

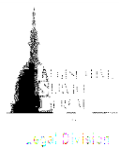
# HOUSE BILL NO. 5468

February 05, 2020, Introduced by Reps. Haadsma, Hammoud, Hood, Brenda Carter, Kuppa, Tate, Cynthia Johnson, Manoogian, Rabhi, Peterson, Stone, Sowerby, Whitsett and Jones and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 1301, 1307, and 1311 (MCL 324.1301, 324.1307,  
and 324.1311), section 1301 as amended by 2018 PA 451, section 1307  
as amended by 2018 PA 631, and section 1311 as amended by 2018 PA  
268; and to repeal acts and parts of acts.

## **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



1 application for a permit is received by ~~the~~ **this** state and ending  
 2 when the application is considered to be administratively complete  
 3 under section 1305 and any applicable fee has been paid.

4 (b) "Department" means the department, agency, or officer  
 5 authorized by this act to approve or deny an application for a  
 6 particular permit. ~~As used in sections 1315 to 1317, "department"~~  
 7 ~~means the department of environmental quality.~~

8 (c) "Director" means the director of the state department  
 9 authorized under this act to approve or deny an application for a  
 10 particular permit or the director's designee. ~~As used in sections~~  
 11 ~~1313 to 1317, "director" means the director of the department of~~  
 12 ~~environmental quality.~~

13 ~~(d) "Environmental permit review commission" or "commission"~~  
 14 ~~means the environmental permit review commission established under~~  
 15 ~~section 1313(1).~~

16 ~~(e) "Environmental permit panel" or "panel" means a panel of~~  
 17 ~~the environmental permit review commission, appointed under section~~  
 18 ~~1315(2).~~

19 ~~(d) (f) "Permit" , except as provided in subdivision (g),~~  
 20 means a permit, operating license, or registration required by any  
 21 of the following sections or by rules promulgated thereunder, or,  
 22 in the case of section 9112, by an ordinance referred to in that  
 23 section:

- 24 (i) Section 3104, floodplain alteration permit.
- 25 (ii) Section 3503, permit for use of water in mining iron ore.
- 26 (iii) Section 4105, sewerage system construction permit.
- 27 (iv) Section 6516, vehicle testing license.
- 28 (v) Section 6521, motor vehicle fleet testing permit.
- 29 (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.

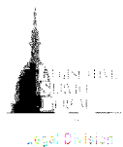
(xix) Section 32512, permit for dredging and filling bottomland.

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

(xxi) Section 35304, department permit for critical dune area



- 1 use.
- 2 (xxii) Section 36505, endangered species permit.
- 3 (xxiii) Section 41329, nonnative aquatic species sales
- 4 registration.
- 5 (xxiv) Section 41702, game bird hunting preserve license.
- 6 (xxv) Section 42101, dog training area permit.
- 7 (xxvi) Section 42501, fur dealer's license.
- 8 (xxvii) Section 42702, game dealer's license.
- 9 (xxviii) Section 44513, charter boat operating permit under
- 10 reciprocal agreement.
- 11 (xxix) Section 44516, boat livery operating permit.
- 12 (xxx) Section 45902, game fish propagation license.
- 13 (xxxi) Section 45906, game fish import license.
- 14 (xxxii) Section 48705, permit to take amphibians and reptiles
- 15 for scientific or educational use.
- 16 (xxxiii) Section 61525, oil or gas well drilling permit.
- 17 (xxxiv) Section 62509, brine, storage, or waste disposal well
- 18 drilling or conversion permit or test well drilling permit.
- 19 (xxxv) Section 63103a, ferrous mineral mining permit.
- 20 (xxxvi) Section 63514 or 63525, surface coal mining and
- 21 reclamation permit or revision of the permit, respectively.
- 22 (xxxvii) Section 63704, sand dune mining permit.
- 23 (xxxviii) Section 72108, use permits for a Pure Michigan Trail.
- 24 (xxxix) Section 76109, sunken aircraft or watercraft abandoned
- 25 property recovery permit.
- 26 (xxxx) Section 76504, Mackinac Island ~~motor vehicle and land~~
- 27 use permits.
- 28 (xxxxi) Section 80159, buoy or beacon permit.



~~(g) "Permit", as used in sections 1313 to 1317, means any permit or operating license that meets both of the following conditions:~~

~~(i) The applicant for the permit or operating license is not this state or a political subdivision of this state.~~

~~(ii) The permit or operating license is issued by the department of environmental quality under this act or the rules promulgated under this act.~~

(e) ~~(h)~~ "Processing deadline" means the last day of the processing period.

(f) ~~(i)~~ "Processing period", subject to section 1307(2) and (3), 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 or 44516.

(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 **or 32512** for a **project in a** minor project **category** established under section 30105(7) or 32512a(1), ~~or respectively, for~~ an authorization for a specific project to proceed under a general permit issued under section 30105(8) or 32512a(2), or for a permit under section 32312 or 41329.

(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 or authorization described



1 in subparagraph ~~(ii) or (iv)~~, or for a permit under section 31509.

2 (vii) Ninety days for a permit under section 11512, a revision  
3 of a surface coal mining and reclamation permit under section  
4 63525, or a permit under section 72108.

5 (viii) Ninety days or, if a hearing is held, 150 days for a  
6 permit under section 3104 or 30304, or a permit under section 32512  
7 other than a permit described in subparagraph (iv).

8 (ix) Ninety days after the close of the review or comment  
9 period under section ~~32604~~, **32605**, or if a public hearing is held,  
10 90 days after the date of the public hearing for a permit under  
11 section 32603.

12 (x) One hundred twenty days for a permit under section 11509,  
13 11542, 63103a, 63514, or 63704.

14 (xi) One hundred fifty days for a permit under section 36505.  
15 However, if a site inspection or federal approval is required, the  
16 150-day period is tolled pending completion of the inspection or  
17 receipt of the federal approval.

18 (xii) For any other permit, 150 days or, if a hearing is held,  
19 90 days after the hearing, whichever is later.

20 Sec. 1307. (1) By the processing deadline, the department  
21 shall approve or deny an application for a permit.

22 (2) If requested by the permit applicant, the department shall  
23 extend the processing period for a permit by not more than 120  
24 days, as specified by the applicant. If requested by the permit  
25 applicant, the department may extend the processing period beyond  
26 the additional 120 days. However, a processing period shall not be  
27 extended under this subsection to a date later than 1 year after  
28 the application period ends.

29 ~~(3) A processing period is tolled from the date that a permit~~



~~applicant submits a petition under section 1315(1) until the date that a decision of the director is made under section 1315(6). If a permit applicant submits a petition under section 1315(1), the department shall not approve or deny the application for the permit under subsection (1) until after the director issues a decision under section 1315(6).~~

(3) ~~(4)~~—The approval or denial of an application for a permit shall be in writing and shall be based upon evidence that would meet the standards in section 75 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.275.

(4) ~~(5)~~—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.

(5) ~~(6)~~—A denial of an application for a permit or, for a permit under part 301 or 303, an approval with modification of an application for a permit shall document, and any review upholding the denial or modification shall determine, to the extent practical, all of the following:

(a) That the decision is based on specifically cited provisions of this act or rules promulgated under this act.

(b) That the decision is based upon sufficient facts or data, which are recorded in the file.

(c) To the extent applicable, all of the following:

(i) That the decision is the product of reliable scientific principles and methods.

(ii) That the decision has applied the principles and methods reliably to the facts.

(d) In the case of denial of an application for a permit under



1 part 301 or 303, suggestions on changes to allow the permit to be  
2 approved.

3       (6) ~~(7)~~—Except for permits described in subsection ~~(8)~~, ~~(7)~~,  
4 if the department fails to satisfy the requirements of subsection  
5 (1) with respect to an application for a permit, the department  
6 shall ~~pay—refund to~~ the applicant **or waive payment by the applicant**  
7 **of** an amount equal to 15% of the greater of the following, as  
8 applicable:

9       (a) The amount of the application fee for that permit.

