

# Legislative Analysis



## DEQ AND DOS FEE SUNSET EXTENSIONS

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### Senate Bill 422

Sponsor: Senator Roger Kahn, M.D.

Committee: Appropriations

Complete to 6-29-11

### A SUMMARY OF SENATE BILL 422 AS PASSED THE SENATE 6-16-2011

Senate Bill 422 would amend the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, to extend the current sunsets for several environmental fees collected by the Department of Environmental Quality (DEQ) and for four service fees collected by the Department of State (DOS).

By statute, the authorization for the State to assess these fees expires on October 1, 2011. If these fee sunsets are not extended by October 1, 2011, then the DEQ and the DOS would no longer have the statutory authority to collect these fees and the revenues they provide. The FY 2011-12 budgets of DEQ and DOS which were enacted by PA 63 of 2011 assume these fee sunset extensions and the revenues that they would continue to generate are built into these budgets.

The following table lists the fees that are affected by Senate Bill 422 and includes each fee's current sunset date and the proposed sunset extension date.

**TABLE 1. DEQ FEE SUNSET INFORMATION**

Name of Fee	Current Fee Sunset	Proposed Fee Sunset	MCL
Aquatic Nuisance Control	10/1/2011	10/1/2015	324.3306
Storm Water Discharge	10/1/2011	10/1/2015	324.3118
NPDES	10/1/2011	10/1/2015	324.3120
Groundwater Discharge Permit	10/1/2011	10/1/2015	324.3122
Hazardous Waste User Charge <i>-Manifest Processing</i> <i>-Site Identification Number</i>	10/1/2011	10/1/2013	324.11135 324.11153 324.12103 324.12109 324.12112
Land and Water - Consolidated Permit Application <i>-Inland Lakes and Streams Application</i> <i>-High Water Mark Service Fee</i> <i>-Floodplain Permit</i> <i>-Shorelands Protection and Management</i> <i>-Great Lakes Submerged Lands Permit</i>	10/1/2011	10/1/2015	324.30104 324.30109 324.3104 324.32312 324.32513

**TABLE 2. DOS FEE SUNSET INFORMATION**

<b>Name of Fee</b>	<b>Current Fee Sunset</b>	<b>Proposed Fee Sunset</b>	<b>MCL</b>
Watercraft Registration Commercial Look-up	10/1/2011	10/1/2015	324.80130
Watercraft Title Commercial Look-up	10/1/2011	10/1/2015	324.80315
ORV Commercial Look-up	10/1/2011	10/1/2015	324.81114
Snowmobile Commercial Look-up	10/1/2011	10/1/2015	324.82156

**FEE REVENUE**

The following table presents the estimated annual fee revenue from each of the fees that would receive a sunset extension under the provisions of Senate Bill 422.

**TABLE 3. DEQ FEE REVENUE**

<b>Name of Fee</b>	<b>Estimated Annual Revenue</b>
Aquatic Nuisance Control	\$ 604,000
Storm Water Discharge	1,500,000
NPDES	2,900,000
Groundwater Discharge Permit	1,100,000
Hazardous Waste User Charge -Manifest Processing -Site Identification Number	1,200,000
Land and Water - Consolidated Permit Application -Inland Lakes and Streams Application -High water Mark Service Fee -Floodplain Permit -Great Lakes Submerged Lands Permit	NA*
<b>TOTAL</b>	<b>\$7,304,000*</b>

*\*For the Consolidated Permit Application Fees, the DEQ charges the applicant for only one fee, the highest fee of the permits that the applicant requires. Because of this calculation and the fact that only 4 of the relevant fees are affected by SB 422, it is not possible to estimate the annual revenue affected by the bill.*

**TABLE 4. DOS FEE REVENUE**

<b>Name of Fee</b>	<b>Estimated Annual Revenue</b>
Watercraft Registration Commercial Look-up/ Title	\$51,300
Snowmobile Commercial Look-up	2,300
ORV Commercial Look-up	NA
<b>TOTAL</b>	<b>\$53,600</b>

## FEE BACKGROUND INFORMATION

### DEPARTMENT OF ENVIRONMENTAL QUALITY FEES

Senate Bill 422 would extend the sunsets of various environmental fees that are currently collected by the DEQ. These sunset extensions would allow the Department to continue collecting these fees past October 1, 2011 and does not increase the fees or change which individuals must pay them. The following provides a brief description of each fee and the current fee structure established in statute.

