

HOUSE BILL No. 4540

April 27, 2017, Introduced by Rep. Whiteford and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3110, 4104, 11135, 11153, 12109, and 12112 (MCL 324.3110, 324.4104, 324.11135, 324.11153, 324.12109, and 324.12112), sections 3110 and 4104 as amended by 2011 PA 148, sections 11135 and 11153 as amended by 2014 PA 287, and sections 12109 and 12112 as amended by 2015 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3110. (1) Each industrial or commercial entity, other
2 than a concentrated animal feed operation, that discharges liquid
3 wastes into any surface water or groundwater or underground or on
4 the ground other than through a public sanitary sewer shall have
5 waste treatment or control facilities under the specific
6 supervision and control of persons who have been certified by the
7 department as properly qualified to operate the facilities. The

1 department shall examine all supervisory personnel having
2 supervision and control of the facilities, other than a
3 concentrated animal feed operation, and certify that the persons
4 are properly qualified to operate or supervise the facilities.

5 (2) The department may conduct a program for training persons
6 seeking to be certified as operators or supervisors under
7 subsection (1), section 4104, or section 9 of the safe drinking
8 water act, 1976 PA 399, MCL 325.1009. Until October 1, ~~2017~~, **2021**,
9 the department may charge a fee based on the costs to the
10 department of operating this training program. The fees shall be
11 deposited into the operator training and certification fund created
12 in section 3134.

13 (3) The department shall administer certification operator
14 programs for persons seeking to be certified as operators or
15 supervisors under subsection (1), section 4104, or section 9 of the
16 safe drinking water act, 1976 PA 399, MCL 325.1009. A person
17 wishing to become certified as an operator or a supervisor shall
18 submit an application to the department containing information
19 required by the department. Information submitted as part of the
20 application shall be considered part of the examination for
21 certification. Until October 1, ~~2017~~, **2021**, the department may
22 charge a certification examination fee and a certification renewal
23 fee in accordance with the following fee schedule:

24 (a) For certification examinations under subsection (1), the
25 following fees apply:

26 (i) Industrial wastewater certification level 1 or 2
27 examination as described under subrule (2) of R 323.1253 of the

1 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$35.00.

2 (ii) Industrial wastewater certification level 3 examination
3 as described under subrule (2) of R 323.1253 of the Michigan
4 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$40.00.

5 (iii) Industrial wastewater special classification A-1a
6 examination or noncontact cooling water A-1h examination as
7 described under subrule (2) of R 323.1253 of the Michigan
8 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$30.00.

9 (iv) Storm water industrial certification A-1i examination as
10 described under subrule (2) of R 323.1253 of the Michigan
11 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$30.00.

12 (b) For certification examinations under section 4104, the
13 following fees apply:

14 (i) Municipal wastewater certification level A, B, C, or D
15 examination as described under subrule (1) of R 299.2911 of the
16 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$70.00.

17 (ii) Municipal wastewater certification level L2 examination
18 as described under subrule ~~(3a)~~ **(3) (A)** of R 299.2911 of the
19 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

20 (iii) Municipal wastewater certification level L1 examination
21 as described under subrule ~~(3b)~~ **(3) (B)** of R 299.2911 of the
22 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

23 (iv) Municipal wastewater certification level SC examination
24 as described under subrule (4) of R 299.2911 of the Michigan
25 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

26 (c) For certification examinations under section 9 of the safe
27 drinking water act, 1976 PA 399, MCL 325.1009, **FOR THE FOLLOWING**

1 **SYSTEMS**, the following fees apply:

2 (i) Drinking water complete treatment ~~certification level 1,~~
3 ~~2, 3, or 4 examination~~ **SYSTEM CLASSES F-1, F-2, F-3, OR F-4** as
4 described under subrule (1) of R 325.11901 of the Michigan
5 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$70.00.

