

HOUSE BILL No. 4914

September 8, 2011, Introduced by Rep. Kowall and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending the headings of parts 631 and 633 and sections 1301, 9115, 63101, 63103, 63103a, 63103b, 63103c, 63103d, and 63103e (MCL 324.1301, 324.9115, 324.63101, 324.63103, 324.63103a, 324.63103b, 324.63103c, 324.63103d, and 324.63103e), section 1301 as amended by 2009 PA 120, section 9115 as amended by 2000 PA 504, section 63101 as amended by 2004 PA 449, section 63103 as added by 1995 PA 57, sections 63103a and 63103c as amended by 2004 PA 325, and sections 63103b, 63103d, and 63103e as added by 1997 PA 149; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1301. As used in this part:

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

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

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.

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

15 (i) Section 3104, floodplain alteration permit.

16 (ii) Section 3503, permit for use of water in mining iron ore.

17 (iii) Section 4105, sewerage system construction permit.

18 (iv) Section 6516, vehicle testing license.

19 (v) Section 6521, motor vehicle fleet testing permit.

20 (vi) Section 8310, restricted use pesticide dealer license.

21 (vii) Section 8310a, agricultural pesticide dealer license.

22 (viii) Section 8504, license to manufacture or distribute
23 fertilizer.

24 (ix) Section 9112, local soil erosion and sedimentation control
25 permit.

26 (x) Section 11509, solid waste disposal area construction
27 permit.

1 (xi) Section 11512, solid waste disposal area operating
2 license.

3 (xii) Section 11542, municipal solid waste incinerator ash
4 landfill operating license amendment.

5 (xiii) Section 11702, septage waste servicing license or septage
6 waste vehicle license.

7 (xiv) Section 11709, septage waste site permit.

8 (xv) Section 30104, inland lakes and streams project permit.

9 (xvi) Section 30304, state permit for dredging, filling, or
10 other activity in wetland. Permit includes an authorization for a
11 specific project to proceed under a general permit issued under
12 section 30312.

13 (xvii) Section 31509, dam construction, repair, **OR** removal
14 permit.

15 (xviii) Section 32312, flood risk, high risk, or environmental
16 area permit.

17 (xix) Section 32503, permit for dredging and filling
18 bottomland.

19 (xx) Section 35304, department permit for critical dune area
20 use.

21 (xxi) Section 36505, endangered species permit.

22 (xxii) Section 41702, game bird hunting preserve license.

23 (xxiii) Section 42101, dog training area permit.

24 (xxiv) Section 42501, fur dealer's license.

25 (xxv) Section 42702, game dealer's license.

26 (xxvi) Section 44513, charter boat operating permit under
27 reciprocal agreement.

- 1 (xxvii) Section 44517, boat livery operating permit.
- 2 (xxviii) Section 45503, permit to take frogs for scientific use.
- 3 (xxix) Section 45902, game fish propagation license.
- 4 (xxx) Section 45906, game fish import license.
- 5 (xxxi) Section 61525, oil or gas well drilling permit.
- 6 (xxxii) Section 62509, brine, storage, or waste disposal well
7 drilling or conversion permit or test well drilling permit.
- 8 (xxxiii) Section 63103a, ~~metallic~~**FERROUS** mineral mining permit.
- 9 (xxxiv) Section 63514 or 63525, surface coal mining and
10 reclamation permit or revision of the permit, ~~during the term of~~
11 ~~the permit,~~ respectively.
- 12 (xxxv) Section 63704, sand dune mining permit.
- 13 (xxxvi) Section 72108, use permits for Michigan trailway.
- 14 (xxxvii) Section 76109, sunken aircraft or watercraft abandoned
15 property recovery permit.
- 16 (xxxviii) Section 76504, Mackinac Island motor vehicle and land
17 use permits.
- 18 (xxxix) Section 80159, buoy or beacon permit.
- 19 (e) "Processing deadline" means the last day of the processing
20 period.
- 21 (f) "Processing period" means the following time period after
22 the close of the application period, for the following permit, as
23 applicable:
- 24 (i) Twenty days for a permit under section 61525 or 62509.
- 25 (ii) Thirty days for a permit under section 9112.
- 26 (iii) Thirty days after the department consults with the
27 underwater salvage and preserve committee created under section

1 76103, for a permit under section 76109.