#### Aquatic Nuisance Control (ANC) Fees

Individuals intending to use chemical pesticides on an inland body of surface water to control aquatic nuisance plants and/or swimmers itch must obtain a permit from the DEQ. Permits are granted annually and must specify which areas of the body of water will be treated, what chemicals would be used, the chemical dosage, and when treatment will happen. The ANC fees generated \$604,000 in FY 2010. The fee was established in 1993 and the fee amounts have not changed since 2003.

**TABLE 5. AQUATIC NUISANCE CONTROL FEES**

Type of Permit	Fee Amount
Certificate of Coverage	\$ 75
Treatment areas less than 1/2 acre	75
Treatment areas between 1/2 acre and 5 acres	200
Treatment areas between 5 acres and 20 acres	400
Treatment areas between 20 acres and 100 acres	800
Treatment areas above 100 acres	\$1,500

#### Storm Water Discharge Fees

Storm Water Discharge Fees are part of the National Pollutant Discharge Elimination System (NPDES) Permit Program. The NPDES was mandated by Congress under the Clean Water Act and is a national program to address storm water discharges to the nation's surface waters. NPDES permits are granted to help prevent harmful pollutants from storm water runoff into rivers, lakes, and wetlands.

These fees were first established in 1994 and have not been adjusted since 2004. They generate approximately \$1.5 million each year and are paid by approximately 330 municipal separate storm sewer systems owners or operators (MS4 - cities, villages, townships and counties). In addition, an estimated 400 construction operators pay a one-time application fee and approximately 3,300 industrial facilities pay an annual fee.

Table 6 below lists the Stormwater Discharge fees and the amounts charged for each fee.

**TABLE 6. STORM WATER DISCHARGE FEES**

<b>Type of Fee</b>	<b>Fee Description</b>	<b>Fee Amount</b>	
Construction	A one-time fee is required for a permit related solely to a site of construction activity for each permitted site.	\$400	
Municipal Separate Storm Sewer Systems (MS4)	MS4 Population Range	0 - 1,000	\$ 500
		1,001 - 3,000	1,000
		3,001 - 10,000	2,000
		10,001 - 30,000	3,000
		30,001 - 50,000	4,000
		50,001 - 75,000	5,000
		75,001 - 100,000	6,000
		Greater than 100,000	7,000
	Counties	3,000	
	Others	500	
Industrial	An annual fee is required for a permit related solely to a storm water discharge associated with industrial activity or from a commercial site for which the DEQ determines a permit is needed.	\$ 260	

**NPDES - Non-storm Water Fees**

Industrial, commercial, municipal, and other wastewater dischargers are required to pay NPDES fees for permits to be able to discharge wastewater to the surface waters of the state. The federal Clean Water Act requires that all discharges to surface waters be authorized by a federal permit under the NPDES program. DEQ has the authority to administer the program in Michigan and uses the fee revenue for permit approval, inspections, and monitoring.

The NPDES fees were established in 2004 and have not been adjusted since that time. The fees generate an estimated \$2.9 million each year and are paid annually by approximately 1,500 municipal, commercial, and industrial dischargers. The maximum term for a NPDES permit is five years and may be reissued after that time.

Each NPDES permittee must pay two different permit fees: one application or reapplication fee and a separate annual fee for discharging to state waters. The annual fee is not based on the amount discharged, but on the classification of the facility.

Table 7 below lists the application and reapplication fees charged to different facility types. Table 8 provides the schedule of annual fees charged to each facility classification.

**TABLE 7. NPDES NON-STORM WATER APPLICATION FEE SCHEDULE**

Type of Facility	Amount of Permit Fee
EPA Major Facility, Individual Permit	\$750
EPA Minor Facility, Individual Permit, CSO Permit, or Wastewater Stabilization Lagoon Individual Permit	400
EPA Minor Facility, General Permit	\$ 75

**TABLE 8. NPDES NON-STORM WATER ANNUAL PERMIT FEES**

EPA Major Facility Fees	Industrial-Commercial Facilities	\$ 8,700
	Municipal 500 Million gallons per day (MGD) or greater	213,000
	Municipal 50 to 500 MGD	20,000
	Municipal 10 to 50 MGD	13,000
	Municipal less than 10 MGD	5,500
EPA Minor Facility Fees	Industrial-Commercial General Permit, High-Flow	400
	Industrial-Commercial General Permit, Low-Flow	150
	Industrial-Commercial Individual Permit, High-Flow	3,650
	Industrial-Commercial Individual Permit, Low-Flow	1,650
	Municipal, 10 MGD or greater	3,775
	Municipal, 1 MGD to less than 10 MGD	3,000
	Municipal, less than 1 MGD	1,950
	Municipal, General Permit, High-Flow	600
	Municipal, General Permit, Low-Flow	400
	Municipal CSO	6,000
	Wastewater Stabilization Lagoon	1,525
Agricultural Purpose Fees	Individual or General Permits (Unless facility is an EPA Major Facility or EPA Minor Facility)	600
	EPA Major Facility (excluding Farmers' Cooperative Corporations)	8,700
	EPA Minor Facility (CAFOs)	\$ 150

