

SENATE BILL No. 7

January 8, 2003, Introduced by Senator HAMMERSTROM and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 63101, 63103b, 63103d, and 63103e (MCL 324.63101, 324.63103b, 324.63103d, and 324.63103e), section 63101 as amended and sections 63103b, 63103d, and 63103e as added by 1997 PA 149, and by adding sections 63103f, 63103g, 63103h, 63103i, 63103j, 63103k, and 63109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 63101. As used in this part:

2 (a) "Administratively complete", ~~means~~ **when used with**
3 **reference to** an application for a mining permit under this part,
4 ~~that is~~ **means that the application has been** determined by the
5 department to satisfy all of the conditions of this part and
6 rules promulgated under this part.

7 (b) "Department" means the department of environmental

1 quality.

2 (c) "Environmental elements" means the biological, physical,
3 and chemical characteristics of the environment, including but
4 not limited to the following:

5 (i) Watersheds.

6 (ii) Water bodies.

7 (iii) Forests.

8 (iv) Existing areas maintained for public recreation.

9 (v) Shorelands.

10 (vi) Habitat areas.

11 (d) "Gravel and inland sand fund" means the gravel and inland
12 sand permitting and surveillance fund created in section 63103k.

13 (e) "Gravel and inland sand mining operation" means an
14 operation for the mining of gravel or inland sand, or both.

15 (f) "Gravel and inland sand operator" means a person who owns
16 or leases the plant and equipment utilized in a mining area for
17 gravel or inland sand, or both, and is engaged in the business of
18 mining gravel or inland sand, or both, or preparing to engage in
19 the business of mining gravel or inland sand, or both.

20 (g) "Gravel and inland sand product" means commercially
21 salable gravel or inland sand, or both, in its final marketable
22 form or state.

23 (h) "Inland sand" means sand that is not from sand dune areas
24 regulated under part 637.

25 (i) ~~(e)~~ "Life of the mine" means the period of time from
26 issuance of a permit under this part through the completion of
27 reclamation as required by this part.

1 (j) ~~-(d)-~~ "Metallic mineral" means metallic ore or material
2 mined for its metallic content.

3 (k) ~~-(e)-~~ "Metallic mineral operator" means a person who owns
4 or leases the plant and equipment utilized in a metallic mineral
5 mining area and is engaged in the business of mining metallic
6 minerals or preparing to engage in mining operations for metallic
7 minerals.

8 (l) ~~-(f)-~~ "Metallic product" means a commercially salable
9 metallic mineral in its final marketable form or state.

10 (m) ~~-(g)-~~ "Mineral" means any substance to be excavated from
11 the natural deposits on or in the earth for commercial,
12 industrial, or construction purposes, including gypsum,
13 limestone, dolostone, sandstone, shale, metallic mineral, **gravel,**
14 **inland sand,** or other solid materials. Mineral does not include
15 clay, ~~gravel,~~ marl, peat, ~~inland sand or~~ sand mined for
16 commercial or industrial purposes ~~—~~ from sand dune areas
17 regulated under part 637, or coal regulated under part 635.

18 (n) ~~-(h)-~~ "Mining area" or "area subjected to mining" means
19 an area of land from which material is removed in connection with
20 the production or extraction of minerals by surface or open pit
21 mining methods, the lands on which material from that mining is
22 deposited, the lands on which beneficiating or treatment plants
23 and auxiliary facilities are located, the lands on which the
24 water reservoirs used in the mining process are located, and
25 auxiliary lands which are used **in connection with any of these**
26 **purposes.**

27 (o) ~~-(i)-~~ "Operator" means a metallic mineral operator, **a**

1 **gravel and inland sand operator**, or other persons engaged in or
2 preparing to engage in mining operations for the production of
3 mineral products.

4 **(p)** ~~-(j)-~~ "Stockpile" means material, including, but not
5 limited to, surface overburden, rock, or lean ore, which in the
6 process of mining and beneficiation or treatment has been removed
7 from the earth and stored on the surface, but excluding materials
8 that are being treated in the production of mineral products and
9 the mineral product that has been produced by that operation.

10 **(q)** ~~-(k)-~~ "Supervisor of reclamation" means the state
11 geologist.

