

# SENATE BILL No. 785

August 27, 2009, Introduced by Senator BIRKHOLZ and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 5202, 8807, 30105, 30301, 30305, 30306, 30306b, 30311, 30312, 30317, 32501, 32512, 32512a, and 32513 (MCL 324.5202, 324.8807, 324.30105, 324.30301, 324.30305, 324.30306, 324.30306b, 324.30311, 324.30312, 324.30317, 324.32501, 324.32512, 324.32512a, and 324.32513), section 5202 as added by 2002 PA 397, section 8807 as added by 1998 PA 287, section 30105 as amended by 2006 PA 531, sections 30301, 30305, 30306, 30312, 32501, and 32512 as amended and section 32512a as added by 2003 PA 14, section 30306b as added by 2006 PA 435, section 30311 as added by 1995 PA 59, section 30317 as amended by 1998 PA 228, and section 32513 as amended by 2008 PA 276, and by adding sections 30303b, 30303d,

30304b, 30305b, 30311b, 30311d, 30312b, 30312d, 30325, 30327, and 30329; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5202. (1) The authority in consultation with the  
2 department shall establish a strategic water quality initiatives  
3 loan program. This loan program shall provide low interest loans to  
4 municipalities to provide assistance ~~for improvements to a sewage~~  
5 ~~system~~ for 1 or more of the following:

6           (a) Improvements to reduce or eliminate the amount of  
7 groundwater or storm water entering a sanitary sewer lead or a  
8 combined sewer lead.

9           (b) Upgrades or replacements of failing on-site septic systems  
10 that are adversely affecting public health or the environment, or  
11 both.

12           **(C) THE ESTABLISHMENT OF WETLAND MITIGATION BANKS AS PROVIDED**  
13 **FOR UNDER SECTION 30311D. NOT MORE THAN A TOTAL OF \$5,000,000.00 IN**  
14 **LOANS SHALL BE PROVIDED UNDER THIS SUBDIVISION.**

15           (2) In implementing the loan program, the department shall  
16 annually establish the interest rate that will be charged for  
17 loans.

18           Sec. 8807. (1) The clean water fund is created within the  
19 state treasury.

20           (2) The state treasurer may receive money or other assets from  
21 any source for deposit into the fund. The state treasurer shall  
22 direct the investment of the fund. The state treasurer shall credit  
23 to the fund interest and earnings from fund investments.

24           (3) Money in the fund at the close of the fiscal year shall

1 remain in the fund and shall not lapse to the general fund.

2 (4) Except as otherwise provided in this section, the  
3 department shall expend money in the fund, upon appropriation, for  
4 any of the following:

5 (a) To implement the programs described in the department's  
6 document entitled "A strategic environmental quality monitoring  
7 program for Michigan's surface waters", dated January 1997. In  
8 implementing these programs, the department may contract with any  
9 person.

10 (b) Water pollution control activities.

11 (c) Wellhead protection activities.

12 (d) Storm water treatment projects and activities.

13 **(E) TO IMPLEMENT PARTS 301, 303, 315, 323, AND 325; THE**  
14 **FLOODPLAIN PERMIT PROGRAM UNDER SECTION 3104; AND SECTION 117 OF**  
15 **THE LAND DIVISION ACT, 1967 PA 288, MCL 560.117.**

16 (5) Money in the fund shall not be expended for combined sewer  
17 overflow corrections.

18 (6) The first priority for expenditure of money in the fund  
19 shall be for the programs described in subsection (4) (a).

20 (7) Money in the fund shall not be expended until rules are  
21 promulgated under section 8808.

22 Sec. 30105. (1) The department shall post on its website all  
23 of the following under this part:

24 (a) A list of pending applications.

25 (b) Public notices.

26 (c) Public hearing schedules.

27 (2) The department may hold a public hearing on pending

1 applications.

