Act No. 325
Public Acts of 2004
Approved by the Governor
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STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004

Introduced by Reps. Sheen, Richardville, Shackleton, Stahl, Palsrok, Voorhees, Amos, Taub, LaJoy, Meyer, Garfield, Nitz, Milosch, DeRoche, Pumford, Hummel, Koetje, Steil, Bisbee, Hune, Tabor, Shaffer, DeRossett, Ehardt, Gaffney, Newell, Caswell, Walker, Moolenaar, Acciavatti, Kooiman, Hoogendyk, Huizenga, Caul and Nofs

ENROLLED HOUSE BILL No. 5876

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 3104, 3503, 4105, 6516, 6517, 6521, 8310, 8504, 9112, 11509, 11511, 11512, 11516, 11542, 11703, 11704, 11709, 30104, 30105, 30113, 30304, 30307, 31509, 31512, 32312, 32503, 32515, 35304, 36505, 40116, 41702, 41709, 42101, 42501, 42702, 44513, 44517, 45503, 45902, 45903, 45906, 61525, 62509, 63103a, 63103c, 63514, 63524, 63525, 63704, 63708, 72108, 76105, 76109, 76504, and 80159 (MCL 324.3104, 324.3503, 324.4105, 324.6516, 324.6517, 324.6521, 324.8310, 324.8504, 324.9112, 324.11509, 324.11511, 324.11512, 324.11516, 324.11542, 324.11703, 324.11704, 324.11709, 324.30104, 324.30105, 324.30113, 324.30304, 324.30307, 324.31509, 324.31512, 324.32312, 324.32503, 324.32515, 324.35304, 324.36505, 324.40116, 324.41702, 324.41709, 324.42101, 324.42501, 324.42702, 324.44513, 324.44517, 324.45503, 324.45902, 324.45903, 324.45906, 324.61525, 324.62509, 324.63103a, 324.63103c, 324.63514, 324.63524, 324.63525, 324.63704, 324.63708, 324.72108, 324.76105, 324.76109, 324.76504, and 324.80159), sections 3104, 30104, and 32312 as amended by 2003 PA 163, sections 3503, 6521, and 8504 as added by 1995 PA 60, sections 6516 and 6517 as amended by 1996 PA 166, section 8310 as amended by 2002 PA 418, section 9112 as amended by 2000 PA 504, sections 11509 and 11511 as amended by 1996 PA 358, sections 11512 and 11516 as amended by 2003 PA 153, section 11542 as amended by 1996 PA 359, section 30105 as amended by 1999 PA 106, section 30113 as amended by 2004 PA 246, sections 30304, 31509, 31512, 32515, and 35304 as added by 1995 PA 59, section 30307 as amended by 1998 PA 228, section 32503 as amended by 2002 PA 148, section 36505 as amended by 1998 PA 470, section 40116 as amended by 1996 PA 154, section 41702 as amended by 2001 PA 23, sections 41709, 42101, 42501, 44513, 44517, 45503, 45903, 63514, 63525, 63704, and 63708 as added by 1995 PA 57, section 42702 as amended by 2000 PA 191, section 45902 as amended by 1996 PA 200, section 45906 as amended by 2003 PA 270, section 61525 as amended by 1998 PA 303, section 62509 as amended by 1998 PA 467, sections 63103a and 63103c as added by 1997 PA 149, sections 63524 and 76504 as amended by 2001 PA 78, sections 72108 and 80159 as added by 1995 PA 58, and sections 76105 and 76109 as amended by 2001 PA 75, and by adding sections 1301, 1303, 1305, 1307, 1309, and 1311.

The People of the State of Michigan enact:

Sec. 1301. As used in this part:

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

(b) "Department" means the department, agency, or officer authorized by this act to approve or deny an application for a particular permit.

(c) "Director" means the director of the state department authorized under this act to approve or deny an application for a particular permit or the director's designee.

(d) "Permit" means a permit or operating license required by any of the following sections or by rules promulgated thereunder, or, in the case of section 9112, by an ordinance or resolution adopted thereunder:

(*i*) Section 3104, floodplain alteration permit.

(*ii*) Section 3503, permit for use of water in mining iron ore.

(*iii*) Section 4105, sewerage system construction permit.

(*iv*) Section 6516, vehicle testing license.

(*v*) Section 6521, motor vehicle fleet testing permit.

(*vi*) Section 8310, restricted use pesticide dealer business location license.

(*vii*) Section 8504, license to manufacture or distribute fertilizer.

(*viii*) Section 9112, local soil erosion and sedimentation control permit.

(*ix*) Section 11509, solid waste disposal area construction permit.

(*x*) Section 11512, solid waste disposal area operating license.

(*xi*) Section 11542, municipal solid waste incinerator ash landfill operating license amendment.

(*xii*) Section 11703, septage waste servicing license.

(*xiii*) Section 11704, septage waste vehicle license.

(*xiv*) Section 11709, septage waste disposal permit.

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

(*xvi*) Section 30304, state permit for dredging, filling, or other activity in wetland.

(*xvii*) Section 31509, dam construction, repair, removal permit.

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

(*xix*) Section 32503, permit for dredging and filling bottomland.

(*xx*) Section 35304, department permit for critical dune area use.

(*xxi*) Section 36505, endangered species permit.

(*xxii*) Section 41702, game bird hunting preserve license.

(*xxiii*) Section 42101, dog training area permit.

(*xxiv*) Section 42501, fur dealer's license.

(*xxv*) Section 42702, game dealer's license.

(*xxvi*) Section 44513, charter boat operating permit under reciprocal agreement.

(*xxvii*) Section 44517, boat livery operating permit.

(*xxviii*) Section 45503, permit to take frogs for scientific use.

(*xxix*) Section 45902, game fish propagation license.

(*xxx*) Section 45906, game fish import license.

(*xxxi*) Section 61525, oil or gas well drilling permit.

(*xxxii*) Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.

(*xxxiii*) Section 63103a, metallic mineral mining permit.

(*xxxiv*) Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit during the term of the permit, respectively.

(*xxxv*) Section 63704, sand dune mining permit.

(*xxxvi*) Section 72108, use permits for Michigan trailway.

(*xxxvii*) Section 76109, sunken aircraft or watercraft abandoned property recovery permit.

(*xxxviii*) Section 76504, Mackinac Island motor vehicle and land use permits.

(*xxxix*) Section 80159, buoy or beacon permit.

(e) "Processing deadline" means the last day of the processing period.

(f) "Processing period" means the following time period after the close of the application period, for the following permit, as applicable:

(*i*) Thirty days for a permit under section 9112.

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

(*iii*) Sixty days, for a permit under section 30104 for a minor project as established by rule under section 30105(6) or for a permit under section 32312.

(*iv*) Sixty days or, if a hearing is held, 90 days for a permit under section 35304.

(*v*) Sixty days or, if a hearing is held, 120 days for a permit under section 30104, other than a permit for a minor project as established by rule under section 30105(6), or for a permit under section 31509.

(*vi*) Twenty days for a permit under section 61525 or 62509.

(*vii*) Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation permit during the term of the permit under section 63525, or a permit under section 72108.

(*viii*) Ninety days or, if a hearing is held, 150 days for a permit under section 3104, 30304, or 32503.

(*ix*) One hundred and twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.

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

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

Sec. 1303. (1) An application for a permit shall be submitted to the department in a format to be developed by the department, except as provided in section 30307 with respect to a state wetland permit.

(2) The department shall, upon request and without charge, provide a person a copy of all of the following:

(a) A blank permit application form.

(b) In concise form, any instructions necessary to complete the application.

(c) A complete, yet concise, explanation of the permit review process.

(3) The department shall post the documents described in subsection (2) on its website.

Sec. 1305. (1) Effective 30 days after the state receives an application for a permit, the application shall be considered to be administratively complete unless the department proceeds as provided under subsection (2).

(2) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 30-day period under subsection (1) is tolled until the applicant submits to the department the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

Sec. 1307. (1) By the processing deadline, the department shall approve or deny an application for a permit. If requested by the permit applicant, the department may extend the processing period for a permit by not more than 20%. Approval of an application for a permit may be granted with conditions or modifications necessary to achieve compliance with the part or parts of this act under which the permit is issued.

(2) A denial of an application for a permit shall include an explanation of the reasons for denial and make specific reference to provisions of this act or rules promulgated under this act providing the basis for denial.

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

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

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

(4) If the department fails to satisfy the requirements of subsection (1) with respect to a permit under section 11509, 11512, or 30307, the application shall be considered to be approved and the department shall be considered to have made any determination required for approval.

(5) The failure of the department to satisfy the requirements of subsection (1) or the fact that the department is required to make a payment under subsection (3) or is considered to have approved a permit under subsection (4) shall not be used by the department as the basis for discriminating against the applicant. If the department is required to make a payment under subsection (3), the application shall be processed in sequence with other applications for the same type of permit, based on the date on which the processing period began, unless the director determines on an application-by-application basis that the public interest is best served by processing in a different order.

(6) If the department fails to satisfy the requirements of subsection (1), the director shall notify the appropriations committees of the senate and house of representatives of the failure. The notification shall be in writing and shall include both of the following:

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

(b) A statement of the amount the department was required to pay the applicant under subsection (3) or a statement that the department was required to consider the application to be approved under subsection (4), as applicable.

Sec. 1309. If a person submits applications for more than 1 type of permit for a particular development or project, the department or departments shall process the applications in a coordinated fashion to the extent feasible given procedural requirements applicable to individual permits and, at the request of an applicant, appoint a primary contact person to assist in communications with the department or departments.

Sec. 1311. The director of the department shall submit a report by December 1, 2005 and each year thereafter to the standing committees and appropriations subcommittees of the senate and house of representatives with primary responsibility for issues under the jurisdiction of that department. The department shall post the current report on its website. The report shall include all of the following information for each type of permit for the preceding fiscal year:

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

(b) The number of applications approved, the number of applications approved by the processing deadline, the number of applications approved after the processing deadline, and the average time for the department to determine administrative completeness and to approve or disapprove applications.

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

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

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

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

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

Sec. 3104. (1) The department is designated the state agency to cooperate and negotiate with other governments, governmental units, and governmental agencies in matters concerning the water resources of the state, including, but not limited to, flood control, beach erosion control, and water quality control planning, development, and management. The department shall have control over the alterations of natural or present watercourses of all rivers and streams in the state to assure that the channels and the portions of the floodplains that are the floodways are not inhabited and are kept free and clear of interference or obstruction that will cause any undue restriction of the capacity of the floodway. The department may take steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this part, including the water resources planning act, 42 USC 1962 to 1962d-3, and the federal water pollution control act, 33 USC 1251 to 1387.

(2) The department shall report to the governor and to the legislature at least annually on any plans or projects being implemented or considered for implementation. The report shall include requests for any legislation needed to implement any proposed projects or agreements made necessary as a result of a plan or project, together with any requests for appropriations. The department may make recommendations to the governor on the designation of areawide water quality planning regions and organizations relative to the governor's responsibilities under the federal water pollution control act, 33 USC 1251 to 1387.

(3) A person shall not alter a floodplain except as authorized by a floodplain permit issued by the department pursuant to part 13. An application for a permit shall include information that may be required by the department to assess the proposed alteration's impact on the floodplain. If an alteration includes activities at multiple locations in a floodplain, 1 application may be filed for combined activities.

(4) Except as provided in subsections (5), (6), and (8), until October 1, 2008, an application for a floodplain permit shall be accompanied by a fee of $500.00. Until October 1, 2008, if the department determines that engineering computations are required to assess the impact of a proposed floodplain alteration on flood stage or discharge characteristics, the department shall assess the applicant an additional $1,500.00 to cover the department's cost of review.

(5) Until October 1, 2008, an application for a floodplain permit for a minor project category shall be accompanied by a fee of $100.00. Minor project categories shall be established by rule and shall include activities and projects that are similar in nature and have minimal potential for causing harmful interference.

(6) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department, the department may accept an application for a permit for that work if the application is accompanied by a fee equal to 2 times the permit fee required under subsection (4) or (5).

(7) The department shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113.

(8) A project that requires review and approval under this part and 1 or more of the following is subject to only the single highest permit fee required under this part or the following:

(a) Part 301.

(b) Part 303.

