

Act No. 218
Public Acts of 2011
Approved by the Governor
November 10, 2011
Filed with the Secretary of State
November 10, 2011
EFFECTIVE DATE: November 10, 2011

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Reps. MacMaster, Huuki, Foster, Horn, Opsommer, Rutledge, McBroom, Johnson, Hughes, Wayne Schmidt, Haugh, Yonker, Bumstead, Cotter, Crawford, Daley, Haveman, Hooker, Jacobsen, Kowall, Lori, Lyons, Price and Rendon

ENROLLED HOUSE BILL No. 4554

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 1301, 1307, 30102, 30104, 32603, 32604, 32606, 32607, 32609, and 32611 (MCL 324.1301, 324.1307, 324.30102, 324.30104, 324.32603, 324.32604, 324.32606, 324.32607, 324.32609, and 324.32611), section 1301 as amended by 2009 PA 120, section 1307 as added by 2004 PA 325, section 30102 as amended by 2009 PA 139, section 30104 as amended by 2011 PA 90, sections 32603, 32604, 32606, and 32609 as added by 2000 PA 278, section 32607 as amended by 2004 PA 546, and section 32611 as added by 2000 PA 277.

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 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 license.
- (vii) Section 8310a, agricultural pesticide dealer license.
- (viii) Section 8504, license to manufacture or distribute fertilizer.
- (ix) Section 9112, local soil erosion and sedimentation control permit.

- (x) Section 11509, solid waste disposal area construction permit.
- (xi) Section 11512, solid waste disposal area operating license.
- (xii) Section 11542, municipal solid waste incinerator ash landfill operating license amendment.
- (xiii) Section 11702, septage waste servicing license or septage waste vehicle license.
- (xiv) Section 11709, septage waste site permit.
- (xv) Section 30104, inland lakes and streams project permit.
- (xvi) Section 30304, state permit for dredging, filling, or other activity in wetland. Permit includes an authorization for a specific project to proceed under a general permit issued under section 30312.
- (xvii) Section 31509, dam construction, repair, or removal permit.
- (xviii) Section 32312, flood risk, high risk, or environmental area permit.
- (xix) Section 32503, permit for dredging and filling bottomland.
- (xx) Section 32603, permit for submerged log removal from Great Lakes bottomlands.
- (xxi) Section 35304, department permit for critical dune area use.
- (xxii) Section 36505, endangered species permit.
- (xxiii) Section 41702, game bird hunting preserve license.
- (xxiv) Section 42101, dog training area permit.
- (xxv) Section 42501, fur dealer's license.
- (xxvi) Section 42702, game dealer's license.
- (xxvii) Section 44513, charter boat operating permit under reciprocal agreement.
- (xxviii) Section 44517, boat livery operating permit.
- (xxix) Section 45503, permit to take frogs for scientific use.
- (xxx) Section 45902, game fish propagation license.
- (xxxi) Section 45906, game fish import license.
- (xxxii) Section 61525, oil or gas well drilling permit.
- (xxxiii) Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.
- (xxxiv) Section 63103a, ferrous mineral mining permit.
- (xxxv) Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit, respectively.
- (xxxvi) Section 63704, sand dune mining permit.
- (xxxvii) Section 72108, use permits for Michigan trailway.
- (xxxviii) Section 76109, sunken aircraft or watercraft abandoned property recovery permit.
- (xxxix) Section 76504, Mackinac Island motor vehicle and land use permits.
- (xxxx) 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) Twenty days for a permit under section 61525 or 62509.
 - (ii) Thirty days for a permit under section 9112.
 - (iii) Thirty days after the department consults with the underwater salvage and preserve committee created under section 76103, for a permit under section 76109.
 - (iv) Sixty days, for a permit under section 30104 for a minor project as established by rule under section 30105(7) or for a permit under section 32312.
 - (v) Sixty days or, if a hearing is held, 90 days for a permit under section 35304.
 - (vi) 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(7), or for a permit under section 31509.
 - (vii) Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation 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 or an authorization for a specific project to proceed under a general permit issued under section 30312.
 - (ix) Ninety days after the close of the review or comment period under section 32604, or if a public hearing is held, 90 days after the date of the public hearing for a permit under section 32603.
 - (x) One hundred twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.
 - (xi) 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.