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

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

7 (vi) Sixty days or, if a hearing is held, 120 days for a permit
8 under section 30104, other than a permit for a minor project as
9 established by rule under section 30105(7), or for a permit under
10 section 31509.

11 (vii) Ninety days for a permit under section 11512, a revision
12 of a surface coal mining and reclamation permit ~~during the term of~~
13 ~~the permit~~ under section 63525, or a permit under section 72108.

14 (viii) Ninety days or, if a hearing is held, 150 days for a
15 permit under section 3104, 30304, or 32503 or an authorization for
16 a specific project to proceed under a general permit issued under
17 section 30312.

18 (ix) One hundred and twenty days for a permit under section
19 11509, 11542, 63103a, 63514, or 63704.

20 (x) One hundred fifty days for a permit under section 36505.
21 However, if a site inspection or federal approval is required, the
22 150-day period is tolled pending completion of the inspection or
23 receipt of the federal approval.

24 (xi) For any other permit, 150 days or, if a hearing is held,
25 90 days after the hearing, whichever is later.

26 Sec. 9115. (1) Subject to subsection (2), a person engaged in
27 the logging industry, the mining industry, or the plowing or

1 tilling of land for the purpose of crop production or the
2 harvesting of crops is not required to obtain a permit under this
3 part. However, all earth changes associated with the activities
4 listed in this section shall conform to the same standards as if
5 they required a permit under this part. The exemption from
6 obtaining a permit under this subsection does not include either of
7 the following:

8 (a) Access roads to and from the site where active mining or
9 logging is taking place.

10 (b) Ancillary activities associated with logging and mining.

11 (2) This part does not apply to a metallic mineral mining
12 activity that is regulated under a mining and reclamation plan ~~that~~
13 **OR A MINING, RECLAMATION, AND ENVIRONMENTAL PROTECTION PLAN IF THE**
14 **PLAN** contains soil erosion and sedimentation control provisions and
15 ~~that~~ is approved by the department under part 631 **OR 632,**
16 **RESPECTIVELY.**

17 (3) A person is not required to obtain a permit from a county
18 enforcing agency or a municipal enforcing agency for earth changes
19 associated with well locations, surface facilities, flowlines, or
20 access roads relating to oil or gas exploration and development
21 activities regulated under part 615, if the application for a
22 permit to drill and operate under part 615 contains a soil erosion
23 and sedimentation control plan that is approved by the department
24 under part 615. However, those earth changes shall conform to the
25 same standards as required for a permit under this part. This
26 subsection does not apply to a multisource commercial hazardous
27 waste disposal well as defined in section 62506a.

1 (4) As used in this section, "mining" does not include the
2 removal of clay, gravel, sand, peat, or topsoil.

3 PART 631

4 ~~RECLAMATION OF MINING LANDS~~ **FERROUS MINERAL MINING**

5 Sec. 63101. As used in this part:

6 ~~— (a) "Administratively complete" means an application for a~~
7 ~~mining permit under this part that is determined by the department~~
8 ~~to satisfy all of the conditions of this part and rules promulgated~~
9 ~~under this part.~~

10 (A) ~~(b)~~ "Department" means the department of environmental
11 quality.

12 ~~— (c) "Life of the mine" means the period of time from issuance~~
13 ~~of a permit under this part through the completion of reclamation~~
14 ~~as required by this part.~~

15 (B) ~~(d)~~ "Metallie" **FERROUS** mineral" OR "MINERAL" means ferrous
16 ore or material mined for its ferrous content.

