

# SENATE BILL No. 154

February 14, 2017, Introduced by Senators ANANICH, HOPGOOD and BIEDA and referred to the Committee on Government Operations.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3101, 3102, 3112, 3113, and 3120 (MCL 324.3101, 324.3102, 324.3112, 324.3113, and 324.3120), section 3101 as amended by 2015 PA 247, section 3112 as amended by 2005 PA 33, section 3113 as amended by 2004 PA 91, and section 3120 as amended by 2015 PA 82, and by adding section 3102a.

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

1       Sec. 3101. As used in this part:

2       (a) "Aquatic nuisance species" means a nonindigenous species  
3 that threatens the diversity or abundance of native species or the  
4 ecological stability of infested waters, or commercial,  
5 agricultural, aquacultural, or recreational activities dependent on

1 ~~such~~ **THOSE** waters.

2 (b) "Ballast water" means water and associated solids taken on  
3 board a vessel to control or maintain trim, draft, stability, or  
4 stresses on the vessel, without regard to the manner in which it is  
5 carried.

6 (c) "Ballast water treatment method" means a method of  
7 treating ballast water and sediments to remove or destroy living  
8 biological organisms through 1 or more of the following:

9 (i) Filtration.

10 (ii) The application of biocides or ultraviolet light.

11 (iii) Thermal methods.

12 (iv) Other treatment techniques approved by the department.

13 **(D) "COMMISSION" MEANS THE WATER RESOURCES COMMISSION CREATED**  
14 **IN SECTION 3102.**

15 **(E)** ~~(d)~~—"Department" means the department of environmental  
16 quality.

17 **(F)** ~~(e)~~—"Detroit consumer price index" means the most  
18 comprehensive index of consumer prices available for the Detroit  
19 area from the United States Department of Labor, Bureau of Labor  
20 Statistics.

21 **(G)** ~~(f)~~—"Emergency management coordinator" means that term as  
22 defined in section 2 of the emergency management act, 1976 PA 390,  
23 MCL 30.402.

24 **(H)** ~~(g)~~—"Great Lakes" means the Great Lakes and their  
25 connecting waters, including Lake St. Clair.

26 **(I)** ~~(h)~~—"Group 1 facility" means a facility whose discharge is  
27 described by R 323.2218 of the Michigan administrative code.

1           (J) ~~(i)~~—"Group 2 facility" means a facility whose discharge is  
2 described by R 323.2210(y), R 323.2215, or R 323.2216 of the  
3 Michigan administrative code. Group 2 facility does not include a  
4 Group 2a facility.

5           (K) ~~(j)~~—"Group 2a facility" means a facility whose discharge  
6 is described by R 323.2210(y) or R 323.2215 of the Michigan  
7 administrative code and that meets 1 or more of the following:

8           (i) The facility's discharge is from a coin-operated  
9 laundromat.

10           (ii) The facility's discharge is from a car wash or vehicle  
11 wash open to the public.

12           (iii) The facility's discharge is a subsurface sanitary  
13 discharge of fewer than 10,000 gallons per day that does not meet  
14 the terms for authorization under R 323.2211(a) of the Michigan  
15 administrative code.

16           (iv) The facility's discharge is a seasonal sanitary discharge  
17 from a public park, public or private recreational vehicle park or  
18 campground, or recreational or vacation camp.

19           (L) ~~(k)~~—"Group 3 facility" means a facility whose discharge is  
20 described by R 323.2211 or R 323.2213 of the Michigan  
21 administrative code.

22           (M) ~~(l)~~—"Local health department" means that term as defined  
23 in section 1105 of the public health code, 1978 PA 368, MCL  
24 333.1105.

25           (N) ~~(m)~~—"Local unit" means a county, city, village, or  
26 township or an agency or instrumentality of any of these entities.

27           (O) ~~(n)~~—"Municipality" means this state, a county, city,

1 village, or township, or an agency or instrumentality of any of  
2 these entities.