6 (ii) Drinking water limited treatment ~~certification level 1,~~
7 ~~2, 3, or 4 examination~~ **SYSTEM CLASSES D-1, D-2, D-3, OR D-4** as
8 described under subrule (2) of R 325.11901 of the Michigan
9 ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$70.00.

10 (iii) Drinking water distribution ~~certification level 1, 2, 3,~~
11 ~~or 4 examination~~ **SYSTEM CLASSES S-1, S-2, S-3, OR S-4** as described
12 under R 325.11902 of the Michigan ~~administrative code,~~
13 **ADMINISTRATIVE CODE**, \$70.00.

14 (iv) Drinking water complete treatment ~~certification level 5~~
15 ~~examination~~ **SYSTEM CLASS F-5** as described under subrule (1) of R
16 325.11901 of the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**,
17 \$45.00.

18 (v) Drinking water limited treatment ~~certification level 5~~
19 ~~examination~~ **SYSTEM CLASS D-5** as described under subrule (2) of R
20 325.11901 of the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**,
21 \$45.00.

22 (vi) Drinking water distribution ~~certification level 5~~
23 ~~examination~~ **SYSTEM CLASS S-5** as described under R 325.11902 of the
24 Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, \$45.00.

25 (d) For certification renewals under subsection (1), the
26 following fees apply:

27 (i) Storm water industrial certification A-1i as described

1 under subrule (2) of R 323.1253 of the Michigan ~~administrative~~
2 ~~code~~, **ADMINISTRATIVE CODE**, \$95.00.

3 (ii) Storm water construction certification A-1j as described
4 under subrule (2) of R 323.1253 of the Michigan ~~administrative~~
5 ~~code~~, **ADMINISTRATIVE CODE**, \$95.00.

6 (iii) All other industrial wastewater certification levels 1,
7 2, or 3 as described under subrule (2) of R 323.1253 of the
8 Michigan ~~administrative code~~ **ADMINISTRATIVE CODE** and issued on a
9 single certificate, \$95.00.

10 (e) For certification renewals under section 4104 for all
11 municipal wastewater certification levels as described under R
12 299.2911 of the Michigan ~~administrative code~~ **ADMINISTRATIVE CODE**
13 and issued on a single certificate, \$95.00.

14 (f) For certification renewals under section 9 of the safe
15 drinking water act, 1976 PA 399, MCL 325.1009, for all drinking
16 water certification levels as described under R 325.11901 or R
17 325.11902 **OF THE MICHIGAN ADMINISTRATIVE CODE** and issued on a
18 single certificate, \$95.00.

19 (4) The failure to pay a required certification examination
20 fee within 90 days after taking an examination ~~shall constitute~~ **IS**
21 **CONSIDERED** failure of the examination. The department shall not
22 allow an individual to take a future examination within the failed
23 examination program unless he or she pays the prior fee in full.

24 (5) The department shall conduct a program for persons or
25 organizations seeking to offer approved continuing education
26 courses to be used by certified operators and supervisors when
27 renewing their certifications under subsection (1), section 4104,

1 and section 9 of the safe drinking water act, 1976 PA 399, MCL
2 325.1009. The department may charge continuing education providers
3 a course application fee and course renewal fee ~~in accordance with~~
4 **AS PROVIDED IN** the following fee schedule:

5 (a) An application for approval of a training course, \$75.00
6 for each course.

7 (b) An application for renewal of an approved training course,
8 \$50.00 for each course.

9 (6) All fees collected under this section shall be deposited
10 in the operator training and certification fund established in
11 section 3134.

12 (7) A person certified as required by subsection (1) shall
13 file monthly, or at such longer intervals as the department may
14 designate, on forms provided by the department, reports showing the
15 effectiveness of the treatment or control facility operation and
16 the quantity and quality of discharged liquid wastes. ~~A-IF A~~ person
17 ~~who~~ knowingly makes a false statement in a report, ~~may have~~ **THE**
18 **DEPARTMENT MAY REVOKE** his or her certificate as an approved
19 treatment facility operator. ~~revoked.~~

20 (8) This section does not apply to water, gas, or other
21 material that is injected into a well to facilitate production of
22 oil or gas or to water derived in association with oil or gas
23 production and disposed of in a well, if the well is used either to
24 facilitate production or for disposal purposes and is under permit
25 by the state supervisor of wells.

