

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

\*\*\*\*\* 324.30311.amended THIS AMENDED SECTION IS EFFECTIVE PENDING FUNDING  
APPROPRIATED BY THE LEGISLATURE (See compiler's note) \*\*\*\*\*

**324.30311.amended Permit for activity listed in MCL 324.30304; approval conditioned on certain determinations; criteria; findings of necessity; criteria for determining unacceptable disruption to aquatic resources; additional showing; determination of unreasonable costs.**

Sec. 30311. (1) A permit for an activity listed in section 30304 shall not be approved unless the department determines that the issuance of a permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.

(2) In determining whether the activity is in the public interest, the benefit which reasonably may be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity. The decision shall reflect the national and state concern for the protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:

(a) The relative extent of the public and private need for the proposed activity.

(b) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.

(c) The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetland provides.

(d) The probable effects of each proposal in relation to the cumulative effects created by other existing and anticipated activities in the watershed.

(e) The probable effects on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.

(f) The size of the wetland being considered.

(g) The amount of remaining wetland in the general area.

(h) Proximity to any waterway.

(i) Economic value, both public and private, of the proposed land change to the general area.

(3) In considering a permit application, the department shall give serious consideration to findings of necessity for the proposed activity which have been made by other state agencies.

(4) A permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources. In determining whether a disruption to the aquatic resources is unacceptable, the criteria set forth in section 30302 and subsection (2) shall be considered. A permit shall not be issued unless the applicant also shows either of the following:

(a) The proposed activity is primarily dependent upon being located in the wetland.

(b) A feasible and prudent alternative does not exist.

(5) If it is otherwise a feasible and prudent alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity may be considered.

(6) An alternative that entails higher costs, as described in R 281.922a(11) of the Michigan administrative code, is not feasible and prudent if those higher costs are unreasonable. In determining whether such costs are unreasonable, the department shall consider both of the following:

(a) The relation of the increased cost to the overall scope and cost of the project.

(b) Whether the projected cost is substantially greater than the costs normally associated with the particular type of project.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2009, Act 120, Eff. (pending).

**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

**Popular name:** Wetland Protection Act