

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 653

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 1301, 1307, and 1311 (MCL 324.1301, 324.1307,
and 324.1311), section 1301 as amended by 2018 PA 36 and sections
1307 and 1311 as amended by 2013 PA 98, and by adding sections
1313, 1315, and 1317.

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

6 (b) "Department" means the department, agency, or officer

1 authorized by this act to approve or deny an application for a
2 particular permit. **AS USED IN SECTIONS 1315 TO 1317, "DEPARTMENT"**
3 **MEANS THE DEPARTMENT OF ENVIRONMENTAL QUALITY.**

4 (c) "Director" means the director of the state department
5 authorized under this act to approve or deny an application for a
6 particular permit or the director's designee. **AS USED IN SECTIONS**
7 **1313 TO 1317, "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF**
8 **ENVIRONMENTAL QUALITY.**

9 (D) "ENVIRONMENTAL PERMIT REVIEW COMMISSION" OR "COMMISSION"
10 **MEANS THE ENVIRONMENTAL PERMIT REVIEW COMMISSION ESTABLISHED UNDER**
11 **SECTION 1313(1).**

12 (E) "ENVIRONMENTAL PERMIT PANEL" OR "PANEL" MEANS A PANEL OF
13 **THE ENVIRONMENTAL PERMIT REVIEW COMMISSION, APPOINTED UNDER SECTION**
14 **1315(2).**

15 (F) ~~(d)~~—"Permit", **EXCEPT AS PROVIDED IN SUBDIVISION (G),** means
16 a permit or operating license required by any of the following
17 sections or by rules promulgated thereunder, or, in the case of
18 section 9112, by an ordinance ~~adopted thereunder~~:**REFERRED TO IN**
19 **THAT SECTION:**

- 20 (i) Section 3104, floodplain alteration permit.
21 (ii) Section 3503, permit for use of water in mining iron ore.
22 (iii) Section 4105, sewerage system construction permit.
23 (iv) Section 6516, vehicle testing license.
24 (v) Section 6521, motor vehicle fleet testing permit.
25 (vi) Section 8310, restricted use pesticide dealer license.
26 (vii) Section 8310a, agricultural pesticide dealer license.
27 (viii) Section 8504, license to manufacture or distribute

1 fertilizer.

2 (ix) Section 9112, local soil erosion and sedimentation
3 control permit.

4 (x) Section 11509, solid waste disposal area construction
5 permit.

6 (xi) Section 11512, solid waste disposal area operating
7 license.

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

10 (xiii) Section 11702, septage waste servicing license or
11 septage waste vehicle license.

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

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

14 (xvi) Section 30304, state permit for dredging, filling, or
15 other activity in wetland. Permit includes an authorization for a
16 specific project to proceed under a general permit issued under
17 section 30312.

18 (xvii) Section 31509, dam construction, repair, or removal
19 permit.

20 (xviii) Section 32312, flood risk, high risk, or environmental
21 area permit.

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

24 (xx) Section 32603, permit for submerged log removal from
25 Great Lakes bottomlands.

26 (xxi) Section 35304, department permit for critical dune area
27 use.

- 1 (xxii) Section 36505, endangered species permit.
- 2 (xxiii) Section 41702, game bird hunting preserve license.
- 3 (xxiv) Section 42101, dog training area permit.
- 4 (xxv) Section 42501, fur dealer's license.
- 5 (xxvi) Section 42702, game dealer's license.
- 6 (xxvii) Section 44513, charter boat operating permit under
7 reciprocal agreement.
- 8 (xxviii) Section 44516, boat livery operating permit.
- 9 (xxix) Section 45902, game fish propagation license.
- 10 (xxx) Section 45906, game fish import license.
- 11 (xxxi) Section 48705, permit to take amphibians and reptiles
12 for scientific or educational use.
- 13 (xxxii) Section 61525, oil or gas well drilling permit.
- 14 (xxxiii) Section 62509, brine, storage, or waste disposal well
15 drilling or conversion permit or test well drilling permit.
- 16 (xxxiv) Section 63103a, ferrous mineral mining permit.
- 17 (xxxv) Section 63514 or 63525, surface coal mining and
18 reclamation permit or revision of the permit, respectively.
- 19 (xxxvi) Section 63704, sand dune mining permit.
- 20 (xxxvii) Section 72108, use permits for a Pure Michigan Trail.
- 21 (xxxviii) Section 76109, sunken aircraft or watercraft
22 abandoned property recovery permit.
- 23 (xxxix) Section 76504, Mackinac Island motor vehicle and land
24 use permits.
- 25 (xxxx) Section 80159, buoy or beacon permit.
- 26 **(G) "PERMIT", AS USED IN SECTIONS 1313 TO 1317, MEANS ANY**
27 **PERMIT OR OPERATING LICENSE THAT MEETS BOTH OF THE FOLLOWING**

