

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

PART 13
PERMITS

324.1301 Definitions.

Sec. 1301. As used in this part:

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

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

(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.

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

(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 use.

(xxii) Section 36505, endangered species permit.

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

(xxiv) Section 42101, dog training area permit.

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

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

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

(xxviii) Section 44516, boat livery operating permit.

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

(xxx) Section 45902, game fish propagation license.

(xxxi) Section 45906, game fish import license.

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

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

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

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

(xxxvi) Section 63704, sand dune mining permit.

(xxxvii) Section 72108, use permits for a Pure Michigan Trail.

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

- (xxxix) Section 76504, Mackinac Island motor vehicle and land use permits.
- (xxxx) Section 80159, buoy or beacon permit.
- (e) "Processing deadline" means the last day of the processing period.
- (f) "Processing period" 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.
 - (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.

History: Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2004, Act 381, Imd. Eff. Oct. 12, 2004;—Am. 2008, Act 18, Imd. Eff. Feb. 29, 2008;—Am. 2009, Act 120, Eff. Nov. 6, 2009;—Am. 2011, Act 214, Imd. Eff. Nov. 8, 2011;—Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011;—Am. 2012, Act 247, Imd. Eff. July 2, 2012;—Am. 2012, Act 249, Imd. Eff. July 2, 2012;—Am. 2013, Act 87, Imd. Eff. June 28, 2013;—Am. 2014, Act 215, Eff. Sept. 25, 2014.

Compiler's note: Enacting section 1 of Act 120 of 2009 provides:

"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:

"(a) \$4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and \$4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a.

"(b) \$2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."

Popular name: Act 451

Popular name: NREPA

324.1303 Permit application; format; documents.

Sec. 1303. (1) An application for a permit shall be submitted to the department in a format to be developed by the department, except as provided in section 30307 with respect to a state wetland permit.

(2) The department shall, upon request and without charge, provide a person a copy of all of the following:

- (a) A list that specifies in detail the information required to complete the permit application.
- (b) A blank permit application form.
- (c) In concise form, any instructions necessary to complete the application.
- (d) A complete, yet concise, explanation of the permit review process.

(3) The department shall post the documents described in subsection (2) on its website.

History: Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 246, Imd. Eff. Dec. 8, 2011.

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Popular name: NREPA

324.1305 Receipt of permit application; notice of incomplete application; time period; request for new or additional information.

Sec. 1305. (1) After a department receives an application for a permit, the department shall determine whether the application is administratively complete. Unless the department proceeds as provided under subsection (2), the application shall be considered to be administratively complete when the department

makes that determination or 30 days after the state receives the application, whichever is first.

(2) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 30-day period under subsection (1) is tolled until the applicant submits to the department the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

(3) Subject to subsection (4), after an application for a permit is considered to be administratively complete under this section, the department shall not request from the applicant any new or additional information that is not specified in the list required under section 1303(2)(a) unless the request includes a detailed explanation of why the information is needed. The applicant is not required to provide the requested information as a condition for approval of the permit.

(4) After an application for a permit is considered to be administratively complete under this section, the department may request the applicant to clarify, amplify, or correct the information required for the application. The applicant shall provide the requested information.

History: Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 246, Imd. Eff. Dec. 8, 2011.

Popular name: Act 451

Popular name: NREPA

324.1307 Approval or denial of permit application; extension of processing period; explanation of reasons for permit denial; failure of department to satisfy requirements of subsection (1); effect; notification to legislative committees.

Sec. 1307. (1) By the processing deadline, the department shall approve or deny an application for a permit. If requested by the permit applicant, the department shall extend the processing period for a permit by not more than 120 days, as specified by the applicant. If requested by the permit applicant, the department may extend the processing period beyond the additional 120 days. However, a processing period shall not be extended under this subsection to a date later than 1 year after the application period ends.

(2) 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.

(3) 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.

(4) A denial of an application for a permit shall document, and any review upholding the decision shall determine, to the extent practical, all of the following:

(a) That the decision is based on specific 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.

(5) Except for permits described in subsection (6), if the department fails to satisfy the requirements of subsection (1) with respect to an application for a permit, the department shall pay the applicant an amount equal to 15% of the greater of the following, as applicable:

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

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

(6) If the department fails to satisfy the requirements of subsection (1) with respect to a permit required by section 11509, 11512, 30304, or 32603, the application shall be considered to be approved and the department shall be considered to have made any determination required for approval.

(7) The failure of the department to satisfy the requirements of subsection (1) or the fact that the department is required to make a payment under subsection (5) or is considered to have approved a permit under subsection (6) shall not be used by the department as the basis for discriminating against the applicant. If the department is required to make a payment under subsection (5), the application shall be processed in sequence with other applications for the same type of permit, based on the date on which the processing period began, unless the director determines on an application-by-application basis that the public interest is best served by processing in a different order.

(8) If the department fails to satisfy the requirements of subsection (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 department shall immediately devote resources from that program to eliminate any backlog and satisfy the requirements of subsection (1) with respect to new applications for that type of permit within the next fiscal quarter.

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

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

(b) A statement of the amount the department was required to pay the applicant under subsection (5) or a statement that the department was required to consider the application to be approved under subsection (6), as applicable.

History: Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011;—Am. 2011, Act 236, Imd. Eff. Dec. 1, 2011;—Am. 2012, Act 164, Imd. Eff. June 14, 2012;—Am. 2013, Act 98, Imd. Eff. July 2, 2013.

Popular name: Act 451

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324.1309 Submissions of applications for more than 1 type of permit.

Sec. 1309. If a person submits applications for more than 1 type of permit for a particular development or project, the department or departments shall process the applications in a coordinated fashion to the extent feasible given procedural requirements applicable to individual permits and, at the request of an applicant, appoint a primary contact person to assist in communications with the department or departments.

History: Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.1311 Report; information.

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

(a) The number of applications for permits the department 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 time 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(7).

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

(f) The amount of money refunded and discounts granted 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.

History: Add. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2011, Act 246, Imd. Eff. Dec. 8, 2011;—Am. 2013, Act 98, Imd. Eff. July 2, 2013.

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