(c) Part 323.

(d) Part 325.

(e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

Sec. 3503. A person shall not drain, divert, control, or use water for the operation of a low-grade iron ore mining property except as authorized by a permit issued by the department pursuant to part 13. An application for a permit shall include information and data as may be prescribed by the department in its rules and regulations. Not later than 60 days following receipt of an application, the department shall fix the time and place for a public hearing on the application and shall publish notice of the hearing. The notice shall be published twice in each county involved in at least 1 newspaper of general circulation in the county. At the hearing, the applicant and any other interested party may appear, present witnesses, and submit evidence. Following the hearing, the department may grant the permit and publish notice of the granting of the permit, in the manner provided for publication of notice of hearing, upon finding the following conditions:

(a) That the proposed drainage, diversion, control, or use of waters is necessary for the mining of substantial deposits of low-grade iron ore, and that other feasible and economical methods of obtaining a continuing supply of water for that purpose are not available to the applicant.

(b) That the proposed drainage, diversion, control, or use of waters will not unreasonably impair the interests of the public or of riparians in lands or waters or the beneficial public use of lands, and will not endanger the public health or safety.

Sec. 4105. (1) The mayor of each city, the president of each village, the township supervisor of each township, the responsible executive officer of a governmental agency, and all other persons operating sewerage systems in this state shall file with the department a true copy of the plans and specifications of the entire sewerage system owned or operated by that person, including any filtration or other purification plant or treatment works as may be operated in connection with the sewerage system, and also plans and specifications of all alterations, additions, or improvements to the systems that may be made. The plans and specifications shall, in addition to all other requirements, show all the sources through or from which water is or may be at any time pumped or otherwise permitted to enter into the sewerage system, and the drain, watercourse, river, or lake into which sewage is to be discharged. The plans and specifications shall be certified by the mayor of a city, the president of a village, a responsible member of a partnership, an individual owner, or the proper officer of any other person that operates a sewerage system, as well as by the engineer, if any are employed by any such operator. The department may promulgate and enforce rules regarding the preparation and submission of plans and specifications and for the issuance and period of validity of construction permits for the work.

(2) A person shall not construct a sewerage system or any filtration or other purification plant or treatment works in connection with a sewerage system except as authorized by a construction permit issued by the department pursuant to part 13. A person shall not issue a voucher or check or otherwise expend money for such construction unless such a permit has been issued. An application for a permit shall be submitted by the mayor of a city, the president of a village, a responsible member of a partnership, an individual owner, or the proper officer of any other person proposing the construction. An application for a permit shall include plans and specifications as described in subsection (1).

(3) A municipal officer or an officer or agent of a governmental agency, corporation, association, partnership, or individual who permits or allows construction to proceed on a sewerage works without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 90 days, or both.

Sec. 6516. (1) A person shall not engage in the business of inspecting motor vehicles under this part except as authorized by a license to operate a testing station issued by the department pursuant to part 13.

(2) A person shall not be licensed to operate a testing station unless the person has an established place of business where inspections are to be performed during regular business hours, where records required by this part and the rules promulgated under this part are to be maintained, and that is equipped with an instrument or instruments of a type that comply with and are capable of performing inspections of motor vehicles under this part.

(3) A person licensed as a testing station shall perform inspections under this part at the established place of business for which the person is licensed. A person shall inform the department immediately of a change in the address of an established place of business at which the person is licensed as a testing station.

(4) A person shall obtain a separate license and pay a separate fee for each established place of business at which a testing station is to be operated.

(5) A testing station may establish and operate mobile or temporary testing station locations if they meet all of the following conditions:

(a) The instrument used at the mobile or temporary location is capable of meeting the performance specifications for instruments set forth in rules promulgated under this part while operating in the mobile or temporary station environment.

(b) The owner of a motor vehicle inspected at the mobile or temporary location shall be provided with a free reinspection of the motor vehicle, at the established place of business of the testing station or at any mobile or temporary testing station location operated by the testing station.

(c) Personnel at the licensed established place of business location shall, at all times, know the location and hours of operation of the mobile or temporary testing station or stations.

(d) The records required by this part and the rules promulgated under this part relating to inspections performed and the instrument or instruments used at a mobile or temporary testing station shall be maintained at a single established place of business that is licensed as a testing station.

(e) The documents printed as required by the rules promulgated under this part by an instrument used at a mobile or temporary testing station location shall contain the testing station number and the name, address, and telephone number of the testing station's established place of business.

(6) A testing station may use remote sensing devices as a complement to testing otherwise required by this part.

(7) A testing station shall not cause or permit an inspection of a motor vehicle to be performed by a person other than an emission inspector using an instrument of a type that complies with the rules promulgated under this part.

(8) A testing station shall display a valid testing station license issued by the department in a place and manner conspicuous to its customers.

Sec. 6517. (1) An application for a testing station license shall include a description of the business to be licensed. The description shall include, in addition to other information required by this part and the rules promulgated under this part, all of the following:

(a) The repair facility registration number issued to the applicant if the applicant is licensed under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340.

(b) The name of the business and the address of the business location for which a testing station license is being sought.

(c) The name and address of each owner of the business in the case of a sole proprietorship or a partnership and, in the case of a corporation, the name and address of each officer and director and of each owner of 25% or more of the corporation.

(d) The name of and identification number issued by the department for each emission inspector employed by the applicant.

(e) A description, including the model and serial number, of each instrument to be used by the applicant to perform inspections or reinspections under this part and the rules promulgated under this part and the date the instrument was purchased by the applicant.

(f) The estimated capacity of the applicant to perform inspections.

(2) The fee for a testing station license is $50.00 and shall accompany the application for a license submitted to the department.

(3) A testing station license shall take effect on the date it is approved by the department and shall remain in effect until this part expires, the license is surrendered by the station, revoked or suspended by the department, or until the motor vehicle repair facility registration of the business has been revoked or suspended by the department of state, surrendered by the facility, or has expired without timely renewal.

(4) If a testing station license has expired by reason of surrender, revocation, or expiration of repair facility registration, the business shall not resume operation as a testing station until the repair facility registration has been reinstated and a new, original application for a testing station license has been received and approved by the department and a new license fee paid.

(5) When the repair facility registration has been suspended, the testing station may resume operation without a new application when the repair facility registration suspension has ended.

Sec. 6521. (1) A fleet owner or lessee shall not perform inspections under this part or the rules promulgated under this part except as authorized under a permit to operate a fleet testing station issued by the department pursuant to part 13.

(2) A person shall not receive a permit to operate a fleet testing station unless the person has an established location where inspections are to be performed, where records required by this part and the rules promulgated under this part are to be maintained, that is equipped with an instrument or instruments of a type that comply with this part or the rules promulgated under this part, and that is capable of performing inspections of motor vehicles under this part and the rules promulgated under this part.

(3) A person with a permit to operate a fleet testing station shall perform inspections under this part and the rules promulgated under this part only at the established location for which the person has the permit. A person shall inform the department immediately of a change in the address of the established location for which the person has a permit to operate a fleet testing station.

(4) A fleet testing station shall not cause or permit an inspection of a motor vehicle to be performed by a person other than an emission inspector using an instrument of a type that complies with the rules promulgated under this part.

(5) An application for a fleet testing station shall include a description of the operation to be licensed. The description shall include, in addition to other information required by this part and the rules promulgated under this part, all of the following:

(a) The name of the business and the address of the location for which a fleet testing station permit is being sought.

(b) The name and address of each owner of the business in the case of a sole proprietorship or a partnership and, in the case of a corporation, the name and address of each officer and director and of each owner of 25% or more of the corporation.

(c) The name of and identification number issued by the department for each emission inspector employed by the applicant.

(d) A description, including the model and serial number of each instrument to be used by the applicant to perform inspections or reinspections under this part and the rules promulgated under this part, and the date the equipment was purchased by the applicant.

(e) A description of the fleet to be inspected, including the number and types of motor vehicles.

(f) A statement signed by the applicant certifying that the applicant maintains and repairs, on a regular basis, the fleet vehicles owned by the applicant.

(6) A fleet testing station permit shall take effect on the date it is approved by the department and shall expire 1 year from that date. A fleet testing station permit shall be renewed automatically, unless the fleet testing station informs the department not to renew it or unless the department has revoked the permit.

(7) A person shall obtain a separate permit for each location at which fleet inspections are performed.

(8) By the fifteenth day of each month, each fleet testing station shall remit $1.00 for each vehicle inspected during the preceding month to the department of treasury for deposit in the motor vehicle emissions testing program fund.

Sec. 8310. (1) A person shall not engage in distributing, selling, or offering for sale restricted use pesticides to the ultimate user except as authorized under an annual license for each place of business issued by the department pursuant to part 13.

(2) The applicant for a license under subsection (1) shall be the person in charge of each business location. The applicant shall demonstrate by written examination his or her knowledge of laws and rules governing the use and sale of restricted use pesticides.

(3) A restricted use pesticide dealer shall forward to the director a record of all sales of restricted use pesticides on forms provided by the director as required by rule. Restricted use pesticide dealers shall keep copies of the records on file for 2 years. These records are subject to inspection by an authorized agent of the director. The records shall, upon request, be supplied in summary form to other state agencies. The summary shall include the name and address of the restricted use pesticide dealer, the name and address of the purchaser, the name of the pesticide sold, and, in an emergency, the quantity sold. Information may not be made available to the public if, in the discretion of the director, release of that information could have a significant adverse effect on the competitive position of the dealer, distributor, or manufacturer.

(4) A restricted use pesticide dealer shall sell or distribute restricted use pesticides for use only by applicators certified under this part.

(5) The director may deny, suspend, or revoke a restricted use pesticide dealer's license for any violation of this part committed by the dealer or the dealer's officer, agent, or employee.

(6) A restricted use pesticide dealer shall maintain and submit to the department records of all restricted use pesticide sales to private applicators and the intended county of application for those pesticides.

(7) Information collected in subsection (6) is confidential business information and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 8504. (1) A person shall not manufacture or distribute fertilizer in this state, except specialty fertilizer and soil conditioners, until the appropriate groundwater protection fee provided in section 8715 has been submitted, and except as authorized by a license to manufacture or distribute issued by the department pursuant to part 13. An application for a license shall be accompanied by a payment of a fee of $100.00 for each of the following:

(a) Each fixed location at which fertilizer is manufactured in this state.

(b) Each mobile unit used to manufacture fertilizer in this state.

(c) Each location out of the state that applies labeling showing out-of-state origin of fertilizer distributed in this state to nonlicensees.

(2) An application for a license to manufacture or distribute fertilizer shall include:

(a) The name and address of the applicant.

(b) The name and address of each bulk distribution point in the state not licensed for fertilizer manufacture or distribution. The name and address shown on the license shall be shown on all labels, pertinent invoices, and bulk storage for fertilizers distributed by the licensee in this state.

(3) The licensee shall inform the director in writing of additional distribution points established during the period of the license.

(4) A distributor is not required to obtain a license if the distributor is selling fertilizer of a distributor or a manufacturer licensed under this part.

(5) All licenses to manufacture or distribute fertilizer expire on December 31 of each year.

Sec. 9112. (1) A person shall not maintain or undertake an earth change governed by this part, the rules promulgated under this part, or an applicable local ordinance, except in accordance with this part and the rules promulgated under this part or with the applicable local ordinance, and except as authorized by a permit issued by the appropriate county enforcing agency or municipal enforcing agency pursuant to part 13.

