

**SUBSTITUTE FOR
SENATE BILL NO. 394**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1301, 1307, and 1311 (MCL 324.1301, 324.1307, and 324.1311), section 1301 as amended by 2018 PA 451, section 1307 as amended by 2018 PA 631, and section 1311 as amended by 2018 PA 268; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1301. As used in this part:

2 (a) "Application period" means the period beginning when an
3 application for a permit is received by the state and ending when
4 the application is considered to be administratively complete under
5 section 1305 and any applicable fee has been paid.

6 (b) "Department" means the department, agency, or officer



1 authorized by this act to approve or deny an application for a
 2 particular permit. ~~As used in sections 1315 to 1317, "department"~~
 3 ~~means the department of environmental quality.~~

4 (c) "Director" means the director of the state department
 5 authorized under this act to approve or deny an application for a
 6 particular permit or the director's designee. ~~As used in sections~~
 7 ~~1313 to 1317, "director" means the director of the department of~~
 8 ~~environmental quality.~~

9 ~~(d) "Environmental permit review commission" or "commission"~~
 10 ~~means the environmental permit review commission established under~~
 11 ~~section 1313(1).~~

12 ~~(e) "Environmental permit panel" or "panel" means a panel of~~
 13 ~~the environmental permit review commission, appointed under section~~
 14 ~~1315(2).~~

15 ~~(d) (f) "Permit" , except as provided in subdivision (g),~~
 16 means a permit, operating license, or registration required by any
 17 of the following sections or by rules promulgated thereunder, or,
 18 in the case of section 9112, by an ordinance referred to in that
 19 section:

- 20 (i) Section 3104, floodplain alteration permit.
 21 (ii) Section 3503, permit for use of water in mining iron ore.
 22 (iii) Section 4105, sewerage system construction permit.
 23 (iv) Section 6516, vehicle testing license.
 24 (v) Section 6521, motor vehicle fleet testing permit.
 25 (vi) Section 8310, restricted use pesticide dealer license.
 26 (vii) Section 8310a, agricultural pesticide dealer license.
 27 (viii) Section 8504, license to manufacture or distribute
 28 fertilizer.
 29 (ix) Section 9112, local soil erosion and sedimentation control



1 permit.

2 (x) Section 11509, solid waste disposal area construction
3 permit.

4 (xi) Section 11512, solid waste disposal area operating
5 license.

6 (xii) Section 11542, municipal solid waste incinerator ash
7 landfill operating license amendment.

8 (xiii) Section 11702, septage waste servicing license or septage
9 waste vehicle license.

10 (xiv) Section 11709, septage waste site permit.

11 (xv) Section 30104, inland lakes and streams project permit.

12 (xvi) Section 30304, state permit for dredging, filling, or
13 other activity in wetland. Permit includes an authorization for a
14 specific project to proceed under a general permit issued under
15 section 30312.

16 (xvii) Section 31509, dam construction, repair, or removal
17 permit.

18 (xviii) Section 32312, flood risk, high risk, or environmental
19 area permit.

20 (xix) Section 32512, permit for dredging and filling
21 bottomland.

22 (xx) Section 32603, permit for submerged log removal from Great
23 Lakes bottomlands.

24 (xxi) Section 35304, department permit for critical dune area
25 use.

26 (xxii) Section 36505, endangered species permit.

27 (xxiii) Section 41329, nonnative aquatic species sales
28 registration.



- 1 (xxiv) Section 41702, game bird hunting preserve license.
- 2 (xxv) Section 42101, dog training area permit.
- 3 (xxvi) Section 42501, fur dealer's license.
- 4 (xxvii) Section 42702, game dealer's license.
- 5 (xxviii) Section 44513, charter boat operating permit under
- 6 reciprocal agreement.
- 7 (xxix) Section 44516, boat livery operating permit.
- 8 (xxx) Section 45902, game fish propagation license.
- 9 (xxxi) Section 45906, game fish import license.
- 10 (xxxii) Section 48705, permit to take amphibians and reptiles
- 11 for scientific or educational use.
- 12 (xxxiii) Section 61525, oil or gas well drilling permit.
- 13 (xxxiv) Section 62509, brine, storage, or waste disposal well
- 14 drilling or conversion permit or test well drilling permit.
- 15 (xxxv) Section 63103a, ferrous mineral mining permit.
- 16 (xxxvi) Section 63514 or 63525, surface coal mining and
- 17 reclamation permit or revision of the permit, respectively.
- 18 (xxxvii) Section 63704, sand dune mining permit.
- 19 (xxxviii) Section 72108, use permits for a Pure Michigan Trail.
- 20 (xxxix) Section 76109, sunken aircraft or watercraft abandoned
- 21 property recovery permit.
- 22 **(xl)** ~~(xxx)~~ Section 76504, Mackinac Island ~~motor vehicle and~~
- 23 land use permits.
- 24 **(xli)** ~~(xxxv)~~ Section 80159, buoy or beacon permit.
- 25 ~~(g) "Permit", as used in sections 1313 to 1317, means any~~
- 26 ~~permit or operating license that meets both of the following~~
- 27 ~~conditions:~~
- 28 ~~(i) The applicant for the permit or operating license is not~~