12 **(r)** ~~-(l)-~~ "Surface or open pit mining" means the mining of
13 more than 10,000 tons of a mineral or disturbing more than 1 acre
14 of land a year in the regular operation of a business by removing
15 the overburden lying above a natural deposit of a mineral and
16 mining directly from the natural deposit exposed or by mining
17 directly from a deposit lying exposed in the mineral's natural
18 state. Surface or open pit mining includes all mining below the
19 water table or which will upon cessation of mining result in
20 creating a body of water of any size. Surface or open pit mining
21 does not include excavation or grading preliminary to a
22 construction project.

23 **(s)** ~~-(m)-~~ "Tailings basin" means land on which is deposited,
24 by hydraulic or other means, the material that is separated from
25 the mineral product in the beneficiation or treatment of
26 minerals, including any surrounding dikes constructed to contain
27 the material.

1 Sec. 63103b. The mining and reclamation plan submitted
2 under section 63103a, for the total ~~project~~ **metallic mineral**
3 **mining operation**, shall include all of the following:

4 (a) The method and direction of mining.

5 (b) Surface overburden stripping plans.

6 (c) The depth of grade level over the entire site from which
7 the metallic mineral will be removed.

8 (d) Provisions for grading, revegetation, and stabilization
9 that will minimize soil erosion, sedimentation, and public safety
10 concerns.

11 (e) The location of buildings, equipment, stockpiles, roads,
12 or other features necessary to the mining ~~activity~~ **operation**
13 and provisions for their removal and **for** restoration of the area
14 at the ~~project~~ **termination of the mining operation**.

15 (f) The interim use or uses of reclaimed areas before the
16 cessation of the entire mining operation.

17 (g) Maps and other supporting documents required by the
18 department.

19 (h) Fencing or other techniques to minimize trespass or
20 unauthorized access to the mining ~~activity~~ **operation**.

21 (i) If required by the department when **a** mining ~~activity~~
22 **operation** below the water table is proposed, a hydrogeological
23 survey of the surrounding area.

24 (j) If threatened or endangered species are identified, an
25 indication of how the threatened or endangered species will be
26 protected or, if not protected, what mitigation measures will be
27 performed.

1 (k) If the proposed mining ~~activity~~ **operation** includes
2 beneficiation or treatment of the metallic ore or material mined
3 for its metallic content, the application documents shall include
4 specific plans depicting the beneficiation and treatment methods
5 and techniques, and manufacturer's material safety data sheets on
6 all chemicals or other additives **that will be utilized in the**
7 **process and** that are not natural to the site. ~~that will be~~
8 ~~utilized in the process.~~ The **metallic mineral** operator shall
9 obtain all applicable state and federal permits before beginning
10 the beneficiation process.

11 Sec. 63103d. (1) For purposes of surveillance, monitoring,
12 administration, and enforcement of this part, a metallic mineral
13 operator shall be assessed a metallic mineral surveillance fee on
14 the metallic product produced for the calendar year reported as
15 described in subsection (2). The fee shall be assessed upon each
16 metallic product at the following rates: gold shall be not more
17 than 9.4 cents per troy ounce, silver shall not be more than 0.13
18 cents per troy ounce, copper shall not be more than 0.03 cents
19 per pound, and iron shall not be more than 1 cent per metric
20 ton. Funds collected by the assessment of the metallic mineral
21 surveillance fee shall not exceed the actual costs to the
22 department of implementing the sections of this part that pertain
23 to metallic mineral mining. Surveillance fees collected under
24 this section shall be forwarded to the state treasurer for
25 deposit in the metallic mineral surveillance fee fund created in
26 section 63103e.

27 (2) A metallic mineral operator shall file an annual report

1 of production on or before February 15 of each year. The report
2 shall contain the annual production of metallic product from each
3 metallic mineral mine.

4 (3) The metallic mineral surveillance fee described in
5 subsection (1) shall be due not more than 30 days after the
6 department sends written notice to the metallic mineral operator
7 of the amount due.

8 (4) Failure to submit an annual report of production in
9 compliance with rules promulgated by the department constitutes
10 grounds for revocation of a permit.

11 (5) A ~~penalty~~ **late charge** equal to 10% of the amount due,
12 or \$1,000.00, whichever is greater, shall be assessed against the
13 metallic mineral operator for a fee that is not paid when due.
14 An unpaid fee and ~~penalty shall~~ **late charge** constitute a debt
15 and ~~become~~ **are** the basis ~~of~~ **for** a judgment against the
16 **metallic mineral** operator. ~~Penalties~~ **Late charges** paid
17 pursuant to this section shall be used for the implementation,
18 administration, and enforcement of ~~this part~~ **provisions of this**
19 **part related to metallic mineral mining.**

20 (6) Records upon which the annual report of production is
21 based shall be preserved for 3 years and are subject to audit by
22 the department.

