

SENATE BILL No. 264

March 13, 2013, Introduced by Senator CASPERSON and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 1301, 30102, 30104, 32512, 32513, and 32514 (MCL 324.1301, 324.30102, 324.30104, 324.32512, 324.32513, and 324.32514), section 1301 as amended by 2012 PA 249, sections 30102 and 30104 as amended by 2011 PA 218, sections 32512 and 32513 as amended by 2012 PA 247, and section 32514 as added by 1995 PA 59, and by adding sections 30102a and 32512b.

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, 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, **A PERMIT**
22 **UNDER SECTION 30104 FOR A PROJECT DESCRIBED IN SECTION 30102A, A**
23 **PERMIT UNDER SECTION 32503 FOR A PROJECT DESCRIBED IN SECTION**
24 **32512B, or A PERMIT UNDER SECTION 44516.**

25 (iii) Thirty days after the department consults with the
26 underwater salvage and preserve committee created under section
27 76103, for a permit under section 76109.

1 (iv) Sixty days, for a permit under section 30104 for a minor
2 project as established by rule under section 30105(7) or for a
3 permit under section 32312.

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

6 (vi) Sixty days or, if a hearing is held, 120 days for a permit
7 under section 30104, other than a permit ~~for a minor project as~~
8 ~~established by rule under section 30105(7),~~ **DESCRIBED IN**
9 **SUBPARAGRAPH (ii) OR (iv),** or for a permit under section 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~~ **A PERMIT UNDER SECTION**
15 **32503 OTHER THAN A PERMIT DESCRIBED IN SUBPARAGRAPH (iv),** or an
16 authorization for a specific project to proceed under a general
17 permit issued under section 30312.

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

3 Sec. 30102. (1) Except as provided in this part, a person
4 without a permit from the department shall not do any of the
5 following:

6 (a) Dredge or fill bottomland.

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

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

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

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

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

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

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

27 **(3) A PERMIT TO DREDGE OR FILL BOTTOMLAND IS SUBJECT TO**

1 SECTION 30102A.

2 SEC. 30102A. A PERMIT TO DREDGE OR FILL BOTTOMLAND IS SUBJECT
3 TO BOTH OF THE FOLLOWING:

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

5 (B) DURING THE TERM OF THE PERMIT, THE DEPARTMENT SHALL NOT
6 REQUIRE ADDITIONAL ENVIRONMENTAL STUDIES OR SURVEYS.

7 Sec. 30104. (1) A person shall not undertake a project subject
8 to this part except as authorized by a permit issued by the
9 department pursuant to part 13. An application for a permit shall
10 include any information that may be required by the department. If
11 a project includes activities at multiple locations, 1 application
12 may be filed for the combined activities.

13 (2) Except as provided in subsections (3) and (4), until
14 October 1, 2015, an application for a permit shall be accompanied
15 by a fee based on an administrative cost in accordance with the
16 following schedule:

17 (a) For activities included in a minor project category, or a
18 seasonal drawdown or the associated reflooding, or both, of a dam
19 or impoundment for the purpose of weed control, a fee of \$50.00.
20 However, for a permit for a seasonal drawdown or associated
21 reflooding, or both, of a dam or impoundment for the purpose of
22 weed control that is issued for the first time after October 9,
23 1995, an initial fee of \$500.00 with subsequent permits for the
24 same purpose being assessed a \$50.00 fee.

25 (b) For authorization under a general permit, a \$50.00 fee.

26 (c) For construction or expansion of a marina, a fee of:

27 (i) \$50.00 for an expansion of 1-10 slips to an existing

1 permitted marina.

2 (ii) \$100.00 for a new marina with 1-10 proposed marina slips.

3 (iii) \$250.00 for an expansion of 11-50 slips to an existing
4 permitted marina, plus \$10.00 for each slip over 50.

5 (iv) \$500.00 for a new marina with 11-50 proposed marina slips,
6 plus \$10.00 for each slip over 50.

7 (v) \$1,500.00 if an existing permitted marina proposes
8 maintenance dredging of 10,000 cubic yards or more, **UNLESS THE**
9 **DREDGE MATERIAL HAS BEEN DETERMINED THROUGH TESTING TO BE 90% OR**
10 **MORE SAND**, or the addition of seawalls, bulkheads, or revetments of
11 500 feet or more.

12 (d) For major projects other than a project described in
13 subdivision (c) (v), involving any of the following, a fee of
14 \$2,000.00:

15 (i) Dredging of 10,000 cubic yards or more, **UNLESS THE DREDGE**
16 **MATERIAL HAS BEEN DETERMINED THROUGH TESTING TO BE 90% OR MORE**
17 **SAND**.

18 (ii) Filling of 10,000 cubic yards or more.