26 Sec. 4104. (1) The department may promulgate and enforce rules
27 as the department considers necessary governing and providing a

1 method of conducting and operating all or a part of sewerage
2 systems including sewage treatment works. The department shall
3 classify sewage treatment works with regard to size, type,
4 location, and other physical conditions affecting those works and
5 according to the skill, knowledge, experience, and character that
6 the person who is in charge of the active operation of the sewage
7 treatment works ~~has to~~ **MUST** possess ~~in order to~~ successfully
8 operate the works, ~~AND~~ **AND** to prevent the discharge of deleterious
9 matter capable of being injurious to ~~the~~ **PUBLIC** health ~~of the~~
10 ~~people, or to~~ **OR** other public interests. The department shall
11 examine or provide for the examination of persons as to their
12 qualifications to operate sewage treatment works. The department
13 shall promulgate rules regarding the classification of sewage
14 treatment works, the examinations for certification of operators
15 for those works, and the issuance and revocation of certificates,
16 and shall issue and revoke certificates ~~in accordance with~~ **AS**
17 **PROVIDED IN** those rules. Every sewage treatment works subject to
18 this part shall be under the supervision of a properly certified
19 operator, except that this section does not require the employment
20 of a certified operator in a waste treatment works that receives
21 only wastes that are not potentially prejudicial to the public
22 health.

23 (2) ~~In accordance with~~ **AS PROVIDED IN** section 3110, the
24 department may conduct a program for training persons seeking to be
25 certified as operators under subsection (1) and shall administer
26 operator certification programs for persons seeking to be certified
27 as operators under subsection (1). Until October 1, ~~2017,~~ **2021**, the

1 department may charge fees for these programs ~~in accordance with AS~~
2 **PROVIDED IN** section 3110. The department shall transmit fees
3 collected under this section to the state treasurer for deposit
4 into the operator training and certification fund created in
5 section 3134.

6 Sec. 11135. (1) A hazardous waste generator shall provide a
7 separate manifest to the transporter for each load of hazardous
8 waste transported to property that is not on the site where it was
9 generated. Until October 1, ~~2017,~~**2021**, a person required to
10 prepare a manifest shall submit to the department a manifest
11 processing user charge of \$8.00 per manifest and his or her tax
12 identification number. Money collected under this subsection shall
13 be forwarded to the state treasurer for deposit into the
14 environmental pollution prevention fund created in section 11130.

15 (2) Manifest processing user charges under subsection (1)
16 shall be paid using a form provided by the department. The
17 department shall send a form to each person subject to the manifest
18 processing user charge by March 30 of each year. The form shall
19 specify the number of manifests prepared by that person and
20 processed by the department during the previous calendar year. A
21 person subject to the manifest processing user charge shall return
22 the completed form and the appropriate payment to the department by
23 April 30 of each year.

24 (3) A person who fails to provide timely and accurate
25 information, a complete form, or the appropriate manifest
26 processing user charge as provided for in this section is in
27 violation of this part and is subject to both of the following:

1 (a) Payment of the manifest processing user charge and an
2 administrative fine of 5% of the amount owed for each month that
3 the payment is delinquent. Any payments received after the
4 fifteenth day of the month after the due date ~~shall be considered~~
5 **ARE** delinquent for that month. However, the administrative fine
6 shall not exceed 25% of the total amount owed.

7 (b) Beginning 5 months after the date payment of the manifest
8 user charge is due, but not paid, at the request of the department,
9 an action by the attorney general for the collection of the amount
10 owed under subdivision (a) and the actual cost to the department in
11 attempting to collect the amount owed under subdivision (a).

12 (4) Any amounts collected under subsection (3) for a violation
13 of this section shall be forwarded to the state treasurer and
14 deposited in the environmental pollution prevention fund created in
15 section 11130.