23 Sec. 63103e. (1) The metallic mineral surveillance fund is
24 created within the state treasury.

25 (2) The state treasurer may receive money or other assets
26 from any source for deposit into the metallic mineral
27 surveillance fund. The state treasurer shall direct the

1 investment of the metallic mineral surveillance fund. The state
2 treasurer shall credit to the metallic mineral surveillance fund
3 interest and earnings from fund investments.

4 (3) Money in the metallic mineral surveillance fund at the
5 close of the fiscal year shall remain in the metallic mineral
6 surveillance fund and shall not lapse to the general fund.

7 (4) The department shall expend money from the metallic
8 mineral surveillance fund, upon appropriation, only for
9 surveillance, monitoring, administration, and enforcement under
10 this part **related to metallic mineral mining** and for computing
11 the surveillance fee under section 63103d.

12 **Sec. 63103f. (1) A gravel and inland sand operator shall**
13 **not engage in the mining of gravel or inland sand, or both,**
14 **without first obtaining a gravel and inland sand mining permit**
15 **from the department. A gravel and inland sand operator engaged**
16 **in or carrying out a gravel and inland sand mining operation as**
17 **of the effective date of this section shall apply for a gravel**
18 **and inland sand mining permit within 1 year after the effective**
19 **date of this section. Any such existing gravel and inland sand**
20 **mining operation may continue mining until the department issues**
21 **or denies a permit for the gravel and inland sand mining**
22 **operation.**

23 (2) Prior to receiving a permit from the department, a gravel
24 and inland sand operator shall submit the following to the
25 department:

26 (a) A permit application on a form provided by the
27 department.

1 (b) A permit application fee. The amount of the permit
2 application fee shall be established by the department by rule.
3 Funds collected by the assessment of the application fee shall
4 not exceed the actual costs to the department of reviewing and
5 processing applications for gravel and inland sand mining
6 permits. Permit application fees shall be forwarded to the state
7 treasurer for deposit in the gravel and inland sand fund.

8 (c) An environmental impact statement for the proposed gravel
9 and inland sand mining operation as described under section
10 63103g.

11 (d) A mining and reclamation plan for the proposed gravel and
12 inland sand mining operation as described under section 63103h.

13 (3) The department shall deny a gravel and inland sand mining
14 permit if, upon review of the environmental impact statement, the
15 department determines that the proposed gravel and inland sand
16 mining operation is likely to pollute, impair, or destroy the
17 air, water, or other natural resources or the public trust in
18 those resources.

19 Sec. 63103g. The environmental impact statement for a
20 gravel and inland sand mining operation submitted to the
21 department under section 63103f shall comply with the
22 requirements of the department and shall include, but need not be
23 limited to, all of the following:

24 (a) The compatibility of the proposed mining operation with
25 adjacent existing land uses or land use plans.

26 (b) The impact of the proposed mining operation on flora,
27 fauna, or wildlife habitats.

1 (c) The economic impact of the proposed mining operation on
2 the surrounding area.

3 (d) The effects of the proposed mining operation on
4 groundwater supply, level, quality, and flow on site and within
5 1,000 feet of the proposed mining operation.

6 (e) The effects of the proposed mining operation on adjacent
7 surface resources.

8 (f) The effect of the proposed mining operation on air
9 quality within 1,000 feet of the proposed mining operation.

10 (g) Whether the proposed mining operation is located within
11 any of the following:

12 (i) 1,000 feet of a residence.

13 (ii) 2,000 feet of a school.

14 (iii) 500 feet of a commercial development.

15 (h) Alternatives, if any, to the location of the proposed
16 mining operation and the reasons for the choice of the location
17 of the proposed mining operation over those alternatives.

18 (i) A description of the environment, as it exists at the
19 time of the permit application, in the area of the proposed
20 mining operation. The environmental impact statement shall
21 provide the greatest detail on the areas and the environmental
22 elements that receive the major impacts from the proposed mining
23 operation, but also shall include areas that may be impacted as
24 an indirect result of the mining operation.

25 (j) An inventory of the physical environmental elements of
26 the proposed site. The inventory shall be conducted at a time or
27 at different times of the year that will provide the most

1 complete information regarding the existing conditions of the
2 area that will be impacted directly or indirectly by the proposed
3 mining operation.