1 ~~this state or a political subdivision of this state.~~

2 ~~(ii) The permit or operating license is issued by the~~
 3 ~~department of environmental quality under this act or the rules~~
 4 ~~promulgated under this act.~~

5 (e) ~~(h)~~ "Processing deadline" means the last day of the
 6 processing period.

7 (f) ~~(i)~~ "Processing period", subject to section 1307(2) and
 8 (3), means the following time period after the close of the
 9 application period, for the following permit, as applicable:

10 (i) Twenty days for a permit under section 61525 or 62509.

11 (ii) Thirty days for a permit under section 9112 or 44516.

12 (iii) Thirty days after the department consults with the
 13 underwater salvage and preserve committee created under section
 14 76103, for a permit under section 76109.

15 (iv) Sixty days, for a permit under section 30104 **or 32512** for
 16 a **project in a** minor project **category** established under section
 17 30105(7) or 32512a(1), ~~or~~ **respectively, for** an authorization for a
 18 specific project to proceed under a general permit issued under
 19 section 30105(8) or 32512a(2), or for a permit under section 32312
 20 or 41329.

21 (v) Sixty days or, if a hearing is held, 90 days for a permit
 22 under section 35304.

23 (vi) Sixty days or, if a hearing is held, 120 days for a permit
 24 under section 30104, other than a permit or authorization described
 25 in subparagraph ~~(ii)~~ ~~or~~ (iv), or for a permit under section 31509.

26 (vii) Ninety days for a permit under section 11512, a revision
 27 of a surface coal mining and reclamation permit under section
 28 63525, or a permit under section 72108.

29 (viii) Ninety days or, if a hearing is held, 150 days for a



1 permit under section 3104 or 30304, or a permit under section 32512
 2 other than a permit described in subparagraph (iv).

3 (ix) Ninety days after the close of the review or comment
 4 period under section ~~32604~~, **32605**, or if a public hearing is held,
 5 90 days after the date of the public hearing for a permit under
 6 section 32603.

7 (x) One hundred twenty days for a permit under section 11509,
 8 11542, 63103a, 63514, or 63704.

9 (xi) One hundred fifty days for a permit under section 36505.
 10 However, if a site inspection or federal approval is required, the
 11 150-day period is tolled pending completion of the inspection or
 12 receipt of the federal approval.

13 (xii) For any other permit, 150 days or, if a hearing is held,
 14 90 days after the hearing, whichever is later.

15 Sec. 1307. (1) By the processing deadline, the department
 16 shall approve or deny an application for a permit.

17 (2) If requested by the permit applicant, the department shall
 18 extend the processing period for a permit by not more than 120
 19 days, as specified by the applicant. If requested by the permit
 20 applicant, the department may extend the processing period beyond
 21 the additional 120 days. However, a processing period shall not be
 22 extended under this subsection to a date later than 1 year after
 23 the application period ends.

24 ~~(3) A processing period is tolled from the date that a permit~~
 25 ~~applicant submits a petition under section 1315(1) until the date~~
 26 ~~that a decision of the director is made under section 1315(6). If a~~
 27 ~~permit applicant submits a petition under section 1315(1), the~~
 28 ~~department shall not approve or deny the application for the permit~~
 29 ~~under subsection (1) until after the director issues a decision~~



1 ~~under section 1315(6).~~

2 **(3)** ~~(4)~~—The approval or denial of an application for a permit
3 shall be in writing and shall be based upon evidence that would
4 meet the standards in section 75 of the administrative procedures
5 act of 1969, 1969 PA 306, MCL 24.275.

6 **(4)** ~~(5)~~—Approval of an application for a permit may be granted
7 with conditions or modifications necessary to achieve compliance
8 with the part or parts of this act under which the permit is
9 issued.

10 **(5)** ~~(6)~~—A denial of an application for a permit or, for a
11 permit under part 301 or 303, an approval with modification of an
12 application for a permit shall document, and any review upholding
13 the denial or modification shall determine, to the extent
14 practical, all of the following:

15 (a) That the decision is based on specifically cited
16 provisions of this act or rules promulgated under this act.

