

SUBSTITUTE FOR
HOUSE BILL NO. 5055
(As amended July 14, 2004)

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 9112 (MCL 324.9112), as amended by 2000 PA
504.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9112. (1) A person shall not maintain or undertake an
2 earth change governed by this part, the rules promulgated under
3 this part, or an applicable local ordinance, except in accordance
4 with this part and the rules promulgated under this part or with
5 the applicable local ordinance, and pursuant to a permit approved
6 by the appropriate county enforcing agency or municipal enforcing
7 agency. A county enforcing agency or municipal enforcing agency
8 shall approve or deny an application for a permit within 30 days
9 after the filing of a complete application for a permit. **A**
10 **permit issued under this part [may be transferred. The present and**

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1 proposed permit holders shall jointly notify the appropriate county
2 enforcing agency or municipal enforcing agency of the proposed transfer
3 in writing prior to the transfer of the permit. The current permit
4 holder is responsible for all violations of this part, the rules
promulgated pursuant to this part, an applicable local ordinance, or the
subject permit on the relevant property on which the permitted earth
change is taking place or has taken place.]

5 (2) If in the opinion of the department a person, including
6 an authorized public agency, violates this part, the rules
7 promulgated under this part, or an applicable local ordinance, or
8 a county enforcing agency or municipal enforcing agency fails to
9 enforce this part, the rules promulgated under this part, or an
10 applicable local ordinance, the department may notify the alleged
11 offender in writing of its determination. If the department
12 places a county on probation under section 9105, a municipality
13 is not approved under section 9106, or a state agency or agency
14 of a local unit of government is not approved under section 9110,
15 or if the department determines that a municipal enforcing agency
16 or authorized public agency is not satisfactorily administering
17 and enforcing this part and rules promulgated under this part,
18 the department shall notify the county, municipality, state
19 agency, or agency of a local unit of government in writing of its
20 determination or action. The notice shall contain, in addition
21 to a statement of the specific violation or failure that the
22 department believes to exist, a proposed order, stipulation for
23 agreement, or other action that the department considers
24 appropriate to assure timely correction of the violation or
25 failure. The notice shall set a date for a hearing not less than
26 4 nor more than 8 weeks from the date of the notice of
27 determination. Extensions of the date of the hearing may be

1 granted by the department or on request. At the hearing, any
2 interested party may appear, present witnesses, and submit
3 evidence. A person who has been served with a notice of
4 determination may file a written answer to the notice of
5 determination before the date set for hearing or at the hearing
6 may appear and present oral or written testimony and evidence on
7 the charges and proposed requirements of the department to assure
8 correction of the violation or failure. If a person served with
9 the notice of determination agrees with the proposed requirements
10 of the department and notifies the department of that agreement
11 before the date set for the hearing, disposition of the case may
12 be made with the approval of the department by stipulation or
13 consent agreement without further hearing. The final order of
14 determination following the hearing, or the stipulation or
15 consent order as authorized by this section and approved by the
16 department, is conclusive unless reviewed in accordance with the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328, in the circuit court of Ingham county, or of the county
19 in which the violation occurred, upon petition filed within 15
20 days after the service upon the person of the final order of
21 determination.