2 (3) Except as otherwise provided in this section, upon  
3 receiving an application, the department shall submit copies for  
4 review to the director of the department of community health or the  
5 local health department designated by the director of the  
6 department of community health, to the city, village, or township  
7 and the county where the project is to be located, to the local  
8 conservation district, to the watershed council established under  
9 part 311, if any, **AND** to the local port commission, if any. ~~and~~  
10 ~~to the persons required to be included in the application pursuant~~  
11 ~~to section 30104(1).~~ Each copy of the application shall be  
12 accompanied by a statement that unless a written request is filed  
13 with the department within 20 days after the submission for review,  
14 the department may grant the application without a public hearing  
15 where the project is located. The department may hold a public  
16 hearing upon the written request of the applicant or a riparian  
17 owner or a person or governmental unit that is entitled to receive  
18 a copy of the application pursuant to this subsection.

19 (4) After completion of a project for which an application is  
20 approved, the department may cause a final inspection to be made  
21 and certify to the applicant that the applicant has complied with  
22 the department's permit requirements.

23 (5) At least 10 days' notice of a hearing to be held under  
24 this section shall be given by publication in a newspaper  
25 circulated in the county where the project is to be located, to the  
26 person requesting the hearing, and to the persons and governmental  
27 units that are entitled to receive a copy of the application

1 pursuant to subsection (3).

2 (6) In an emergency, the department may issue a conditional  
3 permit before the expiration of the 20-day period referred to in  
4 subsection (3).

5 (7) ~~The~~ **AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR A PUBLIC**  
6 **HEARING, THE** department ~~, by rule, may~~ **SHALL** establish minor  
7 project categories of activities and projects that are similar in  
8 nature, ~~and~~ have minimal adverse environmental ~~impact~~ **EFFECTS WHEN**  
9 **PERFORMED SEPARATELY, AND WILL HAVE ONLY MINIMAL CUMULATIVE ADVERSE**  
10 **EFFECTS ON THE ENVIRONMENT.** The department may act upon an  
11 application received pursuant to section 30104 for an activity or  
12 project within a minor project category without providing notices  
13 ~~or holding a public hearing~~ pursuant to subsection (3). ~~A final~~  
14 ~~inspection or certification of a project completed under a permit~~  
15 ~~granted pursuant to this subsection is not required, but all~~ **ALL**  
16 other provisions of this part, **EXCEPT PROVISIONS APPLICABLE ONLY TO**  
17 **GENERAL PERMITS,** are applicable to a minor project.

18 (8) The department, after notice and an opportunity for a  
19 public hearing, may issue general permits on a statewide basis or  
20 within a local unit of government for projects that are similar in  
21 nature, that will cause only minimal adverse environmental ~~impacts~~  
22 **EFFECTS** when performed separately, and that will only have minimal  
23 cumulative adverse ~~impact~~ **EFFECTS** on the environment. **BEFORE**  
24 **AUTHORIZING A SPECIFIC PROJECT TO PROCEED UNDER A GENERAL PERMIT,**  
25 **THE DEPARTMENT SHALL NOT PROVIDE NOTICE OR HOLD A PUBLIC HEARING**  
26 **AND SHALL NOT TYPICALLY REQUIRE A SITE INSPECTION.** A general permit  
27 issued under this subsection shall not be valid for more than 5

1 years. Among the activities the department may consider for general  
2 permit eligibility under this subsection are the following:

3 (a) The removal of qualifying small dams.

4 (b) The maintenance or repair of an existing pipeline, if the  
5 pipeline is maintained or repaired in a manner to ~~assure~~**ENSURE**  
6 that any adverse ~~impact~~**EFFECTS** on the lake or stream will be  
7 minimized.

8 (9) The department may issue, deny, or impose conditions on  
9 project activities authorized under a minor project category or a  
10 general permit if the conditions are designed to remove an  
11 impairment to the lake or stream, to mitigate the ~~impact~~**EFFECTS** of  
12 the project, or to otherwise improve water quality. The department  
13 may also establish a reasonable time when the proposed project is  
14 to be completed or terminated.

15 (10) If the department determines that activity in a proposed  
16 project, although within a minor project category or a general  
17 permit, is likely to cause more than minimal adverse environmental  
18 ~~impacts~~**EFFECTS**, the department may require that the application be  
19 processed according to subsection (3) and reviewed for compliance  
20 with section 30106.

