

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

***** 324.30311a.added THIS ADDED SECTION IS EFFECTIVE PENDING FUNDING APPROPRIATED
BY THE LEGISLATURE (See compiler's note) *****

324.30311a.added Guideline, bulletin, interpretive statement; form with instructions; effect; guideline document for evaluation of feasible and prudent alternatives; denial of application for permit; prohibition; extension of processing period; request for rule-making.

Sec. 30311a. (1) A guideline, bulletin, interpretive statement, or form with instructions under this part shall not be given the force and effect of law. A guideline, bulletin, interpretive statement, or form with instructions under this part is not legally binding on the public or the regulated community and shall not be cited by the department for compliance and enforcement purposes.

(2) Within 1 year after the effective date of the 2009 amendatory act that added this subsection, the department shall adopt a new guidance document for the evaluation of feasible and prudent alternatives. The guidance document shall be consistent with findings and recommendations of the United States environmental protection agency's region 5 review of the program under this part. The department shall develop the guidance document in consultation with interested parties, including the council.

(3) Before the guidance document under subsection (2) takes effect, the department shall not deny an application for a permit required under section 30304 because of the availability of a feasible and prudent alternative based solely on consideration of statewide alternatives, higher cost, or reduced profit unless both of the following apply:

(a) The proposed denial has been reviewed by a department deputy director.

(b) The department has requested information from the Michigan economic development corporation and applicable regional and local economic development authorities relative to the project and considered the information received.

(4) Before the guidance document under subsection (2) takes effect, the processing period specified under section 1301 for a permit required under section 30304 is extended if department staff have proposed denying the permit for reasons set forth in subsection (7). Notwithstanding section 1307(1), the extension shall be for not more than 45 days.

(5) The department shall not file a request for rule-making under section 39 of the administrative procedures act, 1969 PA 306, MCL 24.239, for rules addressing the evaluation of feasible and prudent alternatives before October 1, 2012.

History: Add. 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