

**SUBSTITUTE FOR
SENATE BILL NO. 264**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 1301, 3109c, 30105, and 32512a (MCL 324.1301,
324.3109c, 324.30105, and 324.32512a), section 1301 as amended by
2012 PA 249, section 3109c as added by 2006 PA 97, section 30105 as
amended by 2009 PA 120, and section 32512a as amended by 2012 PA
247, and by adding sections 30106b and 32515a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1301. As used in this part:

2 (a) "Application period" means the period beginning when an
3 application for a permit is received by the state and ending when
4 the application is considered to be administratively complete under
5 section 1305 and any applicable fee has been paid.

6 (b) "Department" means the department, agency, or officer

1 authorized by this act to approve or deny an application for a
2 particular permit.

3 (c) "Director" means the director of the state department
4 authorized under this act to approve or deny an application for a
5 particular permit or the director's designee.

6 (d) "Permit" means a permit or operating license required by
7 any of the following sections or by rules promulgated thereunder,
8 or, in the case of section 9112, by an ordinance adopted
9 thereunder:

10 (i) Section 3104, floodplain alteration permit.

11 (ii) Section 3503, permit for use of water in mining iron ore.

12 (iii) Section 4105, sewerage system construction permit.

13 (iv) Section 6516, vehicle testing license.

14 (v) Section 6521, motor vehicle fleet testing permit.

15 (vi) Section 8310, restricted use pesticide dealer license.

16 (vii) Section 8310a, agricultural pesticide dealer license.

17 (viii) Section 8504, license to manufacture or distribute
18 fertilizer.

19 (ix) Section 9112, local soil erosion and sedimentation control
20 permit.

21 (x) Section 11509, solid waste disposal area construction
22 permit.

23 (xi) Section 11512, solid waste disposal area operating
24 license.

25 (xii) Section 11542, municipal solid waste incinerator ash
26 landfill operating license amendment.

27 (xiii) Section 11702, septage waste servicing license or septage

1 waste vehicle license.

2 (xiv) Section 11709, septage waste site permit.

3 (xv) Section 30104, inland lakes and streams project permit.

4 (xvi) Section 30304, state permit for dredging, filling, or
5 other activity in wetland. Permit includes an authorization for a
6 specific project to proceed under a general permit issued under
7 section 30312.

8 (xvii) Section 31509, dam construction, repair, or removal
9 permit.

10 (xviii) Section 32312, flood risk, high risk, or environmental
11 area permit.

12 (xix) Section ~~32503~~, **32512**, permit for dredging and filling
13 bottomland.

14 (xx) Section 32603, permit for submerged log removal from Great
15 Lakes bottomlands.

16 (xxi) Section 35304, department permit for critical dune area
17 use.

18 (xxii) Section 36505, endangered species permit.

19 (xxiii) Section 41702, game bird hunting preserve license.

20 (xxiv) Section 42101, dog training area permit.

21 (xxv) Section 42501, fur dealer's license.

22 (xxvi) Section 42702, game dealer's license.

23 (xxvii) Section 44513, charter boat operating permit under
24 reciprocal agreement.

25 (xxviii) Section 44516, boat livery operating permit.

26 (xxix) Section 45503, permit to take frogs for scientific use.

27 (xxx) Section 45902, game fish propagation license.

1 (xxxi) Section 45906, game fish import license.

2 (xxxii) Section 61525, oil or gas well drilling permit.

3 (xxxiii) Section 62509, brine, storage, or waste disposal well
4 drilling or conversion permit or test well drilling permit.

5 (xxxiv) Section 63103a, ferrous mineral mining permit.

6 (xxxv) Section 63514 or 63525, surface coal mining and
7 reclamation permit or revision of the permit, respectively.

8 (xxxvi) Section 63704, sand dune mining permit.

9 (xxxvii) Section 72108, use permits for Michigan trailway.

10 (xxxviii) Section 76109, sunken aircraft or watercraft abandoned
11 property recovery permit.

12 (xxxix) Section 76504, Mackinac Island motor vehicle and land
13 use permits.

14 (xxxx) Section 80159, buoy or beacon permit.

15 (e) "Processing deadline" means the last day of the processing
16 period.

17 (f) "Processing period" means the following time period after
18 the close of the application period, for the following permit, as
19 applicable:

20 (i) Twenty days for a permit under section 61525 or 62509.

21 (ii) Thirty days for a permit under section 9112 or 44516.

22 (iii) Thirty days after the department consults with the
23 underwater salvage and preserve committee created under section
24 76103, for a permit under section 76109.