3 (P) ~~(e)~~—"National response center" means the National  
4 Communications Center established under the ~~clean water act,~~  
5 **FEDERAL WATER POLLUTION CONTROL ACT**, 33 USC 1251 to ~~1387,~~ **1388**,  
6 located in Washington, DC, that receives and relays notice of oil  
7 discharge or releases of hazardous substances to appropriate  
8 federal officials.

9 (Q) ~~(p)~~—"Nonocean-going vessel" means a vessel that is not an  
10 ocean-going vessel.

11 (R) ~~(q)~~—"Ocean-going vessel" means a vessel that operates on  
12 the Great Lakes or the St. Lawrence waterway after operating in  
13 waters outside of the Great Lakes or the St. Lawrence waterway.

14 (S) ~~(r)~~—"Open water disposal of contaminated dredge materials"  
15 means the placement of dredge materials contaminated with toxic  
16 substances as defined in R 323.1205 of the Michigan administrative  
17 code into the open waters of the waters of the state but does not  
18 include the siting or use of a confined disposal facility  
19 designated by the United States Army Corps of Engineers or beach  
20 nourishment activities utilizing uncontaminated materials.

21 (T) ~~(s)~~—"Primary public safety answering point" means that  
22 term as defined in section 102 of the emergency ~~telephone~~ **9-1-1**  
23 service enabling act, 1986 PA 32, MCL 484.1102.

24 (U) ~~(t)~~—"Sediments" means any matter settled out of ballast  
25 water within a vessel.

26 (V) ~~(u)~~—"Sewage sludge" means sewage sludge generated in the  
27 treatment of domestic sewage, other than only septage or industrial

1 waste.

2 (W) ~~(v)~~—"Sewage sludge derivative" means a product for land  
3 application derived from sewage sludge that does not include solid  
4 waste or other waste regulated under this act.

5 (X) ~~(w)~~—"Sewage sludge generator" means a person who generates  
6 sewage sludge that is applied to land.

7 (Y) ~~(x)~~—"Sewage sludge distributor" means a person who  
8 applies, markets, or distributes, except at retail, a sewage sludge  
9 derivative.

10 (Z) ~~(y)~~—"St. Lawrence waterway" means the St. Lawrence River,  
11 the St. Lawrence Seaway, and the Gulf of St. Lawrence.

12 (AA) ~~(z)~~—"Threshold reporting quantity" means that term as  
13 defined in R 324.2002 of the Michigan administrative code.

14 (BB) ~~(aa)~~—"Waters of the state" means groundwaters, lakes,  
15 rivers, and streams and all other watercourses and waters,  
16 including the Great Lakes, within the jurisdiction of this state.

17 Sec. 3102. (1) **THE WATER RESOURCES COMMISSION IS CREATED**  
18 **WITHIN THE DEPARTMENT.**

19 (2) **THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:**

20 (A) **THE DIRECTOR OF THE DEPARTMENT.**

21 (B) **THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES.**

22 (C) **ELEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE**  
23 **AND CONSENT OF THE SENATE WHO REPRESENT DIVERSE GEOGRAPHIC AREAS OF**  
24 **THIS STATE, AS FOLLOWS:**

25 (i) **TWO INDIVIDUALS REPRESENTING COMMERCE AND INDUSTRY.**

26 (ii) **TWO INDIVIDUALS WITH MEDICAL BACKGROUNDS WHO HAVE**  
27 **KNOWLEDGE AND EXPERTISE IN MEDICAL ISSUES ASSOCIATED WITH WATER**

1 CONTAMINATION.

2 (iii) TWO INDIVIDUALS REPRESENTING LOCAL UNITS OF GOVERNMENT.

3 (iv) TWO INDIVIDUALS REPRESENTING PRIVATE ENVIRONMENTAL  
4 PROTECTION ORGANIZATIONS.

5 (v) THREE INDIVIDUALS REPRESENTING THE GENERAL PUBLIC.

