

Act No. 169  
Public Acts of 1995  
Approved by the Governor  
October 9, 1995  
Filed with the Secretary of State  
October 9, 1995

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1995**

Introduced by Rep. Bobier

# **ENROLLED HOUSE BILL No. 4862**

AN ACT to amend sections 3104 and 3118 of Act No. 451 of the Public Acts of 1994, 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 prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," being sections 324.3104 and 324.3118 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 3104 and 3118 of Act No. 451 of the Public Acts of 1994, being sections 324.3104 and 324.3118 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3104. (1) The department is designated the state agency to cooperate and negotiate with other governments, governmental units, and governmental agencies in matters concerning the water resources of the state, including, but not limited to, flood control, beach erosion control, and water quality control planning, development, and management. The department shall have control over the alterations of natural or present watercourses of all rivers and streams in the state to assure that the channels and the portions of the floodplains that are the floodways are not inhabited and are kept free and clear of interference or obstruction that will cause any undue restriction of the capacity of the floodway. The department may take steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this part, including the water resources planning act, Public Law 89-80, 42 U.S.C. 1962 to 1962-1 and 1962a to 1962d-3, and the federal water pollution control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387.

(2) The department shall report to the governor and to the legislature at least annually any plans or projects being implemented or considered for implementation and shall include in the report requests for any legislation needed to implement any proposed projects or agreements made necessary as a result of a plan or project, together with any requests for appropriations. The department may make recommendations to the governor on the designation of areawide water quality planning regions and organizations relative to the governor's responsibilities under the federal water pollution control act.

(3) A person shall submit an application for a permit to alter a floodplain on a form approved by the department and shall include information that may be required by the department to assess the proposed alteration's impact on the floodplain. If an alteration includes activities at multiple locations in a floodplain, 1 application may be filed for combined activities.

(4) Except as provided in subsections (5) and (6), until October 1, 1999, an application for a floodplain permit shall be accompanied by a fee of \$500.00. Until October 1, 1999, if the department determines that engineering computations are required to assess the impact of a proposed floodplain alteration on flood stage or discharge characteristics, the department shall assess the applicant an additional \$1,500.00 to cover the department's cost of review.

(5) Until October 1, 1999, an application for a floodplain permit for a minor project category shall be accompanied by a fee of \$100.00. Minor project categories shall be established by rule and shall include activities and projects that are similar in nature and have minimal potential for causing harmful interference.

(6) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department, the department may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit fee required under subsection (4) or (5).

(7) The department shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113.

(8) A project that requires review and approval under this part and 1 or more of the following acts is subject to only the single highest permit fee required under this part or the following acts:

(a) Part 301.

(b) Part 303.

(c) Part 325.

(d) Part 323.

(e) Section 117 of the subdivision control act of 1967, Act No. 288 of the Public Acts of 1967, being section 560.117 of the Michigan Compiled Laws.

Sec. 3118. (1) Until October 1, 1999, the department shall collect storm water discharge fees from persons who apply for or have been issued storm water discharge permits as follows:

(a) The fee for a permit related solely to a site of construction activity is a 1-time fee of \$125.00 per permitted site. The fee shall be submitted by the permit applicant with his or her application for a general or individual permit. If rules promulgated under this part provide for a permit by rule, the fee shall be submitted by the construction permittee along with his or her notice of coverage. A person needing more than 1 permit may submit a single payment for more than 1 permit and receive appropriate credit. Payment of the fee under this subdivision or verification of prepayment is a necessary part of a valid permit application or notice of coverage under a permit by rule.

(b) The fee for a permit not related solely to a site of construction activity is \$200.00 to be paid as follows:

(i) A person who, before March 1, 1994, has applied for or been issued a permit not related solely to a site of construction activity shall be assessed a fee in the fiscal year ending September 30, 1994. The department shall notify those persons of their fee assessments by March 31, 1994 and payment shall be postmarked no later than May 15, 1994. The department shall not assess a fee for applications received before October 1, 1993 for which a permit has been denied or for a permit that has expired before October 1, 1993 without application for reissuance.

(ii) In the fiscal year beginning October 1, 1994 and in each following fiscal year, a person possessing a permit not related solely to a site of construction activity as of January 1 of that fiscal year shall be assessed a fee. The department shall notify those persons of their fee assessments by February 1 of that fiscal year. Payment shall be postmarked no later than March 15 of that fiscal year.

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

(3) The department shall forward all fees collected under this section to the state treasurer for deposit into the fund.

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

(5) If a person fails to pay the fee required under this section in full, plus any interest accrued, by October 1 of the year following the date of notification of the fee assessment, the department may revoke the permit held by that person. The failure by a person to pay a fee imposed by this section is a violation of this part and subjects that person to the penalty provisions in section 3115.

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

(7) As used in this section and section 3119:

(a) "Clean water act" means the federal water pollution control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387.

(b) "Construction activity" means a human-made earth change or disturbance in the existing cover or topography of land that is 5 acres or more in size, for which a national permit is required pursuant to 40 C.F.R. 122.26(a), and which is described as a construction activity in 40 C.F.R. 122.26(b)(14)(x). Construction activity includes clearing, grading, and excavating activities. Construction activity does not include the practice of clearing, plowing, tilling soil, and harvesting for the purpose of crop production.

(c) "Fee" means a storm water discharge fee authorized under this section.

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

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

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

(g) "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.