16 (5) The department shall maintain information regarding the
17 manifest processing user charges received under this section as
18 necessary to satisfy the reporting requirements of subsection (6).

19 (6) The department shall evaluate the effectiveness and
20 adequacy of the manifest processing user charges collected under
21 this section relative to the overall revenue needs of the state's
22 hazardous waste management program administered under this part.
23 Not later than April 1 of each even-numbered year, the department
24 shall submit to the legislature a report summarizing its findings
25 under this subsection.

26 (7) A generator shall include on the manifest details as
27 specified by the department and shall at least include a sufficient

1 qualitative and quantitative analysis and a physical description of
2 the hazardous waste to evaluate toxicity and methods of
3 transportation, storage, and disposal. The manifest also shall
4 include safety precautions as necessary for each load of hazardous
5 waste. The generator shall submit to the department a copy of the
6 manifest within 10 days after the end of the month for each load of
7 hazardous waste transported within that month.

8 (8) A generator shall certify that the information contained
9 on a manifest prepared by the generator is accurate.

10 (9) The specified destination of each load of hazardous waste
11 identified on the manifest shall be a designated facility.

12 (10) If a generator does not receive a copy of the manifest
13 with the handwritten signature of the owner or operator of the
14 designated facility within 35 days after the date on which the
15 hazardous waste was accepted by the initial transporter, the
16 generator shall contact the transporter to determine the status of
17 the hazardous waste. If the generator is unable to determine the
18 status of the hazardous waste upon contacting the transporter, the
19 generator shall contact the owner or operator of the designated
20 facility to which the hazardous waste was to be transported to
21 determine the status of the hazardous waste.

22 (11) A generator shall submit an exception report to the
23 department if the generator has not received a copy of the manifest
24 with the handwritten signature of the owner or operator of the
25 designated facility within 45 days after the date on which the
26 hazardous waste was accepted by the initial transporter. The
27 exception report shall include all of the following:

1 (a) A legible copy of the manifest.

2 (b) A cover letter signed by the generator or the generator's
3 authorized representative explaining the efforts taken to locate
4 the hazardous waste and the results of those efforts.

5 (12) A generator shall keep a copy of each manifest signed and
6 dated by the initial transporter for 3 years or until the generator
7 receives a signed and dated copy from the owner or operator of the
8 designated facility that received the hazardous waste. The
9 generator shall keep the copy of the manifest signed and dated by
10 the owner or operator of the designated facility for 3 years. The
11 retention periods required by this subsection are automatically
12 extended during the course of any unresolved enforcement action
13 regarding the regulated activity or as required by the department.

14 Sec. 11153. (1) A generator, transporter, or treatment,
15 storage, or disposal facility shall obtain and utilize a site
16 identification number assigned by the United States ~~environmental~~
17 ~~protection agency~~ **ENVIRONMENTAL PROTECTION AGENCY** or the
18 department. Until October 1, ~~2017,~~ **2021**, the department shall
19 assess a site identification number user charge of \$50.00 for each
20 site identification number it issues. The department shall not
21 issue a site identification number under this subsection unless the
22 site identification number user charge and the tax identification
23 number for the person applying for the site identification number
24 have been received by the department.

25 (2) Until October 1, ~~2017,~~ **2021**, the department shall annually
26 assess hazardous waste management program user charges as follows:

27 (a) A generator shall pay a handler user charge that is the

1 highest of the following applicable fees:

2 (i) A generator who generates more than 100 kilograms but less
3 than 1,000 kilograms of hazardous waste in any month during the
4 calendar year shall pay to the department an annual handler user
5 charge of \$100.00.

6 (ii) A generator who generates 1,000 kilograms or more of
7 hazardous waste in any month during the calendar year and who
8 generates less than 900,000 kilograms during the calendar year
9 shall pay to the department an annual handler user charge of
10 \$400.00.