(2) If in the opinion of the department a person, including an authorized public agency, violates this part, the rules promulgated under this part, or an applicable local ordinance, or a county enforcing agency or municipal enforcing agency fails to enforce this part, the rules promulgated under this part, or an applicable local ordinance, the department may notify the alleged offender in writing of its determination. If the department places a county on probation under section 9105, a municipality is not approved under section 9106, or a state agency or agency of a local unit of government is not approved under section 9110, or if the department determines that a municipal enforcing agency or authorized public agency is not satisfactorily administering and enforcing this part and rules promulgated under this part, the department shall notify the county, municipality, state agency, or agency of a local unit of government in writing of its determination or action. The notice shall contain, in addition to a statement of the specific violation or failure that the department believes to exist, a proposed order, stipulation for agreement, or other action that the department considers appropriate to assure timely correction of the violation or failure. The notice shall set a date for a hearing not less than 4 nor more than 8 weeks from the date of the notice of determination. Extensions of the date of the hearing may be granted by the department or on request. At the hearing, any interested party may appear, present witnesses, and submit evidence. A person who has been served with a notice of determination may file a written answer to the notice of determination before the date set for hearing or at the hearing may appear and present oral or written testimony and evidence on the charges and proposed requirements of the department to assure correction of the violation or failure. If a person served with the notice of determination agrees with the proposed requirements of the department and notifies the department of that agreement before the date set for the hearing, disposition of the case may be made with the approval of the department by stipulation or consent agreement without further hearing. The final order of determination following the hearing, or the stipulation or consent order as authorized by this section and approved by the department, is conclusive unless reviewed in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the circuit court of Ingham county, or of the county in which the violation occurred, upon petition filed within 15 days after the service upon the person of the final order of determination.

Sec. 11509. (1) Except as otherwise provided in section 11529, a person shall not establish a disposal area except as authorized by a construction permit issued by the department pursuant to part 13. In addition, a person shall not establish a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued pursuant to this part. A person proposing the establishment of a disposal area shall apply for a construction permit to the department through the health officer. If the disposal area is located in a county or city that does not have a certified health department, the application shall be made directly to the department.

(2) The application for a construction permit shall contain the name and residence of the applicant, the location of the proposed disposal area, the design capacity of the disposal area, and other information specified by rule. A person may apply to construct more than 1 type of disposal area at the same facility under a single permit. The application shall

be accompanied by an engineering plan and a construction permit application fee. A construction permit application for a landfill shall be accompanied by a fee in an amount that is the sum of all of the following fees, as applicable:

(a) For a new sanitary landfill, a fee equal to the following amount:

(*i*) For a municipal solid waste landfill, $1,500.00.

(*ii*) For an industrial waste landfill, $1,000.00.

(*iii*) For a type III landfill limited to low hazard industrial waste, $750.00.

(b) For a lateral expansion of a sanitary landfill, a fee equal to the following amount:

(*i*) For a municipal solid waste landfill, $1,000.00.

(*ii*) For an industrial waste landfill, $750.00.

(*iii*) For a type III landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, $500.00.

(c) For a vertical expansion of an existing sanitary landfill, a fee equal to the following amount:

(*i*) For a municipal solid waste landfill, $750.00.

(*ii*) For an industrial waste landfill, $500.00.

(*iii*) For an industrial waste landfill limited to low hazard industrial waste, construction and demolition waste, or other nonindustrial waste, $250.00.

(3) The application for a construction permit for a solid waste transfer facility, a solid waste processing plant, other disposal area, or a combination of these, shall be accompanied by a fee in the following amount:

(a) For a new facility for municipal solid waste, or a combination of municipal solid waste and waste listed in subdivision (b), $1,000.00.

(b) For a new facility for industrial waste, or construction and demolition waste, $500.00.

(c) For the expansion of an existing facility for any type of waste, $250.00.

(4) If an application is returned to the applicant as administratively incomplete, the department shall refund the entire fee. If a permit is denied or an application is withdrawn, the department shall refund 1/2 the amount specified in subsection (3) to the applicant. An applicant for a construction permit, within 12 months after a permit denial or withdrawal, may resubmit the application and the refunded portion of the fee, together with the additional information as needed to address the reasons for denial, without being required to pay an additional application fee.

(5) An application for a modification to a construction permit or for renewal of a construction permit which has expired shall be accompanied by a fee of $250.00. Increases in final elevations that do not result in an increase in design capacity or a change in the solid waste boundary shall be considered a modification and not a vertical expansion.

(6) A person who applies to permit more than 1 type of disposal area at the same facility shall pay a fee equal to the sum of the applicable fees listed in this section.

(7) The department shall deposit permit application fees collected under this section in the solid waste staff account of the solid waste management fund established in section 11550.

Sec. 11511. (1) The department shall notify the clerk of the municipality in which the disposal area is proposed to be located and the applicant of its approval or denial of an application for a construction permit within 10 days after the final decision is made.

(2) A construction permit shall expire 1 year after the date of issuance, unless development under the construction permit is initiated within that year. A construction permit that has expired may be renewed upon payment of a permit renewal fee and submission of any additional information the department may require.

(3) Except as otherwise provided in this subsection, the department shall not issue a construction permit for a disposal area within a planning area unless a solid waste management plan for that planning area has been approved pursuant to sections 11536 and 11537 and unless the disposal area complies with and is consistent with the approved solid waste management plan. The department may issue a construction permit for a disposal area designed to receive ashes produced in connection with the combustion of fossil fuels for electrical power generation in the absence of an approved county solid waste management plan, upon receipt of a letter of approval from whichever county or counties, group of municipalities, or regional planning agency has prepared or is preparing the county solid waste management plan for that planning area under section 11533 and from the municipality in which the disposal area is to be located.

Sec. 11512. (1) A person shall dispose of solid waste at a disposal area licensed under this part unless a person is permitted by state law or rules promulgated by the department to dispose of the solid waste at the site of generation.

(2) Except as otherwise provided in this section or in section 11529, a person shall not conduct, manage, maintain, or operate a disposal area within this state except as authorized by an operating license issued by the department pursuant to part 13. In addition, a person shall not conduct, manage, maintain, or operate a disposal area contrary to an approved solid waste management plan, or contrary to a permit, license, or final order issued under this part. A person

who intends to conduct, manage, maintain, or operate a disposal area shall submit a license application to the department through a certified health department. If the disposal area is located in a county or city that does not have a certified health department, the application shall be made directly to the department. A person authorized by this part to operate more than 1 type of disposal area at the same facility may apply for a single license.

(3) The application for a license shall contain the name and residence of the applicant, the location of the proposed or existing disposal area, the type or types of disposal area proposed, evidence of bonding, and other information required by rule. In addition, an applicant for a type II landfill shall submit evidence of financial assurance adequate to meet the requirements of section 11523a, the maximum waste slope in the active portion, an estimate of remaining permitted capacity, and documentation on the amount of waste received at the disposal area during the previous license period or expected to be received, whichever is greater. The application shall be accompanied by a fee as specified in subsections (7), (9), and (10).

(4) At the time of application for a license for a disposal area, the applicant shall submit to a health officer or the department a certification under the seal of a licensed professional engineer verifying that the construction of the disposal area has proceeded according to the approved plans. If construction of the disposal area or a portion of the disposal area is not complete, the department shall require additional construction certification of that portion of the disposal area during intermediate progression of the operation, as specified in section 11516(5).

(5) An applicant for an operating license, within 6 months after a license denial, may resubmit the application, together with additional information or corrections as are necessary to address the reason for denial, without being required to pay an additional application fee.

(6) In order to conduct tests and assess operational capabilities, the owner or operator of a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit may operate the incinerator without an operating license, upon notice to the department, for a period not to exceed 60 days.

(7) The application for a type II landfill operating license shall be accompanied by the following fee for the 5-year term of the operating license, calculated in accordance with subsection (8):

(a) Landfills receiving less than 100 tons per day, $250.00.

(b) Landfills receiving 100 tons per day or more, but less than 250 tons per day, $1,000.00.

(c) Landfills receiving 250 tons per day or more, but less than 500 tons per day, $2,500.00.

(d) Landfills receiving 500 tons per day or more, but less than 1,000 tons per day, $5,000.00.

(e) Landfills receiving 1,000 tons per day or more, but less than 1,500 tons per day, $10,000.00.

(f) Landfills receiving 1,500 tons per day or more, but less than 3,000 tons per day, $20,000.00.

(g) Landfills receiving greater than 3,000 tons per day, $30,000.00.

(8) Type II landfill application fees shall be based on the average amount of waste projected to be received daily during the license period. Application fees for license renewals shall be based on the average amount of waste received in the previous calendar year. Application fees shall be adjusted in the following circumstances:

(a) If a landfill accepts more waste than projected, a supplemental fee equal to the difference shall be submitted with the next license application.

(b) If a landfill accepts less waste than projected, the department shall credit the applicant an amount equal to the difference with the next license application.

(c) A type II landfill that measures waste by volume rather than weight shall pay a fee based on 3 cubic yards per ton.

(d) A landfill used exclusively for municipal solid waste incinerator ash that measures waste by volume rather than weight shall pay a fee based on 1 cubic yard per ton.

(e) If an application is submitted to renew a license more than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/2 the application fee.

(f) If an application is submitted to renew a license more than 6 months but less than 1 year prior to license expiration, the department shall credit the applicant an amount equal to 1/4 the application fee.

(9) The operating license application for a type III landfill shall be accompanied by a fee equal to $2,500.00.

(10) The operating license application for a solid waste processing plant, solid waste transfer facility, other disposal area, or combination of these entities shall be accompanied by a fee equal to $500.00.

(11) The department shall deposit operating license application fees collected under this section in the perpetual care account of the solid waste management fund established in section 11550.

(12) A person who applies for an operating license for more than 1 type of disposal area at the same facility shall pay a fee equal to the sum of the applicable application fees listed in this section.

Sec. 11516. (1) The department shall conduct a consistency review before making a final decision on a license application. The department shall notify the clerk of the municipality in which the disposal area is located and the applicant of its approval or denial of a license application within 10 days after the final decision is made.

(2) An operating license shall expire 5 years after the date of issuance. An operating license may be renewed before expiration upon payment of a renewal application fee specified in section 11512(8) if the licensee is in compliance with this part and the rules promulgated under this part.

(3) The issuance of the operating license under this part empowers the department or a health officer or an authorized representative of a health officer to enter at any reasonable time, pursuant to law, in or upon private or public property licensed under this part for the purpose of inspecting or investigating conditions relating to the storage, processing, or disposal of any material.

(4) Except as otherwise provided in this subsection, the department shall not issue an operating license for a new disposal area within a planning area unless a solid waste management plan for that planning area has been approved pursuant to sections 11536 and 11537 and unless the disposal area complies with and is consistent with the approved solid waste management plan. The department may issue an operating license for a disposal area designed to receive ashes produced in connection with the combustion of fossil fuels for electrical power generation in the absence of an approved county solid waste management plan, upon receipt of a letter of approval from whichever county or counties, group of municipalities, or regional planning agency has prepared or is preparing the county solid waste management plan for that planning area under section 11533 and from the municipality in which the disposal area is to be located.

(5) Issuance of an operating license by the department authorizes the licensee to accept waste for disposal in certified portions of the disposal area for which a bond was established under section 11523 and, for type II landfills, for which financial assurance was demonstrated under section 11523a. If the construction of a portion of a landfill licensed under this section is not complete at the time of license application, the owner or operator of the landfill shall submit a certification under the seal of a licensed professional engineer verifying that the construction of that portion of the landfill has proceeded according to the approved plans at least 60 days prior to the anticipated date of waste disposal in that portion of the landfill. If the department does not deny the certification within 60 days of receipt, the owner or operator may accept waste for disposal in the certified portion. In the case of a denial, the department shall issue a written statement stating the reasons why the construction or certification is not consistent with this part or rules promulgated under this part or the approved plans.

Sec. 11542. (1) Except as provided in subsection (5), municipal solid waste incinerator ash shall be disposed of in 1 of the following:

(a) A landfill that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A synthetic liner at least 60 mils thick.

(C) A compacted clay liner of 5 feet or more with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second.

(D) A leak detection and leachate collection system.

(E) A compacted clay liner at least 3 feet thick with a maximum hydraulic conductivity of 1×10^{-7} centimeters per second or a synthetic liner at least 40 mils thick.

(b) A landfill that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A composite liner, as defined in R 299.4102 of the Michigan administrative code.

(C) A leak detection and leachate collection system.

(D) A second composite liner.

(*iv*) If contaminants that may threaten the public health, safety, or welfare, or the environment are found in the leachate collection system described in subparagraph (*iii*)(C), the owner or operator of the landfill shall determine the source and nature of the contaminants and make repairs, to the extent practicable, that will prevent the contaminants from entering the leachate collection system. If the department determines that the source of the contaminants is caused by a design failure of the landfill, the department, notwithstanding an approved construction permit or operating license, may require landfill cells at that landfill that will be used for the disposal of municipal solid waste incinerator

ash, which are under construction or will be constructed in the future at the landfill, to be constructed in conformance with improved design standards approved by the department. However, this subparagraph does not require the removal of liners or leak detection and leachate collection systems that are already in place in a landfill cell under construction.