21 (11) As used in this section, "qualifying small dam" means a  
22 dam that meets all of the following conditions:

23 (a) The height of the dam is less than 2 feet.

24 (b) The impoundment from the dam covers less than 2 acres.

25 (c) The dam does not serve as the first dam upstream from the  
26 Great Lakes or their connecting waterways.

27 (d) The dam is not serving as a sea lamprey barrier.

1 (e) There are no threatened or endangered species that have  
 2 been identified in the area that will be ~~impacted~~**AFFECTED** by the  
 3 project.

4 (f) There are no known areas of contaminated sediments in the  
 5 area that will be ~~impacted~~**AFFECTED** by the project.

6 (g) The department has received written permission for the  
 7 removal of the dam from all riparian property owners adjacent to  
 8 the dam's impoundment.

9 Sec. 30301. As used in this part:

10 ~~—— (a) "Beach" means the area landward of the shoreline of the~~  
 11 ~~Great Lakes as the term shoreline is defined in section 32301.~~

12 ~~—— (b) "Beach maintenance activities" means any of the following~~  
 13 ~~in the area of Great Lakes bottomlands lying below the ordinary~~  
 14 ~~high water mark and above the water's edge.~~

15 ~~—— (i) Manual or mechanized leveling of sand.~~

16 ~~—— (ii) Mowing of vegetation.~~

17 ~~—— (iii) Manual de minimis removal of vegetation.~~

18 ~~—— (iv) Grooming of soil.~~

19 ~~—— (v) Construction and maintenance of a path.~~

20 **(A) "COUNCIL" MEANS THE WETLAND ADVISORY COUNCIL CREATED IN**  
 21 **SECTION 30329.**

22 **(B) ~~(e)~~"Debris" means animal or fish carcasses, zebra mussel**  
 23 **shells, dead vegetation, trash, and discarded materials of human-**  
 24 **made origin.**

25 **(C) ~~(d)~~"Department" means the department of environmental**  
 26 **quality.**

27 **(D) ~~(e)~~"Director" means the director of the department.**

1 (E) "ENVIRONMENTAL AREA" MEANS AN ENVIRONMENTAL AREA AS  
2 DEFINED IN SECTION 32301.

3 (F) "EXCEPTIONAL WETLAND" MEANS WETLAND THAT PROVIDES PHYSICAL  
4 OR BIOLOGICAL FUNCTIONS ESSENTIAL TO THE NATURAL RESOURCES OF THE  
5 STATE AND THAT MAY BE LOST OR DEGRADED IF NOT PRESERVED THROUGH AN  
6 APPROVED SITE PROTECTION AND MANAGEMENT PLAN FOR THE PURPOSES OF  
7 PROVIDING COMPENSATORY WETLAND MITIGATION.

8 (G) ~~(f)~~ "Fill material" means soil, rocks, sand, waste of any  
9 kind, or any other material that displaces soil or water or reduces  
10 water retention potential.

11 ~~——(g) "Environmental area" means an environmental area as~~  
12 ~~defined in section 32301.~~

13 (h) "Grooming of ~~soil~~ SAND" means raking, ~~or~~ dragging,  
14 ~~pushing,~~ or pulling metal teeth OR OTHER GROOMING EQUIPMENT through  
15 the top 4 inches of ~~soil~~ SAND without disturbance of or destruction  
16 to plant roots, for the purpose of removing debris.

17 (I) "LANDSCAPE LEVEL WETLAND ASSESSMENT" MEANS THE USE OF  
18 AERIAL PHOTOGRAPHS, MAPS, AND OTHER REMOTELY SENSED INFORMATION TO  
19 PREDICT AND EVALUATE WETLAND CHARACTERISTICS AND FUNCTIONS IN THE  
20 CONTEXT OF ALL OF THE FOLLOWING:

21 (i) THE WETLAND'S LANDSCAPE POSITION AND HYDROLOGIC  
22 CHARACTERISTICS.