25 (iv) Sixty days, for a permit under section 30104 for a minor
26 project ~~as established by rule~~ under section 30105(7) **OR 32512A(1),**
27 **OR AN AUTHORIZATION FOR A SPECIFIC PROJECT TO PROCEED UNDER A**

1 **GENERAL PERMIT ISSUED SECTION 30105(8) OR 32512A(2)**, or for a
2 permit under section 32312.

3 (v) Sixty days or, if a hearing is held, 90 days for a permit
4 under section 35304.

5 (vi) Sixty days or, if a hearing is held, 120 days for a permit
6 under section 30104, other than a permit ~~for a minor project as~~
7 ~~established by rule under section 30105(7)~~, **OR AUTHORIZATION**

8 **DESCRIBED IN SUBPARAGRAPH (ii) OR (iv)**, or for a permit under section
9 31509.

10 (vii) Ninety days for a permit under section 11512, a revision
11 of a surface coal mining and reclamation permit under section
12 63525, or a permit under section 72108.

13 (viii) Ninety days or, if a hearing is held, 150 days for a
14 permit under section 3104 ~~, OR 30304, or 32503 or an authorization~~
15 ~~for a specific project to proceed under a general permit issued~~
16 ~~under section 30312.~~ **A PERMIT UNDER SECTION 32512 OTHER THAN A**
17 **PERMIT DESCRIBED IN SUBPARAGRAPH (iv).**

18 (ix) Ninety days after the close of the review or comment
19 period under section 32604, or if a public hearing is held, 90 days
20 after the date of the public hearing for a permit under section
21 32603.

22 (x) One hundred twenty days for a permit under section 11509,
23 11542, 63103a, 63514, or 63704.

24 (xi) One hundred fifty days for a permit under section 36505.
25 However, if a site inspection or federal approval is required, the
26 150-day period is tolled pending completion of the inspection or
27 receipt of the federal approval.

1 (xiii) For any other permit, 150 days or, if a hearing is held,
2 90 days after the hearing, whichever is later.

3 Sec. 3109c. Notwithstanding any other provision of this part
4 or the rules promulgated under this part, the open water disposal
5 of ~~contaminated~~-dredge materials **THAT ARE CONTAMINATED WITH TOXIC**
6 **SUBSTANCES AS DEFINED IN R 323.1205 OF THE MICHIGAN ADMINISTRATIVE**
7 **CODE** is prohibited.

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

10 (a) A list of pending applications.

11 (b) Public notices.

12 (c) Public hearing schedules.

13 (2) The department may hold a public hearing on pending
14 applications.

15 (3) Except as otherwise provided in this section, upon
16 receiving an application, the department shall submit copies for
17 review to the director of the department of community health or the
18 local health department designated by the director of the
19 department of community health, to the city, village, or township
20 and the county where the project is to be located, to the local
21 conservation district, to the watershed council established under
22 part 311, if any, to the local port commission, if any, and to the
23 persons required to be included in the application pursuant to
24 section 30104(1). Each copy of the application shall be accompanied
25 by a statement that unless a written request is filed with the
26 department within 20 days after the submission for review, the
27 department may grant the application without a public hearing where

1 the project is located. The department may hold a public hearing
2 upon the written request of the applicant or a riparian owner or a
3 person or governmental unit that is entitled to receive a copy of
4 the application pursuant to this subsection.

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

9 (5) At least 10 days' notice of a hearing to be held under
10 this section shall be given by publication in a newspaper
11 circulated in the county where the project is to be located, to the
12 person requesting the hearing, and to the persons and governmental
13 units that are entitled to receive a copy of the application
14 pursuant to subsection (3).

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

18 (7) After providing notice and an opportunity for a public
19 hearing, the department shall establish minor project categories of
20 activities and projects that are similar in nature, have minimal
21 adverse environmental effects when performed separately, and will
22 have only minimal cumulative adverse effects on the environment.
23 The department may act upon an application received pursuant to
24 section 30104 for an activity or project within a minor project
25 category without providing notices pursuant to subsection (3). All
26 other provisions of this part, except provisions applicable only to
27 general permits, are applicable to a minor project. **THE DEPARTMENT**

1 SHALL CONSIDER ESTABLISHING A MINOR PROJECT CATEGORY UNDER THIS
2 SUBSECTION FOR MAINTENANCE DREDGING ASSOCIATED WITH A MARINA OF
3 MATERIAL THAT HAS BEEN DETERMINED THROUGH TESTING TO BE 90% OR MORE
4 SAND.