1 CONDITIONS:

2 (i) THE APPLICANT FOR THE PERMIT OR OPERATING LICENSE IS NOT
3 THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

4 (ii) THE PERMIT OR OPERATING LICENSE IS ISSUED BY THE
5 DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER THIS ACT OR THE RULES
6 PROMULGATED UNDER THIS ACT.

7 (H) ~~(e)~~—"Processing deadline" means the last day of the
8 processing period.

9 (I) ~~(f)~~—"Processing period", **SUBJECT TO SECTION 1307(2) AND**
10 **(3)**, means the following time period after the close of the
11 application period, for the following permit, as applicable:

12 (i) Twenty days for a permit under section 61525 or 62509.

13 (ii) Thirty days for a permit under section 9112 or 44516.

14 (iii) Thirty days after the department consults with the
15 underwater salvage and preserve committee created under section
16 76103, for a permit under section 76109.

17 (iv) Sixty days, for a permit under section 30104 for a minor
18 project established under section 30105(7) or 32512a(1), or an
19 authorization for a specific project to proceed under a general
20 permit issued under section 30105(8) or 32512a(2), or for a permit
21 under section 32312.

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

24 (vi) Sixty days or, if a hearing is held, 120 days for a
25 permit under section 30104, other than a permit or authorization
26 described in subparagraph (ii) or (iv), or for a permit under
27 section 31509.

1 (vii) Ninety days for a permit under section 11512, a revision
2 of a surface coal mining and reclamation permit under section
3 63525, or a permit under section 72108.

4 (viii) Ninety days or, if a hearing is held, 150 days for a
5 permit under section 3104 or 30304, or a permit under section 32512
6 other than a permit described in subparagraph (iv).

7 (ix) Ninety days after the close of the review or comment
8 period under section 32604, or if a public hearing is held, 90 days
9 after the date of the public hearing for a permit under section
10 32603.

11 (x) One hundred twenty days for a permit under section 11509,
12 11542, 63103a, 63514, or 63704.

13 (xi) One hundred fifty days for a permit under section 36505.
14 However, if a site inspection or federal approval is required, the
15 150-day period is tolled pending completion of the inspection or
16 receipt of the federal approval.

17 (xii) For any other permit, 150 days or, if a hearing is held,
18 90 days after the hearing, whichever is later.

19 Sec. 1307. (1) By the processing deadline, the department
20 shall approve or deny an application for a permit.

21 (2) If requested by the permit applicant, the department shall
22 extend the processing period for a permit by not more than 120
23 days, as specified by the applicant. If requested by the permit
24 applicant, the department may extend the processing period beyond
25 the additional 120 days. However, a processing period shall not be
26 extended under this subsection to a date later than 1 year after
27 the application period ends.

1 (3) A PROCESSING PERIOD IS TOLLED FROM THE DATE THAT A PERMIT
2 APPLICANT SUBMITS A PETITION UNDER SECTION 1315(1) UNTIL THE DATE
3 THAT A DECISION OF THE DIRECTOR IS MADE UNDER SECTION 1315(6). IF A
4 PERMIT APPLICANT SUBMITS A PETITION UNDER SECTION 1315(1), THE
5 DEPARTMENT SHALL NOT APPROVE OR DENY THE APPLICATION FOR THE PERMIT
6 UNDER SUBSECTION (1) UNTIL AFTER THE DIRECTOR ISSUES A DECISION
7 UNDER SECTION 1315(6).

8 (4) ~~(2)~~—The approval or denial of an application for a permit
9 shall be in writing and shall be based upon evidence that would
10 meet the standards in section 75 of the administrative procedures
11 act of 1969, 1969 PA 306, MCL 24.275.

12 (5) ~~(3)~~—Approval of an application for a permit may be granted
13 with conditions or modifications necessary to achieve compliance
14 with the part or parts of this act under which the permit is
15 issued.

16 (6) ~~(4)~~—A denial of an application for a permit shall
17 document, and any review upholding the decision shall determine, to
18 the extent practical, all of the following:

19 (a) That the decision is based on specific provisions of this
20 act or rules promulgated under this act.

21 (b) That the decision is based upon sufficient facts or data,
22 which are recorded in the file.

23 (c) To the extent applicable, all of the following:

24 (i) That the decision is the product of reliable scientific
25 principles and methods.

26 (ii) That the decision has applied the principles and methods
27 reliably to the facts.

1 (7) ~~(5)~~—Except for permits described in subsection ~~(6)~~, ~~(8)~~,
2 if the department fails to satisfy the requirements of subsection
3 (1) with respect to an application for a permit, the department
4 shall pay the applicant an amount equal to 15% of the greater of
5 the following, as applicable:

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

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

12 (8) ~~(6)~~—If the department fails to satisfy the requirements of
13 subsection (1) with respect to a permit required by section 11509,
14 11512, 30304, or 32603, the application shall be considered to be
15 approved and the department shall be considered to have made any
16 determination required for approval.

17 (9) ~~(7)~~—The failure of the department to satisfy the
18 requirements of subsection (1) or the fact that the department is
19 required to make a payment under subsection ~~(5)~~—~~(7)~~ or is
20 considered to have approved a permit under subsection ~~(6)~~—~~(8)~~ shall
21 not be used by the department as the basis for discriminating
22 against the applicant. If the department is required to make a
23 payment under subsection ~~(5)~~, ~~(7)~~, the application shall be
24 processed in sequence with other applications for the same type of
25 permit, based on the date on which the processing period began,
26 unless the director determines on an application-by-application
27 basis that the public interest is best served by processing in a

1 different order.

2 (10) ~~(8)~~—If the department fails to satisfy the requirements
3 of subsection (1) with respect to 10% or more of the applications
4 for a particular type of permit received during a quarter of the
5 state fiscal year, the department shall immediately devote
6 resources from that program to eliminate any backlog and satisfy
7 the requirements of subsection (1) with respect to new applications
8 for that type of permit within the next fiscal quarter.

9 (11) ~~(9)~~—If the department fails to satisfy the requirements
10 of subsection (1), the director shall notify the appropriations
11 committees of the senate and house of representatives of the
12 failure. The notification shall be in writing and shall include
13 both of the following:

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

15 (b) A statement of the amount the department was required to
16 pay the applicant under subsection ~~(5)~~—(7) or a statement that the
17 department was required to consider the application to be approved
18 under subsection ~~(6)~~—(8), as applicable.

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

26 (a) The number of applications for permits the department
27 received.

1 (b) The number of applications approved, the number of
2 applications approved by the processing deadline, the number of
3 applications approved after the processing deadline, and the
4 average ~~time~~**TIMES** for the department to determine administrative
5 completeness and to approve or disapprove applications.

6 (c) The number of applications denied, the number of
7 applications denied by the processing deadline, and the number of
8 applications denied after the processing deadline.

9 (d) The number of applications approved or denied after the
10 processing deadline that, based on the director's determination of
11 the public interest, were not processed in sequence as otherwise
12 required by section ~~1307(7)~~**1307(9)**.

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

15 (f) The amount of money refunded and discounts granted under
16 section 1307.

17 (g) The number of applications processed as provided in
18 section 1309.

