

HOUSE BILL No. 4607

May 3, 2011, Introduced by Reps. Hughes, Pscholka, Daley, Lyons, Wayne Schmidt, Bumstead, Kowall, Franz, Crawford, Foster, Jacobsen, McMillin, Rogers, Heise, Yonker, Outman, Price, Nesbitt, LaFontaine, Haveman, Hooker, Pettalia, Zorn, Potvin, Denby and Ouimet and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30105 and 30107 (MCL 324.30105 and 324.30107), section 30105 as amended by 2009 PA 120 and section 30107 as amended by 2006 PA 531.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30105. (1) The department shall post on its website all
2 of the following under this part:

3 (a) A list of pending applications.

4 (b) Public notices.

5 (c) Public hearing schedules.

6 (2) The department may hold a public hearing on pending

1 applications.

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

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

23 (5) At least 10 days' notice of a hearing to be held under
24 this section shall be given by publication in a newspaper
25 circulated in the county where the project is to be located, to the
26 person requesting the hearing, and to the persons and governmental
27 units that are entitled to receive a copy of the application

1 pursuant to subsection (3).

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

5 (7) After providing notice and an opportunity for a public
6 hearing, the department shall establish minor project categories of
7 activities and projects that are similar in nature, have minimal
8 adverse environmental effects when performed separately, and will
9 have only minimal cumulative adverse effects on the environment.
10 The department may act upon an application received pursuant to
11 section 30104 for an activity or project within a minor project
12 category without providing notices pursuant to subsection (3). All
13 other provisions of this part, except provisions applicable only to
14 general permits, are applicable to a minor project.

15 (8) The department, after notice and an opportunity for a
16 public hearing, shall issue general permits on a statewide basis or
17 within a local unit of government for projects that are similar in
18 nature, that will cause only minimal adverse environmental effects
19 when performed separately, and that will only have minimal
20 cumulative adverse effects on the environment. Before authorizing a
21 specific project to proceed under a general permit, the department
22 may provide notice pursuant to subsection (3) but shall not hold a
23 public hearing and shall not typically require a site inspection. A
24 general permit issued under this subsection shall not be valid for
25 more than 5 years, **EXCEPT FOR A PERMIT AUTHORIZING DREDGING OF**
26 **BOTTOMLAND, WHICH SHALL BE VALID FOR 10 YEARS.** Among the activities
27 the department may consider for general permit eligibility under

1 this subsection are the following:

2 (a) The removal of qualifying small dams.

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

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

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

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

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

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

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

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

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

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

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

6 Sec. 30107. (1) A permit is effective until revoked for cause
7 but not beyond its term and may be subject to renewal. ~~A-SUBJECT TO~~
8 **SUBSECTION (2),** A permit may specify the term and conditions under
9 which the work is to be carried out. A permit may be revoked after
10 a hearing for violation of any of its provisions, any provision of
11 this part, any rule promulgated under this part, or any
12 misrepresentation in application.

13 **(2) THE TERM OF A PERMIT AUTHORIZING DREDGING OF BOTTOMLAND**
14 **SHALL BE 10 YEARS.**

15 **(3)** ~~(2)~~A general permit may be modified or revoked if, after
16 opportunity for a public hearing, the department determines that
17 the activities authorized by the general permit have more than a
18 minimal adverse impact on the environment on an individual or
19 cumulative basis, or the activities generally would be more
20 appropriately processed ~~according to section 30105(3) and reviewed~~
21 ~~for compliance with section 30106.~~**AS OTHERWISE PROVIDED IN THIS**
22 **PART.**