*Note: High Flow = 1 MGD or greater*

*Low Flow = Less than 1 MGD*

### **Groundwater Discharge Permit**

Groundwater discharge fees are paid by industrial, commercial, municipal, and other dischargers for permits to discharge wastewater into the ground. The categories of fee payers include manufacturers, public utilities, food processors, municipalities, campgrounds, laundromats, car washes, sand and mineral mining, mobile home parks, and private sewer systems.

The Groundwater Discharge Fees were established in 2004 and have not been adjusted since that time. The annual fees generate approximately \$1.1 million annually. The maximum term for a permit is five years and may be reissued.

Table 9 below lists the current fees for the three groups of entities that need Groundwater Discharge Permits.

**TABLE 9. GROUNDWATER DISCHARGE ANNUAL FEES**

<b>Fee Category</b>	<b>Amount of Fee</b>
Group 1	\$3,650
Group 2	1,500
Group 3	\$ 200

**Hazardous Waste User Charge Fees**

Hazardous Waste User Charge Fees are collected from hazardous waste treatment, storage, and disposal facilities and other generators and handlers of hazardous or liquid industrial waste. The fees include a one-time user charge to receive a site identification number, an annual user charge for manifests, and an annual user charge based upon the amount of waste handled at the facility.

The fees were established in 2002 and generate approximately \$1.2 million annually. There are approximately 4,000 entities which pay these fees, predominantly businesses.

Table 10 below lists the current fee levels for these three separate fees.

**TABLE 10. HAZARDOUS WASTE USER CHARGE FEES**

<b>Name of Fee</b>	<b>Description</b>	<b>Amount of Fee</b>
Site ID Number User Charge	One-time User Charge for ID number to a Hazardous Waste or Liquid Waste Industrial Waste Handler	\$50
Handler User Charges (Based on Regulated Hazardous Waste Management Activity)	Small Quantity Generator (100 kg to 1,000 kg per month)	100
	Large Quantity Generator (1,000 kg to 900,000 kg per year)	400
	Very Large Quantity Generator (Greater than 900,000 kg per year)	1,000
	Used Oil Processors, Re-refiners, Burners, and Used Oil Fuel Marketers	100
	Active Treatment, Storage, and Disposal Facilities	2,000
	Inactive Treatment, Storage, and Disposal Facilities	2,000
Manifest Processing User Charge	Charge for Processing Manifests of Hazardous Waste Shipments	\$6; not to exceed \$8

## **Land and Water - Consolidated Permit Application**

The DEQ offers a Land and Water Consolidated Permit Application to individuals who undertake construction or projects under certain sections of NREPA. DEQ assesses the application and then charges the individual the amount of only one fee - the highest fee that is involved in the project (even if more than one fee is required). The Land and Water Consolidated Permit Application can include the following four fee groups: Inland Lakes and Streams, Floodplain Permits, Shorelands Protection, and Great Lakes Submerged Lands Permits.

## **Land and Water Resource Program - Inland Lakes and Streams Application Fees**

The Inland Lakes and Streams Permit was established in 1995 and is issued by the DEQ under Part 301 of NREPA. This permit is typically necessary for certain activities concerning inland lakes and streams which are defined as any natural or artificial lake (over 5 acres), pond, impoundment, river, stream, or creek, or any other body of water with definite banks, a bed, and evidence of flow of water. The permit fees include the Ordinary High Water Mark Service Fee of \$500.

A permit is required to do any of the following:

- Dredge or fill bottomlands
- Construct, enlarge, extend or remove structures on bottomlands
- Erect, operate, or maintain a marina
- Create, enlarge, or diminish an inland lake or stream
- Structurally interfere with natural flow of an inland lake or stream
- Construct or enlarge an artificial channel, pond or similar waterway to connect with an existing lake or stream
- Connect any waterway, pond, or lake with an existing inland lake or stream

Table 11 below list the specific fees for permits and the amounts charged for each.

