

HOUSE BILL NO. 5001

June 15, 2021, Introduced by Rep. Weiss and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 3120 (MCL 324.3120), as amended by 2019 PA 84.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3120. (1) ~~Until October 1, 2023, an~~ **An** application for a
2 new permit, a reissuance of a permit, or a modification of an
3 existing permit under this part authorizing a discharge into
4 surface water, other than a storm water discharge, ~~shall~~ **must** be
5 accompanied by an application fee as follows:

1 (a) For an EPA major facility permit, ~~\$750.00.~~ **\$1,160.00.**

2 (b) For an EPA minor facility individual permit, a CSO permit,
3 or a wastewater stabilization lagoon individual permit,
4 ~~\$400.00.~~ **\$620.00.**

5 (c) For an EPA minor facility general permit, ~~\$75.00.~~ **\$120.00.**

6 (2) Within 180 days after receipt of a complete application
7 for a new or increased use permit, the department shall either
8 grant or deny the permit, unless the applicant and the department
9 agree to extend this time period.

10 (3) By September 30 of the year following the submittal of a
11 complete application for **the** reissuance of a permit, the department
12 shall either grant or deny the permit, unless the applicant and ~~the~~
13 department agree to extend this time period.

14 (4) If the department fails to make a decision on an
15 application within the applicable time period under subsection (2)
16 or (3), all of the following apply:

17 (a) The department shall return to the applicant the
18 application fee submitted under subsection (1).

19 (b) The applicant is not subject to an application fee.

20 (c) The applicant shall receive a 15% annual discount on an
21 annual permit fee required for a permit issued based on that
22 application.

23 (5) ~~Until October 1, 2023, a~~ **A** person ~~who~~ **that** receives a
24 permit under this part authorizing a discharge into surface water,
25 other than a stormwater discharge, is subject to an annual permit
26 fee as follows:

27 (a) For an industrial or commercial facility that is an EPA
28 major facility, ~~\$8,700.00.~~ **\$13,500.00.**

29 (b) For an industrial or commercial facility that is an EPA

1 minor facility, the following amount:

2 (i) For a general permit for a low-flow facility,
3 ~~\$150.00.~~ **\$230.00.**

4 (ii) For a general permit for a high-flow facility,
5 ~~\$400.00.~~ **\$620.00.**

6 (iii) For an individual permit for a low-flow facility,
7 ~~\$1,650.00.~~ **\$2,560.00.**

8 (iv) For an individual permit for a high-flow facility,
9 ~~\$3,650.00.~~ **\$5,660.00.**

10 (c) For a municipal facility that is an EPA major facility,
11 the following amount:

12 (i) For an individual permit for a facility discharging 500 MGD
13 or more, ~~\$213,000.00.~~ **\$330,150.00.**

14 (ii) For an individual permit for a facility discharging 50 MGD
15 or more but less than 500 MGD, ~~\$20,000.00.~~ **\$31,000.00.**

16 (iii) For an individual permit for a facility discharging 10 MGD
17 or more but less than 50 MGD, ~~\$13,000.00.~~ **\$20,150.00.**

18 (iv) For an individual permit for a facility discharging less
19 than 10 MGD, ~~\$5,500.00.~~ **\$8,530.00.**

20 (d) For a municipal facility that is an EPA minor facility,
21 the following amount:

22 (i) For an individual permit for a facility discharging 10 MGD
23 or more, ~~\$3,775.00.~~ **\$5,850.00.**

24 (ii) For an individual permit for a facility discharging 1 MGD
25 or more but less than 10 MGD, ~~\$3,000.00.~~ **\$4,650.00.**

26 (iii) For an individual permit for a facility discharging less
27 than 1 MGD, ~~\$1,950.00.~~ **\$3,020.00.**

28 (iv) For a general permit for a high-flow facility,

1 ~~\$600.00.~~**\$930.00.**

2 (v) For a general permit for a low-flow facility,

3 ~~\$400.00.~~**\$620.00.**

4 (e) For a municipal facility that is a CSO facility,

5 ~~\$6,000.00.~~**\$9,300.00.**

6 (f) For an individual permit for a wastewater stabilization
7 lagoon, ~~\$1,525.00.~~**\$2,360.00.**

8 (g) For an individual or general permit for an agricultural
9 purpose, ~~\$600.00,~~**\$930.00**, unless either of the following applies:

10 (i) The facility is an EPA minor facility and would qualify for
11 a general permit for a low-flow facility, in which case the fee is
12 ~~\$150.00.~~**\$230.00.**

13 (ii) The facility is an EPA major facility that is not a
14 farmers' cooperative corporation, in which case the fee is
15 ~~\$8,700.00.~~**\$13,490.00.**

16 (h) For a facility that ~~holds~~**has** a permit issued under this
17 part but has no discharge and is connected to and ~~is~~ authorized to
18 discharge only to a municipal wastewater treatment system, an
19 annual permit maintenance fee of ~~\$100.00.~~**\$155.00.** However, if a
20 facility does have a discharge or at some time is no longer
21 connected to a municipal wastewater treatment system, the annual
22 permit fee ~~shall~~**must** be the appropriate fee as otherwise provided
23 in this subsection.

24 (6) If the person required to pay an application fee under
25 subsection (1) or an annual permit fee under subsection (5) is a
26 municipality, the municipality may pass on the application fee or
27 the annual permit fee, or both, to each user of the municipal
28 facility.