6 (3) THE GOVERNOR SHALL APPOINT MEMBERS TO THE COMMISSION UNDER  
7 SUBSECTION (2) (C) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE  
8 AMENDATORY ACT THAT AMENDED THIS SECTION.

9 (4) MEMBERS OF THE COMMISSION APPOINTED UNDER SUBSECTION  
10 (2) (C) SERVE FOR TERMS OF 3 YEARS OR UNTIL A SUCCESSOR IS  
11 APPOINTED, WHICHEVER IS LATER, EXCEPT THAT OF THE MEMBERS FIRST  
12 APPOINTED 3 SERVE FOR 1 YEAR, 4 SERVE FOR 2 YEARS, AND 4 SERVE FOR  
13 3 YEARS.

14 (5) IF A VACANCY OCCURS IN AN APPOINTED SEAT ON THE  
15 COMMISSION, THE GOVERNOR SHALL MAKE AN APPOINTMENT FOR THE  
16 UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

17 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE COMMISSION FOR  
18 INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR  
19 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

20 (7) THE DIRECTOR OF THE DEPARTMENT SHALL CALL THE FIRST  
21 MEETING OF THE COMMISSION NOT LATER THAN 60 DAYS AFTER THE  
22 EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS SECTION. AT  
23 THE FIRST MEETING, THE COMMISSION SHALL ELECT FROM AMONG ITS  
24 MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY  
25 OR APPROPRIATE. AFTER THE FIRST MEETING, THE COMMISSION SHALL MEET  
26 AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE  
27 CHAIRPERSON OR IF REQUESTED BY 3 OR MORE MEMBERS.

1 (8) A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A  
2 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
3 COMMISSION. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
4 REQUIRED FOR OFFICIAL ACTION OF THE COMMISSION.

5 (9) THE BUSINESS THAT THE COMMISSION PERFORMS MUST BE  
6 CONDUCTED AT A PUBLIC MEETING OF THE COMMISSION HELD IN COMPLIANCE  
7 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

8 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
9 RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL  
10 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
11 MCL 15.231 TO 15.246.

12 (11) MEMBERS OF THE COMMISSION SERVE WITHOUT COMPENSATION.  
13 HOWEVER, MEMBERS OF THE COMMISSION MAY BE REIMBURSED FOR THEIR  
14 ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR  
15 OFFICIAL DUTIES AS MEMBERS OF THE COMMISSION.

16 (12) THE COMMISSION SHALL CARRY OUT ALL RESPONSIBILITIES AS  
17 PROVIDED IN THIS ACT AND AS OTHERWISE PROVIDED BY LAW.

18 (13) The director OF THE DEPARTMENT shall implement this part  
19 UNDER THE OVERSIGHT OF THE COMMISSION.

20 SEC. 3102A. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
21 PART, THE COMMISSION SHALL EXERCISE SUPERVISORY AUTHORITY OVER ALL  
22 OF THE FOLLOWING UNDER THIS PART:

23 (A) THE ISSUANCE, DENIAL, REVOCATION, SUSPENSION, OR  
24 MODIFICATION OF PERMITS.

25 (B) THE PROMULGATION OF RULES.

26 (C) THE DEVELOPMENT OF DEPARTMENT POLICIES.

27 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, THE

1 DIRECTOR OF THE DEPARTMENT OR THE DEPARTMENT SHALL NOT EXERCISE THE  
2 POWERS LISTED IN SUBSECTION (1) WITHOUT THE APPROVAL OF THE  
3 COMMISSION.

4 (3) THE COMMISSION SHALL RECEIVE COMPLAINTS OF WATER POLLUTION  
5 THAT ALLEGE A VIOLATION OF THIS PART, RULES PROMULGATED UNDER THIS  
6 PART, OR ANY DETERMINATION, PERMIT, OR ORDER ISSUED UNDER THIS  
7 PART.

8 (4) IN RESPONSE TO A COMPLAINT UNDER SUBSECTION (3), THE  
9 COMMISSION MAY DO ANY OF THE FOLLOWING:

10 (A) REQUIRE THE DEPARTMENT TO TAKE INVESTIGATORY OR  
11 ENFORCEMENT ACTION AS PROVIDED IN THIS PART.