(c) A landfill that is a monitorable unit, as defined in R 299.4104 of the Michigan administrative code, and that meets all of the following requirements:

(*i*) The landfill is in compliance with this part and the rules promulgated under this part.

(*ii*) The landfill is used exclusively for the disposal of municipal solid waste incinerator ash.

(*iii*) The landfill design includes all of the following in descending order according to their placement in the landfill:

(A) A leachate collection system.

(B) A synthetic liner at least 60 mils thick.

(C) Immediately below the synthetic liner, either 2 feet of compacted clay with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second or a bentonite geocomposite liner, as specified in R 299.4914 of the Michigan administrative code.

(D) At least 10 feet of either natural or compacted clay with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second, or equivalent.

(d) A landfill with a design approved by the department that will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the design requirements of subdivisions (a) to (c).

(e) A type II landfill, as defined in R 299.4105 of the Michigan administrative code, if both of the following conditions apply:

(*i*) The ash was generated by a municipal solid waste incinerator that is designed to burn at a temperature in excess of 2500 degrees Fahrenheit.

(*ii*) The ash from any individual municipal solid waste incinerator is disposed of pursuant to this subdivision for a period not to exceed 60 days.

(2) Except as provided in subsection (3), a landfill that is constructed pursuant to the design described in subsection (1) shall be capped following its closure by all of the following in descending order:

(a) Six inches of top soil with a vegetative cover.

(b) Two feet of soil to protect against animal burrowing, temperature, erosion, and rooted vegetation.

(c) An infiltration collection system.

(d) A synthetic liner at least 30 mils thick.

(e) Two feet of compacted clay with a maximum hydraulic conductivity of 1 x 10^{-7} centimeters per second.

(3) A landfill that receives municipal solid waste incinerator ash under this section may be capped with a design approved by the department that will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the design requirements of subsection (2).

(4) If leachate is collected from a landfill under this section, the leachate shall be monitored and tested in accordance with this part and the rules promulgated under this part.

(5) As an alternative to disposal described in subsection (1), the owner or operator of a municipal solid waste incinerator may process municipal solid waste incinerator ash through mechanical or chemical methods, or both, to substantially diminish the toxicity of the ash or its constituents or limit the leachability of the ash or its constituents to minimize threats to human health and the environment, if processing is performed on the site of the municipal solid waste incinerator or at the site of a landfill described in subsection (1), if the process has been approved by the department as provided by rule, and if the ash is tested after processing in accordance with a protocol approved by the department as provided by rule. The department shall approve the process and testing protocol under this subsection only if the process and testing protocol will protect human health and the environment. In making this determination, the department shall consider all potential pathways of human and environmental exposure, including both short-term and long-term, to constituents of the ash that may be released during the reuse or recycling of the ash. The department shall consider requiring methods to determine the leaching, total chemical analysis, respirability, and toxicity of reused or recycled ash. A leaching procedure shall include testing under both acidic and native conditions. If municipal solid waste incinerator ash is processed in accordance with the requirements of this subsection and the processed ash satisfies the testing protocol approved by the department as provided by rule, the ash may be disposed of in a municipal solid waste landfill, as defined by R 299.4104 of the Michigan administrative code, licensed under this part or may be used in any manner approved by the department. If municipal solid waste incinerator ash is processed as provided in this subsection, but does not satisfy the testing protocol approved by the department as provided by rule, the ash shall be disposed of in accordance with subsection (1).

(6) The disposal of municipal solid waste incinerator ash within a landfill that is in compliance with subsection (1) does not constitute a new proposal for which a new construction permit is required under section 11510, if a construction

permit has previously been issued under section 11509 for the landfill and the owner or operator of the landfill submits 6 copies of an operating license amendment application to the department for approval pursuant to part 13. The operating license amendment application shall include revised plans and specifications for all facility modifications including a leachate disposal plan, an erosion control plan, and a dust control plan which shall be part of the operating license amendment. The dust control plan shall contain sufficient detail to ensure that dust emissions are controlled by available control technologies that reduce dust emissions by a reasonably achievable amount to the extent necessary to protect human health and the environment. The dust control plan shall provide for the ash to be wet during all times that the ash is exposed to the atmosphere at the landfill or otherwise to be covered by daily cover material; for dust emissions to be controlled during dumping, grading, loading, and bulk transporting of the ash at the landfill; and for dust emissions from access roads within the landfill to be controlled. With the exception of a landfill that is in existence on June 12, 1989 that the department determines is otherwise in compliance with this section, the owner or operator of the landfill shall obtain the operating license amendment prior to initiating construction. Prior to operation, the owner or operator of a landfill shall submit to the department certification from a licensed professional engineer that the landfill has been constructed in accordance with the approved plan and specifications. At the time the copies are submitted to the department, the owner or operator of the landfill shall send a copy of the operating license amendment application to the municipality where the landfill is located. At least 30 days prior to making a final decision on the operating license amendment, the department shall hold at least 1 public meeting in the vicinity of the landfill to receive public comments. Prior to a public meeting, the department shall publish notice of the meeting in a newspaper serving the local area.

(7) The owner or operator of a municipal solid waste incinerator or a disposal area that receives municipal solid waste incinerator ash shall allow the department access to the facility for the purpose of supervising the collection of samples or obtaining samples of ash to test or to monitor air quality at the facility.

(8) As used in subsection (1), "landfill" means a landfill or a specific portion of a landfill.

Sec. 11703. (1) A person shall not engage in the business of servicing except as authorized by a septage waste servicing license issued by the department pursuant to part 13. The department shall provide an application form that includes all of the following:

(a) The applicant's name and mailing address.

(b) The location or locations where the business is operated.

(c) Additional information pertinent to this part as required by the department.

(2) A person who submits a completed application form under subsection (1) shall submit to the department with the application all of the following:

(a) An application fee of $300.00 that will be refunded by the department if a septage waste servicing license is not issued.

(b) A $100.00 fee to accompany an initial license application to be credited to the septage waste site contingency fund as provided in section 11717.

(c) Written approval from all public septage waste treatment facilities where the applicant plans to dispose of septage waste and the sites where the applicant plans to dispose of septage waste upon receiving the department's approval, and, for each proposed disposal site, either proof of ownership of the proposed disposal site or written approval from the site owner.

(3) A person who holds a septage waste servicing license shall maintain at all times at his or her place of business a complete record of the amount of septage waste that the person has transported and disposed of and the location at which the disposal of septage waste has occurred. The person shall display these records upon the request of the director, a peace officer, or an official of a certified health department.

Sec. 11704. (1) A person who is required to be licensed pursuant to section 11703 shall not use a motor vehicle to transport septage waste except as authorized by a septage waste motor vehicle license issued by the department pursuant to part 13 for each vehicle that is used to transport septage waste. A septage waste motor vehicle license application submitted to the department shall be accompanied by a license fee of $75.00 for each vehicle required to be licensed under this part. A motor vehicle license application shall include all of the following information:

(a) The model and year of the motor vehicle.

(b) The capacity of any tank used to remove or transport the septage waste.

(c) The name of the motor vehicle's insurance carrier.

(d) Additional information pertinent to this part as required by the department.

(2) A person who is issued a septage waste motor vehicle license shall carry that license at all times in the motor vehicle that is described in that license and display the license upon the request of the department, a peace officer, or an official of a certified health department.

(3) Without the express permission of the department, a person shall not use a vehicle used to transport septage waste to transport hazardous waste regulated under part 111 or liquid industrial waste regulated under part 121.

Sec. 11709. (1) Subject to the limitations contained in sections 11710 and 11711, septage waste that is picked up at a location that is further than 15 road miles from a public septage waste treatment facility may be disposed of on land if the person holding licenses issued pursuant to sections 11703 and 11704 obtains a permit issued by the department pursuant to part 13 authorizing the disposal of septage waste on land, supplies any additional information pertinent to this part as required by the department, and sends notice to property owners as provided in subsection (2).

(2) An applicant for a permit under subsection (1) shall send a notice to each land owner who owns property located within 800 feet of the proposed disposal location on a form approved by the department. Service of the notice shall be made by first-class mail. The notification shall include the nature of the proposed land use, the location of the proposed disposal area, and whom to contact if there is an objection to the proposed land use. A copy of the notice that is mailed to each property owner shall be sent to the certified health department having jurisdiction. If no substantiated objections as determined by the department are received within 10 business days following the mailing of the notification, the department may issue a permit as provided in this section. If the department finds that the applicant is unable to provide notice as required in this subsection, the department may waive the notice requirement or allow the applicant to use a substitute means of providing notice.

(3) A permit issued under this section shall expire at the same time as a septage waste servicing license issued pursuant to section 11703, but is subject to renewal at that time. A permit issued under this section may be revoked by the department if septage waste disposal or site management is in violation of this part or the rules promulgated under this part.

Sec. 30104. (1) A person shall not undertake a project subject to this part except as authorized by a permit issued by the department pursuant to part 13. An application for a permit shall include any information that may be required by the department. If a project includes activities at multiple locations, 1 application may be filed for the combined activities.

(2) Except as provided in subsections (3) and (4), until October 1, 2008, an application for a permit shall be accompanied by a fee based on an administrative cost in accordance with the following schedule:

(a) For a minor project listed in R 281.816 of the Michigan administrative code, or a seasonal drawdown or the associated reflooding, or both, of a dam or impoundment for the purpose of weed control, a fee of $50.00. However, for a permit for a seasonal drawdown or associated reflooding, or both, of a dam or impoundment for the purpose of weed control that is issued for the first time after October 9, 1995, an initial fee of $500.00 with subsequent permits for the same purpose being assessed a $50.00 fee.

(b) For construction or expansion of a marina, a fee of:

(*i*) $50.00 for an expansion of 1-10 slips to an existing permitted marina.

(*ii*) $100.00 for a new marina with 1-10 proposed marina slips.

(*iii*) $250.00 for an expansion of 11-50 slips to an existing permitted marina, plus $10.00 for each slip over 50.

(*iv*) $500.00 for a new marina with 11-50 proposed marina slips, plus $10.00 for each slip over 50.

(*v*) $1,500.00 if an existing permitted marina proposes maintenance dredging of 10,000 cubic yards or more or the addition of seawalls, bulkheads, or revetments of 500 feet or more.

(c) For renewal of a marina operating permit, a fee of $50.00.

(d) For major projects other than a project described in subdivision (b)(*v*), involving any of the following, a fee of $2,000.00:

(*i*) Dredging of 10,000 cubic yards or more.

(*ii*) Filling of 10,000 cubic yards or more.

(*iii*) Seawalls, bulkheads, or revetments of 500 feet or more.

(*iv*) Filling or draining of 1 acre or more of wetland contiguous to a lake or stream.

(*v*) New dredging or upland boat basin excavation in areas of suspected contamination.

(*vi*) Shore projections, such as groins and underwater stabilizers, that extend 150 feet or more into a lake or stream.

(*vii*) New commercial docks or wharves of 300 feet or more in length.

(*viii*) Stream enclosures 100 feet or more in length.

(*ix*) Stream relocations 500 feet or more in length.

(*x*) New golf courses.

(*xi*) Subdivisions.

(*xii*) Condominiums.

(e) For all other projects not listed in subdivisions (a) through (d), a fee of $500.00.

(3) A project that requires review and approval under this part and 1 or more of the following acts or parts of acts is subject to only the single highest permit fee required under this part or the following acts or parts of acts:

(a) Part 303.

(b) Part 323.

(c) Part 325.

(d) Section 3104.

(e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(4) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department, the department may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit fee required under this section.

Sec. 30105. (1) Until October 1, 2003, a person who desires notification of pending applications may submit a written request to the department accompanied by an annual fee of $25.00. The department shall forward all annual fees to the state treasurer for deposit into the fund. The department shall prepare a monthly list of the applications made during the previous month and shall promptly mail copies of the list for the remainder of the calendar year to the persons who have so requested notice. The monthly list shall state the name and address of each applicant, the legal description of the lands included in the applicant's project, and a summary statement of the purpose of the project. The department may hold a public hearing on pending applications.