4 Sec. 63103h. The mining and reclamation plan submitted
5 under section 63103f, for the total gravel and inland sand mining
6 operation, shall include all of the following:

7 (a) The method and direction of mining.

8 (b) The anticipated duration of the mining operation.

9 (c) Surface overburden stripping plans.

10 (d) The depth of grade level over the entire site from which
11 the gravel or inland sand, or both, will be removed.

12 (e) Provisions for grading, revegetation, and stabilization
13 that will minimize soil erosion, sedimentation, and public safety
14 concerns.

15 (f) The location of buildings, equipment, stockpiles, roads,
16 or other features necessary to the mining operation and
17 provisions for their removal and for restoration of the area at
18 the termination of the mining operation.

19 (g) The interim use or uses of reclaimed areas before the
20 cessation of the entire mining operation.

21 (h) Maps and other supporting documents required by the
22 department.

23 (i) Fencing or other techniques to minimize trespass or
24 unauthorized access to the mining operation.

25 (j) If required by the department when a mining operation
26 below the water table is proposed, a hydrogeological survey of
27 the surrounding area.

1 (k) If threatened or endangered species are identified, an
2 indication of how the threatened or endangered species will be
3 protected or how any adverse impacts on the endangered or
4 threatened species will be mitigated.

5 Sec. 63103i. (1) A gravel and inland sand mining permit
6 issued by the department is valid for a period specified by the
7 department in the permit, but not more than 5 years. A gravel
8 and inland sand mining permit shall be renewed if the gravel and
9 inland sand mining operation has been carried out in compliance
10 with this part, the rules promulgated under this part, and the
11 conditions of the permit. However, the department may revoke a
12 gravel and inland sand mining permit under any of the following
13 conditions:

14 (a) The permittee has not commenced construction of plant
15 facilities or conducted actual mining and reclamation operations
16 covered by the permit within 3 years after the date of issuance
17 of the permit.

18 (b) The permittee requests the revocation of the permit and
19 the department determines the mining operation has not polluted,
20 impaired, or destroyed the air, water, or other natural resources
21 or the public trust in those resources.

22 (c) The permittee fails to submit the annual report of
23 production as required by section 63103j.

24 (d) The department finds that the permittee is not in
25 compliance with this part, the rules promulgated under this part,
26 or the permit and there exists an imminent threat to the public
27 health and safety or to the natural resources of the state.

1 (2) The department may order immediate suspension of any or
2 all activities at a gravel and inland sand mining operation,
3 including the removal of gravel and inland sand product from the
4 site, if the department finds there exists an emergency
5 endangering the public health and safety or the natural resources
6 of the state.

7 (3) An order suspending operations shall be in effect for the
8 shorter of the following time periods:

9 (a) Until the gravel and inland sand mining operation is in
10 compliance and the public health and safety or natural resources
11 of the state are no longer endangered.

12 (b) Ten days. To extend the suspension beyond 10 days, the
13 department shall issue an emergency order to continue the
14 suspension of operations and shall schedule a hearing as provided
15 by the administrative procedures act of 1969, 1969 PA 306, MCL
16 24.201 to 24.328. The total duration of the suspension of
17 operations shall not be more than 30 days.

18 (4) A gravel and inland sand mining permit may be transferred
19 with approval of the department. The person seeking to acquire
20 the permit shall submit a request for transfer of the permit to
21 the department on forms provided by the department. The person
22 acquiring the permit shall accept the conditions of the permit
23 and adhere to the requirements set forth on the approved mining
24 and reclamation plan. Pending the transfer of the permit, the
25 person seeking to acquire the permit shall not operate the mine.

26 (5) A gravel and inland sand mining permit shall not be
27 transferred to a person who has been determined to be in

1 violation of any of the following, until the person acquiring the
2 permit has corrected the violation or the department has accepted
3 a compliance schedule and a written agreement has been reached to
4 correct the violations:

5 (a) This part.

6 (b) The rules promulgated under this part.

7 (c) Conditions of the permit.

8 (d) An order of the department issued under this part.

9 (6) If the permittee of a gravel and inland sand mining
10 operation is under notice because of unsatisfactory conditions at
11 the mining site involved in the transfer, then the permit for the
12 mining operation shall not be transferred to a person until the
13 permittee has completed the necessary corrective actions or the
14 person acquiring the permit has entered into a written agreement
15 to correct all of the unsatisfactory conditions.