19 (iii) Seawalls, bulkheads, or revetments of 500 feet or more.

20 (iv) Filling or draining of 1 acre or more of wetland
21 contiguous to a lake or stream.

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

24 (vi) Shore projections, such as groins and underwater
25 stabilizers, that extend 150 feet or more into a lake or stream.

26 (vii) New commercial docks or wharves of 300 feet or more in
27 length.

1 (viii) Stream enclosures 100 feet or more in length.

2 (ix) Stream relocations 500 feet or more in length.

3 (x) New golf courses.

4 (xi) Subdivisions.

5 (xii) Condominiums.

6 (e) For the removal of submerged logs from bottomland of an
7 inland lake, a \$500.00 fee.

8 **(F) FOR DREDGING PROJECTS OF 10,000 CUBIC YARDS OR MORE AT**
9 **MARINAS IN WHICH THE DREDGE MATERIAL IS DETERMINED THROUGH TESTING**
10 **TO BE 90% OR MORE SAND, A \$500.00 FEE.**

11 **(G)** ~~(f)~~—For all other projects not listed in subdivisions (a)
12 through ~~(e)~~, **(F)**, a fee of \$500.00.

13 (3) A project that requires review and approval under this
14 part and 1 or more of the following acts or parts of acts is
15 subject to only the single highest permit fee required under this
16 part or the following acts or parts of acts:

17 (a) Part 303.

18 (b) Part 323.

19 (c) Part 325.

20 (d) Section 3104.

21 (e) Section 117 of the land division act, 1967 PA 288, MCL
22 560.117.

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

1 Sec. 32512. (1) Except as provided in subsection (2), unless a
2 permit has been granted by the department pursuant to part 13 or
3 authorization has been granted by the legislature, or except as to
4 boat wells and slips facilitating private, noncommercial,
5 recreational boat use, not exceeding 50 feet in length where the
6 spoil is not disposed of below the ordinary high-water mark of the
7 body of water to which it is connected, a person shall not do any
8 of the following:

9 (a) Construct, dredge, commence, or do any work with respect
10 to an artificial canal, channel, ditch, lagoon, pond, lake, or
11 similar waterway where the purpose is ultimate connection of the
12 waterway with any of the Great Lakes, including Lake St. Clair.

13 (b) Connect any natural or artificially constructed waterway,
14 canal, channel, ditch, lagoon, pond, lake, or similar waterway with
15 any of the Great Lakes, including Lake St. Clair, for navigation or
16 any other purpose.

17 (c) Dredge or place spoil or other material on bottomland.

18 (d) Construct a marina.

19 **(2) A PERMIT TO DREDGE OR PLACE SPOIL OR OTHER MATERIAL ON**
20 **BOTTOMLAND IS SUBJECT TO SECTION 32512B.**

21 (3) ~~(2)~~—Except as provided in subsection ~~(3)~~, ~~(4)~~, the
22 following activities are not subject to regulation under this part:

23 (a) Leveling of sand, removal of vegetation, grooming of soil,
24 or removal of debris, in an area of unconsolidated material
25 predominantly composed of sand, rock, or pebbles, located between
26 the ordinary high-water mark and the water's edge.

27 (b) Mowing of vegetation between the ordinary high-water mark

1 and the water's edge.

2 (4) ~~(3)~~—Subsection ~~(2)~~—(3) does not apply to lands included in
3 the survey of the delta of the St. Clair River, otherwise referred
4 to as the St. Clair flats, located within Clay township, St. Clair
5 county, as provided for in 1899 PA 175.

6 SEC. 32512B. A PERMIT TO DREDGE OR PLACE SPOIL OR OTHER
7 MATERIAL ON BOTTOMLAND IS SUBJECT TO ALL OF THE FOLLOWING:

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

9 (B) DURING THE TERM OF THE PERMIT, THE DEPARTMENT SHALL NOT
10 REQUIRE ADDITIONAL ENVIRONMENTAL STUDIES OR SURVEYS.

11 (C) THE PERMIT SHALL ALLOW OPEN LAKE DISPOSAL OF DREDGE
12 MATERIAL THAT IS NOT CONTAMINATED WITH TOXIC SUBSTANCES AS DEFINED
13 IN R 323.1205 OF THE MICHIGAN ADMINISTRATIVE CODE IN WATERS WITH A
14 DEPTH OF 90 FEET OR MORE OR AT A LOCATION THAT IS AT LEAST 1.5
15 KILOMETERS FROM SHORE, OR BOTH.

16 Sec. 32513. (1) To obtain a permit for any work or connection
17 specified in section 32512, a person shall file an application with
18 the department on a form provided by the department. The
19 application shall include all of the following:

20 (a) The name and address of the applicant.

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

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

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

27 (e) Other information required by the department.