(2) Except as otherwise provided in this section, upon receiving an application, the department shall submit copies for review to the director of the department of community health or the local health department designated by the director of the department of community health, to the city, village, or township and the county where the project is to be located, to the local conservation district, to the watershed council organized under part 311, if any, to the local port commission, if any, and to the persons required to be included in the application pursuant to section 30104(1). Each copy of the application shall be accompanied by a statement that unless a written request is filed with the department within 20 days after the submission for review, the department may grant the application without a public hearing where the project is located. The department may hold a public hearing upon the written request of the applicant or a riparian owner or a person or governmental unit that is entitled to receive a copy of the application pursuant to this subsection.

(3) After completion of a project for which an application is approved, the department may cause a final inspection to be made and certify to the applicant that the applicant has complied with the department's permit requirements.

(4) At least 10 days' notice of a hearing to be held under this section shall be given by publication in a newspaper circulated in the county where the project is to be located and by mailing copies of the notice to the persons who have requested the monthly list pursuant to subsection (1), to the person requesting the hearing, and to the persons and governmental units that are entitled to receive a copy of the application pursuant to subsection (2).

(5) In an emergency, the department may issue a conditional permit before the expiration of the 20-day period referred to in subsection (2).

(6) The department, by rule promulgated under section 30110(1), may establish minor project categories of activities and projects that are similar in nature and have minimal adverse environmental impact. The department may act upon an application received pursuant to section 30104 for an activity or project within a minor project category after an on-site inspection of the land and water involved without providing notices or holding a public hearing pursuant to subsection (2). A final inspection or certification of a project completed under a permit granted pursuant to this subsection is not required, but all other provisions of this part are applicable to a minor project.

Sec. 30113. (1) The land and water management permit fee fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The state treasurer shall annually present to the department an accounting of the amount of money in the fund.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to implement this part and the following:

(a) Sections 3104, 3107, and 3108.

(b) Before October 1, 2004, section 12562 of the public health code, 1978 PA 368, MCL 333.12562, or, on or after October 1, 2004, part 33.

(c) Part 303.

(d) Part 315.

(e) Part 323.

(f) Part 325.

(g) Part 353.

(h) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(5) The department shall annually report to the legislature how money in the fund was expended during the previous fiscal year.

Sec. 30304. Except as otherwise provided in this part or by a permit issued by the department under sections 30306 to 30314 and pursuant to part 13, a person shall not do any of the following:

(a) Deposit or permit the placing of fill material in a wetland.

(b) Dredge, remove, or permit the removal of soil or minerals from a wetland.

(c) Construct, operate, or maintain any use or development in a wetland.

(d) Drain surface water from a wetland.

Sec. 30307. (1) Within 60 days after receipt of the completed application and fee, the department may hold a hearing. If a hearing is held, it shall be held in the county where the wetland to which the permit is to apply is located. Notice of the hearing shall be made in the same manner as for the promulgation of rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may approve or disapprove a permit application without a public hearing unless a person requests a hearing in writing within 20 days after the mailing of notification of the permit application as required by subsection (3) or unless the department determines that the permit application is of significant impact to warrant a public hearing.

(2) The action taken by the department on a permit application under this part and part 13 may be appealed pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A property owner may, after exhaustion of administrative remedies, bring appropriate legal action in a court of competent jurisdiction.

(3) A person who desires notification of pending permit applications may make a written request to the department accompanied by an annual fee of $25.00, which shall be credited to the general fund of the state. The department shall prepare a biweekly list of the applications made during the previous 2 weeks and shall promptly mail copies of the list for the remainder of the calendar year to the persons who requested notice. The biweekly list shall state the name and address of each applicant, the location of the wetland in the proposed use or development, including the size of both the proposed use or development and of the wetland affected, and a summary statement of the purpose of the use or development.

(4) A local unit of government may regulate wetland within its boundaries, by ordinance, only as provided under this part. This subsection is supplemental to the existing authority of a local unit of government. An ordinance adopted by a local unit of government pursuant to this subsection shall comply with all of the following:

(a) The ordinance shall not provide a different definition of wetland than is provided in this part, except that a wetland ordinance may regulate wetland of less than 5 acres in size.

(b) If the ordinance regulates wetland that is smaller than 2 acres in size, the ordinance shall comply with section 30309.

(c) The ordinance shall comply with sections 30308 and 30310.

(d) The ordinance shall not require a permit for uses that are authorized without a permit under section 30305, and shall otherwise comply with this part.

(5) Each local unit of government that adopts an ordinance regulating wetlands under subsection (4) shall notify the department.

(6) A local unit of government that adopts an ordinance regulating wetlands shall use an application form supplied by the department, and each person applying for a permit shall make application directly to the local unit of government. Upon receipt, the local unit of government shall forward a copy of each application along with any state fees that may have been submitted under section 30306 to the department. The department shall begin reviewing the application as provided in this part. The local unit of government shall review the application pursuant to its ordinance and shall modify, approve, or deny the application within 90 days after receipt. If a municipality does not approve or disapprove the permit application within the time period provided by this subsection, the permit application shall be considered approved, and the municipality shall be considered to have made the determinations as listed in section 30311. The denial of a permit shall be accompanied by a written statement of all reasons for denial. The failure to supply complete information with a permit application may be reason for denial of a permit. The department shall inform any interested person whether or not a local unit of government has an ordinance regulating wetlands. If the department receives an application with respect to a wetland located in a local unit of government that has an ordinance regulating wetlands, the department immediately shall forward the application to the local unit of government, which shall modify, deny, or approve the application under this subsection. The local unit of government shall notify the department of its decision. The department shall proceed as provided in this part.

(7) If a local unit of government does not have an ordinance regulating wetlands, the department shall promptly send a copy of the permit application to the local unit of government where the wetland is located. The local unit of

government may review the application; may hold a hearing on the application; and may recommend approval, modification, or denial of the application to the department. The recommendations of the local unit of government shall be made and returned to the department within 45 days after the local unit of government's receipt of the permit application.

(8) In addition to the requirements of subsection (7), the department shall notify the local unit of government that the department has issued a permit under this part within the jurisdiction of that local unit of government within 15 days of issuance of the permit. The department shall enclose a copy of the permit with the notice.

Sec. 31509. (1) Except as otherwise provided in this part or as authorized by a permit issued by the department pursuant to part 13, a person shall not undertake any of the following activities:

(a) Construction of a new dam.

(b) Enlargement of a dam or an impoundment.

(c) Repair of a dam.

(d) Alteration of a dam.

(e) Removal of a dam.

(f) Abandonment of a dam.

(g) Reconstruction of a failed dam.

(2) An application for a permit shall include information that the department determines is necessary for the administration of this part. If a project includes activities at multiple locations, 1 application may be filed for the combined activities.

(3) An application for a permit for construction of a new dam, reconstruction of a failed dam, or enlargement of a dam shall be accompanied by the following fees:

(a) For a dam with a height of 6 feet or more but less than 10 feet, $500.00.

(b) For a dam with a height of 10 feet or more but less than 20 feet, $1,000.00.

(c) For a dam with a height of 20 feet or more, $3,000.00.

(4) An application for a permit for the repair, alteration, removal, or abandonment of a dam shall be accompanied by a fee of $200.00, and an application for a permit for a minor project pursuant to section 31513(1) shall be accompanied by a fee of $100.00.

(5) The department shall waive the fees under this section for applications from state agencies, department sponsored projects located on public lands, and organizations of the type described in section 31508(2)(a) through (c).

(6) The department shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113.

Sec. 31512. (1) When immediate action is necessary to protect the structural integrity of a dam, the department may issue a permit before the expiration of the 20-day period referred to in section 31511(1). This subsection does not prohibit an owner from taking action necessary to mitigate emergency conditions if imminent danger of failure exists.

(2) A person applying for a permit to reconstruct a failed dam shall file a complete application not less than 1 year after the date of the failure. If such an application is filed more than 1 year after the date of the failure, the department shall consider the application to be an application to construct a new dam.

Sec. 32312. (1) The department, in order to regulate the uses and development of high-risk areas, flood risk areas, and environmental areas and to implement the purposes of this part, shall promulgate rules. If permits are required under rules promulgated under this part, the permits shall be issued pursuant to the rules and part 13. Except as provided under subsection (2), until October 1, 2008, if permits are required pursuant to rules promulgated under this part, an application for a permit shall be accompanied by a fee as follows:

(a) For a commercial or multi-family residential project, $500.00.

(b) For a single-family home construction, $100.00.

(c) For an addition to an existing single-family home or for a project that has a minor impact on fish and wildlife resources in environmental areas as determined by the department, $50.00.

(2) A project that requires review and approval under this part and under 1 or more of the following is subject to only the single highest permit fee required under this part or the following:

(a) Part 301.

(b) Part 303.

(c) Part 325.

(d) Section 3104.

(e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(3) The department shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113.

(4) A circuit court, upon petition and a showing by the department that a violation of a rule promulgated under subsection (1) exists, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

Sec. 32503. (1) Except as otherwise provided in this section, the department, after finding that the public trust in the waters will not be impaired or substantially affected, may enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases, or agreements covering unpatented lands may be issued or entered into by the department with any person, and shall contain such terms, conditions, and requirements as the department determines to be just and equitable and in conformance with the public trust. The department shall reserve to the state all mineral rights, including, but not limited to, coal, oil, gas, sand, gravel, stone, and other materials or products located or found in those lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

(2) A riparian owner shall not dredge or place spoil or other materials on bottomland except as authorized by a permit issued by the department pursuant to part 13.

(3) The department shall not enter into a lease or deed that allows drilling operations beneath unpatented lands for the exploration or production of oil or gas.

(4) An agreement, lease, or deed entered into under this part by the department with the United States shall be entered into and executed pursuant to the property rights acquisition act, 1986 PA 201, MCL 3.251 to 3.262.

Sec. 32515. If the department finds that the project will not injure the public trust or interest including fish and game habitat, that the project conforms to the requirements of law for sanitation, and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing enlargement of the waterway affected. The permit shall provide that the artificial waterway shall be a public waterway, except intake or discharge canals or channels on property owned, controlled, and used by a public utility. The existing and future owners of land fronting on the artificial waterway are liable for maintenance of the waterway in accordance with the conditions of the permit.

Sec. 35304. (1) A local unit of government that issues permits or the department if it issues permits as provided under subsection (5) shall issue the permits subject to all of the following requirements:

(a) A person proposing a use within a critical dune area shall file an application with the local unit of government, or with the department if the department is issuing permits under the model zoning plan. The application form shall include information that may be necessary to conform with the requirements of this part. If a project proposes the use of more than 1 critical dune area location within a local unit of government, 1 application may be filed for the uses.

(b) Notice of an application filed under this section shall be sent to a person who makes a written request to the local unit of government for notification of pending applications accompanied by an annual fee established by the local unit of government. The local unit of government shall prepare a monthly list of the applications made during the previous month and shall promptly mail copies of the list for the remainder of the calendar year to the persons who have requested notice. In addition, if the department issues permits under this part within a local unit of government, notice of an application shall be given to the local conservation district office, the county clerk, the county health department, and the local unit of government in which the property is located. The monthly list shall state the name and address of each applicant, the location of the applicant's project, and a summary statement of the purpose of the use. The local unit of government may hold a public hearing on pending applications.

(c) The notice shall state that unless a written request is filed with the local unit of government within 20 days after the notice is mailed, the local unit of government may grant the application without a public hearing. Upon the written request of 2 or more persons that own real property within the local unit of government or an adjacent local unit of government, or that reside within the local unit of government or an adjacent local unit of government, the local unit of government shall hold a public hearing pertaining to a permit application.

(d) At least 10 days' notice of a hearing to be held pursuant to this section shall be given by publication in 1 or more newspapers of general circulation in the county in which the proposed use is to be located, and in other publications, if appropriate, to give notice to persons likely to be affected by the proposed use, and by mailing copies of the notice to the persons who have requested notice pursuant to subsection (1) and to the person requesting the hearing.

(e) After the filing of an application, the local unit of government shall grant or deny the permit within 60 days, or within 90 days if a public hearing is held. When a permit is denied, the local unit of government shall provide to the applicant a concise written statement of its reasons for denial of the permit, and if it appears that a minor modification of the application would result in the granting of the permit, the nature of the modification shall be stated. In an emergency, the local unit of government may issue a conditional permit before the expiration of the 20-day period referred to in subdivision (c).

