

SENATE BILL NO. 394

June 15, 2023, Introduced by Senators BAYER, GEISS, CHANG, IRWIN, MCMORROW, KLINEFELT and CHERRY and referred to the Committee on Regulatory Affairs.

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

1 application for a permit is received by the state and ending when
2 the application is considered to be administratively complete under
3 section 1305 and any applicable fee has been paid.

4 (b) "Department" means the department, agency, or officer
5 authorized by this act to approve or deny an application for a
6 particular permit. As used in sections 1315 to 1317, "department"
7 means the department of ~~environmental quality~~**environment, Great**
8 **Lakes, and energy**.

9 (c) "Director" means the director of the state department
10 authorized under this act to approve or deny an application for a
11 particular permit or the director's designee. As used in sections
12 1313 to 1317, "director" means the director of the department of
13 ~~environmental quality~~**environment, Great Lakes, and energy**.

14 ~~(d) "Environmental permit review commission" or "commission"~~
15 ~~means the environmental permit review commission established under~~
16 ~~section 1313(1).~~

17 ~~(e) "Environmental permit panel" or "panel" means a panel of~~
18 ~~the environmental permit review commission, appointed under section~~
19 ~~1315(2).~~

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

- 24 (i) Section 3104, floodplain alteration permit.
25 (ii) Section 3503, permit for use of water in mining iron ore.
26 (iii) Section 4105, sewerage system construction permit.
27 (iv) Section 6516, vehicle testing license.
28 (v) Section 6521, motor vehicle fleet testing permit.
29 (vi) Section 8310, restricted use pesticide dealer license.

- 1 (vii) Section 8310a, agricultural pesticide dealer license.
- 2 (viii) Section 8504, license to manufacture or distribute
3 fertilizer.
- 4 (ix) Section 9112, local soil erosion and sedimentation control
5 permit.
- 6 (x) Section 11509, solid waste disposal area construction
7 permit.
- 8 (xi) Section 11512, solid waste disposal area operating
9 license.
- 10 (xii) Section 11542, municipal solid waste incinerator ash
11 landfill operating license amendment.
- 12 (xiii) Section 11702, septage waste servicing license or septage
13 waste vehicle license.
- 14 (xiv) Section 11709, septage waste site permit.
- 15 (xv) Section 30104, inland lakes and streams project permit.
- 16 (xvi) Section 30304, state permit for dredging, filling, or
17 other activity in wetland. Permit includes an authorization for a
18 specific project to proceed under a general permit issued under
19 section 30312.
- 20 (xvii) Section 31509, dam construction, repair, or removal
21 permit.
- 22 (xviii) Section 32312, flood risk, high risk, or environmental
23 area permit.
- 24 (xix) Section 32512, permit for dredging and filling
25 bottomland.
- 26 (xx) Section 32603, permit for submerged log removal from Great
27 Lakes bottomlands.
- 28 (xxi) Section 35304, department permit for critical dune area

- 1 use.
- 2 (xxii) Section 36505, endangered species permit.
- 3 (xxiii) Section 41329, nonnative aquatic species sales
4 registration.
- 5 (xxiv) Section 41702, game bird hunting preserve license.
- 6 (xxv) Section 42101, dog training area permit.
- 7 (xxvi) Section 42501, fur dealer's license.
- 8 (xxvii) Section 42702, game dealer's license.
- 9 (xxviii) Section 44513, charter boat operating permit under
10 reciprocal agreement.
- 11 (xxix) Section 44516, boat livery operating permit.
- 12 (xxx) Section 45902, game fish propagation license.
- 13 (xxxi) Section 45906, game fish import license.
- 14 (xxxii) Section 48705, permit to take amphibians and reptiles
15 for scientific or educational use.
- 16 (xxxiii) Section 61525, oil or gas well drilling permit.
- 17 (xxxiv) Section 62509, brine, storage, or waste disposal well
18 drilling or conversion permit or test well drilling permit.
- 19 (xxxv) Section 63103a, ferrous mineral mining permit.
- 20 (xxxvi) Section 63514 or 63525, surface coal mining and
21 reclamation permit or revision of the permit, respectively.
- 22 (xxxvii) Section 63704, sand dune mining permit.
- 23 (xxxviii) Section 72108, use permits for a Pure Michigan Trail.
- 24 (xxxix) Section 76109, sunken aircraft or watercraft abandoned
25 property recovery permit.
- 26 (xl) ~~(xxx)~~ Section 76504, Mackinac Island ~~motor vehicle and~~
27 land use permits.
- 28 (xli) ~~(xxxv)~~ Section 80159, buoy or beacon permit.

1 (e) ~~(g)~~ "Permit", as used in sections 1313 to 1317, means any
2 permit or operating license that meets both of the following
3 conditions:

4 (i) The applicant for the permit or operating license is not
5 this state or a political subdivision of this state.

6 (ii) The permit or operating license is issued by the
7 department of ~~environmental quality~~ **environment, Great Lakes, and**
8 **energy** under this act or the rules promulgated under this act.