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

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, 30307, or 32603, 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. 30102. (1) Except as provided in this part, a person without a permit from the department shall not do any of the following:

(a) Dredge or fill bottomland.

(b) Construct, enlarge, extend, remove, or place a structure on bottomland.

(c) Construct, reconfigure, or expand a marina.

(d) Create, enlarge, or diminish an inland lake or stream.

(e) Structurally interfere with the natural flow of an inland lake or stream.

(f) Construct, dredge, commence, extend, or enlarge an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection with an existing inland lake or stream, or where any part of the artificial waterway is located within 500 feet of the ordinary high-water mark of an existing inland lake or stream.

(g) Connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or similar water with an existing inland lake or stream for navigation or any other purpose.

(2) A person shall not remove submerged logs from rivers or streams for the purpose of submerged log recovery. This subsection does not prohibit the department from issuing a permit under this part for other purposes, including removing logjams or removing logs that interfere with navigation of the river or stream.

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, 2015, an application for a permit shall be accompanied by a fee based on an administrative cost in accordance with the following schedule:

(a) For activities included in a minor project category, 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 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.
 - (e) For the removal of submerged logs from bottomland of an inland lake, a \$500.00 fee.
 - (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. 32603. (1) A person shall not remove submerged logs from bottomlands except as authorized by a permit issued by the department pursuant to part 13.

(2) The department may issue a permit under this part to a person for the removal of submerged logs from patented lands if permission is received from the lawful owner of the patented lands.

(3) A person shall not recover, alter, or destroy abandoned property as defined in part 761 while engaging in submerged log removal operations under a submerged log removal permit issued under this part.

(4) For submerged log recovery in underwater preserves established under part 761, the department shall place reasonable conditions on submerged log removal permits to prevent damage to abandoned watercraft or other features of archaeological, historical, recreational, or environmental significance and to minimize conflicts between recreational activities within the preserve and the submerged log recovery operation.

Sec. 32604. (1) Applications for submerged log removal permits shall be submitted before February 1 of each calendar year.

(2) An application for a submerged log removal permit shall be submitted in writing on a form provided by the department and shall include all of the following:

(a) A description of the proposed bottomland log removal area with boundaries delineated by the use of current technology such as a digital global positioning system or other technology approved by the department. The proposed bottomland log removal area shall be a contiguous area of not more than 320 acres. The area proposed shall be square or rectangular in shape, and the length shall not exceed the width by more than a factor of 6.

(b) A description of the methods to be used to raise the submerged logs, the time of year during which submerged logs will be raised, and the procedures to be used for transferring logs to the shore.

(c) Identification of any adverse environmental impacts associated with the proposed submerged log removal method.

(d) Identification of the steps proposed to mitigate any adverse environmental impacts caused by the proposed submerged log removal operation.

(e) Other information that the department considers necessary in evaluating a submerged log removal permit application.

(f) A \$500.00 application fee.

(3) An application for a submerged log removal permit is not complete until all information requested on the application form and any other information requested by the department are received. Within 30 days of its receipt of an application, the department shall notify the applicant in writing if the application is deficient. The applicant shall submit the requested information to the department within 30 days after the date the notice is provided. If the applicant fails to respond within the 30-day period, the department shall deny the submerged log removal permit unless the applicant requests and the department approves an extension of time based upon the applicant's reasonable justification for the extension.

(4) Application fees received under this section shall be forwarded to the state treasurer for deposit into the fund.

Sec. 32606. (1) The department shall review each complete application received for a submerged log removal permit and shall not issue a permit unless the department determines both of the following:

(a) That any adverse impacts, including, but not limited to, impacts to the environment, natural resources, riparian rights, and the public trust are minimal and will be mitigated to the extent practicable.

(b) That the proposed activity will not unreasonably affect the public health, safety, and welfare.

(2) The department may determine that certain areas within a proposed bottomland log removal area described in an application for a submerged log removal permit shall not be authorized for submerged log removal based upon adverse impacts, including, but not limited to, adverse impacts to the environment, natural resources, riparian rights, and the public trust.

(3) The department shall make a decision on whether or not to issue a submerged log removal permit under this part within 90 days after the close of the review and comment period under section 32605 or, if a public hearing is held under section 32608, within 90 days after the date of that public hearing.