12 (B) REQUEST THE ATTORNEY GENERAL TO COMMENCE AN ACTION IN  
13 COURT AS PROVIDED IN THIS PART.

14 Sec. 3112. (1) A person shall not discharge any waste or waste  
15 effluent into the waters of ~~this~~**THE** state unless the person is in  
16 possession of a valid permit from the department.

17 (2) An application for a permit under subsection (1) ~~shall~~  
18 **MUST** be submitted to the department. Within 30 days after an  
19 application for a new or increased use is received, the department  
20 shall determine whether the application is administratively  
21 complete. Within 90 days after an application for reissuance of a  
22 permit is received, the department shall determine whether the  
23 application is administratively complete. If the department  
24 determines that an application is not complete, the department  
25 shall notify the applicant in writing within the applicable time  
26 period. If the department does not make a determination as to  
27 whether the application is complete within the applicable time



1 period, the application ~~shall~~**MUST** be considered to be complete.

2 (3) The department shall condition the continued validity of a  
3 permit upon the permittee's meeting the effluent requirements that  
4 the department considers necessary to prevent unlawful pollution by  
5 the dates that the department considers to be reasonable and  
6 necessary and to ~~assure~~**ENSURE** compliance with applicable federal  
7 law and regulations. If the department finds that the terms of a  
8 permit have been, are being, or may be violated, it may modify,  
9 suspend, or revoke the permit or grant the permittee a reasonable  
10 ~~period of time in which~~ to comply with the permit. The department  
11 may reissue a revoked permit upon a showing satisfactory to the  
12 department that the permittee has corrected the violation. A person  
13 who has had a permit revoked may apply for a new permit.

14 (4) If the department determines that a person is causing or  
15 is about to cause unlawful pollution of the waters of ~~this~~**THE**  
16 state, the department may notify the alleged offender of its  
17 determination and enter an order requiring the person to abate the  
18 pollution or **MAY** refer the matter to the attorney general for legal  
19 action, or both.

20 (5) A person who is aggrieved by an order of abatement of the  
21 department or by the reissuance, modification, suspension, or  
22 revocation of an existing permit ~~of the department executed~~  
23 ~~pursuant to~~**ISSUED UNDER** this section may file a sworn petition  
24 with the ~~department~~**COMMISSION** setting forth the grounds and  
25 reasons for the complaint and asking for a contested case hearing  
26 on the matter pursuant to the administrative procedures act of  
27 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than

1 60 days after action on the order or permit may be rejected by the  
2 ~~department~~ **COMMISSION** as ~~being~~ untimely.

3 (6) ~~Beginning January 1, 2007, all~~ **ALL** oceangoing vessels  
4 engaging in port operations in this state ~~shall obtain~~ **MUST HAVE** a  
5 permit from the department. The department shall issue a permit for  
6 an oceangoing vessel only if the applicant can demonstrate that the  
7 oceangoing vessel will not discharge aquatic nuisance species or if  
8 the oceangoing vessel discharges ballast water or other waste or  
9 waste effluent, that the operator of the vessel will utilize  
10 environmentally sound technology and methods, as determined by the  
11 department, ~~that can be used~~ to prevent the discharge of aquatic  
12 nuisance species. The department shall cooperate to the fullest  
13 extent practical with other Great Lakes basin states, the Canadian  
14 Great Lakes provinces, the Great Lakes ~~panel on aquatic nuisance~~  
15 ~~species,~~ **PANEL ON AQUATIC NUISANCE SPECIES**, the Great Lakes fishery  
16 ~~commission,~~ **FISHERY COMMISSION**, the ~~international joint commission,~~  
17 **INTERNATIONAL JOINT COMMISSION**, and the Great Lakes ~~commission~~  
18 **COMMISSION** to ensure development of standards for the control of  
19 aquatic nuisance species that are broadly protective of the waters  
20 of the state and other natural resources. ~~Permit~~ **THE DEPARTMENT**  
21 **SHALL ASSESS PERMIT** fees for permits under this subsection ~~shall be~~  
22 ~~assessed~~ as provided in section 3120. The permit fees for an  
23 individual permit issued under this subsection ~~shall be~~ **ARE** the  
24 fees specified in section 3120(1)(a) and (5)(a). The permit fees  
25 for a general permit issued under this subsection ~~shall be~~ **ARE** the  
26 fees specified in section 3120(1)(c) and (5)(b)(i). Permits under  
27 this subsection ~~shall~~ **MUST** be issued in accordance with the