17 (C) ~~(e)~~ "Metallie" **FERROUS** mineral operator" OR "OPERATOR"
18 means a person who owns or leases the plant and equipment utilized
19 in a ~~metallie mineral~~ mining area and is engaged in the business of
20 mining ~~metallie~~ **FERROUS** minerals or preparing to engage in mining
21 operations. ~~for metallie minerals.~~

22 (D) ~~(f)~~ "Metallie" **FERROUS** product" means a commercially
23 salable ~~metallie~~ **FERROUS** mineral in its final marketable form or
24 state.

25 ~~— (g) "Mineral" means any substance to be excavated from the~~
26 ~~natural deposits on or in the earth for commercial, industrial, or~~
27 ~~construction purposes, including gypsum, limestone, dolostone,~~

1 ~~sandstone, shale, metallic mineral, or other solid materials.~~
 2 ~~However, mineral does not include clay, gravel, marl, peat, inland~~
 3 ~~sand or sand mined for commercial or industrial purposes, from sand~~
 4 ~~dune areas regulated under part 637, coal regulated under part 635,~~
 5 ~~or nonferrous metallic mineral regulated under part 632.~~

6 (E) "LIFE OF THE MINE" MEANS THE PERIOD OF TIME FROM ISSUANCE
 7 OF A PERMIT UNDER THIS PART THROUGH THE COMPLETION OF RECLAMATION
 8 AS REQUIRED BY THIS PART.

9 (F) ~~(h)~~—"Mining area" or "area subjected to mining" means an
 10 area of land from which material is removed in connection with the
 11 production or extraction of **FERROUS** minerals by surface or open pit
 12 mining methods, ~~the lands~~ on which material from that mining is
 13 deposited, ~~the lands~~ on which beneficiating or treatment plants and
 14 auxiliary facilities are located, ~~the lands~~ OR on which the water
 15 reservoirs used in the mining process OPERATION are located, and
 16 INCLUDES auxiliary lands which are LAND THAT IS used FOR THESE
 17 PURPOSES.

18 ~~—— (i) "Operator" means a metallic mineral operator or other~~
 19 ~~persons engaged in or preparing to engage in mining operations for~~
 20 ~~the production of mineral products.~~

21 (G) "MINING OPERATION" MEANS A FERROUS MINERAL MINING
 22 OPERATION.

23 (H) ~~(j)~~—"Stockpile" means material, including, but not limited
 24 to, surface overburden, rock, or lean ore, ~~which~~ THAT in the
 25 process of **FERROUS** mineral mining and beneficiation or treatment
 26 has been removed from the earth and stored on the surface. ~~, but~~
 27 ~~excluding~~ HOWEVER, STOCKPILE DOES NOT INCLUDE materials that are

1 being treated in the production of mineral products and the mineral
2 product that has been produced by that operation.

3 (I) ~~(k)~~—"Supervisor of reclamation" means the state
4 geologist-DEPARTMENT.

5 (J) ~~(l)~~—"Surface or open pit mining" means the mining of more
6 than 10,000 tons of a **FERROUS** mineral or disturbing more than 1
7 acre of land a year in the regular operation of a business **EITHER**
8 by removing the overburden lying above a natural deposit of a
9 **FERROUS** mineral and mining directly from the natural deposit
10 exposed or by mining directly from a deposit lying exposed in the
11 **FERROUS** mineral's natural state. Surface or open pit mining
12 includes all **FERROUS** mineral mining below the water table or which
13 will upon cessation of mining result in creating a body of water of
14 any size. Surface or open pit mining does not include excavation or
15 grading preliminary to a construction project.

16 (K) ~~(m)~~—"Tailings basin" means land on which is deposited, by
17 hydraulic or other means, the material that is separated from the
18 mineral product in the beneficiation or treatment of **FERROUS**
19 minerals including any surrounding dikes constructed to contain the
20 material.