19 (h) If a department failed to satisfy the requirements of
20 section 1307(1) with respect to 10% or more of the applications for
21 a particular type of permit received during a quarter of the state
22 fiscal year, the type of permit and percentage of applications for
23 which the requirements were not met, how the department attempted
24 to eliminate any backlog and satisfy the requirements of section
25 1307(1) with respect to new applications for that type of permit
26 within the next fiscal quarter, and whether the department was
27 successful.

1 SEC. 1313. (1) THE ENVIRONMENTAL PERMIT REVIEW COMMISSION IS
2 ESTABLISHED IN THE DEPARTMENT OF ENVIRONMENTAL QUALITY. THE
3 COMMISSION SHALL ADVISE THE DIRECTOR ON DISPUTES RELATED TO PERMITS
4 AND PERMIT APPLICATIONS.

5 (2) THE COMMISSION SHALL CONSIST OF 15 INDIVIDUALS, APPOINTED
6 BY THE GOVERNOR. THE GOVERNOR SHALL APPOINT THE FIRST COMMISSION
7 WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
8 ADDED THIS SECTION. EACH MEMBER OF THE COMMISSION SHALL MEET 1 OR
9 MORE OF THE FOLLOWING:

10 (A) HAVE THE EQUIVALENT OF 6 YEARS OF FULL-TIME RELEVANT
11 EXPERIENCE AS A PRACTICING ENGINEER, GEOLOGIST, HYDROLOGIST, OR
12 HYDROGEOLOGIST.

13 (B) HAVE A MASTER'S DEGREE FROM AN ACCREDITED INSTITUTION OF
14 HIGHER EDUCATION IN A DISCIPLINE OF ENGINEERING OR SCIENCE RELATED
15 TO AIR OR WATER AND THE EQUIVALENT OF 8 YEARS OF FULL-TIME RELEVANT
16 EXPERIENCE.

17 (3) AN INDIVIDUAL IS NOT ELIGIBLE TO BE A MEMBER OF THE
18 COMMISSION IF ANY OF THE FOLLOWING APPLY:

19 (A) THE INDIVIDUAL IS A CURRENT EMPLOYEE OF ANY OFFICE,
20 DEPARTMENT, OR AGENCY OF THIS STATE.

21 (B) THE INDIVIDUAL IS A PARTY TO 1 OR MORE CONTRACTS WITH THE
22 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE COMPENSATION PAID UNDER
23 THOSE CONTRACTS IN ANY OF THE PRECEDING 3 YEARS REPRESENTED MORE
24 THAN 5% OF THE INDIVIDUAL'S ANNUAL GROSS INCOME IN THAT PRECEDING
25 YEAR.

26 (C) THE INDIVIDUAL IS EMPLOYED BY AN ENTITY THAT IS A PARTY TO
27 1 OR MORE CONTRACTS WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY

1 AND THE COMPENSATION PAID TO THE INDIVIDUAL'S EMPLOYER UNDER THOSE
2 CONTRACTS IN ANY OF THE PRECEDING 3 YEARS REPRESENTED MORE THAN 5%
3 OF THE EMPLOYER'S ANNUAL GROSS REVENUE IN THAT PRECEDING YEAR.

4 (D) THE INDIVIDUAL WAS EMPLOYED BY THE DEPARTMENT OF
5 ENVIRONMENTAL QUALITY WITHIN THE PRECEDING 3 YEARS.

6 (4) AN INDIVIDUAL APPOINTED TO THE COMMISSION SHALL SERVE FOR
7 A TERM OF 4 YEARS, EXCEPT AS PROVIDED IN THIS SUBSECTION, AND MAY
8 BE REAPPOINTED. HOWEVER, AFTER SERVING 2 CONSECUTIVE TERMS ON THE
9 COMMISSION, THE INDIVIDUAL IS NOT ELIGIBLE TO SERVE ON THE
10 COMMISSION FOR 2 YEARS. THE TERMS FOR MEMBERS FIRST APPOINTED SHALL
11 BE STAGGERED SO THAT 5 EXPIRE IN 2 YEARS, 5 EXPIRE IN 3 YEARS, AND
12 5 EXPIRE IN 4 YEARS. A VACANCY ON THE COMMISSION SHALL BE FILLED IN
13 THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

14 (5) THE GOVERNOR MAY REMOVE A MEMBER OF THE COMMISSION FOR
15 INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
16 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

17 (6) INDIVIDUALS APPOINTED TO THE COMMISSION SHALL SERVE
18 WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE COMMISSION MAY BE
19 REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
20 PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE COMMISSION.