(f) The local unit of government shall base a decision to grant or deny a permit required by this section on the model zoning plan or on any existing ordinance that is in effect in the local unit of government that provides the same or a greater level of protection for critical dune areas and that is approved by the department.

(2) A local unit of government zoning ordinance regulating critical dune areas may be more restrictive of development and more protective of critical dune areas than the model zoning plan.

(3) As soon as possible following adoption of a zoning ordinance enacted pursuant to this part, the local unit of government shall submit to the department a copy of the ordinance that it determines meets the requirements of this part. If the local unit of government has an existing ordinance that it contends is at least as restrictive as the model zoning plan, that ordinance may be submitted to the department at any time. The department shall review zoning ordinances submitted under this section to assure compliance with this part. If the department finds that an ordinance is not in compliance with this part, the department shall work with the local unit of government to bring the ordinance into compliance and inform the local unit of the failure to comply and in what ways the submitted ordinance is deficient. Unless a local unit of government receives notice within 90 days of submittal that the ordinance they submit to the department under this subsection is not in compliance with this part, the local unit of government shall be considered to be approved by the department.

(4) A local unit of government may adopt, submit to the department, and obtain approval of a zoning ordinance based on the model zoning plan or an equivalent ordinance as provided in this section by June 30, 1990. If a local unit does not have an approved ordinance by June 30, 1990, the department shall implement the model zoning plan for that local unit of government in the same manner and under the same circumstances as provided in subsection (1). Notwithstanding any other provision of this part, a local unit of government may adopt a zoning ordinance at any time, and upon the approval of the department, that ordinance shall take the place of the model zoning plan implemented by the department.

(5) If a local unit of government in which a proposed use is to be located does not elect to issue permits or does not receive approval of a zoning ordinance that regulates critical dune areas, the department shall implement the model zoning plan in the place of the local unit of government and issue special exceptions in the same circumstances as provided in this part for the issuance of variances by local units of government, and issue permits pursuant to subsection (1) and part 13.

(6) The department shall assist local units of government in developing ordinances that meet the requirements of this part.

Sec. 36505. (1) Except as otherwise provided in this part, a person shall not take, possess, transport, import, export, process, sell, offer for sale, buy, or offer to buy, and a common or contract carrier shall not transport or receive for shipment, any species of fish, plants, or wildlife appearing on the following lists:

(a) The list of fish, plants, and wildlife indigenous to the state determined to be endangered or threatened within the state pursuant to section 36503 or subsection (3).

(b) The United States list of endangered or threatened native fish and wildlife.

(c) The United States list of endangered or threatened plants.

(d) The United States list of endangered or threatened foreign fish and wildlife.

(2) A species of fish, plant, or wildlife appearing on any of the lists delineated in subsection (1) which enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, possessed, and sold in accordance with the terms of a federal permit issued pursuant to section 10 of the endangered species act of 1973, 16 USC 1539, or an applicable permit issued under the laws of another state.

(3) The department may, by rule, treat any species as an endangered species or threatened species even though it is not listed pursuant to section 36503, if it finds any of the following:

(a) The species so closely resembles in appearance, at the point in question, a species which is listed pursuant to section 36503 that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species.

(b) The effect of the substantial difficulty in differentiating between a listed and an unlisted species is an additional threat to an endangered or threatened species.

(c) The treatment of an unlisted species will substantially facilitate the enforcement and further the intent of this part.

(4) The department may permit the taking, possession, purchase, sale, transportation, exportation, or shipment of species of fish, plants, or wildlife which appear on the state list of endangered or threatened species compiled pursuant to section 36503 and subsection (3) for scientific, zoological, or educational purposes, for propagation in captivity of such fish, plants, or wildlife to ensure their survival.

(5) Upon good cause shown and where necessary to alleviate damage to property or to protect human health, endangered or threatened species found on the state list compiled pursuant to section 36503 and subsection (3) may be removed, captured, or destroyed, but only as authorized by a permit issued by the department pursuant to part 13.

Carnivorous animals found on the state list may be removed, captured, or destroyed by any person in emergency situations involving an immediate threat to human life, but the removal, capture, or destruction shall be reported to the department within 24 hours of the act.

(6) This section does not prohibit any of the following:

(a) The importation of a trophy under a permit issued pursuant to section 10 of the endangered species act of 1973, 16 USC 1539, which is not for resale and which was lawfully taken in a manner permitted by the laws of the state, territory, or country where the trophy was caught, taken, or killed.

(b) The taking of a threatened species when the department has determined that the abundance of the species in the state justifies a controlled harvest not in violation of federal law.

(c) Subject to any permits that may be required by the department, the possession, transfer, transportation, importation, or exportation or the transport or receipt for shipment by a common or contract carrier of a raptor or the captive-bred progeny of a raptor, a raptor egg, or raptor semen acquired in accordance with applicable state and federal laws and regulations which allow raptors, raptor eggs, or raptor semen to be used in falconry or in the captive propagation of raptors for use in falconry.

(d) Subject to any permits that may be required by the department, the selling, offering for sale, buying, or offering to buy a raptor that was captive-bred or semen from a raptor that was captive-bred in accordance with applicable state and federal laws and regulations which allow raptors or raptor semen to be used in falconry or in captive propagation of raptors for use in falconry.

Sec. 40116. (1) A person shall not take game during the established daylight shooting hours from August 15 through April 30 unless the person wears a cap, hat, vest, jacket, or rain gear of the highly visible color commonly referred to as hunter orange. Hunter orange includes blaze orange, flame orange, or fluorescent blaze orange, and camouflage that is not less than 50% hunter orange. The garments that are hunter orange shall be the hunter's outermost garment and shall be visible from all sides of the hunter.

(2) Subsection (1) does not apply to a person engaged in the taking of deer with a bow during archery deer season, a person taking bear with a bow, or a person engaged in the taking of turkey or migratory birds other than woodcock.

(3) The failure of a person to comply with this section is not evidence of contributory negligence in a civil action for injury to the person or for the person's wrongful death.

Sec. 41702. The department may issue licenses authorizing the establishment and operation of game bird hunting preserves pursuant to part 13. The fee for a license is $105.00 for a preserve of 320 acres or less and $180.00 for a preserve in excess of 320 acres. Unless revoked as provided by law, licenses issued under this section are valid from the date of issuance until June 30 of the third license year. Game bird hunting preserves licensed under this section may allow hunting on Sundays, notwithstanding the provisions of a local ordinance or regulation.

Sec. 41709. An application for a license under this part shall state the name and address of the applicant, the legal description of the premises to be licensed, the kind of birds to be covered by the license, and other information required by the department.

Sec. 42101. Upon application of any club or organization having 10 or more members who are citizens of this state, or upon the application of 10 or more citizens of this state, and the payment of a registration fee of $5.00, the department, pursuant to part 13, may issue a permit authorizing the establishment and maintenance by the club, organization, or citizens on land owned by them, or over which they have legal control, of a special dog training area where dogs may be trained at any time during the year. A dog training area shall not be less than 40 acres or more than 240 acres, and permits shall not be issued for more than 6 special dog training areas in any 1 county. In counties having a population of 100,000 or more, the department may issue additional permits as the department considers to be in the public interest.

Sec. 42501. (1) A person shall not engage in the business of buying, selling, dealing, or the tanning and dressing of raw furs, hides, or pelts of beaver, otter, fisher, marten, muskrat, mink, skunk, raccoon, opossum, wolf, lynx, bobcat, fox, weasel, coyote, badger, deer, or bear and the plumage, skins, or hides of protected game birds or game animals except as authorized by a license issued by the department pursuant to part 13. A license application shall be accompanied by a fee as follows:

(a) For any person who engages in the business of buying and selling raw furs, hides, and pelts of fur-bearing animals or the plumage, skins, or hides of protected game birds or game animals, the fee is $10.00.

(b) Each person in the business of manufacturing furs who buys raw pelts is a dealer, and the fee for each individual or agent who buys furs is, for a resident, $10.00 and, for a nonresident, $50.00.

(c) For any person who engages in the business of custom tanning or dressing of raw furs, the fee is $5.00. However, such a license does not authorize that person to buy or sell raw furs.

(2) Any person holding a fur dealer's license under this part is entitled to buy furs, hides, pelts, and the plumage, skins, or hides, and parts thereof, of protected game birds and game animals that are legally taken.

(3) A person holding a fur dealer's license under this part is not eligible to secure or hold a license to trap beaver.

(4) The department may designate the plumage and skin of those game birds and game animals that may not be bought or sold if it determines that such a prohibition will best serve the public interest. The plumage and skins, or parts of plumage and skins, of migratory game and nongame birds may be bought and sold only in accordance with federal law or rule.

(5) For the purposes of this part, "plumage" means any part of the feathers, head, wings, or tail of any bird.

Sec. 42702. (1) The department may, pursuant to part 13, issue licenses to authorize the possession for propagation, and for dealing in and selling game. A license shall not be granted to an applicant who is not the owner or lessee of the premises to be used for the purposes designated by the license. A license issued pursuant to this part is nontransferable and is valid from July 1 to June 30 of the third license year.

(2) Section 40111a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40111a, is repealed effective December 31, 2004.

Sec. 44513. (1) The department may enter into reciprocal agreements with other states and countries concerning the operation and inspection of charter boats from those states and countries that operate on the waters of this state. Reciprocity shall be granted only if a state or country can establish to the satisfaction of the department that their laws concerning charter boats meet or exceed the laws of this state. A charter boat shall not operate on the waters of this state under a reciprocal agreement pursuant to this section except as authorized under an annual operating permit issued by the department pursuant to part 13. The fee for an annual operating permit is $100.00. The department shall utilize the fees for annual operating permits issued pursuant to this section to provide funds for the education and enforcement program provided for in subsection (2).

(2) The department shall develop an education and enforcement program designed to eliminate the operation of charter and livery boats that have not been inspected as required by this part and to prepare printed materials to provide the public with information regarding the safety features and requirements necessary for the lawful operation of charter and livery boats.

Sec. 44517. (1) Any livery boat more than 20 feet in length, except for a class E vessel that is a livery boat, that is used or to be used on navigable waters without the owner being either on board or operating the vessel shall pay the inspection fees established pursuant to section 44511 for each livery boat to be inspected. Fees collected pursuant to this section shall be forwarded to the department. The department shall utilize the fees to develop and maintain the education and enforcement program provided for in section 44513(2).

(2) Upon receipt of the required fee and an application for an inspection and a permit, the department shall inspect, or provide for inspection of by the county sheriff or sheriff's deputy, all livery boats and their equipment of the boat livery. Upon completion of the inspection, the department, county sheriff, or the sheriff's deputy shall, pursuant to part 13, approve the issuance of a permit to operate a boat livery, provided the requirements of this part are met. A permit furnished by the department shall be prominently displayed on the site of the boat livery and shall expire on December 31 of each year in which a permit is issued.

Sec. 45503. The department may, pursuant to part 13, issue permits to take frogs at any season of the year if used for scientific or experimental purposes. These permits are revocable at the pleasure of the department.

Sec. 45902. (1) A person shall not propagate, rear, or have in possession for the purpose of offering for sale or selling any kind of game fish except as authorized by a license issued by the department pursuant to part 13. A license is nontransferable and expires on December 31 of the year for which issued. A separate license is required for each place of business where game fish are propagated, reared, or possessed for the purpose of sale or offering for sale.

(2) This part does not apply to the following:

(a) The sale, offering for sale, or possession of dead, fresh, or frozen brook trout, brown trout, or rainbow trout lawfully taken in and exported from another state or country or that have been procured from a licensed dealer within this state.

(b) The propagation, rearing, possession, or sale of game fish pursuant to a registration or permit issued pursuant to the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

Sec. 45903. Any person owning or having control of private waters in this state who desires a license under this part shall make application for the license to the department, accompanied by a fee of $5.00. The application shall state the name and address of the applicant and include the description of the premises where game fish are to be propagated, reared, possessed, or offered for sale, together with additional information as may be required. Upon receipt of the

application and fee, the department, if satisfied that this part and the rules promulgated under this part have been complied with, shall issue a license to the applicant.