23 (ii) THE SURROUNDING LANDSCAPE.

24 (iii) THE HISTORIC EXTENT AND CONDITION OF THE WETLAND.

25 (J) ~~(i)~~ "Leveling of sand" means the relocation of sand ~~within~~  
26 ~~areas being leveled that are predominantly free of vegetation TO~~  
27 SAND AREAS, including the redistribution, grading, and spreading of



1 sand that has been deposited through wind or wave action onto  
2 upland riparian property.

3 (K) ~~(j)~~—"Minor drainage" includes ditching and tiling for the  
4 removal of excess soil moisture incidental to the planting,  
5 cultivating, protecting, or harvesting of crops or improving the  
6 productivity of land in established use for agriculture,  
7 horticulture, silviculture, or lumbering.

8 (L) ~~(k)~~—"Mowing of vegetation" means the cutting of vegetation  
9 ~~to a height of not less than 2 inches,~~ without disturbance of soil  
10 or plant roots.

11 (M) "NATIONWIDE PERMIT" MEANS A NATIONWIDE PERMIT ISSUED BY  
12 THE UNITED STATES ARMY CORPS OF ENGINEERS UNDER 72 FR 11091 TO  
13 11198 (MARCH 12, 2007), INCLUDING ALL GENERAL CONDITIONS, REGIONAL  
14 CONDITIONS, AND CONDITIONS IMPOSED BY THIS STATE PURSUANT TO A  
15 WATER QUALITY CERTIFICATION UNDER SECTION 401 OF TITLE IV OF THE  
16 FEDERAL WATER POLLUTION CONTROL ACT, 33 USC 1341, OR A COASTAL ZONE  
17 MANAGEMENT CONSISTENCY DETERMINATION UNDER SECTION 307 OF THE  
18 COASTAL ZONE MANAGEMENT ACT OF 1972, 16 USC 1456.

19 (N) ~~(l)~~—"Ordinary high-water mark" means ~~that term as it is~~  
20 ~~defined~~—THE ORDINARY HIGH-WATER MARK AS SPECIFIED in section 32502.

21 (O) ~~(m)~~—"Path" means a temporary access walkway from ~~the~~  
22 upland riparian property directly to the shoreline across swales  
23 with standing water, not exceeding 6 feet in bottom width and  
24 consisting of sand and pebbles obtained from ~~the~~ exposed,  
25 nonvegetated bottomlands or from the upland riparian property.

26 (P) ~~(n)~~—"Person" means an individual, sole proprietorship,  
27 partnership, corporation, association, municipality, this state, an

1 instrumentality or agency of this state, the federal government, an  
2 instrumentality or agency of the federal government, or other legal  
3 entity.

4 (Q) "RAPID WETLAND ASSESSMENT" MEANS A METHOD FOR GENERALLY  
5 ASSESSING THE FUNCTIONS, VALUES, AND CONDITION OF INDIVIDUAL  
6 WETLANDS BASED ON EXISTING DATA AND FIELD INDICATORS.

7 (R) ~~(e)~~ "Removal of vegetation" means the manual or mechanized  
8 removal of vegetation, other than the manual de minimis removal of  
9 vegetation.

10 (S) A SENSITIVE NATURAL RESOURCE AREA INCLUDES, BUT IS NOT  
11 LIMITED TO, ANY OF THE FOLLOWING:

12 (i) A FEDERALLY DESIGNATED WILD AND SCENIC RIVER.

13 (ii) A STATE DESIGNATED NATURAL RIVER.

14 (iii) A STATE OR FEDERALLY DESIGNATED WILDERNESS OR  
15 ENVIRONMENTAL AREA.

16 (iv) A RIVERINE FLOODWAY, UNLESS QUALIFIED AS A MINOR PROJECT  
17 UNDER PART 31.

18 (v) HABITAT OF A STATE OR FEDERALLY LISTED OR PROPOSED  
19 THREATENED OR ENDANGERED SPECIES, UNLESS ALTERNATIVE PROCEDURES ARE  
20 FOLLOWED TO COORDINATE WITH FEDERAL AGENCIES OR THE LANDOWNER HAS  
21 OBTAINED A LETTER OF NO IMPACT FROM THE DEPARTMENT OF NATURAL  
22 RESOURCES.

23 (vi) AN IDENTIFIED HISTORIC OR ARCHEOLOGICAL AREA.

24 (vii) AN IDENTIFIED RECHARGE AREA FOR DRINKING WATER AQUIFERS.

25 (viii) AN IDENTIFIED RARE OR UNIQUE ECOLOGICAL TYPE.

26 (T) "SHORELINE MANAGEMENT ACTIVITIES" MEANS ANY OF THE  
27 FOLLOWING IN THE AREA OF GREAT LAKES BOTTOMLANDS LYING BELOW THE

1 ORDINARY HIGH-WATER MARK AND ABOVE THE WATER'S EDGE:

2 (i) LEVELING OF SAND.

3 (ii) GROOMING OF SAND.

4 (iii) CONSTRUCTION AND MAINTENANCE OF A PATH.

5 (iv) MOWING OF VEGETATION.

6 (U) "WATER DEPENDENT" MEANS REQUIRING ACCESS OR PROXIMITY TO  
7 OR SITING WITHIN AN AQUATIC SITE TO FULFILL ITS BASIC PURPOSE.

8 (V) ~~(p)~~ "Wetland" means land THAT, AS DETERMINED PURSUANT TO  
9 FEDERAL WETLAND DELINEATION STANDARDS USED TO IMPLEMENT SECTION  
10 404(B) (1) OF TITLE IV OF THE FEDERAL WATER POLLUTION CONTROL ACT,  
11 33 USC 1344, IS characterized by the presence of water at a  
12 frequency and duration sufficient to support, and that under normal  
13 circumstances does support, wetland vegetation or aquatic life, and  
14 is commonly referred to as a bog, swamp, or marsh, and which is any  
15 of the following:

16 (i) Contiguous to the Great Lakes or Lake St. Clair, an inland  
17 lake or pond, or a river or stream.

18 (ii) Not contiguous to the Great Lakes, an inland lake or pond,  
19 or a river or stream; and more than 5 acres in size. ~~; except this~~  
20 ~~subparagraph shall not be of effect, except for the purpose of~~  
21 ~~inventorying, in counties of less than 100,000 population until the~~  
22 ~~department certifies to the commission it has substantially~~  
23 ~~completed its inventory of wetlands in that county.~~

24 (iii) Not contiguous to the Great Lakes, an inland lake or pond,  
25 or a river or stream; and 5 acres or less in size if the department  
26 determines that protection of the area is essential to the  
27 preservation of the natural resources of the state from pollution,

1 impairment, or destruction and the department has so notified the  
2 owner.  ~~; except this subparagraph may be utilized regardless of~~  
3  ~~wetland size in a county in which subparagraph (ii) is of no effect;~~  
4  ~~except for the purpose of inventorying, at the time.~~

5 SEC. 30303B. (1) THE DEPARTMENT SHALL IMPLEMENT A PILOT  
6 PROGRAM TO FACILITATE THE ROLE OF LOCAL UNITS OF GOVERNMENT,  
7 CONSERVATION DISTRICTS, OR NONPROFIT ORGANIZATIONS IN ASSISTING  
8 PERSONS WITH COMPLETING PERMIT APPLICATIONS, AVOIDING AND  
9 MINIMIZING IMPACTS FROM A PROPOSED PROJECT, USING BEST MANAGEMENT  
10 PRACTICES IN A PROPOSED PROJECT, AND OTHERWISE COMPLYING WITH THIS  
11 PART. THE GOALS OF THE PILOT PROGRAM INCLUDE INCREASING THE  
12 EFFICIENCY OF THE PERMITTING PROCESS THROUGH BETTER UTILIZATION OF  
13 ALL AVAILABLE RESOURCES, INCLUDING DEPARTMENT STAFF, WHILE AT THE  
14 SAME TIME PROTECTING THE WETLAND OF THIS STATE. THE PILOT PROGRAM  
15 SHALL NOT AFFECT THE DEPARTMENT'S AUTHORITY TO MAKE REGULATORY  
16 DECISIONS IN ANY WAY.

17 (2) WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
18 ACT THAT ADDED THIS SECTION, THE DIRECTOR SHALL DESIGNATE AT LEAST  
19 3 ENTITIES TO PARTICIPATE IN THE PILOT PROGRAM, WITH THE GOAL OF  
20 SELECTING AT LEAST 1 LOCAL UNIT OF GOVERNMENT, 1 CONSERVATION  
21 DISTRICT, AND 1 NONPROFIT ORGANIZATION. A PROPOSED DESIGNATION  
22 UNDER THIS SUBSECTION SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE  
23 FOR PUBLIC REVIEW AND COMMENT FOR AT LEAST 21 DAYS BEFORE THE  
24 DESIGNATION IS MADE.

25 (3) BY APRIL 1, 2012, THE DEPARTMENT AND ENTITIES  
26 PARTICIPATING IN THE PROGRAM UNDER SUBSECTION (2) SHALL REPORT TO  
27 THE COUNCIL ON PROGRAM RESULTS AND RECOMMENDATIONS FOR FURTHER

1 REFINING THE PROGRAM.

2 (4) THIS SECTION IS REPEALED EFFECTIVE OCTOBER 1, 2012.

3 SEC. 30303D. (1) THE DEPARTMENT SHALL IMPLEMENT A PILOT  
4 PROGRAM FOR ASSISTING LOCAL UNITS OF GOVERNMENT AND PARTNERING  
5 NONPROFIT OR FOR-PROFIT ORGANIZATIONS IN THE DEVELOPMENT OF WETLAND  
6 MITIGATION BANKS. THIS ASSISTANCE SHALL INCLUDE, BUT NOT BE LIMITED  
7 TO, SUPPLYING MAPS OF POTENTIAL WETLAND RESTORATION AREAS FOR SITE  
8 SELECTION, REVIEWING POTENTIAL SITES FOR MITIGATION BANKS, AND, IF  
9 THE MITIGATION BANK SPONSOR IS A COUNTY WITH A POPULATION OF  
10 500,000 OR MORE, EXPEDITING REVIEW OF CONCEPTUAL DESIGN PLANS.

11 (2) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
12 ACT THAT ADDED THIS SECTION, THE DIRECTOR SHALL DESIGNATE 2  
13 COUNTIES WITH A POPULATION OF 500,000 OR MORE. THOSE COUNTIES, OR  
14 MUNICIPALITIES AND ORGANIZATIONS IN THOSE COUNTIES, ARE ELIGIBLE TO  
15 PARTICIPATE IN THE PILOT PROGRAM. A PROPOSED DESIGNATION UNDER THIS  
16 SUBSECTION SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE FOR AT LEAST  
17 21 DAYS BEFORE THE DESIGNATION IS MADE, FOR PUBLIC REVIEW AND  
18 COMMENT.

19 (3) BY APRIL 1, 2012, THE DEPARTMENT AND ENTITIES  
20 PARTICIPATING IN THE PROGRAM UNDER SUBSECTION (2) SHALL REPORT TO  
21 THE COUNCIL ON PROGRAM RESULTS AND RECOMMENDATIONS FOR FURTHER  
22 REFINING THE PROGRAM.

23 (4) THIS SECTION IS REPEALED EFFECTIVE OCTOBER 1, 2012.

24 SEC. 30304B. (1) SECTION 30304 DOES NOT APPLY TO THE MOWING OF  
25 VEGETATION BETWEEN THE ORDINARY HIGH-WATER MARK AND THE WATER'S  
26 EDGE IN A BAY AREA DESIGNATED UNDER SUBSECTION (2), IF THE MOWING  
27 OF VEGETATION MEETS ALL OF THE FOLLOWING REQUIREMENTS:

1 (A) THE MOWING MEETS 1 OR MORE OF THE FOLLOWING CONDITIONS:

2 (i) IS LIMITED TO A PATHWAY THAT DOES NOT EXCEED 10 FEET IN  
3 WIDTH FROM AN UPLAND RIPARIAN PROPERTY TO THE WATER'S EDGE AND TO A  
4 HEIGHT OF NOT LESS THAN 4 INCHES AND DOES NOT OCCUR IN AN  
5 ENVIRONMENTAL AREA.