17 (b) That the decision is based upon sufficient facts or data,
18 which are recorded in the file.

19 (c) To the extent applicable, all of the following:

20 (i) That the decision is the product of reliable scientific
21 principles and methods.

22 (ii) That the decision has applied the principles and methods
23 reliably to the facts.

24 (d) In the case of denial of an application for a permit under
25 part 301 or 303, suggestions on changes to allow the permit to be
26 approved.

27 **(6)** ~~(7)~~—Except for permits described in subsection ~~(8)~~, ~~(7)~~,
28 if the department fails to satisfy the requirements of subsection
29 (1) with respect to an application for a permit, the department



1 shall pay the applicant an amount equal to 15% of the greater of
2 the following, as applicable:

3 (a) The amount of the application fee for that permit.

4 (b) If an assessment or other fee is charged on an annual or
5 other periodic basis by the department to a person holding the
6 permit for which the application was submitted, the amount of the
7 first periodic charge of that assessment or other fee for that
8 permit.

9 (7) ~~(8)~~—If the department fails to satisfy the requirements of
10 subsection (1) with respect to a permit required by section 11509,
11 11512, 30304, or 32603, the application shall be considered to be
12 approved and the department shall be considered to have made any
13 determination required for approval.

14 (8) ~~(9)~~—The failure of the department to satisfy the
15 requirements of subsection (1) or the fact that the department is
16 required to make a payment under subsection ~~(7)~~—(6) or is
17 considered to have approved a permit under subsection ~~(8)~~—(7) shall
18 not be used by the department as the basis for discriminating
19 against the applicant. If the department is required to make a
20 payment under subsection ~~(7)~~—(6), the application shall be
21 processed in sequence with other applications for the same type of
22 permit, based on the date on which the processing period began,
23 unless the director determines on an application-by-application
24 basis that the public interest is best served by processing in a
25 different order.

26 (9) ~~(10)~~—If the department fails to satisfy the requirements
27 of subsection (1) with respect to 10% or more of the applications
28 for a particular type of permit received during a quarter of the
29 state fiscal year, the department shall immediately devote



1 resources from that program to eliminate any backlog and satisfy
 2 the requirements of subsection (1) with respect to new applications
 3 for that type of permit within the next fiscal quarter.

4 **(10)** ~~(11)~~—If the department fails to satisfy the requirements
 5 of subsection (1), the director shall notify the appropriations
 6 committees of the senate and house of representatives of the
 7 failure. The notification shall be in writing and shall include
 8 both of the following:

9 (a) An explanation of the reason for the failure.

10 (b) A statement of the amount the department was required to
 11 pay the applicant under subsection ~~(7)~~ **(6)** or a statement that the
 12 department was required to consider the application to be approved
 13 under subsection ~~(8)~~ **(7)**, as applicable.

14 Sec. 1311. By ~~December 1~~ **January 15** each year, the director
 15 shall submit a report to the standing committees and appropriations
 16 subcommittees of the senate and house of representatives with
 17 primary responsibility for issues under the jurisdiction of that
 18 department. The department shall post the current report on its
 19 website. The report shall include all of the following information
 20 for each type of permit for the preceding fiscal year:

21 (a) The number of applications for permits the department
 22 received.

23 (b) The number of applications approved, the number of
 24 applications approved by the processing deadline, the number of
 25 applications approved after the processing deadline, and the
 26 average times for the department to determine administrative
 27 completeness and to approve or disapprove applications.

28 (c) The number of applications denied, the number of
 29 applications denied by the processing deadline, and the number of



1 applications denied after the processing deadline.

2 (d) The number of applications approved or denied after the
3 processing deadline that, based on the director's determination of
4 the public interest, were not processed in sequence as otherwise
5 required by section ~~1307(9)~~-**1307(8)** .

6 (e) The number of applications that were not administratively
7 complete when received.

8 (f) The amount of money refunded and discounts granted under
9 section 1307.

10 (g) The number of applications processed as provided in
11 section 1309.

12 (h) If a department failed to satisfy the requirements of
13 section 1307(1) with respect to 10% or more of the applications for
14 a particular type of permit received during a quarter of the state
15 fiscal year, the type of permit and percentage of applications for
16 which the requirements were not met, how the department attempted
17 to eliminate any backlog and satisfy the requirements of section
18 1307(1) with respect to new applications for that type of permit
19 within the next fiscal quarter, and whether the department was
20 successful.

21 Enacting section 1. All of the following are repealed:

22 (a) Section 88 of the administrative procedures act of 1969,
23 1969 PA 306, MCL 24.288.

24 (b) Sections 1313 to 1317 of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.1313 to
26 324.1317, are repealed.