21 Sec. 63103. ~~On completion of the study and survey provided for~~
22 ~~in section 63102, the~~ **THE** department may promulgate rules
23 pertaining to mining operations conducted subsequent to their
24 effective date, ~~and subject to the provisions of any rights~~
25 existing pursuant to any permit, license, lease, or other valid
26 existing authorization issued by a governmental entity, ~~and~~
27 ~~subject to applicable mine safety laws or rules, for the following~~

1 purposes:

2 (a) The sloping, terracing, or other practical treatment of
3 stockpiles and tailings basins where erosion is occurring or is
4 likely to occur that results or may result in injury or damage to
5 fish and wildlife or the pollution of public waters or that is
6 causing or might cause injury to the property or person of others.

7 (b) The vegetation or other practical treatment of tailings
8 basins and stockpiles upon becoming permanently inactive ~~where~~ **IF**
9 substantial natural vegetation is not expected within 5 years and
10 ~~where~~ **IF** research reveals that vegetation can reasonably be
11 accomplished within practical limitations.

12 (c) The stabilization of the surface overburden banks of open
13 pits in rock and the entire bank of open pits in unconsolidated
14 materials upon their abandonment.

15 (d) The cleanup of ~~plantsite and~~ mining areas and the removal
16 of debris from those areas on termination of the mining operation.

17 Sec. 63103a. A ~~metallie~~ **FERROUS** mineral operator shall not
18 engage in the mining of ~~metallie~~ **FERROUS** minerals except as
19 authorized by a permit issued by the department pursuant to part
20 13. The department shall not issue a permit unless the applicant
21 has submitted to the department, in addition to the permit
22 application, a mining and reclamation plan for the proposed
23 ~~metallie~~ **FERROUS** mining activity as prescribed by section 63103b.

24 Sec. 63103b. The mining and reclamation plan submitted under
25 section 63103a ~~, for the total project,~~ shall include all of the
26 following **FOR THE TOTAL PROJECT**:

27 (a) The method and direction of mining.

1 (b) Surface overburden stripping plans.

2 (c) The depth of grade level over the entire site from which
3 the ~~metallie~~-**FERROUS** mineral will be removed.

4 (d) Provisions for grading, revegetation, and stabilization
5 that will minimize soil erosion, sedimentation, and public safety
6 concerns.

7 (e) The location of buildings, equipment, stockpiles, roads,
8 or other features necessary to the mining activity and provisions
9 for their removal and restoration of the area at the project
10 termination.

11 (f) The interim use or uses of reclaimed areas before the
12 cessation of the entire mining operation.

13 (g) Maps and other supporting documents required by the
14 department.

15 (h) Fencing or other techniques to minimize trespass or
16 unauthorized access to the mining activity.

17 (i) If required by the department when mining activity below
18 the water table is proposed, a hydrogeological survey of the
19 surrounding area.

20 (j) If threatened or endangered species are identified, an
21 indication of how the threatened or endangered species will be
22 protected or, if not protected, what mitigation measures will be
23 performed.

24 (k) If the proposed mining activity includes beneficiation or
25 treatment of the ~~metallie~~-**FERROUS** ore or material mined for its
26 ~~metallie~~-**FERROUS** content, the application documents shall include
27 specific plans depicting the beneficiation and treatment methods

1 and techniques, and manufacturer's material safety data sheets on
2 all chemicals or other additives that are not natural to the site,
3 that will be utilized in the process. The operator shall obtain all
4 applicable state and federal permits before beginning the
5 beneficiation process.

6 Sec. 63103c. (1) A ~~metallie~~-**FERROUS** mineral mining permit
7 issued by the department is valid for the life of the mine.
8 However, the department may revoke a ~~metallie~~-**FERROUS** mineral
9 mining permit under the following conditions:

10 (a) The ~~person holding the permit~~-**PERMITTEE** has not commenced
11 construction of plant facilities or conducted actual mining and
12 reclamation activities covered by the permit within 3 years after
13 the date of issuance of the permit.

