

Act No. 276
Public Acts of 2008
Approved by the Governor
September 27, 2008
Filed with the Secretary of State
September 29, 2008
EFFECTIVE DATE: September 29, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Rep. Bennett

ENROLLED HOUSE BILL No. 6091

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 3104, 3306, 30104, 30109, 32312, and 32513 (MCL 324.3104, 324.3306, 324.30104, 324.30109, 324.32312, and 324.32513), section 3104 as amended by 2005 PA 33, section 3306 as added by 2004 PA 246, section 30104 as amended by 2006 PA 531, sections 30109 and 32513 as amended by 2003 PA 163, and section 32312 as amended by 2004 PA 325.

The People of the State of Michigan enact:

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, water quality control planning, development, and management, and the control of aquatic nuisance species. 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) To address discharges of aquatic nuisance species from oceangoing vessels that damage water quality, aquatic habitat, or fish or wildlife, the department shall facilitate the formation of a Great Lakes aquatic nuisance species coalition. The Great Lakes aquatic nuisance species coalition shall be formed through an agreement entered into with other states in the Great Lakes basin to implement on a basin-wide basis water pollution laws that prohibit the discharge of aquatic nuisance species into the Great Lakes from oceangoing vessels. The department shall seek to enter into an agreement that will become effective not later than January 1, 2007. The department shall consult with the department of natural resources prior to entering into this agreement. Upon entering into the agreement, the department shall notify the Canadian Great Lakes provinces of the terms of the agreement. The department shall seek funding from the Great Lakes protection fund authorized under part 331 to implement the Great Lakes aquatic nuisance species coalition.

(3) 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.

(4) 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.

(5) Except as provided in subsections (6), (7), and (9), until October 1, 2011, an application for a floodplain permit shall be accompanied by a fee of \$500.00. Until October 1, 2011, 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.

(6) Until October 1, 2011, 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.

(7) 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 (5) or (6).

(8) 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.

(9) 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. 3306. (1) Until October 1, 2011, an application for a certificate of coverage under this part shall be accompanied by a fee of \$75.00. Until October 1, 2011, subject to subsection (2), an application for an individual permit under this part shall be accompanied by the following fee, based on the size of the area of impact:

- (a) Less than 1/2 acre, \$75.00.
- (b) One-half acre or more but less than 5 acres, \$200.00.
- (c) Five acres or more but less than 20 acres, \$400.00.
- (d) Twenty acres or more but less than 100 acres, \$800.00.
- (e) One hundred acres or more, \$1,500.00.

(2) 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. 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, 2011, 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. 30109. Upon the written request of a riparian owner and upon payment of a service fee, the department may enter into a written agreement with a riparian owner establishing the location of the ordinary high-water mark for his or her property. In the absence of substantially changed conditions, the agreement shall be conclusive proof of the location in all matters between the state and the riparian owner and his or her successors in interest. Until October 1, 2011, the service fee provided for in this section shall be \$500.00. The department shall forward all service fees collected under this section to the state treasurer for deposit into the fund.

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, 2011, 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 rule promulgated under subsection (1) has been violated, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

Sec. 32513. (1) Before any work or connection specified in section 32512 or 32512a is undertaken, a person shall file an application with the department of environmental quality setting forth the following:

(a) The name and address of the applicant.

(b) The legal description of the lands included in the project.

(c) A summary statement of the purpose of the project.

(d) A map or diagram showing the proposal on an adequate scale with contours and cross-section profiles of the waterway to be constructed.

(e) Other information required by the department of environmental quality.

(2) Except as provided in subsections (3) and (4), until October 1, 2011, an application for a permit under this section shall be accompanied by a fee according to the following schedule:

(a) For a project in a category of activities for which a general permit is issued under section 32512a, a fee of \$100.00.

(b) For activities included in the minor project category as described in rules promulgated under this part and for a permit for the removal of vegetation in an area that is not more than 100 feet wide or the width of the property, whichever is less, or the mowing of vegetation in excess of what is allowed in section 32512(2)(a)(ii), in the area between the ordinary high-water mark and the water's edge, a fee of \$50.00.

(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 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 revetment of 500 feet or more.

(iv) Filling or draining of 1 acre or more of coastal wetland.

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

(vi) New breakwater or channel jetty.

(vii) Shore protection, such as groins and underwater stabilizers, that extend 150 feet or more on Great Lakes bottomlands.

(viii) New commercial dock or wharf of 300 feet or more in length.

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

(3) 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.

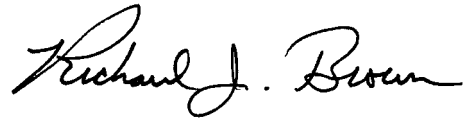
(d) Section 3104.

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

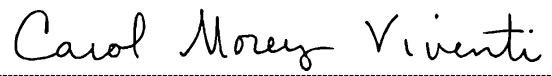
(4) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department of environmental quality, the department of environmental quality may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor