

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.76109 Recovery of abandoned property; permit; scope; application; filing, form, and contents; additional information or documents; approval or disapproval of application; conditions; payment of salvage costs; recovery of cargo outside Great Lakes bottomlands preserves; administrative review; conduct of hearing; combined appeals; joint decision and order; duration of permit; issuance of new permit; transfer or assignment of permit.

Sec. 76109. (1) A person shall not recover abandoned property located on, in, or located in the immediate vicinity of and associated with a sunken aircraft or watercraft except as authorized by a permit issued by the department and the department of history, arts, and libraries pursuant to part 13.

(2) Notwithstanding section 1303(1), a person shall file an application for a permit with the department on a form prescribed by the department and approved by the department of history, arts, and libraries. The application shall contain all of the following information:

- (a) The name and address of the applicant.
- (b) The name, if known, of the watercraft or aircraft on or around which recovery operations are to occur and a current photograph or drawing of the watercraft or aircraft, if available.
- (c) The location of the abandoned property to be recovered and the depth of water in which it may be found.
- (d) A description of each item to be recovered.
- (e) The method to be used in recovery operations.
- (f) The proposed disposition of the abandoned property recovered, including the location at which it will be available for inspection by the department and the department of history, arts, and libraries.
- (g) Other information which the department or the department of history, arts, and libraries considers necessary in evaluating the request for a permit.

(3) An application for a permit is not complete until all information requested on the application form and any other information requested by the department or the department of history, arts, and libraries has been received by the department. After receipt of an otherwise complete application, the department may request additional information or documents as are determined to be necessary to make a decision to grant or deny a permit.

(4) The department and the department of history, arts, and libraries shall approve or deny an application for a permit with the advice of the committee. A condition to the approval of an application shall be in writing on the face of the permit. The department and the department of history, arts, and libraries may impose such conditions as are considered reasonable and necessary to protect the public trust and general interests, including conditions that accomplish 1 or more of the following:

- (a) Protect and preserve the abandoned property to be recovered, and the recreational value of the area in which recovery is being accomplished.
- (b) Assure reasonable public access to the abandoned property after recovery.
- (c) Conform with rules applying to activities within a Great Lakes bottomlands preserve.
- (d) Prohibit injury, harm, and damage to a bottomlands site or abandoned property not authorized for removal during and after salvage operations by the permit holder.
- (e) Prohibit or limit the amount of discharge of possible pollutants, such as floating timbers, planking, and other debris, which may emanate from the shipwreck, plane wreck, or salvage equipment.
- (f) Require the permit holder to submit a specific removal plan prior to commencing any salvaging activities. Among other matters considered appropriate by either the department or the department of history, arts, and libraries, or both, the removal plan may be required to ensure the safety of those removing or assisting in the removal of the abandoned property and to address how the permit holder proposes to prevent, minimize, or mitigate potential adverse effects upon the abandoned property to be removed, that portion of the abandoned property which is not to be removed, and the surrounding geographic features.

(5) The department shall approve an application for a permit unless the department determines that the abandoned property to be recovered has substantial recreational value in itself or in conjunction with other abandoned property in its vicinity underwater, or the recovery of abandoned property would not comply with rules applying to a Great Lakes bottomlands preserve.

(6) The department of history, arts, and libraries shall approve the application for a permit unless the department of history, arts, and libraries determines that the abandoned property to be recovered has substantial historical value in itself or in conjunction with other abandoned property in its vicinity. If the property has substantial historical value, the department of history, arts, and libraries, pursuant to subsection (4), may impose a condition on the permit requiring the permittee to turn over recovered property to the

department of history, arts, and libraries for the purpose of preserving the property or permitting public access to the property. The department of history, arts, and libraries may authorize the display of the property in a public or private museum or by a local unit of government. In addition to the conditions authorized by subsection (4), the department of history, arts, and libraries may provide for payment of salvage costs in connection with the recovery of the abandoned property.

(7) A person shall not recover cargo situated on, in, or associated with an abandoned watercraft that is located outside of a Great Lakes bottomlands preserve except as authorized by a permit issued pursuant to this section and part 13. Subject to subsection (4), the permit shall be issued to the first person applying for the permit. However, only the person who discovered the abandoned watercraft may apply for a permit during the first 90 days after the discovery. When a watercraft containing cargo is simultaneously discovered by more than 1 person, a permit shall be approved with respect to the first person or persons jointly applying for a permit.

(8) A person aggrieved by a condition contained on a permit or by the denial of an application for a permit may request an administrative review of the condition or the denial by the commission or the department of history, arts, and libraries, whichever disapproves the application or imposes the condition. A person shall file the request for review with the commission or the department of history, arts, and libraries, whichever is applicable, within 90 days after the permit application is submitted to the department. An administrative hearing conducted pursuant to this subsection shall be conducted under the procedures set forth in chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. If neither the department nor the department of history, arts, and libraries approves the application and an administrative review is requested from both the commission and the department of history, arts, and libraries, the appeals shall be combined upon request of the appellant or either the commission or the department of history, arts, and libraries and a single administrative hearing shall be conducted. The commission and the department of history, arts, and libraries shall issue jointly the final decision and order in the case.

(9) A permit issued under this section is valid until December 31 of the year in which the application for the permit was filed and is not renewable. If an item designated in a permit for recovery is not recovered, a permit holder may, upon request following the expiration of the permit, be issued a new permit to remove the same abandoned property if the permit holder demonstrates that diligence in attempting recovery was exercised under the previously issued permit.

(10) A permit issued under this section shall not be transferred or assigned unless the assignment is approved in writing by both the department and the department of history, arts, and libraries.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 75, Imd. Eff. July 24, 2001;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Compiler's note: For transfer of powers and duties relating to promotion of history and the preservation of the state's historical resources to the department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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