10       (b) If an assessment or other fee is charged on an annual or  
11 other periodic basis by the department to a person holding the  
12 permit for which the application was submitted, the amount of the  
13 first periodic charge of that assessment or other fee for that  
14 permit.

15       (7) ~~(8)~~—If the department fails to satisfy the requirements of  
16 subsection (1) with respect to a permit required by section 11509,  
17 11512, 30304, or 32603, the application shall be considered to be  
18 approved and the department shall be considered to have made any  
19 determination required for approval.

20       (8) ~~(9)~~—The failure of the department to satisfy the  
21 requirements of subsection (1) or the fact that the department is  
22 required to make a payment under subsection ~~(7)~~—(6) or is  
23 considered to have approved a permit under subsection ~~(8)~~—(7) shall  
24 not be used by the department as the basis for discriminating  
25 against the applicant. If the department is required to make a  
26 payment under subsection ~~(7)~~, ~~(6)~~, the application shall be  
27 processed in sequence with other applications for the same type of  
28 permit, based on the date on which the processing period began,  
29 unless the director determines on an application-by-application





1 basis that the public interest is best served by processing in a  
2 different order.

3 (9) ~~(10)~~—If the department fails to satisfy the requirements  
4 of subsection (1) with respect to 10% or more of the applications  
5 for a particular type of permit received during a quarter of the  
6 state fiscal year, the department shall immediately devote  
7 resources from that program to eliminate any backlog and satisfy  
8 the requirements of subsection (1) with respect to new applications  
9 for that type of permit within the next fiscal quarter.

10 (10) ~~(11)~~—If the department fails to satisfy the requirements  
11 of subsection (1), the director shall notify the appropriations  
12 committees of the senate and house of representatives of the  
13 failure. The notification shall be in writing and shall include  
14 both of the following:

15 (a) An explanation of the reason for the failure.

16 (b) A statement of the amount the department was required to  
17 ~~pay—refund to~~ the applicant **or waive payment of by the applicant**  
18 under subsection ~~(7)~~ **(6)** or a statement that the department was  
19 required to consider the application to be approved under  
20 subsection ~~(8)~~ **(7)**, as applicable.

21 Sec. 1311. By December 1 each year, the director shall submit  
22 a report to the standing committees and appropriations  
23 subcommittees of the senate and house of representatives with  
24 primary responsibility for issues under the jurisdiction of that  
25 department. The department shall post the current report on its  
26 website. The report shall include all of the following information  
27 for each type of permit for the preceding fiscal year:

28 (a) The number of applications for permits the department  
29 received.



(b) The number of applications approved, the number of applications approved by the processing deadline, the number of applications approved after the processing deadline, and the average times for the department to determine administrative completeness and to approve or disapprove applications.

(c) The number of applications denied, the number of applications denied by the processing deadline, and the number of applications denied after the processing deadline.

(d) The number of applications approved or denied after the processing deadline that, based on the director's determination of the public interest, were not processed in sequence as otherwise required by section ~~1307(9)~~. **1307(8)**.

(e) The number of applications that were not administratively complete when received.

(f) The amount of money refunded and ~~discounts granted~~ **payments waived** under section 1307.

(g) The number of applications processed as provided in section 1309.

(h) If a department failed to satisfy the requirements of section 1307(1) with respect to 10% or more of the applications for a particular type of permit received during a quarter of the state fiscal year, the type of permit and percentage of applications for which the requirements were not met, how the department attempted to eliminate any backlog and satisfy the requirements of section 1307(1) with respect to new applications for that type of permit within the next fiscal quarter, and whether the department was successful.

Enacting section 1. All of the following are repealed:

(a) Section 88 of the administrative procedures act of 1969,



1 1969 PA 306, MCL 24.288.

2 (b) Sections 1313, 1315, and 1317 of the natural resources and  
3 environmental protection act, 1994 PA 451, MCL 324.1313, 324.1315,  
4 and 324.1317.