21 (7) THE BUSINESS THAT THE COMMISSION MAY PERFORM SHALL BE
22 CONDUCTED AT A PUBLIC MEETING OF THE COMMISSION HELD IN COMPLIANCE
23 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

24 SEC. 1315. (1) A PERMIT APPLICANT MAY SEEK REVIEW BY A PANEL
25 BY SUBMITTING A PETITION TO THE DIRECTOR BEFORE THE PERMIT HAS BEEN
26 APPROVED OR DENIED. THE PETITION SHALL INCLUDE THE ISSUES IN
27 DISPUTE, THE RELEVANT FACTS, AND ANY DATA, ANALYSIS, OPINION, AND

1 SUPPORTING DOCUMENTATION FOR THE PETITIONER'S POSITION. IF THE
2 DIRECTOR BELIEVES THAT THE DISPUTE MAY BE RESOLVED WITHOUT
3 CONVENING A PANEL, THE DIRECTOR MAY CONTACT THE PETITIONER
4 REGARDING THE ISSUES IN DISPUTE AND MAY NEGOTIATE, FOR A PERIOD NOT
5 TO EXCEED 45 DAYS, A RESOLUTION OF THE DISPUTE.

6 (2) UNLESS THE DISPUTE IS RESOLVED PURSUANT TO SUBSECTION (1),
7 THE DIRECTOR SHALL CONVENE A MEETING OF A PANEL. THE MEETING SHALL
8 BE HELD WITHIN 45 DAYS AFTER THE DIRECTOR RECEIVED THE PETITION.
9 THE PANEL SHALL CONSIST OF 3 MEMBERS OF THE COMMISSION SELECTED BY
10 THE DIRECTOR ON THE BASIS OF THEIR RELEVANT EXPERTISE. THE DIRECTOR
11 MAY SELECT A REPLACEMENT FOR A MEMBER WHO IS UNABLE TO PARTICIPATE
12 IN THE REVIEW PROCESS. TO SERVE AS A PANEL MEMBER, A COMMISSION
13 MEMBER MUST SUBMIT TO THE DIRECTOR ON A FORM PROVIDED BY THE
14 DEPARTMENT AN AGREEMENT NOT TO ACCEPT EMPLOYMENT FROM THE
15 PETITIONER BEFORE 1 YEAR AFTER A DECISION IS RENDERED ON THE MATTER
16 IF GROSS INCOME FROM THE EMPLOYMENT WOULD EXCEED 5% OF THE MEMBER'S
17 GROSS INCOME FROM ALL SOURCES IN ANY OF THE PRECEDING 3 YEARS.

18 (3) THE MEMBERS OF THE PANEL SHALL ELECT A CHAIRPERSON. TWO
19 MEMBERS OF THE PANEL CONSTITUTE A QUORUM. A MAJORITY OF THE VOTES
20 CAST ARE REQUIRED FOR OFFICIAL ACTION OF THE PANEL. THE BUSINESS
21 THAT THE PANEL MAY PERFORM SHALL BE CONDUCTED AT A PUBLIC MEETING
22 OF THE PANEL HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA
23 267, MCL 15.261 TO 15.275.

24 (4) THE DIRECTOR SHALL PROVIDE THE PANEL WITH A COPY OF THE
25 PETITION AND ITS SUPPORTING DOCUMENTATION AND A COPY OF ALL
26 SUPPORTING DOCUMENTATION FROM THE DEPARTMENT. AT THE MEETING OF THE
27 PANEL, REPRESENTATIVES OF THE PETITIONER AND THE DEPARTMENT SHALL

1 EACH BE GIVEN AN OPPORTUNITY TO PRESENT THEIR POSITIONS.

2 (5) WITHIN 45 DAYS AFTER HEARING THE PETITION, THE PANEL SHALL
3 MAKE A RECOMMENDATION REGARDING THE PETITION AND PROVIDE WRITTEN
4 NOTICE OF THE RECOMMENDATION TO THE DIRECTOR AND THE PETITIONER.
5 THE WRITTEN RECOMMENDATION SHALL INCLUDE THE SPECIFIC RATIONALE FOR
6 THE RECOMMENDATION. THE RECOMMENDATION MAY BE TO ADOPT, MODIFY, OR
7 REVERSE, IN WHOLE OR IN PART, THE DEPARTMENT'S POSITION OR DECISION
8 ON THE DISPUTE THAT IS THE SUBJECT OF THE PETITION.