9 (f) ~~(h)~~ "Processing deadline" means the last day of the
10 processing period.

11 (g) ~~(i)~~ "Processing period", subject to section 1307(2) and
12 (3), means the following time period after the close of the
13 application period, for the following permit, as applicable:

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

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

16 (iii) Thirty days after the department consults with the
17 underwater salvage and preserve committee created under section
18 76103, for a permit under section 76109.

19 (iv) Sixty days, for a permit under section 30104 **or 32512** for
20 a **project in a** minor project **category** established under section
21 30105(7) or 32512a(1), ~~or~~ **respectively, for** an authorization for a
22 specific project to proceed under a general permit issued under
23 section 30105(8) or 32512a(2), or for a permit under section 32312
24 or 41329.

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

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

1 (vii) Ninety days for a permit under section 11512, a revision
2 of a surface coal mining and reclamation permit under section
3 63525, or a permit under section 72108.

4 (viii) Ninety days or, if a hearing is held, 150 days for a
5 permit under section 3104 or 30304, or a permit under section 32512
6 other than a permit described in subparagraph (iv).

7 (ix) Ninety days after the close of the review or comment
8 period under section ~~32604~~, **32605**, or if a public hearing is held,
9 90 days after the date of the public hearing for a permit under
10 section 32603.

11 (x) One hundred twenty days for a permit under section 11509,
12 11542, 63103a, 63514, or 63704.

13 (xi) One hundred fifty days for a permit under section 36505.
14 However, if a site inspection or federal approval is required, the
15 150-day period is tolled pending completion of the inspection or
16 receipt of the federal approval.

17 (xii) For any other permit, 150 days or, if a hearing is held,
18 90 days after the hearing, whichever is later.

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

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

28 ~~(3) A processing period is tolled from the date that a permit~~
29 ~~applicant submits a petition under section 1315(1) until the date~~

1 ~~that a decision of the director is made under section 1315(6). If a~~
2 ~~permit applicant submits a petition under section 1315(1), the~~
3 ~~department shall not approve or deny the application for the permit~~
4 ~~under subsection (1) until after the director issues a decision~~
5 ~~under section 1315(6).~~

6 (3) ~~(4)~~—The approval or denial of an application for a permit
7 shall be in writing and shall be based upon evidence that would
8 meet the standards in section 75 of the administrative procedures
9 act of 1969, 1969 PA 306, MCL 24.275.

10 (4) ~~(5)~~—Approval of an application for a permit may be granted
11 with conditions or modifications necessary to achieve compliance
12 with the part or parts of this act under which the permit is
13 issued.

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

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

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

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

24 (i) That the decision is the product of reliable scientific
25 principles and methods.

26 (ii) That the decision has applied the principles and methods
27 reliably to the facts.

28 (d) In the case of denial of an application for a permit under
29 part 301 or 303, suggestions on changes to allow the permit to be

1 approved.

2 (6) ~~(7)~~—Except for permits described in subsection ~~(8)~~, ~~(7)~~,
3 if the department fails to satisfy the requirements of subsection
4 (1) with respect to an application for a permit, the department
5 shall pay the applicant an amount equal to 15% of the greater of
6 the following, as applicable:

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

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

13 (7) ~~(8)~~—If the department fails to satisfy the requirements of
14 subsection (1) with respect to a permit required by section 11509,
15 11512, 30304, or 32603, the application shall be considered to be
16 approved and the department shall be considered to have made any
17 determination required for approval.

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

1 **(9)** ~~(10)~~—If the department fails to satisfy the requirements
2 of subsection (1) with respect to 10% or more of the applications
3 for a particular type of permit received during a quarter of the
4 state fiscal year, the department shall immediately devote
5 resources from that program to eliminate any backlog and satisfy
6 the requirements of subsection (1) with respect to new applications
7 for that type of permit within the next fiscal quarter.

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

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

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

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

25 (a) The number of applications for permits the department
26 received.

27 (b) The number of applications approved, the number of
28 applications approved by the processing deadline, the number of
29 applications approved after the processing deadline, and the

1 average times for the department to determine administrative
2 completeness and to approve or disapprove applications.

3 (c) The number of applications denied, the number of
4 applications denied by the processing deadline, and the number of
5 applications denied after the processing deadline.

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

10 (e) The number of applications that were not administratively
11 complete when received.

12 (f) The amount of money refunded and discounts granted under
13 section 1307.

14 (g) The number of applications processed as provided in
15 section 1309.

16 (h) If a department failed to satisfy the requirements of
17 section 1307(1) with respect to 10% or more of the applications for
18 a particular type of permit received during a quarter of the state
19 fiscal year, the type of permit and percentage of applications for
20 which the requirements were not met, how the department attempted
21 to eliminate any backlog and satisfy the requirements of section
22 1307(1) with respect to new applications for that type of permit
23 within the next fiscal quarter, and whether the department was
24 successful.

25 Enacting section 1. Sections 1313 to 1317 of the natural
26 resources and environmental protection act, 1994 PA 451, MCL
27 324.1313 to 324.1317, are repealed.