1 timelines provided in section 3120. The department may promulgate  
2 rules to implement this subsection.

3       Sec. 3113. (1) A person who seeks a new or increased use of  
4 the waters of the state for sewage or other waste disposal purposes  
5 shall file with the department an application setting forth the  
6 information required by the department, including the nature of the  
7 enterprise or development contemplated, the amount of water  
8 required to be used ~~—AND~~ its source, the proposed point of  
9 discharge of the wastes into the waters of the state, the estimated  
10 amount to be discharged, and ~~a statement setting forth~~ the expected  
11 bacterial, physical, chemical, and other known characteristics of  
12 the wastes.

13       (2) If a permit is granted, the department shall condition the  
14 permit upon ~~such~~ **ANY** restrictions that the department considers  
15 necessary to adequately guard against unlawful uses of the waters  
16 of the state as ~~are~~ set forth in section 3109.

17       (3) If the permit or denial of a new or increased use is not  
18 acceptable to the permittee, the applicant, or any other person,  
19 ~~the permittee, the applicant, or other~~ **THAT** person may file a sworn  
20 petition with the ~~department~~ **COMMISSION** setting forth the grounds  
21 and reasons for the complaint and asking for a contested case  
22 hearing on the matter pursuant to the administrative procedures act  
23 of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more  
24 than 60 days after action on the permit application may be rejected  
25 by the ~~department~~ **COMMISSION** as being untimely.

26       Sec. 3120. (1) Until October 1, 2019, an application for a new  
27 permit, a reissuance of a permit, or a modification of an existing

1 permit under this part authorizing a discharge into surface water,  
2 other than a storm water discharge, ~~shall~~**MUST** be accompanied by an  
3 application fee as follows:

4 (a) For an EPA major facility permit, \$750.00.

5 (b) For an EPA minor facility individual permit, a CSO permit,  
6 or a wastewater stabilization lagoon individual permit, \$400.00.

7 (c) For an EPA minor facility general permit, \$75.00.

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

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

16 (4) If the department fails to make a decision on an  
17 application within the applicable time period under subsection (2)  
18 or (3), the department shall return to the applicant the  
19 application fee submitted under subsection (1) and the applicant  
20 ~~shall~~**IS** not ~~be~~ subject to an application fee and **THE DEPARTMENT**  
21 shall ~~receive~~**GRANT** a 15% ~~annual~~ discount on an ~~an~~**THE** annual permit  
22 fee required for a permit issued based upon that application.

23 (5) Until October 1, 2019, a person who receives a permit  
24 under this part authorizing a discharge into surface water, other  
25 than a stormwater discharge, is subject to an annual permit fee as  
26 follows:

27 (a) For an industrial or commercial facility that is an EPA

1 major facility, \$8,700.00.

2 (b) For an industrial or commercial facility that is an EPA  
3 minor facility, the following amounts:

4 (i) For a general permit for a low-flow facility, \$150.00.

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

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

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

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

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

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

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

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

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

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

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

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

1 (iv) For a general permit for a high-flow facility, \$600.00.

2 (v) For a general permit for a low-flow facility, \$400.00.

3 (e) For a municipal facility that is a CSO facility,  
4 \$6,000.00.

5 (f) For an individual permit for a wastewater stabilization  
6 lagoon, \$1,525.00.