5 (8) The department, after notice and an opportunity for a
6 public hearing, shall issue general permits on a statewide basis or
7 within a local unit of government for projects that are similar in
8 nature, that will cause only minimal adverse environmental effects
9 when performed separately, and that will only have minimal
10 cumulative adverse effects on the environment. Before authorizing a
11 specific project to proceed under a general permit, the department
12 may provide notice pursuant to subsection (3) but shall not hold a
13 public hearing and shall not typically require a site inspection. A
14 general permit issued under this subsection shall not be valid for
15 more than 5 years. Among the activities the department may consider
16 for general permit eligibility under this subsection are the
17 following:

18 (a) The removal of qualifying small dams.

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

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

1 completed or terminated.

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

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

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

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

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

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

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

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

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

22 **SEC. 30106B. A PERMIT UNDER THIS PART TO DREDGE OR PLACE**
23 **DREDGED SPOILS ON BOTTOMLAND IS SUBJECT TO BOTH OF THE FOLLOWING:**

24 **(A) THE PERMIT SHALL BE VALID FOR A PERIOD OF 5 YEARS.**

25 **(B) DURING THE TERM OF THE PERMIT, THE DEPARTMENT SHALL NOT**
26 **REQUIRE ADDITIONAL ENVIRONMENTAL STUDIES OR SURVEYS UNLESS AN ACT**
27 **OF GOD RESULTS IN SIGNIFICANT GEOLOGICAL OR ECOLOGICAL CHANGES TO**

1 **THE PERMITTED AREA.**

2 Sec. 32512a. (1) After providing notice and an opportunity for
3 a public hearing, the department shall establish minor project
4 categories of activities that are similar in nature, have minimal
5 adverse environmental effects when performed separately, and will
6 have only minimal cumulative adverse effects on the environment.
7 The department may act upon an application received pursuant to
8 section 32513 for an activity within a minor project category
9 without providing notice pursuant to section 32514. A minor project
10 category shall not be valid for more than 5 years, but may be
11 reestablished. All other provisions of this part, except provisions
12 applicable only to general permits, are applicable to a minor
13 project. **THE DEPARTMENT SHALL CONSIDER ESTABLISHING A MINOR PROJECT**
14 **CATEGORY UNDER THIS SUBSECTION FOR MAINTENANCE DREDGING ASSOCIATED**
15 **WITH A MARINA OF MATERIAL THAT HAS BEEN DETERMINED THROUGH TESTING**
16 **TO BE 90% OR MORE SAND.**

17 (2) The department, after notice and opportunity for a public
18 hearing, shall issue general permits on a statewide basis or within
19 a local unit of government for a category of activities if the
20 department determines that the activities are similar in nature,
21 will cause only minimal adverse environmental effects when
22 performed separately, and will have only minimal cumulative adverse
23 effects on the environment. A general permit shall be based on the
24 requirements of this part and the rules promulgated under this
25 part, and shall set forth the requirements and standards that shall
26 apply to an activity authorized by the general permit. Before
27 authorizing a specific project to proceed under a general permit,

1 the department may provide notice pursuant to section 32514 but
2 shall not hold a public hearing and shall not typically require a
3 site inspection. A general permit shall not be valid for more than
4 5 years, but may be reissued.

5 SEC. 32515A. A PERMIT UNDER THIS PART TO DREDGE OR PLACE
6 DREDGED SPOIL ON BOTTOMLAND IS SUBJECT TO ALL OF THE FOLLOWING:

7 (A) THE PERMIT SHALL BE VALID FOR A PERIOD OF 5 YEARS.

8 (B) DURING THE TERM OF THE PERMIT, THE DEPARTMENT SHALL NOT
9 REQUIRE ADDITIONAL ENVIRONMENTAL STUDIES OR SURVEYS UNLESS AN ACT
10 OF GOD RESULTS IN SIGNIFICANT GEOLOGICAL OR ECOLOGICAL CHANGES TO
11 THE PERMITTED AREA.

12 (C) THE PERMIT SHALL ALLOW, AT THE DISCRETION OF THE
13 APPLICANT, OPEN LAKE DISPOSAL OF DREDGE MATERIAL THAT IS NOT
14 CONTAMINATED WITH TOXIC SUBSTANCES AS DEFINED IN R 323.1205 OF THE
15 MICHIGAN ADMINISTRATIVE CODE IN WATERS AT THE 30-METER DEPTH
16 CONTOUR OR DEEPER. HOWEVER, DREDGE MATERIALS SHALL NOT BE DISPOSED
17 OF WITHIN A GREAT LAKES BOTTOMLAND PRESERVE ESTABLISHED UNDER PART
18 761, A PERMITTED SUBMERGED LOG REMOVAL AREA UNDER PART 326, OR A
19 LAKE TROUT OR DIPOREIA REFUGE.