**TABLE 11. INLAND LAKES AND STREAMS APPLICATION FEES**

<b>Name of Permit</b>	<b>Amount of Fee</b>
Minor Project	\$ 50
First Drawdown of a Lake for Weed Control	500
Subsequent Drawdown	50
General Permit	50
Marina Expansion 1-10 Slips	50
Marina Construction 1-10 Slips	100
Marina Expansion 11-50 Slips	\$250 plus \$10 for each slip over 50
Marina Construction 11-50 Slips	\$500 plus \$10 for each slip over 50
Marina Maintenance Dredging 10,000 yards or more or shore protection 500 feet or more	1,500
Major Projects	2,000
All Other Projects including locating the Ordinary High Water Mark	\$ 500

### **Floodplain Permit Fees**

The Floodplain Permit Fees were established in 1995 and the permits are issued by DEQ under the provisions of Part 31, Water Resources Protection, of the NREPA. Permits are needed for any occupation, construction, filling, or grade change within the floodplain of a river, stream, or drain, including bridge and culvert construction. Permits are valid for up to five years.

Table 12 below lists the Floodplain Regulatory Authority Fees and the different fee amounts.

**TABLE 12. FLOODPLAIN REGULATORY AUTHORITY FEES**

<b>Name of Fee</b>	<b>Amount of Fee</b>
Minor Project	\$ 100
All Other Projects	500
Engineering Computations (If Necessary)	\$1,500

### **Shorelands Protection and Management Fees**

Shorelands Protection and Management Fees were established in 1995 and the permits are issued by the DEQ under Part 323 of the NREPA. If there is no approved local ordinance, any individual wishing to build or enlarge a permanent structure on property designated as a high-risk erosion area or designated as a flood risk area must first obtain a permit. In addition, if there is no local ordinance, any dredging, filling, grading, or soil alterations on land designated as an environmental area boundary also requires a permit.

Table 13 below lists a schedule of these fees.

**TABLE 13. SHORELINE PROTECTION AND MANAGEMENT FEES**

<b>Name of Fee</b>	<b>Amount of Fee</b>
Commercial or Multi-Family Residential Project	\$ 500
Single Family Residential Project	100
Addition to a single Family Home or a Minor Impact Project in an Environmental Area	\$50

### **Great Lakes Submerged Land Fees**

Great Lakes Submerged Land Fees were established in 1995 and the permits are issued by the DEQ under Part 325 of the NREPA. The purpose of the fees is to protect the waters and bottomlands of the Great Lakes. A permit must be issued before dredging, filling, modifying, constructing, enlarging, or extending structures in the Great Lakes or below the ordinary high-water mark of the Great Lakes.

Table 14 below provides a listing of the fee schedule for these activities.



**TABLE 14. GREAT LAKES SUBMERGED LANDS FEES**

<b>Name of Permit</b>	<b>Amount of Fee</b>
Minor Project	\$ 50
General Permit	100
Mowing of Vegetation Beyond the Exemption	50
Marina Expansion 1-10 Slips	50
Marina Construction 1-10 Slips	100
Marina Expansion 11-50 Slips	\$250 plus \$10 for each slip over 50
Marina Construction 11-50 Slips	\$500 plus \$10 for each slip over 50
Marina Maintenance Dredging of 10,000 Yards or More or Shore Protection of 500 Feet or More	1,500
Major Projects	2,000
All Other Projects	\$ 500

**DEPARTMENT OF STATE FEES**

Under Sections 80130, 80135, 81114, and 82156, the Department of State provides a commercial lookup service for records maintained regarding watercraft, off-road vehicles (ORVs), and snowmobiles. As indicated in the annual Department of State appropriations act, the Department of State charges a fee of \$7.00 per record.

According to statute, the revenue received from the fee charged is deposited in the Transportation Administration Collection (TAC) Fund and is used to support the Department of State budget. This bill would extend the sunset allowing for these fee revenues to be deposited in the TAC Fund from October 1, 2011 to October 1, 2015.

According to the Department of State, total annual revenue from the commercial lookup fees for watercraft, ORVS, and snowmobiles varies between \$50,000 and \$70,000.

**FISCAL IMPACT**

The appropriations for the FY 2011-12 DEQ and DOS budgets (PA 63 of 2011) assume the enactment of these sunset extensions and the continuation of the revenues that these fees generate. The fee revenue from the fees that would be affected in the DEQ budget total \$7.3 million. The fee revenue from DOS fees total \$53,600.

If these fee sunsets are not extended by October 1, 2011, then the DEQ and the DOS would no longer have the statutory authority to collect these fees and the revenues they provide. Both of these departments would have deficits in their FY 2011-12 budgets and would have to reduce or eliminate their spending in these program areas.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.