Sec. 45906. (1) A person shall not import into this state any live game fish, including viable eggs of any game fish, except as authorized by a license as provided for in this part issued by the department pursuant to part 13. A license under this subsection does not apply to a genetically engineered variant of a live game fish species unless the genetically engineered variant is specifically identified in the license.

(2) The department may promulgate rules under this part to prohibit or restrict the importation of any species of game fish or other fish if the importation of that species would endanger the public fishery resources of this state. A prohibition or restriction in rules promulgated under this subsection applies to a genetically engineered variant of a fish species identified in the prohibition or restriction unless the prohibition or restriction specifically provides otherwise. A prohibition or restriction in rules promulgated under this subsection may be limited to a genetically engineered fish.

Sec. 61525. (1) A person shall not drill or begin the drilling of any well for oil or gas, for secondary recovery, or a well for the disposal of salt water, or brine produced in association with oil or gas operations or other oil field wastes, or wells for the development of reservoirs for the storage of liquid or gaseous hydrocarbons, except as authorized by a permit to drill and operate the well issued by the supervisor of wells pursuant to part 13 and unless the person files with the supervisor a bond as provided in section 61506. The permittee shall post the permit in a conspicuous place at the location of the well as provided in the rules and requirements or orders issued or promulgated by the supervisor. An application for a permit shall be accompanied by a fee of $300.00. A permit to drill and operate shall not be issued to an owner or his or her authorized representative who does not comply with the rules and requirements or orders issued or promulgated by the supervisor. A permit shall not be issued to an owner or his or her authorized representative who has not complied with or is in violation of this part or any of the rules, requirements, or orders issued or promulgated by the supervisor or the department.

(2) The supervisor shall forward all fees received under this section to the state treasurer for deposit in the fund.

(3) The supervisor shall make available to any person, upon request, not less often than weekly, the following information pertaining to applications for permits to drill and operate:

(a) Name and address of the applicant.

(b) Location of proposed well.

(c) Well name and number.

(d) Proposed depth of the well.

(e) Proposed formation.

(f) Surface owner.

(g) Whether hydrogen sulfide gas is expected.

(4) The supervisor shall provide the information under subsection (3) to the county in which an oil or gas well is proposed to be located and to the city, village, or township in which the oil or gas well is proposed to be located if that city, village, or township has a population of 70,000 or more. A city, village, township, or county in which an oil or gas well is proposed to be located may provide written comments and recommendations to the supervisor pertaining to applications for permits to drill and operate. The supervisor shall consider all such comments and recommendations in reviewing the application.

Sec. 62509. (1) A person shall not drill or begin the drilling of any brine, storage, or waste disposal well, or convert any well for these uses, and except as authorized by a permit issued by the supervisor of mineral wells pursuant to part 13 and rules promulgated by the supervisor of mineral wells, and unless the person files with the supervisor of mineral wells an approved surety or security bond. The application shall be accompanied by a survey of the well site. The department shall conduct an investigation and inspection before the supervisor of mineral wells issues a permit. A permit shall not be issued to any owner or his or her authorized representative who does not comply with the rules of the supervisor of mineral wells or who is in violation of this part or any rule of the supervisor of mineral wells. Upon completion of the drilling or converting of a well for storage or waste disposal and after necessary testing by the owner to determine that the well can be used for these purposes and in a manner that will not cause surface or underground waste, the supervisor of mineral wells, upon receipt of appropriate evidence, shall approve and regulate the use of the well for storage or waste disposal. These operations shall be pursuant to part 31. The supervisor of mineral wells may schedule a public hearing to consider the need or advisability of permitting the drilling or operating of a storage or waste disposal well, or converting a well for these uses, if the public safety or other interests are involved.

(2) A person shall not drill a test well 50 feet or greater in depth into the bedrock or below the deepest freshwater strata, except as provided in section 62508(c), except as authorized by a permit issued by the supervisor of mineral wells pursuant to part 13 and rules promulgated by the supervisor of mineral wells, and unless the person files with the supervisor of mineral wells an approved surety or security bond. The application shall be accompanied by the fee provided in subsection (6). The department shall conduct an investigation and inspection before the supervisor of

mineral wells issues a permit. A permit shall not be issued to any owner or his or her authorized representative who does not comply with the rules of the supervisor of mineral wells or who is in violation of this part or any rule of the supervisor of mineral wells. A test well that penetrates below the deepest freshwater stratum or is greater than 250 feet in depth is subject to an individual test well permit. A test well that does not penetrate below the deepest freshwater stratum and is 250 feet or less in depth is subject to a blanket test well permit. This subsection does not apply to a test well regulated under part 111 or part 115, or a water well regulated under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

(3) A permit is not required to drill a test well in those areas of the state where rocks of Precambrian age directly underlie unconsolidated surface deposits or in those areas that have been designated pursuant to section 62508(c). However, within 2 years after completion of the drilling of the well, the owner shall advise the supervisor of mineral wells of the location of the well and file with the supervisor of mineral wells the log required under section 62508(d). The provisions of this part pertaining to the prevention and correction of surface and underground waste have the same application to these test wells as to other wells defined in this part.

(4) Upon request, the supervisor of mineral wells may issue to qualified persons a blanket permit to drill within a county test wells which will not penetrate below the deepest freshwater stratum and are 250 feet or less in depth.

(5) All information and records pertaining to the application for and issuance of permits for wells subject to this part shall be held confidential in the same manner as provided for logs and reports on these wells.

(6) A permit application submitted under this section shall be accompanied by the following permit application fee:

(a) Disposal well for disposal of waste products other than processed brine	$2,500.00.
(b) Disposal well for disposal of processed brine	$500.00.
(c) Storage well	$500.00.
(d) Natural brine production well	$500.00.
(e) Artificial brine production well	$500.00.
(f) Individual test well under subsection (2)	$500.00.
(g) Blanket permit for test wells drilled pursuant to subsection (4):	
(*i*) 1 to 24 wells	$75.00.
(*ii*) 25 to 49 wells	$150.00.
(*iii*) 50 to 75 wells	$300.00.
(*iv*) 75 to 200 wells	$600.00.

(7) The supervisor of mineral wells shall deposit all permit application fees collected under this section into the fund.

Sec. 63103a. A metallic mineral operator shall not engage in the mining of metallic minerals except as authorized by a permit issued by the department pursuant to part 13. The department shall not issue a permit unless the applicant has submitted to the department, in addition to the permit application, a mining and reclamation plan for the proposed metallic mining activity as prescribed by section 63103b.

Sec. 63103c. (1) A metallic mineral mining permit issued by the department is valid for the life of the mine. However, the department may revoke a metallic mineral mining permit under the following conditions:

(a) The person holding the permit has not commenced construction of plant facilities or conducted actual mining and reclamation activities covered by the permit within 3 years after the date of issuance of the permit.

(b) The permittee requests the revocation of the metallic mineral mining permit and the department determines the mining activity has not polluted, impaired, or destroyed the air, water, or other natural resources or the public trust in those resources, as provided in part 17.

(c) The permittee fails to submit the annual report of production as required by section 63103d(2).

(d) The department finds that the permittee is not in compliance with this part, the rules promulgated under this part, or the metallic mineral permit and there exists an imminent threat to the health and safety of the public.

(2) The department may order immediate suspension of any or all activities at a metallic mineral mining operation, including the removal of metallic product from the site, if the department finds there exists an emergency endangering the public health and safety or an imminent threat to the natural resources of the state.

(3) An order suspending operations shall be in effect for the shorter of the following time periods: not more than 10 days, or until the operation is in compliance and protection of the public health and safety is ensured or the threat to the natural resources has been eliminated. To extend the suspension beyond 10 days, the department shall issue an emergency order to continue the suspension of operations and shall schedule a hearing as provided by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The total duration of the suspension of operations shall not be more than 30 days.

(4) A metallic mineral mining permit may be transferred to a new person with approval of the department. The person acquiring the permit shall submit a request for transfer of the permit to the department on forms provided by the department. The person acquiring the permit shall accept the conditions of the existing permit and adhere to the requirements set forth on the approved mining and reclamation plan. Pending the transfer of the existing permit, the person acquiring the permit shall not operate the mine.

(5) A metallic mineral mining permit shall not be transferred to a person who has been determined to be in violation of any of the following, until the person acquiring the permit has corrected the violation or the department has accepted a compliance schedule and a written agreement has been reached to correct the violations:

(a) This part.

(b) The rules promulgated under this part.

(c) Permit conditions.

(d) An order of the department.

(6) If the permittee of a metallic mineral mining operation is under notice because of unsatisfactory conditions at the mining site involved in the transfer, then the permit for the mining operation shall not be transferred to a person until the permittee has completed the necessary corrective actions or the person acquiring the permit has entered into a written agreement to correct all of the unsatisfactory conditions.

(7) A metallic mineral mining permit may be amended upon submission to the department of a request by the permittee. Upon receipt of the request to amend an existing metallic mineral permit, the department shall determine if the request constitutes a significant change from the conditions of the approved permit. If the department determines the request is a significant change from the conditions of the approved permit, the department may submit the request for amendment to the same review process as provided in section 63103c(7). If a request to amend the permit is denied, the reasons for denial shall be stated in a written report to the permittee. If the department determines the request for amendment does not constitute a significant change from the conditions of the approved permit, the department shall approve the amendment and notify the permittee.

Sec. 63514. A person shall not conduct a surface coal mining operation in this state except as authorized by a permit issued by the department pursuant to part 13.

Sec. 63524. (1) The applicant for a permit or revision of a permit has the burden of establishing that his or her application is in compliance with all the requirements of this part. Within 3 days after the granting of a permit, but before the permit is issued, the department shall notify the county clerk in each county in which the land to be affected is located that a permit has been issued and shall describe the location of the land.

(2) An application for a permit or revision of a permit shall not be approved unless the department finds, in writing, that all the following requirements have been met:

(a) The application is accurate and complete and complies with all of the requirements of this part.

(b) The applicant has demonstrated that reclamation as required by this part can be accomplished under the reclamation plan contained in the application.

(c) An assessment of the probable cumulative impact of all anticipated surface coal mining inside and outside the permit area on the hydrologic balance, including quantitative and qualitative analyses, has been made by the department, and the proposed operation has been designed to prevent material damage to the hydrologic balance inside and outside the permit area.

(d) The area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to this part and is not within an area under study for this designation in an administrative proceeding commenced pursuant to this part, unless in the area as to which an administrative proceeding has commenced, the applicant demonstrates that, prior to January 1, 1977, the applicant has made substantial legal and financial commitments in relation to the operation for which the applicant is applying for a permit.

(e) If the ownership of the coal has been severed from the private surface estate, the applicant has submitted to the department either the written consent of the surface owner to the extraction of coal by surface mining methods or a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods. However, if the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with state law, except that this part does not authorize the department to adjudicate property rights disputes.

(f) If the department of history, arts, and libraries determines that the proposed surface mining operation will adversely affect a historic resource, the application is approved jointly by the department, by the federal, state, or local agency with jurisdiction over the historic resource, and by the department of history, arts, and libraries.

(3) The applicant shall file, with the application, a schedule listing all notices of violations of this part or other law of this state and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with a surface coal mining

operation during the 3-year period prior to the date of application. The schedule shall include the final resolution of notice of the violation. If the schedule or other information available to the department indicates that a surface coal mining operation owned or controlled by the applicant is currently in violation of this part or other laws referred to in this subsection, the permit shall not be issued until the applicant submits affidavits that the violation has been corrected or is in the process of being corrected to the satisfaction of the department or the agency that has jurisdiction over the violation or that the notice of violation is being contested by the applicant. A permit shall not be issued to an applicant after a finding by the department, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of violations of this part of such nature and duration with such resulting pollution, impairment, or destruction to the environment as to indicate an intent not to comply with this part.

(4) If the area proposed to be mined contains agricultural land, the department shall consult with the director of the department of agriculture and the secretary of the United States department of agriculture and shall not grant a permit to mine on agricultural land unless the department finds in writing that the operator has the technological capability to restore the mined area and any other areas impacted by the surface coal mining operation within a reasonable time to equivalent or higher levels of yield as nonmined agricultural land in the surrounding area under equivalent levels of management, and also finds that the applicant can meet the soil reconstruction standards of this part.

