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BILL ANALYSIS

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House Bill 4554 (Substitute H-3 as passed by the House)
Sponsor: Representative Greg MacMaster
House Committee: Natural Resources, Tourism, and Outdoor Recreation
Senate Committee: Natural Resources, Environment and Great Lakes

Date Completed: 9-14-11

CONTENT

The bill would amend Parts 13 (Permits), 301 (Inland Lakes and Streams), and 326 (Great Lakes Submerged Logs Recovery) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Prohibit a person from removing submerged logs from rivers or streams for the purpose of submerged log recovery.**
- **Establish a \$500 Part 301 permit application fee for the removal of submerged logs from bottomland of an inland lake.**
- **Eliminate a provision prohibiting the Department of Environmental Quality (DEQ) from issuing a permit for the removal of submerged logs from the Great Lakes after December 1, 2003.**
- **Prohibit a person from removing submerged logs from Great Lakes bottomlands except as authorized by a permit issued by the DEQ.**
- **Establish a processing period for a Great Lakes submerged log removal permit.**
- **Revise the expiration date of a Great Lakes submerged log removal permit from January 1, 2013, to five years after the permit was issued.**
- **Replace the previous \$3,500 permit application fee under Part 326 with a \$500 application fee and a \$3,000 log recovery fee, and require the log recovery fee to be deposited in the Great Lakes Fund.**
- **Revise the requirements pertaining to the bond a permit applicant must provide to the DEQ.**
- **Revise the method by which payments to the State based on the sawlog stumpage value of recovered submerged logs are calculated.**
- **Expand the allowed uses of the Great Lakes Fund to include administration of Part 326.**

Part 13: Permits

Part 13 contains general provisions applicable to all permits issued under NREPA, including specific processing periods for each type of permit. For a Great Lakes submerged log recovery permit under Part 326, the bill would establish a processing period of 90 days after the close of the review or comment period on the permit, or, if a public hearing were held, 90 days after the date of the public hearing.

Under Part 13, the DEQ must approve or deny an application for a permit within the prescribed processing period. Upon a permit applicant's request, the DEQ may extend the

processing period by not more than 20%. Approval of an application may be granted with conditions or modifications necessary to achieve compliance with the part or parts of NREPA under which the permit is issued.

If the DEQ fails to satisfy these requirements with respect to specific types of permits, the application must be considered approved and the DEQ must be considered to have made any determination required for approval. The bill would include a submerged log recovery permit under Part 326 among the permits to which this provision applies.

Part 301: Inland Lakes and Streams

The bill would prohibit a person from removing submerged logs from rivers or streams under Part 301 for the purpose of submerged log recovery. This provision would not prohibit the DEQ from issuing a permit under Part 301 for other purposes, including removing logjams or removing logs that interfered with navigation of the river or stream.

Part 301 prohibits a person from undertaking certain types of projects without a permit issued by the DEQ. Until October 1, 2011, a permit application must be accompanied by a fee based on an administrative cost. The bill would establish a \$500 permit application fee for the removal of submerged logs from bottomland of an inland lake.

Part 326: Great Lakes Submerged Logs Recovery

Permits & Fees. Currently, a person must obtain a permit from the DEQ under Part 326 before removing submerged logs from bottomlands. The bill, instead, would prohibit a person from removing submerged logs from bottomlands except as authorized by a permit issued by the DEQ under Part 13.

(As used in Part 326, "bottomlands" means land in the Great Lakes, and bays and harbors of the Great Lakes, lying below and lakeward of the ordinary high-water mark.)

The bill would eliminate a provision prohibiting the DEQ from issuing a submerged log removal permit after December 31, 2003.

An application for a submerged log removal permit would have to include a \$500 application fee. (The fee for the permits issued before January 1, 2004, was \$3,500.)

If the DEQ issued a submerged log removal permit, it would have to condition the permit on compliance with both of the following:

- The permittee had provided the DEQ with a \$3,000 log recovery fee.
- The permittee has provided the DEQ the required bond (described below).

The DEQ would have to notify an applicant in writing within 10 days after approving or denying a permit.

The DEQ would have to forward log recovery fees received under the bill to the State Treasurer for deposit into the Great Lakes Fund.

Permit Expiration Date. Part 326 establishes an expiration date of January 1, 2013, for each submerged log removal permit. Under the bill, a permit would expire five years after it was issued. A permit issued before the bill took effect, however, would expire five years after the bill's effective date. Part 326 requires a permit applicant to notify the DEQ of the date on which the Federal government issued its approval for the permit. Under the bill, this would apply if Federal approval were required. The bill would eliminate a requirement

that processing fees received under these provisions be forwarded to the State Treasurer for deposit into the Submerged Log Recovery Fund.

Bond Requirements. Under Part 326, an applicant for a permit must provide a bond acceptable to the DEQ in the amount of \$100,000. Under the bill, the bond would have to be at least \$10,000 but not more than \$100,000 as required by the Department, based upon permit conditions including costs of restoration and payments (described below). Except as otherwise provided, the term of the bond would have to extend for one year after the submerged log removal permit expired. (Part 326 allows a permittee to request and the DEQ to grant termination of a permit before its expiration date, including release from quarterly reports and bond requirements.)

Under the bill, "bond" would mean a performance bond from a surety company authorized to transact business in Michigan or an irrevocable letter of credit, in favor of the DEQ.

Payments. Currently, the State reserves a payment of two times the sawlog stumpage value of each submerged log that is removed from unpatented land. The payments are forwarded to the State Treasurer for deposit into the Submerged Log Recovery Fund.

Under the bill, the State would reserve a payment of 15% of the sawlog stumpage value of each submerged log removed from unpatented land.

"Sawlog stumpage value" means the most recent average value of standing timber on State forestland for each species as determined and reported by the Department of Natural Resources (DNR). If a species is no longer harvested on State forestland, the term means the most recent highest value of any species being harvested on State forestland currently as determined and reported by the DNR.

The bill would delete this definition. Instead, "sawlog stumpage value" would mean the price received from recovered submerged logs.

Great Lakes Fund. Under Part 326, the DEQ may spend money from the Fund, upon appropriation, only for environmental projects related to the Great Lakes and areas contiguous to the Great Lakes, including the prevention and management of nonnative species, coastal wetland restoration, contaminated sediment cleanup, and underwater preserve management. Under the bill, the money also could be used for the administration of Part 326.

MCL 324.1301 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would likely increase the amount of revenue received by the Department of Environmental Quality, as it would make several changes to the way individuals seeking permits to recover submerged logs pay for those permits and compensate the State for the logs recovered. The bill would reduce the application fee from \$3,500 to \$500. Current law prohibits the Department from issuing these permits after December 31, 2003; this prohibition would be removed under the bill. Assuming there is interest in obtaining permits for submerged log recovery, the reduced fee would bring an unknown amount of revenue into the Department.

Additionally, the bill would change the State's compensation for recovered logs from 2.0 times the sawlog stumpage value of each recovered log to 15% of the price received from the recovered logs. It is unclear whether this change would represent an increase or decrease in the amount received by the State for a recovered log. To date, no logs have been recovered under this program, so to the extent that this new stumpage fee served as

an incentive to recover the logs, additional revenue could be received by the Department. Any revenue received from stumpage fees is credited to the Submerged Log Recovery Fund, which is statutorily required to make an annual deposit of 50% of its balance into the Great Lakes Fund, and 50% into the Forest Development Fund.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.