

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

324.1315 Petition for permit review; panel meeting; written recommendation; director's decision; appeal; conflict of interest.

Sec. 1315.

(1) A permit applicant may seek review by a panel by submitting a petition to the director before the permit has been approved or denied. The petition shall include the issues in dispute, the relevant facts, and any data, analysis, opinion, and supporting documentation for the petitioner's position. If the director believes that the dispute may be resolved without convening a panel, the director may contact the petitioner regarding the issues in dispute and may negotiate, for a period not to exceed 45 days, a resolution of the dispute.

(2) Unless the dispute is resolved pursuant to subsection (1), the director shall convene a meeting of a panel. The meeting shall be held within 45 days after the director received the petition. The panel shall consist of 3 members of the commission selected by the director on the basis of their relevant expertise. The director may select a replacement for a member who is unable to participate in the review process. To serve as a panel member, a commission member must submit to the director on a form provided by the department an agreement not to accept employment from the petitioner before 1 year after a decision is rendered on the matter if gross income from the employment would exceed 5% of the member's gross income from all sources in any of the preceding 3 years.

(3) The members of the panel shall elect a chairperson. Two members of the panel constitute a quorum. A majority of the votes cast are required for official action of the panel. The business that the panel may perform shall be conducted at a public meeting of the panel held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(4) The director shall provide the panel with a copy of the petition and its supporting documentation and a copy of all supporting documentation from the department. At the meeting of the panel, representatives of the petitioner and the department shall each be given an opportunity to present their positions.

(5) Within 45 days after hearing the petition, the panel shall make a recommendation regarding the petition and provide written notice of the recommendation to the director and the petitioner. The written recommendation shall include the specific rationale for the recommendation. The recommendation may be to adopt, modify, or reverse, in whole or in part, the department's position or decision on the dispute that is the subject of the petition.

(6) Within 60 days after receiving written notice of the panel's recommendation, the director shall issue a decision, in writing, regarding the petition. If the director agrees with the recommendation, the department shall incorporate the recommendation into the terms of the permit. If the director does not agree with the recommendation, the director shall include in the written decision the specific rationale for rejecting the recommendation. If the director fails to make a decision within the time period provided for in this subsection, the recommendation of the panel shall be considered the decision of the director. The decision of the director under this subsection regarding a dispute related to a permit or permit application is not subject to review under this act, the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. However, the decision of the director under this subsection may be included in an appeal to a final permit action. If a permit applicant declines to submit a petition for review under this section, the decision of the department regarding the approval or denial of a permit is final permit action for purposes of any judicial review or other review allowed under this act, the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(7) A member of the commission shall not participate in a petition review if the member has a conflict of interest. A member has a conflict of interest if any of the following apply:

(a) The applicant has hired that member or the member's employer on any environmental matter within the preceding 3 years.

(b) The member has been an employee of the applicant within the preceding 3 years.

(c) The member has more than a 1% ownership interest in the applicant.

(8) The director shall select a member of the commission to participate in a petition review in place of a member disqualified under subsection (7).

History: Add. 2018, Act 268, Imd. Eff. June 29, 2018

Compiler's Notes: For the transfer of authority to decide review permit application petitions to the chief deputy director of the department of environment, Great Lakes, and energy, see E.R.O. No. 2024-2, compiled at MCL 16.735.

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