

# SENATE BILL No. 439

April 2, 2009, Introduced by Senators KAHN, PAPPAGEORGE, KUIPERS, GILBERT, RICHARDVILLE, CROSEY, PATTERSON, JELINEK, BROWN, JANSEN and ALLEN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 27.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 27 PROGRAM REVIEW

SEC. 2701. AS USED IN THIS PART, "PANEL" MEANS THE NREPA PROGRAM REVIEW PANEL CREATED IN SECTION 2705(1).

SEC. 2703. (1) THE DEPARTMENT, THE DEPARTMENT OF ENVIRONMENTAL QUALITY, AND ANY OTHER STATE DEPARTMENT THAT ADMINISTERS A PROGRAM UNDER THIS ACT SHALL DO 1 OF THE FOLLOWING FOR EACH SUCH PROGRAM:

(A) HIRE THROUGH A REQUEST FOR PROPOSALS PROCESS A QUALIFIED, INDEPENDENT PERSON TO PERFORM A BENCHMARK ANALYSIS OF THE PROGRAM.

(B) ARRANGE FOR AN INDEPENDENT AND EXTERNAL PEER REVIEW OF THE PROGRAM.

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1           (2) A PERSON SHALL NOT BE SELECTED TO PERFORM A BENCHMARK  
2 ANALYSIS OR PEER REVIEW UNDER SUBSECTION (1) UNLESS THE PERSON HAS  
3 A PROVEN ABILITY TO EVALUATE REGULATORY ACTIVITIES AND MAKE  
4 RECOMMENDATIONS FOR IMPROVEMENT.

5           (3) THE DEPARTMENT, THE DEPARTMENT OF ENVIRONMENTAL QUALITY,  
6 AND ANY OTHER STATE DEPARTMENT THAT ADMINISTERS A PROGRAM UNDER  
7 THIS ACT SHALL EACH COMPLETE 2 BENCHMARK ANALYSES OR PEER REVIEWS  
8 IN ANY COMBINATION BY FEBRUARY 1, 2010 AND EACH YEAR THEREAFTER  
9 UNTIL ALL PROGRAMS UNDER THIS ACT ADMINISTERED BY THAT ENTITY HAVE  
10 BEEN ANALYZED OR REVIEWED.

11           (4) BY FEBRUARY 1, 2010, THE DEPARTMENT OF ENVIRONMENTAL  
12 QUALITY SHALL COMPLETE A BENCHMARK ANALYSIS OR PEER REVIEW OF THE  
13 PART 201 REMEDIATION PROGRAM AND OF THE PART 31 NPDES PROGRAM  
14 PURSUANT TO SUBSECTION (3). THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
15 SHALL SELECT A PERSON OR PERSONS TO PERFORM THE BENCHMARK ANALYSES  
16 OR SHALL ARRANGE FOR THE INDEPENDENT, EXTERNAL PEER REVIEWS FOR  
17 THESE PROGRAMS BY JUNE 1, 2009. AN ANALYSIS OR PEER REVIEW FOR THE  
18 DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER THIS SECTION SHALL  
19 INCLUDE ALL OF THE FOLLOWING:

20           (A) A CALCULATION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
21 PER-PERMIT COST TO PROCESS THE PERMITS AND ADMINISTER THE PROGRAM.

22           (B) A REVIEW OF THE TIMELINESS OF THE PROCESS FROM RECEIPT OF  
23 A PERMIT APPLICATION TO APPROVAL OR DENIAL OF A PERMIT APPLICATION.

24           (C) A REVIEW OF CUSTOMER SERVICE PRACTICES.

25           (D) A REVIEW OF MEASURABLE ENVIRONMENTAL IMPACTS.

26           (E) FOR THE PART 31 AND PART 201 PROGRAMS, A COMPARISON OF THE  
27 DEPARTMENT OF ENVIRONMENTAL QUALITY'S PERFORMANCE TO THAT OF OTHER

1 GREAT LAKES STATES.

2 SEC. 2705. (1) THE NREPA PROGRAM REVIEW PANEL IS CREATED  
3 WITHIN THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

4 (2) THE PANEL SHALL CONSIST OF THE FOLLOWING MEMBERS:

5 (A) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE, 1  
6 REPRESENTING PERMIT HOLDERS AND 1 REPRESENTING BUSINESS.

7 (B) TWO INDIVIDUALS APPOINTED BY THE SENATE MAJORITY LEADER, 1  
8 REPRESENTING PERMIT HOLDERS AND 1 REPRESENTING BUSINESS.

9 (C) THREE INDIVIDUALS APPOINTED BY THE GOVERNOR, CONSISTING OF  
10 1 EMPLOYEE OF THE DEPARTMENT, 1 EMPLOYEE OF THE DEPARTMENT OF  
11 NATURAL RESOURCES, AND 1 PERSON REPRESENTING THE GENERAL PUBLIC.

12 (3) THE MEMBERS FIRST APPOINTED TO THE PANEL SHALL BE  
13 APPOINTED BY JULY 1, 2009.

14 (4) MEMBERS OF THE PANEL SHALL SERVE FOR TERMS OF 4 YEARS OR  
15 UNTIL A SUCCESSOR IS APPOINTED.

16 (5) IF A VACANCY OCCURS ON THE PANEL, THE VACANCY SHALL BE  
17 FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL  
18 APPOINTMENT WAS MADE.

19 (6) THE APPOINTING OFFICER MAY REMOVE A MEMBER OF THE PANEL  
20 FOR INCOMPETENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR  
21 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

22 (7) THE FIRST MEETING OF THE PANEL SHALL BE CALLED BY THE  
23 MEMBER OF THE PANEL WHO IS AN EMPLOYEE OF THE DEPARTMENT. AT THE  
24 FIRST MEETING, THE PANEL SHALL ELECT FROM AMONG ITS MEMBERS A  
25 CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR  
26 APPROPRIATE. AFTER THE FIRST MEETING, THE PANEL SHALL MEET AT LEAST  
27 QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF

1 REQUESTED BY 2 OR MORE MEMBERS.

2 (8) A MAJORITY OF THE MEMBERS OF THE PANEL CONSTITUTE A QUORUM  
3 FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE PANEL. A  
4 MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE REQUIRED FOR  
5 OFFICIAL ACTION OF THE PANEL.

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

9 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
10 RETAINED BY THE PANEL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS  
11 SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231  
12 TO 15.246.

13 (11) MEMBERS OF THE PANEL SHALL SERVE WITHOUT COMPENSATION.  
14 HOWEVER, MEMBERS OF THE PANEL MAY BE REIMBURSED FOR THEIR ACTUAL  
15 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR  
16 OFFICIAL DUTIES AS MEMBERS OF THE PANEL.

17 (12) THE PANEL SHALL ASSIST A PERSON PERFORMING A BENCHMARK  
18 ANALYSIS OR PEER REVIEW UNDER SECTION 2703 IN DEVELOPING A  
19 FRAMEWORK FOR THE WORK.

20 (13) THE PANEL IS DISSOLVED EFFECTIVE JULY 1, 2014.