER THIS SECTION TO THE STATE TREASURER FOR  
25 DEPOSIT IN THE FUND.

26 SEC. 63415. (1) THE SMALL NATIVE COPPER MINE SURVEILLANCE FUND  
27 IS CREATED WITHIN THE STATE TREASURY.

1           (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
2 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL  
3 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT  
4 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

5           (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
6 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

7           (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON  
8 APPROPRIATION, ONLY FOR SURVEILLANCE, MONITORING, ADMINISTRATION,  
9 AND ENFORCEMENT UNDER THIS PART.

10           SEC. 63417. (1) IF THE DEPARTMENT DETERMINES THAT AN OPERATOR  
11 HAS FAILED OR NEGLECTED TO PERFORM RECLAMATION IN CONFORMANCE WITH  
12 THIS PART OR RULES PROMULGATED UNDER THIS PART, THE DEPARTMENT  
13 SHALL GIVE NOTICE OF THIS DETERMINATION, IN WRITING, TO THE  
14 OPERATOR AND TO THE SURETY EXECUTING THE CONFORMANCE BOND UNDER  
15 SECTION 63409. THE NOTICE OF DETERMINATION SHALL BE SERVED UPON THE  
16 OPERATOR AND SURETY IN PERSON OR BY REGISTERED MAIL. IF THE  
17 OPERATOR OR SURETY FAILS OR NEGLECTS TO PROPERLY COMMENCE THE  
18 REQUIRED RECLAMATION WITHIN 90 DAYS AFTER THE DATE OF PERSONAL  
19 SERVICE OR MAILING OF THE NOTICE OR FAILS TO PROCEED WITH  
20 RECLAMATION AT A RATE THAT WILL CONCLUDE THE RECLAMATION WITHIN THE  
21 PERIOD SPECIFIED IN THE MINING AND RECLAMATION PLAN, THE DEPARTMENT  
22 MAY ENTER INTO AND UPON ANY PRIVATE OR PUBLIC PROPERTY ON WHICH THE  
23 MINING AREA IS LOCATED AND UPON AND ACROSS ANY PRIVATE OR PUBLIC  
24 PROPERTY NECESSARY TO REACH THE MINING AREA AND CONDUCT NECESSARY  
25 RECLAMATION, AND THE OPERATOR AND SURETY ARE JOINTLY AND SEVERALLY  
26 LIABLE FOR ALL EXPENSES INCURRED BY THE DEPARTMENT. THE DEPARTMENT  
27 SHALL CERTIFY TO THE OPERATOR AND SURETY THE CLAIM OF THIS STATE IN

1 WRITING, LISTING THE ITEMS OF EXPENSE INCURRED IN RECLAMATION. THE  
2 CLAIM SHALL BE PAID BY THE OPERATOR OR SURETY WITHIN 30 DAYS. IF  
3 THE CLAIM IS NOT PAID WITHIN THAT TIME, THE DEPARTMENT MAY BRING  
4 SUIT AGAINST THE OPERATOR OR SURETY, JOINTLY OR SEVERALLY, FOR THE  
5 COLLECTION OF THE CLAIM IN ANY COURT OF COMPETENT JURISDICTION IN  
6 INGHAM COUNTY.

7 (2) THE DEPARTMENT MAY ORDER IMMEDIATE SUSPENSION OF ANY  
8 MINING ACTIVITIES IF THE DEPARTMENT FINDS THAT THERE EXISTS AN  
9 EMERGENCY ENDANGERING THE PUBLIC HEALTH AND SAFETY OR AN IMMINENT  
10 THREAT TO THE NATURAL RESOURCES OF THIS STATE.

11 (3) AN ORDER SUSPENDING MINING ACTIVITIES UNDER SUBSECTION (2)  
12 SHALL BE IN EFFECT UNTIL THE ENDANGERMENT TO THE PUBLIC HEALTH AND  
13 SAFETY OR THE THREAT TO THE NATURAL RESOURCES HAS BEEN ELIMINATED,  
14 BUT NOT MORE THAN 10 DAYS. TO EXTEND THE SUSPENSION BEYOND 10 DAYS,  
15 THE DEPARTMENT SHALL ISSUE AN EMERGENCY ORDER TO CONTINUE THE  
16 SUSPENSION OF MINING ACTIVITIES AND SHALL SCHEDULE A HEARING AS  
17 PROVIDED BY THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,  
18 MCL 24.201 TO 24.328. THE TOTAL DURATION OF THE SUSPENSION OF  
19 ACTIVITIES SHALL NOT BE MORE THAN 30 DAYS.

20 (4) AT THE REQUEST OF THE DEPARTMENT, THE ATTORNEY GENERAL MAY  
21 INSTITUTE AN ACTION IN A CIRCUIT COURT OF THE COUNTY IN WHICH THE  
22 MINING AREA IS LOCATED FOR A RESTRAINING ORDER OR INJUNCTION OR  
23 OTHER APPROPRIATE REMEDY TO PREVENT OR PRECLUDE A VIOLATION OF THIS  
24 PART OR A RULE PROMULGATED UNDER THIS PART.

25 SEC. 63418. MINING OF EARTH MATERIAL THAT HAS SIGNIFICANT  
26 ACID-FORMING OR LEACHABLE CHARACTERISTICS IS NOT SUBJECT TO THIS  
27 PART.

1           Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.