14 (b) The permittee requests the revocation of the ~~metallie~~
15 **FERROUS** mineral mining permit and the department determines the
16 mining activity has not polluted, impaired, or destroyed the air,
17 water, or other natural resources or the public trust in those
18 resources, as provided in part 17.

19 (c) The permittee fails to submit the annual report of
20 production as required by section 63103d(2).

21 (d) The department finds that the permittee is not in
22 compliance with this part, the rules promulgated under this part,
23 or the ~~metallie~~-**FERROUS** mineral permit and there exists an imminent
24 threat to the health and safety of the public.

25 (2) The department may order immediate suspension of any or
26 all activities at a ~~metallie~~-**FERROUS** mineral mining operation,
27 including the removal of ~~metallie~~-**FERROUS** product from the site, if

1 the department finds there exists an emergency endangering the
2 public health and safety or an imminent threat to the natural
3 resources of the state.

4 (3) An order suspending operations shall be in effect ~~for the~~
5 ~~shorter of the following time periods: not more than 10 days, or~~
6 until the operation is in compliance and protection of the public
7 health and safety is ensured or the threat to the natural resources
8 has been eliminated, **BUT NOT MORE THAN 10 DAYS**. To extend the
9 suspension beyond 10 days, the department shall issue an emergency
10 order to continue the suspension of operations and shall schedule a
11 hearing as provided by the administrative procedures act of 1969,
12 1969 PA 306, MCL 24.201 to 24.328. The total duration of the
13 suspension of operations shall not be more than 30 days.

14 (4) A ~~metallic~~-**FERROUS** mineral mining permit may be
15 transferred ~~to a new person~~ with approval of the department. The
16 person ~~acquiring~~-**SEEKING TO ACQUIRE** the permit shall submit a
17 request for transfer of the permit to the department on forms
18 provided by the department. The person acquiring the permit shall
19 accept the conditions of the existing permit and adhere to the
20 requirements set forth on the approved mining and reclamation plan.
21 Pending the transfer of the existing permit, the person ~~acquiring~~
22 **SEEKING TO ACQUIRE** the permit shall not operate the mine.

23 (5) A ~~metallic~~-**FERROUS** mineral mining permit shall not be
24 transferred to a person who has been determined **BY THE DEPARTMENT**
25 to be in violation of any of the following, until the person
26 acquiring the permit has corrected the violation or the department
27 has accepted a compliance schedule and a written agreement has been

1 reached to correct the violations:

2 (a) This part.

3 (b) The rules promulgated under this part.

4 (c) Permit conditions.

5 (d) An order of the department.

6 (6) If the permittee of a ~~metallie~~-**FERROUS** mineral mining
7 operation is under notice because of unsatisfactory conditions at
8 the mining site involved in the transfer, then the permit for the
9 mining operation shall not be transferred to a person until the
10 permittee has completed the necessary corrective actions or the
11 person acquiring the permit has entered into a written agreement to
12 correct all of the unsatisfactory conditions.

13 (7) A ~~metallie~~-**FERROUS** mineral mining permit may be amended
14 upon submission to the department of a request by the permittee.
15 Upon receipt of the request to amend an existing ~~metallie~~-**FERROUS**
16 mineral permit, the department shall determine if the request
17 constitutes a significant change from the conditions of the
18 approved permit. If the department determines the request is a
19 significant change from the conditions of the approved permit, the
20 department may submit the request for amendment to the same review
21 process as provided in ~~section 63103e(7)~~. **PART 13**. If a request to
22 amend the permit is denied, the reasons for denial shall be stated
23 in a written report to the permittee. If the department determines
24 the request for amendment does not constitute a significant change
25 from the conditions of the approved permit, the department shall
26 approve the amendment and notify the permittee.