9 (6) WITHIN 60 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE
10 PANEL'S RECOMMENDATION, THE DIRECTOR SHALL ISSUE A DECISION, IN
11 WRITING, REGARDING THE PETITION. IF THE DIRECTOR AGREES WITH THE
12 RECOMMENDATION, THE DEPARTMENT SHALL INCORPORATE THE RECOMMENDATION
13 INTO THE TERMS OF THE PERMIT. IF THE DIRECTOR DOES NOT AGREE WITH
14 THE RECOMMENDATION, THE DIRECTOR SHALL INCLUDE IN THE WRITTEN
15 DECISION THE SPECIFIC RATIONALE FOR REJECTING THE RECOMMENDATION.
16 IF THE DIRECTOR FAILS TO MAKE A DECISION WITHIN THE TIME PERIOD
17 PROVIDED FOR IN THIS SUBSECTION, THE RECOMMENDATION OF THE PANEL
18 SHALL BE CONSIDERED THE DECISION OF THE DIRECTOR. THE DECISION OF
19 THE DIRECTOR UNDER THIS SUBSECTION REGARDING A DISPUTE RELATED TO A
20 PERMIT OR PERMIT APPLICATION IS NOT SUBJECT TO REVIEW UNDER THIS
21 ACT, THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
22 24.201 TO 24.328, OR SECTION 631 OF THE REVISED JUDICATURE ACT OF
23 1961, 1961 PA 236, MCL 600.631. HOWEVER, THE DECISION OF THE
24 DIRECTOR UNDER THIS SUBSECTION MAY BE INCLUDED IN AN APPEAL TO A
25 FINAL PERMIT ACTION. IF A PERMIT APPLICANT DECLINES TO SUBMIT A
26 PETITION FOR REVIEW UNDER THIS SECTION, THE DECISION OF THE
27 DEPARTMENT REGARDING THE APPROVAL OR DENIAL OF A PERMIT IS FINAL

1 PERMIT ACTION FOR PURPOSES OF ANY JUDICIAL REVIEW OR OTHER REVIEW
2 ALLOWED UNDER THIS ACT, THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
3 1969 PA 306, MCL 24.201 TO 24.328, AND SECTION 631 OF THE REVISED
4 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.631.

5 (7) A MEMBER OF THE COMMISSION SHALL NOT PARTICIPATE IN A
6 PETITION REVIEW IF THE MEMBER HAS A CONFLICT OF INTEREST. A MEMBER
7 HAS A CONFLICT OF INTEREST IF ANY OF THE FOLLOWING APPLY:

8 (A) THE APPLICANT HAS HIRED THAT MEMBER OR THE MEMBER'S
9 EMPLOYER ON ANY ENVIRONMENTAL MATTER WITHIN THE PRECEDING 3 YEARS.

10 (B) THE MEMBER HAS BEEN AN EMPLOYEE OF THE APPLICANT WITHIN
11 THE PRECEDING 3 YEARS.

12 (C) THE MEMBER HAS MORE THAN A 1% OWNERSHIP INTEREST IN THE
13 APPLICANT.

14 (8) THE DIRECTOR SHALL SELECT A MEMBER OF THE COMMISSION TO
15 PARTICIPATE IN A PETITION REVIEW IN PLACE OF A MEMBER DISQUALIFIED
16 UNDER SUBSECTION (7).