1 (2) Except as provided in subsections (3) and (4), until
2 October 1, 2015, an application for a permit under this section
3 shall be accompanied by the following fee, as applicable:

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

6 (b) For activities included in a minor project category, a fee
7 of \$50.00.

8 (c) For construction or expansion of a marina, a fee of:

9 (i) \$50.00 for an expansion of 1-10 slips to an existing
10 permitted marina.

11 (ii) \$100.00 for a new marina with 1-10 proposed marina slips.

12 (iii) \$250.00 for an expansion of 11-50 slips to an existing
13 permitted marina, plus \$10.00 for each slip over 50.

14 (iv) \$500.00 for a new marina with 11-50 proposed marina slips,
15 plus \$10.00 for each slip over 50.

16 (v) \$1,500.00 if an existing permitted marina proposes
17 maintenance dredging of 10,000 cubic yards or more, **UNLESS THE**
18 **DREDGE MATERIAL HAS BEEN DETERMINED THROUGH TESTING TO BE 90% OR**
19 **MORE SAND**, or the addition of seawalls, bulkheads, or revetments of
20 500 feet or more.

21 (d) For major projects other than a project described in
22 subdivision (c)(v), involving any of the following, a fee of
23 \$2,000.00:

24 (i) Dredging of 10,000 cubic yards or more, **UNLESS THE DREDGE**
25 **MATERIAL HAS BEEN DETERMINED THROUGH TESTING TO BE 90% OR MORE**
26 **SAND**.

27 (ii) Filling of 10,000 cubic yards or more.

- 1 (iii) Seawalls, bulkheads, or revetment of 500 feet or more.
2 (iv) Filling or draining of 1 acre or more of coastal wetland.
3 (v) New dredging or upland boat basin excavation in areas of
4 suspected contamination.
5 (vi) New breakwater or channel jetty.
6 (vii) Shore protection, such as groins and underwater
7 stabilizers, that extend 150 feet or more on Great Lakes
8 bottomlands.
9 (viii) New commercial dock or wharf of 300 feet or more in
10 length.

11 **(E) FOR DREDGING PROJECTS OF 10,000 CUBIC YARDS OR MORE AT**
12 **MARINAS IN WHICH THE DREDGE MATERIAL IS DETERMINED THROUGH TESTING**
13 **TO BE 90% OR MORE SAND, A \$500.00 FEE.**

14 **(F)** ~~(e)~~—For all other projects not listed in subdivisions (a)
15 to ~~(d)~~, **(E)**, \$500.00.

16 (3) A project that requires review and approval under this
17 part and 1 or more of the following is subject to only the single
18 highest permit fee required under this part or the following:

- 19 (a) Part 301.
20 (b) Part 303.
21 (c) Part 323.
22 (d) Section 3104.
23 (e) Section 117 of the land division act, 1967 PA 288, MCL
24 560.117.

25 (4) If work has been done in violation of a permit requirement
26 under this part and restoration is not ordered by the department,
27 the department may accept an application for a permit if the

1 application is accompanied by a fee equal to 2 times the permit fee
2 otherwise required under this section.

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

6 Sec. 32514. (1) Upon receipt of the application, the
7 department shall mail copies **OF THE APPLICATION** to the department
8 of ~~public~~**COMMUNITY** health, the clerks of the county, city,
9 village, and township, and, **IF ONE EXISTS**, the drain commissioner
10 of the county, ~~or, if none, the road commissioner of the county, in~~
11 which the project or body of water affected is located, and to the
12 adjacent riparian owners. ~~, accompanied by~~ **ALONG WITH THE**
13 **APPLICATION, THE DEPARTMENT SHALL INCLUDE** a statement that unless a
14 written objection is filed with the department within 20 days after
15 the mailing of the copies **OF THE APPLICATION**, the department may
16 take action to grant the application. The department may ~~set the~~
17 ~~application for~~ **HOLD A** public hearing **ON THE APPLICATION**. ~~At least~~
18 ~~10 days~~ **IF THE DEPARTMENT HOLDS A PUBLIC HEARING, THE DEPARTMENT**
19 **SHALL PROVIDE** notice of the **PUBLIC** hearing ~~shall be given by~~
20 publication in a newspaper circulated in the county and by mailing
21 copies of the notice to the persons named in this section **AT LEAST**
22 **10 DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING.**

23 (2) **NOTWITHSTANDING SUBSECTION (1), THE DEPARTMENT MAY ISSUE A**
24 **PERMIT BEFORE THE EXPIRATION OF THE 20-DAY PERIOD IF EMERGENCY**
25 **CONDITIONS WARRANT A PROJECT TO PROTECT PROPERTY OR PUBLIC HEALTH,**
26 **SAFETY, OR WELFARE.**