27 Sec. 63103d. (1) For purposes of surveillance, monitoring,

1 administration, and enforcement of this part, a ~~metallie~~-**FERROUS**
2 mineral operator shall be assessed a ~~metallie~~-**FERROUS** mineral
3 surveillance fee on the ~~metallie~~-**FERROUS** product produced for the
4 calendar year reported as described in subsection (2). The fee
5 shall be assessed upon each ~~metallie product at the following~~
6 ~~rates: gold shall be not more than 9.4 cents per troy ounce, silver~~
7 ~~shall not be more than 0.13 cents per troy ounce, copper shall not~~
8 ~~be more than 0.03 cents per pound, and iron~~ **FERROUS PRODUCT AND**
9 shall not be more than 1 cent per metric ton. Funds collected by
10 the assessment of the ~~metallie~~-**FERROUS** mineral surveillance fee
11 shall not exceed the actual costs to the department of implementing
12 the sections of this part that pertain to ~~metallie~~-**FERROUS** mineral
13 mining. Surveillance fees collected under this section shall be
14 forwarded to the state treasurer for deposit in the ~~metallie~~
15 **FERROUS** mineral surveillance fee-fund created in section 63103e.

16 (2) A ~~metallie~~-**FERROUS** mineral operator shall file an annual
17 report of production on or before February 15 of each year. The
18 report shall contain the annual production of ~~metallie~~-**FERROUS**
19 product from each ~~metallie~~-**FERROUS** mineral mine.

20 (3) The ~~metallie~~-**FERROUS** mineral surveillance fee described in
21 subsection (1) ~~shall be~~ **IS** due ~~not more than 30 days~~ after the
22 department sends written notice to the ~~metallie~~-**FERROUS** mineral
23 operator of the amount due.

24 (4) Failure to submit an annual report of production in
25 compliance with rules promulgated by the department constitutes
26 grounds for revocation of a permit.

27 (5) A penalty equal to 10% of the amount due, or \$1,000.00,

House Bill No. 4914 as amended October 19, 2011

1 whichever is greater, shall be assessed against the ~~metallie~~
 2 **FERROUS** mineral operator for a fee that is not paid when due. An
 3 unpaid fee and penalty shall constitute a debt and ~~become~~ the basis
 4 of a judgment against the operator. Penalties paid pursuant to this
 5 section shall be used for the implementation, administration, and
 6 enforcement of this part.

7 (6) Records upon which the annual report of production is
 8 based shall be preserved for 3 years and are subject to audit by
 9 the department.

10 Sec. 63103e. (1) The ~~metallie~~**FERROUS** mineral surveillance
 11 fund is created within the state treasury.

12 (2) The state treasurer may receive money or other assets from
 13 any source for deposit into the ~~metallie~~**FERROUS** mineral
 14 surveillance fund. The state treasurer shall direct the investment
 15 of the ~~metallie~~**FERROUS** mineral surveillance fund. The state
 16 treasurer shall credit to the ~~metallie~~**FERROUS** mineral surveillance
 17 fund interest and earnings from fund investments.

18 (3) Money in the ~~metallie~~**FERROUS** mineral surveillance fund at
 19 the close of the fiscal year shall remain in the ~~metallie~~**FERROUS**
 20 mineral surveillance fund and shall not lapse to the general fund.

21 (4) The department shall expend money from the ~~metallie~~
 22 **FERROUS** mineral surveillance fund, upon appropriation, only for
 23 surveillance, monitoring, administration, and enforcement under
 24 this part and for computing the surveillance fee under section
 25 63103d.

26 PART 633

27 ~~MINERAL-MINING~~ **AUTHORIZATION, MULTIPLE OWNERS**

28 <<Enacting section 1. Section 63102

House Bill No. 4914 as amended October 19, 2011

1 of the natural resources and environmental protection act, 1994

2 PA 451, MCL 324.63102, is repealed.

3 >>