17 SEC. 1317. (1) IN A CONTESTED CASE REGARDING A PERMIT, AN
18 ADMINISTRATIVE LAW JUDGE SHALL PRESIDE, MAKE THE FINAL DECISION,
19 AND ISSUE THE FINAL DECISION AND ORDER FOR THE DEPARTMENT. ANY
20 PARTY TO THE CONTESTED CASE, INCLUDING THE DEPARTMENT, MAY, WITHIN
21 21 DAYS AFTER RECEIVING THE FINAL DECISION AND ORDER, SEEK REVIEW
22 OF THE FINAL DECISION AND ORDER BY AN ENVIRONMENTAL PERMIT PANEL BY
23 SUBMITTING A REQUEST TO THE DIRECTOR AND A NOTICE TO THE HEARING
24 OFFICER.

25 (2) ON PETITION FOR REVIEW OF A FINAL DECISION UNDER
26 SUBSECTION (1), THE DIRECTOR SHALL CONVENE AN ENVIRONMENTAL PERMIT
27 PANEL IN THE SAME MANNER AS PROVIDED UNDER SECTION 1315(2), EXCEPT

1 THAT THE DIRECTOR SHALL NOT SELECT AS A MEMBER OF THE PANEL AN
2 INDIVIDUAL WHO WAS A MEMBER OF A PANEL THAT PREVIOUSLY REVIEWED ANY
3 DISPUTE REGARDING THE PERMIT. THE PANEL SHALL MEET AND CONDUCT
4 BUSINESS IN THE SAME MANNER AS PROVIDED UNDER SECTION 1315(2) AND
5 (3). THE PANEL'S REVIEW OF THE FINAL DECISION MUST BE LIMITED TO
6 THE RECORD ESTABLISHED BY THE ADMINISTRATIVE LAW JUDGE.

7 (3) AFTER AN ENVIRONMENTAL PERMIT PANEL IS CONVENED UNDER
8 SUBSECTION (2), A MEMBER OF THE PANEL SHALL NOT COMMUNICATE,
9 DIRECTLY OR INDIRECTLY, IN CONNECTION WITH ANY ISSUE OF FACT, WITH
10 ANY PARTY OR OTHER PERSON, OR, IN CONNECTION WITH ANY ISSUE OF LAW,
11 WITH ANY PARTY OR THE PARTY'S REPRESENTATIVE, EXCEPT ON NOTICE AND
12 OPPORTUNITY FOR ALL PARTIES TO PARTICIPATE.

13 (4) AN ENVIRONMENTAL PERMIT PANEL MAY ADOPT, REMAND, MODIFY,
14 OR REVERSE, IN WHOLE OR IN PART, A FINAL DECISION AND ORDER
15 DESCRIBED IN SUBSECTION (1). THE PANEL SHALL ISSUE AN OPINION THAT
16 BECOMES THE FINAL DECISION OF THE DEPARTMENT AND IS SUBJECT TO
17 JUDICIAL REVIEW AS PROVIDED UNDER THE ADMINISTRATIVE PROCEDURES ACT
18 OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, AND OTHER APPLICABLE
19 LAW.

20 (5) THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM SHALL PROVIDE
21 AN ENVIRONMENTAL PERMIT PANEL WITH ALL STAFF NECESSARY FOR THE
22 PANEL TO PERFORM ITS DUTIES UNDER THIS SECTION.

23 (6) AN OPINION ISSUED BY AN ENVIRONMENTAL PERMIT PANEL MUST BE
24 IN WRITING AND CLEARLY DEFINE THE LEGAL AND TECHNICAL PRINCIPLES
25 BEING APPLIED.

26 (7) IF NO PARTY TIMELY APPEALS A FINAL DECISION AND ORDER
27 DESCRIBED IN SUBSECTION (1) TO AN ENVIRONMENTAL PERMIT PANEL, THE

1 **FINAL DECISION AND ORDER IS THE FINAL AGENCY ACTION FOR PURPOSES OF**
2 **ANY APPLICABLE JUDICIAL REVIEW.**

3 Enacting section 1. This amendatory act does not take effect
4 unless all of the following bills of the 99th Legislature are
5 enacted into law:

6 (a) Senate Bill No. 652.

7 (b) Senate Bill No. 654.