11 (iii) A generator who generates 1,000 kilograms or more of
12 hazardous waste in any month during the calendar year and who
13 generates 900,000 kilograms or more of hazardous waste during the
14 calendar year shall pay to the department an annual handler user
15 charge of \$1,000.00.

16 (b) An owner or operator of a treatment, storage, or disposal
17 facility for which an operating license is required under section
18 11123 or for which an operating license has been issued under
19 section 11125 shall pay to the department an annual handler user
20 charge of \$2,000.00.

21 (c) A used oil processor or rerefiner, a used oil burner, or a
22 used oil fuel marketer as defined in the rules promulgated under
23 this part shall pay to the department an annual handler user charge
24 of \$100.00.

25 (3) A handler shall pay the handler user charge specified in
26 subsection (2) (a) to (c) for each of the activities conducted
27 during the previous calendar year.

1 (4) Handler user charges shall be paid using a form provided
2 by the department. The handler shall certify that the information
3 on the form is accurate. The department shall send forms to the
4 handlers by March 30 of each year. A handler shall return the
5 completed forms and the appropriate payment to the department by
6 April 30 of each year.

7 (5) A handler who fails to provide timely and accurate
8 information, a complete form, or the appropriate handler user
9 charge is in violation of this part and is subject to both of the
10 following:

11 (a) Payment of the handler user charge and an administrative
12 fine of 5% of the amount owed for each month that the payment is
13 delinquent. Any payments received after the fifteenth of the month
14 after the due date ~~shall be considered~~ **ARE** delinquent for that
15 month. However, the administrative fine shall not exceed 25% of the
16 total amount owed.

17 (b) Beginning 5 months after the date payment of the handler
18 user charge is due, if the amount owed under subdivision (a) is not
19 paid in full, at the request of the department, an action by the
20 attorney general for the collection of the amount owed under
21 subdivision (a) and the actual cost to the department in attempting
22 to collect the amount owed under subdivision (a).

23 (6) The department shall maintain information regarding the
24 site identification number user charges and the handler user
25 charges collected under this section as necessary to satisfy the
26 reporting requirements of subsection (8).

27 (7) The site identification number user charges and the

1 handler user charges collected under this section and any amounts
2 collected under subsection (5) for a violation of this section
3 shall be forwarded to the state treasurer and deposited in the
4 environmental pollution prevention fund created in section 11130.

5 (8) The department shall evaluate the effectiveness and
6 adequacy of the site identification number user charges and the
7 handler user charges collected under this section relative to the
8 overall revenue needs of the hazardous waste management program
9 administered under this part. Not later than April 1 of each even-
10 numbered year, the department shall submit to the legislature a
11 report summarizing the department's findings under this subsection.

12 (9) As used in this section:

13 (a) "Handler" means the person required to pay the handler
14 user charge.

15 (b) "Handler user charge" means an annual hazardous waste
16 management program user charge provided for in subsection (2).

17 Sec. 12109. (1) A liquid industrial by-product transporter
18 shall provide the generator confirmation of acceptance of by-
19 product for transportation and shall deliver the liquid industrial
20 by-product only to the designated facility specified by the
21 generator.

22 (2) The liquid industrial by-product transporter shall retain
23 all records required under this part for ~~a period of~~ at least 3
24 years, and shall make those records readily available for review
25 and inspection by the department or a peace officer. The retention
26 period required in this subsection is automatically extended during
27 the course of any unresolved enforcement action regarding an

1 activity regulated under this part or as required by the
2 department. Records required under this part may be retained in
3 electronic format.

4 (3) The department may authorize, for certain liquid
5 industrial by-product streams, the use of a consolidated shipping
6 document as authorized under section 12103(1)(d). If a consolidated
7 shipping document is authorized by the department and utilized by a
8 generator, the transporter shall give to the generator a receipt
9 documenting the transporter's company name, the driver's signature,
10 the date of pickup, the type and quantity of by-product removed,
11 the consolidated shipping document number, and the designated
12 facility.