29 (7) The department shall send invoices for annual permit fees

1 under subsection (5) to all permit holders by December 1 of each
2 year. A fee ~~shall~~**must** be based on the status of the facility as of
3 October 1 of that year. A person subject to an annual permit fee
4 shall pay the fee not later than January 15 of each year. Failure
5 by the department to send a person an invoice by December 1, or
6 failure of a person to receive an invoice, does not relieve that
7 person of the obligation to pay the annual permit fee. If the
8 department does not send invoices by December 1, the annual permit
9 fee is due not later than 45 days after the permittee receives an
10 invoice. The department shall forward annual permit fees received
11 under this section to the state treasurer for deposit into the
12 national pollutant discharge elimination system fund created in
13 section 3121.

14 (8) The department shall assess a penalty on all annual permit
15 fee payments submitted under this section after the due date. The
16 penalty is 0.75% of the payment due for each month or portion of a
17 month the payment remains past due.

18 (9) Following payment of an annual permit fee, if a permittee
19 wishes to challenge its annual permit fee under this section, the
20 ~~owner or operator~~**permittee** shall submit the challenge in writing
21 to the department. The department shall not process the challenge
22 unless ~~it~~**the challenge** is received by the department by March 1 of
23 the year the payment is due. A challenge ~~shall~~**must** identify the
24 facility and state the grounds ~~upon~~**on** which the challenge is
25 based. Within 30 ~~calendar~~ days after receipt of the challenge, the
26 department shall determine the validity of the challenge and
27 provide the permittee with notification of a revised annual permit
28 fee and a refund, if appropriate, or a statement setting forth the
29 reason or reasons why the annual permit fee was not revised. If the

1 ~~owner or operator of a facility~~ **permittee** desires to further
2 challenge its annual permit fee, the ~~owner or operator of the~~
3 ~~facility~~ **permittee** has an opportunity for a contested case hearing
4 ~~as provided for under the administrative procedures act of 1969,~~
5 1969 PA 306, MCL 24.201 to 24.328.

6 (10) The attorney general may bring an action for the
7 collection of the annual permit fee imposed under this section.

8 (11) **The application fees specified under subsection (1) and**
9 **the permit fees specified under subsection (5) are effective 6**
10 **months after the effective date of the amendatory act that amended**
11 **this section. Beginning January 1, 2022 and by January 1 every year**
12 **after 2022, the department shall adjust the application fees**
13 **specified under subsection (1) and the permit fees specified under**
14 **subsection (5) by an amount determined by the state treasurer at**
15 **the end of the preceding fiscal year to reflect the cumulative**
16 **percentage change in the Detroit Consumer Price Index from the most**
17 **recent period for which data is available for the Detroit area from**
18 **the United States Department of Labor, Bureau of Labor Statistics.**

19 (12) ~~(11)~~As used in this section:

20 (a) "Agricultural purpose" means the agricultural production
21 or processing of ~~these~~ plants and animals **that are** useful to ~~human~~
22 ~~beings~~ **humans** produced by agriculture and includes, but is not
23 limited to, forages and sod crops, grains and feed crops, field
24 crops, dairy animals and dairy products, poultry and poultry
25 products, cervidae, livestock, including breeding and grazing,
26 equine, fish and other aquacultural products, bees and bee
27 products, berries, herbs, fruits, vegetables, flowers, seeds,
28 grasses, nursery stock, trees and tree products, mushrooms, and
29 other similar products, or any other product, as determined by the

1 commission of agriculture and rural development, that incorporates
2 the use of food, feed, fiber, or fur. Agricultural purpose includes
3 an operation or facility that produces wine.

4 (b) "Combined sewer overflow" means a discharge from a
5 combined sewer system that occurs when the flow capacity of the
6 combined sewer system is exceeded at a point ~~prior to~~ **before** the
7 headworks of a publicly owned treatment works during wet weather
8 conditions.

9 (c) "Combined sewer system" means a sewer designed and used to
10 convey both storm water runoff and sanitary sewage, and that
11 contains lawfully installed regulators and control devices that
12 allow for delivery of sanitary flow to treatment during dry weather
13 periods and divert storm water and sanitary sewage to surface
14 waters during storm flow periods.

15 (d) "CSO facility" means a facility whose discharge is solely
16 a combined sewer overflow.

17 (e) "EPA major facility" means a major facility as **that term**
18 **is** defined in 40 CFR 122.2.

19 (f) "EPA minor facility" means a facility that is not an EPA
20 major facility.

21 (g) "Farmers' cooperative corporation" means a farmers'
22 cooperative corporation organized within the limitations of section
23 98 of 1931 PA 327, MCL 450.98.

24 (h) "General permit" means a permit suitable for use at
25 facilities ~~meeting~~ **that meet** eligibility criteria as specified in
26 the permit. With a general permit, the discharge from a specific
27 facility is acknowledged through a certificate of coverage issued
28 to the facility.

29 (i) "High-flow facility" means a facility that discharges 1

1 MGD or more.

2 (j) "Individual permit" means a permit developed for a
3 particular facility, taking into account that facility's specific
4 characteristics.

5 (k) "Industrial or commercial facility" means a facility that
6 is not a municipal facility.

7 (l) "Low-flow facility" means a facility that discharges less
8 than 1 MGD.

9 (m) "MGD" means 1,000,000 gallons per day.

10 (n) "Municipal facility" means a facility that is designed to
11 collect or treat sanitary wastewater, is either publicly or
12 privately owned, and serves a residential area or a group of
13 municipalities.

14 (o) "Wastewater stabilization lagoon" means a treatment system
15 constructed of ponds or basins designed to receive, hold, and treat
16 sanitary wastewater for a predetermined amount of time through a
17 combination of physical, biological, and chemical processes.