Sec. 63525. (1) During the term of a permit, the permittee may submit to the department an application for a revision of the permit, including a revised reclamation plan. An application for a revision of a permit shall not be approved unless the department finds that reclamation as required by this part can be accomplished under the revised reclamation plan. An application for a revision is subject to part 13, except that the department shall establish standards for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures shall apply.

(2) A transfer, assignment, or sale of the rights granted under a permit issued pursuant to this part shall not be made without the written approval of the department.

(3) The department shall, within a time limit prescribed by rule, review outstanding permits. The department may require revision or modification of the permit provisions during the terms of the permit based on a change in technology or a change in circumstances.

(4) All action taken by the department under this section regarding the granting, modification, denial, or revision of a permit shall be conducted pursuant to chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292.

Sec. 63704. (1) A person shall not engage in sand dune mining within Great Lakes sand dune areas except as authorized by a permit issued by the department pursuant to part 13.

(2) Prior to receiving a permit from the department, a person shall submit all of the following:

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

(b) An environmental impact statement of the proposed mining activity as prescribed by section 63705.

(c) A progressive cell-unit mining and reclamation plan for the proposed mining activity as prescribed by section 63706.

(d) A 15-year mining plan as prescribed by section 63707.

Sec. 63708. (1) A sand dune mining permit issued by the department is valid for not more than 5 years. A sand dune mining permit shall be renewed if the sand dune mining activities have been carried out in compliance with this part, the rules promulgated under this part, and the conditions of the sand dune mining permit issued by the department.

(2) The sand dune mining permit shall state any conditions, limitations, or other restrictions determined by the department, including any setback from the ordinary high-water mark of a Great Lake for the protection of the barrier dune.

(3) In granting a sand dune mining permit, if the department allows for the removal of all or a portion of the barrier dune pursuant to this part, it shall submit to the commission written reasons for permitting the removal.

(4) The department shall provide a list of all pending sand dune mining applications upon a request from a person. The list shall give the name and address of each applicant, the legal description of the lands included in the project, and a summary statement of the purpose of the application.

Sec. 72108. (1) The commission may do any of the following:

(a) Grant easements or, pursuant to part 13, use permits or lease land owned by the state that is being used for a Michigan trailway for a use that is compatible with the use of the Michigan trailway.

(b) Enter into contracts for concessions along a state owned Michigan trailway.

(c) Lease land adjacent to a state owned Michigan trailway for the operation of concessions.

(2) If the commission approves of the acquisition of land by the department, the commission may state that the specified land is acquired for use as a Michigan trailway. Following acquisition of land that the commission states is acquired for use as a Michigan trailway, any revenue derived from that land pursuant to subsection (1), except as otherwise provided by law, shall be deposited into the fund.

Sec. 76105. (1) A person, either personally or through an agent or employee, shall not explore or excavate an aboriginal remain covered by this part upon lands owned by the state, except as authorized by a permit issued by the department, with written approval of the department of history, arts, and libraries, pursuant to part 13. A permit shall be issued without charge.

(2) Subsection (1) does not apply to the Mackinac Island state park commission on lands owned or controlled by the Mackinac Island state park commission.

Sec. 76109. (1) A person shall not recover abandoned property located on, in, or located in the immediate vicinity of and associated with a sunken aircraft or watercraft except as authorized by a permit issued by the department and the department of history, arts, and libraries pursuant to part 13.

(2) Notwithstanding section 1303(1), a person shall file an application for a permit with the department on a form prescribed by the department and approved by the department of history, arts, and libraries. The application shall contain all of the following information:

(a) The name and address of the applicant.

(b) The name, if known, of the watercraft or aircraft on or around which recovery operations are to occur and a current photograph or drawing of the watercraft or aircraft, if available.

(c) The location of the abandoned property to be recovered and the depth of water in which it may be found.

(d) A description of each item to be recovered.

(e) The method to be used in recovery operations.

(f) The proposed disposition of the abandoned property recovered, including the location at which it will be available for inspection by the department and the department of history, arts, and libraries.

(g) Other information which the department or the department of history, arts, and libraries considers necessary in evaluating the request for a permit.

(3) An application for a permit is not complete until all information requested on the application form and any other information requested by the department or the department of history, arts, and libraries has been received by the department. After receipt of an otherwise complete application, the department may request additional information or documents as are determined to be necessary to make a decision to grant or deny a permit.

(4) The department and the department of history, arts, and libraries shall approve or deny an application for a permit with the advice of the committee. A condition to the approval of an application shall be in writing on the face of the permit. The department and the department of history, arts, and libraries may impose such conditions as are considered reasonable and necessary to protect the public trust and general interests, including conditions that accomplish 1 or more of the following:

(a) Protect and preserve the abandoned property to be recovered, and the recreational value of the area in which recovery is being accomplished.

(b) Assure reasonable public access to the abandoned property after recovery.

(c) Conform with rules applying to activities within a Great Lakes bottomlands preserve.

(d) Prohibit injury, harm, and damage to a bottomlands site or abandoned property not authorized for removal during and after salvage operations by the permit holder.

(e) Prohibit or limit the amount of discharge of possible pollutants, such as floating timbers, planking, and other debris, which may emanate from the shipwreck, plane wreck, or salvage equipment.

(f) Require the permit holder to submit a specific removal plan prior to commencing any salvaging activities. Among other matters considered appropriate by either the department or the department of history, arts, and libraries, or both, the removal plan may be required to ensure the safety of those removing or assisting in the removal of the abandoned property and to address how the permit holder proposes to prevent, minimize, or mitigate potential adverse effects upon the abandoned property to be removed, that portion of the abandoned property which is not to be removed, and the surrounding geographic features.

(5) The department shall approve an application for a permit unless the department determines that the abandoned property to be recovered has substantial recreational value in itself or in conjunction with other abandoned property in its vicinity underwater, or the recovery of abandoned property would not comply with rules applying to a Great Lakes bottomlands preserve.

(6) The department of history, arts, and libraries shall approve the application for a permit unless the department of history, arts, and libraries determines that the abandoned property to be recovered has substantial historical value

in itself or in conjunction with other abandoned property in its vicinity. If the property has substantial historical value, the department of history, arts, and libraries, pursuant to subsection (4), may impose a condition on the permit requiring the permittee to turn over recovered property to the department of history, arts, and libraries for the purpose of preserving the property or permitting public access to the property. The department of history, arts, and libraries may authorize the display of the property in a public or private museum or by a local unit of government. In addition to the conditions authorized by subsection (4), the department of history, arts, and libraries may provide for payment of salvage costs in connection with the recovery of the abandoned property.

(7) A person shall not recover cargo situated on, in, or associated with an abandoned watercraft that is located outside of a Great Lakes bottomlands preserve except as authorized by a permit issued pursuant to this section and part 13. Subject to subsection (4), the permit shall be issued to the first person applying for the permit. However, only the person who discovered the abandoned watercraft may apply for a permit during the first 90 days after the discovery. When a watercraft containing cargo is simultaneously discovered by more than 1 person, a permit shall be approved with respect to the first person or persons jointly applying for a permit.

(8) A person aggrieved by a condition contained on a permit or by the denial of an application for a permit may request an administrative review of the condition or the denial by the commission or the department of history, arts, and libraries, whichever disapproves the application or imposes the condition. A person shall file the request for review with the commission or the department of history, arts, and libraries, whichever is applicable, within 90 days after the permit application is submitted to the department. An administrative hearing conducted pursuant to this subsection shall be conducted under the procedures set forth in chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. If neither the department nor the department of history, arts, and libraries approves the application and an administrative review is requested from both the commission and the department of history, arts, and libraries, the appeals shall be combined upon request of the appellant or either the commission or the department of history, arts, and libraries and a single administrative hearing shall be conducted. The commission and the department of history, arts, and libraries shall issue jointly the final decision and order in the case.

(9) A permit issued under this section is valid until December 31 of the year in which the application for the permit was filed and is not renewable. If an item designated in a permit for recovery is not recovered, a permit holder may, upon request following the expiration of the permit, be issued a new permit to remove the same abandoned property if the permit holder demonstrates that diligence in attempting recovery was exercised under the previously issued permit.

(10) A permit issued under this section shall not be transferred or assigned unless the assignment is approved in writing by both the department and the department of history, arts, and libraries.

Sec. 76504. (1) The Mackinac Island state park shall be under the control and management of the commission, and a majority of the members of the commission constitutes a quorum for the transaction of business. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) The commission shall have the exclusive right to do either or both of the following:

(a) Lay out, manage, and maintain the park and preserve the old fort and other property held by the commission on or acquired by the commission after August 6, 2001.

(b) Promulgate and enforce rules not inconsistent with the laws of this state and necessary to implement the commission's duties.

(3) The commission may do 1 or more of the following:

(a) Enter into leases and establish prices for rentals or privileges upon property controlled by the commission.

(b) Sell or lease as personal property buildings or structures acquired by the commission in settlement of delinquent land rentals.

(c) Employ a director and other persons as may be needed.

(4) The rules of the commission shall apply to all roads situated on Mackinac Island state park lands. The commission shall not make a rule permitting the use of motor vehicles except motor vehicles owned by the state, a political subdivision of the state, or by a public utility, and used in the exercise of its franchise. The commission may provide by rule for the issuance of temporary permits for the operation of motor vehicles over roads situated on state park lands. The commission may grant permits pursuant to part 13 for the use of lands for the expansion of existing cemeteries, under terms and conditions as the commission prescribes. The commission may also grant privileges and franchises for waterworks, sewerage, transportation, and lighting, for a period of not more than 40 years. The commission shall prescribe by rule the maximum number of horse drawn vehicles for hire that may be licensed by the commission for operation within the park.

(5) The sheriff of the county of Mackinac, upon the application of the commission, shall appoint 1 or more persons who shall be designated by the commission as deputy sheriffs in and for the county, and who shall be employees of the commission but who shall not receive fees or emoluments for services as deputy sheriffs. The commission may establish

the compensation of the persons employed by the commission, but a debt or obligation shall not be created by the commission exceeding the amount of money at its disposal at the time.

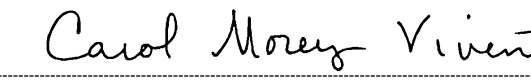
(6) All money received from rentals or privileges shall be paid promptly into the state treasury to be credited to the general fund and to be disbursed as appropriated by the legislature. The commission, in consideration of the furnishing of fire protection, street service, sewerage service, and other public service agreed upon, may remit reasonable rentals as the commission determines from leases of property acquired by the state under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and deeded to the commission, to the several tax assessing units in which the property is situated as provided in that act, in proportion to the delinquent taxes and special assessments of the units canceled against the description of land.

(7) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The commission shall provide to the governor an annual report and statement of receipts and expenditures, and recommendations and suggestions as the commission considers proper.

Sec. 80159. A person shall not place a beacon or buoy, other than a mooring buoy, in the waters of this state except as authorized by a permit issued by the department pursuant to part 13. The department may issue a permit for the placing of buoys or beacons in the waters of this state to mark obstruction to navigation, to designate bathing areas, to designate vessel anchorages, or for any other purpose if it will promote safety or navigation. An application for a permit shall contain information required by the department. If buoys or beacons are placed in the waters of this state without a permit having been issued, the department may order their removal. If, in the judgment of the department, buoys or beacons authorized by the department are found to be improperly placed, the reason for their placement no longer exists, or the buoys or beacons do not conform to the uniform system of marking established by state regulation, the department may revoke the permit authorizing their placement and may order their removal. Revocation of permits and orders of removal shall be by written notice to the person placing the buoys or beacons or to the person to whom the permit was issued at his or her last known address, directing the removal within a specified time. The person to whom the notice is directed shall remove the buoys or beacons in accordance with the instructions. If the person fails to remove the buoys or beacons within the specified time, the department may cause their removal, and the cost and expense of the removal shall be charged against the person authorized to place the buoys or beacons or, where authorization has not been granted, the person placing such buoys or beacons and shall be recoverable through any court of competent jurisdiction.

This act is ordered to take immediate effect.

Clerk of the House of Representatives



Secretary of the Senate

Approved _____

_____

Governor