13 (4) A transporter shall obtain a site identification number
14 assigned by the United States Environmental Protection Agency or
15 the department. Until October 1, ~~2017~~, **2021**, the department shall
16 assess a site identification number user charge of \$50.00 for each
17 site identification number it issues. The department shall not
18 issue a site identification number under this subsection unless the
19 site identification number user charge and the tax identification
20 number for the person applying for the site identification number
21 have been received. Money collected under this subsection shall be
22 forwarded to the state treasurer for deposit into the environmental
23 pollution prevention fund created in section 11130.

24 Sec. 12112. (1) The owner or operator of a facility that
25 accepts liquid industrial by-product shall accept delivery of by-
26 product at the designated facility only if the facility is the
27 destination indicated on the shipping document. The facility owner

1 or operator shall do all of the following:

2 (a) Obtain a site identification number assigned by the United
3 States Environmental Protection Agency or the department. Until
4 October 1, ~~2017~~, **2021**, the department shall assess a site
5 identification number user charge of \$50.00 for each site
6 identification number it issues. The department shall not issue a
7 site identification number under this subdivision unless the site
8 identification number user charge and the tax identification number
9 for the person applying for the site identification number have
10 been received. Money collected under this subdivision shall be
11 forwarded to the state treasurer for deposit into the environmental
12 pollution prevention fund created in section 11130.

13 (b) Provide the generator or the generator's authorized
14 representative confirmation of the receipt of the liquid industrial
15 by-product.

16 (c) Maintain records of the characterization of the liquid
17 industrial by-product. Characterization shall be in accordance with
18 the requirements of this act.

19 (2) All storage, treatment, and reclamation of liquid
20 industrial by-product at the designated facility shall be in either
21 containers or tanks or as otherwise specified in section 12113(5).
22 Storage, treatment, or reclamation regulated under part 615 or the
23 rules, orders, or instructions promulgated under that part, or
24 regulated under part C of title XIV of the public health service
25 act, 42 USC 300h to 300h-8, or the regulations promulgated under
26 that part are exempt from this subsection.

27 (3) The owner or operator of a designated facility shall not

1 store liquid industrial by-product for longer than 1 year unless
2 the by-product is being stored for purposes of reclamation and not
3 less than 75% of the cumulative amount, by weight or volume, of
4 each type of by-product that is stored on site each calendar year
5 is reclaimed or transferred to a different site for reclamation
6 during that calendar year. The owner or operator of a designated
7 facility shall maintain documentation that demonstrates compliance
8 with this subsection.

9 (4) The owner or operator of a designated facility shall do
10 all of the following:

11 (a) Retain all records required pursuant to this part for a
12 period of at least 3 years and shall make those records readily
13 available for review and inspection by the department or a peace
14 officer. The retention period required by this subdivision is
15 automatically extended during the course of any unresolved
16 enforcement action regarding the regulated activity or as required
17 by the department. Records required under this part may be retained
18 in electronic format.

19 (b) Maintain a plan designed to respond to and minimize
20 hazards to human health and the environment from unplanned releases
21 of liquid industrial by-product to air, soil, and surface water.

22 (c) Document that all employees who have a responsibility to
23 manage liquid industrial by-product are trained in the proper
24 handling and emergency procedures appropriate for their job duties.

25 (5) Except as provided in subsection (6), a designated
26 facility shall submit to the department by April 30 each year a
27 report describing its activities for the previous calendar year.

1 The department shall provide for a method of electronic reporting.

2 The report, at a minimum, shall include the following information:

3 (a) The name and address of the facility.

4 (b) The calendar year covered by the report.

5 (c) The types and quantities of liquid industrial by-product
6 accepted and a description of the manner in which the liquid
7 industrial by-product was processed or managed.

8 (6) A designated facility is not subject to the reporting
9 requirements of subsection (5) for a calendar year if, during that
10 calendar year, the designated facility received liquid industrial
11 by-products only from 1 generator and was owned, operated, or
12 legally controlled by that generator.