

Act No. 531
Public Acts of 2006
Approved by the Governor
December 28, 2006
Filed with the Secretary of State
December 29, 2006
EFFECTIVE DATE: December 29, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senator Birkholz

ENROLLED SENATE BILL No. 1481

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, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 30104, 30105, and 30107 (MCL 324.30104, 324.30105, and 324.30107), sections 30104 and 30105 as amended by 2006 PA 275 and section 30107 as added by 1995 PA 59.

The People of the State of Michigan enact:

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 authorization under a general permit, a \$50.00 fee.

(c) 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.

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

(e) For major projects other than a project described in subdivision (c)(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.

(f) For all other projects not listed in subdivisions (a) through (e), 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) The department shall post on its website all of the following under this part:

- (a) A list of pending applications.
 - (b) Public notices.
 - (c) Public hearing schedules.
- (2) The department may hold a public hearing on pending applications.

(3) 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 established 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.

(4) 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.

(5) 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, 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 (3).

(6) In an emergency, the department may issue a conditional permit before the expiration of the 20-day period referred to in subsection (3).

(7) The department, by rule, 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 without providing notices or holding a public hearing pursuant to subsection (3). 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.

(8) The department, after notice and an opportunity for a public hearing, may issue general permits on a statewide basis or within a local unit of government for projects that are similar in nature, that will cause only minimal adverse environmental impacts when performed separately, and that will only have minimal cumulative adverse impact on the environment. A general permit issued under this subsection shall not be valid for more than 5 years. Among the activities the department may consider for general permit eligibility under this subsection are the following:

(a) The removal of qualifying small dams.

(b) The maintenance or repair of an existing pipeline, if the pipeline is maintained or repaired in a manner to assure that any adverse impact on the lake or stream will be minimized.

(9) The department may issue, deny, or impose conditions on project activities authorized under a minor project category or a general permit if the conditions are designed to remove an impairment to the lake or stream, to mitigate the impact of the project, or to otherwise improve water quality. The department may also establish a reasonable time when the proposed project is to be completed or terminated.

(10) If the department determines that activity in a proposed project, although within a minor project category or a general permit, is likely to cause more than minimal adverse environmental impacts, the department may require that the application be processed according to subsection (3) and reviewed for compliance with section 30106.

(11) As used in this section, "qualifying small dam" means a dam that meets all of the following conditions:

(a) The height of the dam is less than 2 feet.

(b) The impoundment from the dam covers less than 2 acres.

(c) The dam does not serve as the first dam upstream from the Great Lakes or their connecting waterways.

(d) The dam is not serving as a sea lamprey barrier.

(e) There are no threatened or endangered species that have been identified in the area that will be impacted by the project.

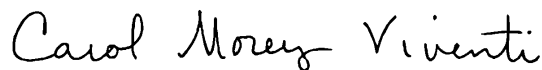
(f) There are no known areas of contaminated sediments in the area that will be impacted by the project.

(g) The department has received written permission for the removal of the dam from all riparian property owners adjacent to the dam's impoundment.

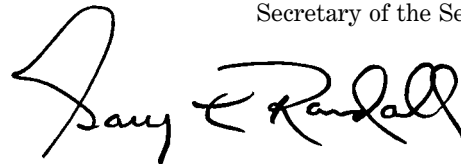
Sec. 30107. (1) A permit is effective until revoked for cause but not beyond its term and may be subject to renewal. A permit may specify the term and conditions under which the work is to be carried out. A permit may be revoked after a hearing for violation of any of its provisions, any provision of this part, any rule promulgated under this part, or any misrepresentation in application.

(2) A general permit may be modified or revoked if, after opportunity for a public hearing, the department determines that the activities authorized by the general permit have more than a minimal adverse impact on the environment on an individual or cumulative basis, or the activities generally would be more appropriately processed according to section 30105(3) and reviewed for compliance with section 30106.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor