

HOUSE BILL NO. 5454

February 04, 2020, Introduced by Reps. Robinson, Hammoud, Tyrone Carter, Greig, Pohutsky, Ellison, Koleszar, Anthony, Coleman, Brenda Carter, Shannon, Byrd, Hertel, Hood, Sowerby, Lasinski, Kennedy, Clemente, Hope, Witwer, Sabo, Haadsma, Cynthia Johnson, Garza, Chirkun, Manoogian, Wittenberg, Brixie, Love, Camilleri, Tate, Cherry, Hoadley, Kuppa, Stone, Jones, Yancey, Garrett, Gay-Dagnogo and Rabhi 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 section 1301 (MCL 324.1301), as amended by 2018 PA 451,
and by adding section 1321.

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~~**this** state and ending
- 4 when the application is considered to be administratively complete
- 5 under section 1305 and any applicable fee has been paid.



(b) "Department", **except as otherwise provided in this subdivision or section 1321**, means the department, agency, or officer authorized by this act to approve or deny an application for a particular permit. As used in sections 1315 to 1317, "department" means the department of ~~environmental quality~~. **environment, Great Lakes, and energy.**

(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. ~~As~~ **However, as** used in sections 1313 to 1317, "director" means the director of the department of ~~environmental quality~~. **environment, Great Lakes, and energy.**

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

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

(f) "Permit", except as provided in subdivision (g) **or section 1321**, means a permit, operating license, or registration required by any of the following sections or by rules promulgated thereunder, or, in the case of section 9112, by an ordinance referred to in that section:

- (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.

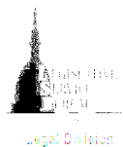
(xix) Section 32512, permit for dredging and filling bottomland.

(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 (xl) ~~(xxx)~~ Section 76504, Mackinac Island ~~motor vehicle and~~
- 27 ~~land use~~ **cemetery expansion** permits.
- 28 (xli) ~~(xxxi)~~ 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~~ **environment, Great Lakes, and energy** under this act or the rules promulgated under this act.

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

(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 for a minor project established under section 30105(7) or 32512a(1), or 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 in subparagraph ~~(ii) or~~ (iv), 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 or 30304, or a permit under section 32512 other than a permit described in subparagraph (iv).

(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. 1321. (1) As used in this section:

(a) "Bond" means a performance bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, or an irrevocable letter of credit, in favor of the department.

(b) "Department" means the department, agency, or officer authorized to approve or deny an application for a particular permit.

(c) "Permit" means any permit or license issued under article II or under chapter 1 or 3 of article III that is not expressly exempt from a bond requirement by this act.



(2) A person issued a permit shall maintain a bond in favor of the department for the term of the permit. The person may choose which type of bond to maintain. The bond shall be on a form approved by the department. The bond shall be in an amount determined by the department to be sufficient for the purposes for which the bond may be used under subsection (4). Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 1 year after the effective date of the amendatory act that added this section, the department shall promulgate rules setting forth standards for the determination of the amount of the bond.

(3) A person who chooses to use a certificate of deposit or to post cash as a bond under subsection (2) shall receive any accrued interest on the bond upon release of the bond by the department. If a person posts cash as a bond, interest accrues on the bond quarterly at the annual rate of 6%, except that the interest rate payable to the person who maintained the bond shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. If cash is posted as a bond, any interest greater than 6% shall be deposited into the general fund.

(4) Subject to subsection (5), the department may utilize a bond under subsection (2) for the costs of any of the following incurred in response to activities regulated by the department under the permit:

(a) Cleanup.

(b) Remediation.

(c) Bringing a site into compliance with the requirements of the part of this act under which the permit is issued.



1 (5) The department may draw on the bond required under
2 subsection (2) if any of the following apply:

3 (a) An environmental emergency occurs as a result of
4 activities regulated by the permit.

5 (b) The permittee becomes insolvent.

6 (c) The permittee violates the part of this act under which
7 the permit is issued resulting in the need for action described in
8 subsection (4) and does not undertake the action as ordered by the
9 department or a court of competent jurisdiction.

10 (d) The permittee fails to extend or renew the bond under the
11 bond's terms or establish an alternate bond at least 30 days before
12 the expiration date or cancellation date of the bond.

13 (6) At least 7 days before the department draws on the bond
14 under subsection (5) (b) or (c), the department shall issue a notice
15 or order alleging that the permittee is insolvent or violated the
16 part of this act under which the permit is issued and shall provide
17 an opportunity for an informal hearing.