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

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

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

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

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

27 (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. The fee ~~shall~~**MUST** be based on the status of the facility as  
3 of 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 an invoice by the deadline, or failure of  
6 a person to receive an invoice, does not relieve that person of his  
7 or her obligation to pay the annual permit fee. If the department  
8 does not meet the December 1 deadline for sending invoices, the  
9 annual permit fee is due not later than 45 days after receiving 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 shall be~~**IN** an amount equal to 0.75% of the payment due for  
17 each month or portion of a 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 shall submit the challenge in writing to the  
21 department. The department shall not process the challenge unless  
22 it is received by the department by March 1 of the year the payment  
23 is due. A challenge ~~shall~~**MUST** identify the facility and state the  
24 grounds upon which the challenge is based. Within 30 calendar days  
25 after receipt of the challenge, the department shall determine the  
26 validity of the challenge and provide the permittee with  
27 notification of a revised annual permit fee and a refund, if

1 appropriate, or a statement setting forth the reason or reasons why  
2 the annual permit fee was not revised. If the owner or operator of  
3 a facility desires to further challenge its annual permit fee, the  
4 owner or operator of the facility has an opportunity for a  
5 contested case hearing **BEFORE THE COMMISSION** as provided for under  
6 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201  
7 to 24.328.

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

10 (11) As used in this section:

11 (a) "Agricultural purpose" means the agricultural production  
12 or processing of those plants and animals useful to human beings  
13 produced by agriculture and includes, but is not limited to,  
14 forages and sod crops, grains and feed crops, field crops, dairy  
15 animals and dairy products, poultry and poultry products, cervidae,  
16 livestock, including breeding and grazing, equine, fish and other  
17 aquacultural products, bees and bee products, berries, herbs,  
18 fruits, vegetables, flowers, seeds, grasses, nursery stock, trees  
19 and tree products, mushrooms, and other similar products, or any  
20 other product, as determined by the commission of agriculture and  
21 rural development, that incorporates the use of food, feed, fiber,  
22 or fur. Agricultural purpose includes an operation or facility that  
23 produces wine.

24 (b) "Combined sewer overflow" means a discharge from a  
25 combined sewer system that occurs when the flow capacity of the  
26 combined sewer system is exceeded at a point prior to the headworks  
27 of a publicly owned treatment works during wet weather conditions.



1 (c) "Combined sewer system" means a sewer designed and used to  
2 convey both storm water runoff and sanitary sewage, and that  
3 contains lawfully installed regulators and control devices that  
4 allow for delivery of sanitary flow to treatment during dry weather  
5 periods and divert storm water and sanitary sewage to surface  
6 waters during storm flow periods.

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

9 (e) "EPA major facility" means a facility that is designated  
10 by the United States Environmental Protection Agency as being a  
11 major facility under 40 CFR 122.2.

12 (f) "EPA minor facility" means a facility that is not an EPA  
13 major facility.

14 (g) "Farmers' cooperative corporation" means a farmers'  
15 cooperative corporation organized within the limitations of section  
16 98 of 1931 PA 327, MCL 450.98.

17 (h) "General permit" means a permit suitable for use at  
18 facilities meeting eligibility criteria as specified in the permit.  
19 With a general permit, the discharge from a specific facility is  
20 acknowledged through a certificate of coverage issued to the  
21 facility.

22 (i) "High-flow facility" means a facility that discharges 1  
23 MGD or more.

24 (j) "Individual permit" means a permit developed for a  
25 particular facility, taking into account that facility's specific  
26 characteristics.

27 (k) "Industrial or commercial facility" means a facility that

1 is not a municipal facility.

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

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

5 (n) "Municipal facility" means a facility that is designed to  
6 collect or treat sanitary wastewater, and is either publicly or  
7 privately owned, and serves a residential area or a group of  
8 municipalities.

9 (o) "Wastewater stabilization lagoon" means a type of  
10 treatment system constructed of ponds or basins designed to  
11 receive, hold, and treat sanitary wastewater for a predetermined  
12 amount of time through a combination of physical, biological, and  
13 chemical processes.

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