16 (7) Within 60 days after receipt of an application for a
17 gravel and inland sand mining permit, the department shall review
18 the application to determine if the application is accurate and
19 complete. If the application is determined to be inaccurate or
20 incomplete, then the department shall provide the person making
21 the application for a permit, within the 60-day period, with a
22 notice stating that the application is inaccurate or incomplete
23 and specifying what changes or additional information shall be
24 submitted. Upon receipt of the requested information, the
25 department shall have up to an additional 30 days to review the
26 information to determine if the application is accurate and
27 complete. Upon completion of the review process, the department

1 shall approve or deny a permit application in writing within 60
2 days after the application is determined by the department to be
3 administratively complete. A determination of administrative
4 completeness shall not be construed to mean that additional
5 information may not be required from the applicant as a result of
6 new circumstances that come to the attention of the department.
7 If a permit is denied, the reasons shall be stated in a written
8 report to the applicant.

9 (8) A gravel and inland sand mining permit may be amended
10 upon submission to the department of a request by the permittee.
11 Upon receipt of the request to amend an existing gravel and
12 inland sand mining permit, the department shall determine if the
13 request constitutes a significant change from the conditions of
14 the approved permit. If the department determines the request is
15 a significant change from the conditions of the approved permit,
16 the department may submit the request for amendment to the same
17 review process as provided in subsection (7). If a request to
18 amend the permit is denied, the reasons for denial shall be
19 stated in a written report to the permittee. If the department
20 determines the request for amendment does not constitute a
21 significant change from the conditions of the approved permit,
22 the department shall approve the amendment and notify the
23 permittee.

24 Sec. 63103j. (1) For purposes of surveillance, monitoring,
25 administration, and enforcement of this part, a gravel and inland
26 sand operator shall be assessed a gravel and inland sand
27 surveillance fee of not more than 2 cents per short ton on the

1 gravel and inland sand product produced for the calendar year
2 reported as described in subsection (2). Funds collected by the
3 assessment of the gravel and inland sand surveillance fee shall
4 not exceed the actual costs to the department of implementing the
5 sections of this part that pertain to gravel and inland sand
6 mining. Surveillance fees collected under this section shall be
7 forwarded to the state treasurer for deposit in the gravel and
8 inland sand fund.

9 (2) A gravel and inland sand operator shall file an annual
10 report of production on or before February 15 of each year. The
11 report shall contain the annual production of gravel and inland
12 sand product from each gravel and inland sand mining operation.

13 (3) The gravel and inland sand surveillance fee described in
14 subsection (1) is due not more than 30 days after the department
15 sends written notice to the gravel and inland sand operator of
16 the amount due.

17 (4) Failure to submit an annual report of production in
18 compliance with rules promulgated by the department constitutes
19 grounds for revocation of a permit.

20 (5) The department shall assess a late charge equal to 10% of
21 the amount due, or \$1,000.00, whichever is greater, against the
22 gravel and inland sand operator for a fee that is not paid when
23 due. An unpaid fee and late charge constitute a debt and are the
24 basis for a judgment against the gravel and inland sand
25 operator. Late charges paid pursuant to this subsection shall be
26 forwarded to the state treasurer for deposit in the gravel and
27 inland sand fund.

1 (6) A gravel and inland sand operator shall preserve records
2 upon which the annual report of production is based for 3 years.
3 These records are subject to audit by the department.

4 Sec. 63103k. (1) The gravel and inland sand permitting and
5 surveillance fund is created within the state treasury.

6 (2) The state treasurer may receive money or other assets
7 from any source for deposit into the gravel and inland sand
8 fund. The state treasurer shall direct the investment of the
9 gravel and inland sand fund. The state treasurer shall credit to
10 the gravel and inland sand fund interest and earnings from fund
11 investments.

12 (3) Money in the gravel and inland sand fund at the close of
13 the fiscal year shall remain in the gravel and inland sand fund
14 and shall not lapse to the general fund.

15 (4) The department shall expend money from the gravel and
16 inland sand fund, upon appropriation, only for surveillance,
17 monitoring, administration, and enforcement under this part
18 related to gravel and inland sand mining operations and for
19 computing the surveillance fee under section 63103j.

20 Sec. 63109. (1) A person who violates this part, the rules
21 promulgated under this part, or an order of the department issued
22 under this part related to gravel and inland sand mining
23 operations or who violates the conditions of a gravel and inland
24 sand mining permit is responsible for a civil fine of not more
25 than \$5,000.00 per day for each day of violation.

26 (2) A fine collected under this section shall be deposited in
27 the gravel and inland sand fund.