(4) If the department issues a submerged log removal permit, the department shall condition the permit on compliance with both of the following:

(a) The permittee has provided the department with a \$3,000.00 log recovery fee.

(b) The permittee has provided the department a bond as required in section 32607(7).

(5) The department shall notify the applicant in writing within 10 days after the date the department approves or denies a submerged log removal permit under this section.

(6) The department shall forward log recovery fees received under this subsection to the state treasurer for deposit into the Great Lakes fund created in section 32611.

Sec. 32607. (1) The department shall not authorize the same bottomland log removal area in more than 1 submerged log removal permit at any 1 time.

(2) The department may modify the boundaries of a proposed bottomland log removal area in a submerged log removal permit to avoid overlaps with other active submerged log removal permits or adverse impacts, including, but not limited to, impacts to the environment, natural resources, riparian rights, and the public trust.

(3) A submerged log removal plan approved by the department shall be included in each submerged log removal permit.

(4) A submerged log removal permit shall contain terms and conditions that are determined by the department to protect the environment, natural resources, riparian rights, and the public trust.

(5) Each submerged log removal permit shall expire 5 years after the date the permit is issued. However, a submerged log removal permit issued prior to the effective date of the 2011 amendatory act that amended this section expires 5 years after the effective date of the 2011 amendatory act that amended this section. If federal approval is required, an applicant shall notify the department of the date on which the federal government issued its approval for the submerged log removal permit.

(6) A submerged log removal permit issued under this section is not transferrable unless the transfer is approved in writing by the department.

(7) An applicant for a submerged log removal permit shall provide a bond acceptable to the department in the amount of not less than \$10,000.00 or more than \$100,000.00 as required by the department, based upon permit conditions including costs of restoration and payments under section 32609. Except as provided in subsection (8), the term of the bond shall extend for 1 year following the expiration of the submerged log removal permit. The bond shall be provided to the department at least 10 days prior to beginning submerged log removal in a bottomland log removal area. The

bond shall ensure compliance with the submerged log removal permit and all required payments under section 32609. If a submerged log removal permit is terminated under subsection (8), the department shall issue a written statement releasing the permittee or bonding company, or both, upon satisfaction of the department as to the compliance of the permittee with the terms and conditions of the permit and satisfaction of all payments as required in section 32609.

(8) A permittee may request, in writing, and the department may grant, termination of a submerged log removal permit prior to the expiration date, including release from quarterly reports and bond requirements.

(9) As used in this section, "bond" means a performance bond from a surety company authorized to transact business in this state or an irrevocable letter of credit, in favor of the department.

Sec. 32609. (1) The state reserves a payment of 15% of the sawlog stumpage value of each submerged log that is removed from unpatented lands. As used in this subsection, "sawlog stumpage value" means the price received from recovered submerged logs.

(2) The holder of a submerged log removal permit under this part shall provide the department with a detailed report and all payments due under this section within 30 days after the close of each calendar quarter. The report shall include an accurate scaling at dockside of all submerged logs removed, by species. The permittee shall provide for an independent agent, approved by the department in writing, to conduct the scaling and species determination.

(3) All payments received under this section shall be forwarded to the state treasurer for deposit into the fund.

(4) After a permittee is notified in writing that a payment under this section is overdue, the department may order suspension of the submerged log removal permit until the payment is submitted in full. The permittee shall not resume submerged log removal operations until the department provides written authorization for the operations to resume.

Sec. 32611. (1) The Great Lakes fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the Great Lakes fund. The state treasurer shall direct the investment of the Great Lakes fund. The state treasurer shall credit to the Great Lakes fund interest and earnings from Great Lakes fund investments.

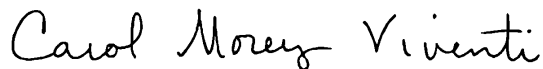
(3) Money in the Great Lakes fund at the close of the fiscal year shall remain in the Great Lakes fund and shall not lapse to the general fund.

(4) The department shall expend money from the Great Lakes fund, upon appropriation, only for environmental projects related to the Great Lakes and areas contiguous to the Great Lakes including, but not limited to, the prevention and management of nonnative species, coastal wetland restoration, contaminated sediment cleanup, and underwater preserve management, and for the administration of this part.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor