

Act No. 90  
Public Acts of 2017  
Approved by the Governor  
July 12, 2017  
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July 12, 2017  
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**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2017**

Introduced by Rep. Whiteford

# ENROLLED HOUSE BILL No. 4540

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 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:*

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

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

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

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

(i) Industrial wastewater certification level 1 or 2 examination as described under subrule (2) of R 323.1253 of the Michigan Administrative Code, \$35.00.

(ii) Industrial wastewater certification level 3 examination as described under subrule (2) of R 323.1253 of the Michigan Administrative Code, \$40.00.

(iii) Industrial wastewater special classification A-1a examination or noncontact cooling water A-1h examination as described under subrule (2) of R 323.1253 of the Michigan Administrative Code, \$30.00.

(iv) Storm water industrial certification A-1i examination as described under subrule (2) of R 323.1253 of the Michigan Administrative Code, \$30.00.

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

(i) Municipal wastewater certification level A, B, C, or D examination as described under subrule (1) of R 299.2911 of the Michigan Administrative Code, \$70.00.

(ii) Municipal wastewater certification level L2 examination as described under subrule (3)(a) of R 299.2911 of the Michigan Administrative Code, \$45.00.

(iii) Municipal wastewater certification level L1 examination as described under subrule (3)(b) of R 299.2911 of the Michigan Administrative Code, \$45.00.

(iv) Municipal wastewater certification level SC examination as described under subrule (4) of R 299.2911 of the Michigan Administrative Code, \$45.00.

(c) For certification examinations under section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009, for operators of the following systems, the following fees apply:

(i) Drinking water complete treatment system classes F-1, F-2, F-3, or F-4 as described under subrule (1) of R 325.11901 of the Michigan Administrative Code, \$70.00.

(ii) Drinking water limited treatment system classes D-1, D-2, D-3, or D-4 as described under subrule (2) of R 325.11901 of the Michigan Administrative Code, \$70.00.

(iii) Drinking water distribution system classes S-1, S-2, S-3, or S-4 as described under R 325.11902 of the Michigan Administrative Code, \$70.00.

(iv) Drinking water complete treatment system class F-5 as described under subrule (1) of R 325.11901 of the Michigan Administrative Code, \$45.00.

(v) Drinking water limited treatment system class D-5 as described under subrule (2) of R 325.11901 of the Michigan Administrative Code, \$45.00.

(vi) Drinking water distribution system class S-5 as described under R 325.11902 of the Michigan Administrative Code, \$45.00.

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

(i) Storm water industrial certification A-1i as described under subrule (2) of R 323.1253 of the Michigan Administrative Code, \$95.00.

(ii) Storm water construction certification A-1j as described under subrule (2) of R 323.1253 of the Michigan Administrative Code, \$95.00.

(iii) All other industrial wastewater certification levels 1, 2, or 3 as described under subrule (2) of R 323.1253 of the Michigan Administrative Code and issued on a single certificate, \$95.00.

(e) For certification renewals under section 4104 for all municipal wastewater certification levels as described under R 299.2911 of the Michigan Administrative Code and issued on a single certificate, \$95.00.

(f) For certification renewals under section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009, for all drinking water certification levels as described under R 325.11901 or R 325.11902 of the Michigan Administrative Code and issued on a single certificate, \$95.00.

(4) The failure to pay a required certification examination fee within 90 days after taking an examination is considered failure of the examination. The department shall not allow an individual to take a future examination within the failed examination program unless he or she pays the prior fee in full.

(5) The department shall conduct a program for persons or organizations seeking to offer approved continuing education courses to be used by certified operators and supervisors when renewing their certifications under subsection (1), section 4104, and section 9 of the safe drinking water act, 1976 PA 399, MCL 325.1009. The department may charge continuing education providers a course application fee and course renewal fee as provided in the following fee schedule:

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

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

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

(7) A person certified as required by subsection (1) shall file monthly, or at such longer intervals as the department may designate, on forms provided by the department, reports showing the effectiveness of the treatment or control facility operation and the quantity and quality of discharged liquid wastes. If a person knowingly makes a false statement in a report, the department may revoke his or her certificate as an approved treatment facility operator.

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

Sec. 4104. (1) The department may promulgate and enforce rules as the department considers necessary governing and providing a method of conducting and operating all or a part of sewerage systems including sewage treatment works. The department shall classify sewage treatment works with regard to size, type, location, and other physical conditions affecting those works and according to the skill, knowledge, experience, and character that the person who is in charge of the active operation of the sewage treatment works must possess to successfully operate the works and to prevent the discharge of deleterious matter capable of being injurious to public health or other public interests. The department shall examine or provide for the examination of persons as to their qualifications to operate sewage treatment works. The department shall promulgate rules regarding the classification of sewage treatment works, the examinations for certification of operators for those works, and the issuance and revocation of certificates, and shall issue and revoke certificates as provided in those rules. Every sewage treatment works subject to this part shall be under the supervision of a properly certified operator, except that this section does not require the employment of a certified operator in a waste treatment works that receives only wastes that are not potentially prejudicial to the public health.

(2) As provided in section 3110, the department may conduct a program for training persons seeking to be certified as operators under subsection (1) and shall administer operator certification programs for persons seeking to be certified as operators under subsection (1). Until October 1, 2021, the department may charge fees for these programs as provided in section 3110. The department shall transmit fees collected under this section to the state treasurer for deposit into the operator training and certification fund created in section 3134.

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

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

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

(a) Payment of the manifest processing user charge and an administrative fine of 5% of the amount owed for each month that the payment is delinquent. Any payments received after the fifteenth day of the month after the due date are delinquent for that month. However, the administrative fine shall not exceed 25% of the total amount owed.

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

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

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

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

(7) A generator shall include on the manifest details as specified by the department and shall at least include a sufficient qualitative and quantitative analysis and a physical description of the hazardous waste to evaluate toxicity and methods of transportation, storage, and disposal. The manifest also shall include safety precautions as necessary for each load of hazardous waste. The generator shall submit to the department a copy of the manifest within 10 days after the end of the month for each load of hazardous waste transported within that month.

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

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

(10) If a generator does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days after the date on which the hazardous waste was accepted by the initial

transporter, the generator shall contact the transporter to determine the status of the hazardous waste. If the generator is unable to determine the status of the hazardous waste upon contacting the transporter, the generator shall contact the owner or operator of the designated facility to which the hazardous waste was to be transported to determine the status of the hazardous waste.

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

(a) A legible copy of the manifest.

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

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

Sec. 11153. (1) A generator, transporter, or treatment, storage, or disposal facility shall obtain and utilize a site identification number assigned by the United States Environmental Protection Agency or the department. Until October 1, 2021, the department shall assess a site identification number user charge of \$50.00 for each site identification number it issues. The department shall not issue a site identification number under this subsection unless the site identification number user charge and the tax identification number for the person applying for the site identification number have been received by the department.

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

(a) A generator shall pay a handler user charge that is the highest of the following applicable fees:

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

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

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

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

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

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

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

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

(a) Payment of the handler user charge and an administrative fine of 5% of the amount owed for each month that the payment is delinquent. Any payments received after the fifteenth of the month after the due date are delinquent for that month. However, the administrative fine shall not exceed 25% of the total amount owed.

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

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

(7) The site identification number user charges and the handler user charges collected under this section and any amounts collected under subsection (5) for a violation of this section shall be forwarded to the state treasurer and deposited in the environmental pollution prevention fund created in section 11130.

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

(9) As used in this section:

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

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

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

(2) The liquid industrial by-product transporter shall retain all records required under this part for at least 3 years, and shall make those records readily available for review and inspection by the department or a peace officer. The retention period required in this subsection is automatically extended during the course of any unresolved enforcement action regarding an activity regulated under this part or as required by the department. Records required under this part may be retained in electronic format.

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

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

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

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

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

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

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

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

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

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

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

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

(5) Except as provided in subsection (6), a designated facility shall submit to the department by April 30 each year a report describing its activities for the previous calendar year. The department shall provide for a method of electronic reporting. The report, at a minimum, shall include the following information:

(a) The name and address of the facility.

(b) The calendar year covered by the report.

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

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

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