6 (ii) IS LIMITED TO A RECREATIONAL AREA THAT DOES NOT EXCEED 400  
7 SQUARE FEET IN AREA AND TO A HEIGHT OF NOT LESS THAN 4 INCHES AND  
8 DOES NOT OCCUR IN AN ENVIRONMENTAL AREA.

9 (iii) IS LIMITED TO AREAS PREVIOUSLY MOWED IN ACCORDANCE WITH  
10 THIS PART, TO THE WIDTH OF THE PROPERTY OR 100 FEET, WHICHEVER IS  
11 LESS, AND TO A HEIGHT OF NOT LESS THAN 4 INCHES AND DOES NOT OCCUR  
12 IN AN ENVIRONMENTAL AREA.

13 (iv) IS LIMITED TO AN AREA PREDOMINANTLY VEGETATED BY NONNATIVE  
14 SPECIES OR INVASIVE SPECIES AND IS CONDUCTED AS PART OF A  
15 VEGETATION CONTROL PLAN IN ACCORDANCE WITH RECOMMENDATIONS PROVIDED  
16 BY THE DEPARTMENT.

17 (B) THE MOWING DOES NOT DISTURB SOIL OR PLANT ROOTS.

18 (C) THE MOWING DOES NOT VIOLATE ANY OF THE FOLLOWING:

19 (i) PART 365 OR RULES PROMULGATED UNDER THAT PART.

20 (ii) THE ENDANGERED SPECIES ACT OF 1973, PUBLIC LAW 93-205, OR  
21 RULES PROMULGATED UNDER THAT ACT.

22 (D) ALL COLLECTED VEGETATION IS DISPOSED OF PROPERLY OUTSIDE  
23 OF ANY WETLAND.

24 (E) THATCH IS NOT REMOVED BY MECHANICAL RAKING OR OTHER  
25 METHODS THAT DISTURB SOIL OR PLANT ROOTS.

26 (2) NOT MORE THAN 42 DAYS AFTER THE EFFECTIVE DATE OF THE  
27 AMENDATORY ACT THAT ADDED THIS SECTION, THE DIRECTOR SHALL

1 DESIGNATE A BAY AREA OF THE GREAT LAKES TO WHICH THIS SECTION  
2 APPLIES. IN SELECTING THE BAY AREA, THE DIRECTOR SHALL CONSIDER THE  
3 EXPRESSED NEED FOR MOWING IN THE BAY AREA. A PROPOSED DESIGNATION  
4 UNDER THIS SUBSECTION SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE  
5 FOR PUBLIC REVIEW AND COMMENT FOR AT LEAST 21 DAYS BEFORE THE  
6 DESIGNATION IS MADE.

7 (3) THIS SECTION IS REPEALED EFFECTIVE OCTOBER 1, 2012.

8 Sec. 30305. (1) Activities that require a permit under part  
9 325 or part 301 or a discharge that is authorized by a discharge  
10 permit under section 3112 or 3113 do not require a permit under  
11 this part.

12 (2) The following uses are allowed in a wetland without a  
13 permit subject to other laws of this state and the owner's  
14 regulation:

15 (a) Fishing, trapping, or hunting.

16 (b) Swimming or boating.

17 (c) Hiking.

18 (d) Grazing of animals.

19 (e) Farming, horticulture, silviculture, lumbering, and  
20 ranching activities, including plowing, irrigation, irrigation  
21 ditching, seeding, cultivating, minor drainage, harvesting for the  
22 production of food, fiber, and forest products, or upland soil and  
23 water conservation practices. Wetland altered under this  
24 subdivision shall not be used for a purpose other than a purpose  
25 described in this subsection without a permit from the department.

26 (f) Maintenance or operation of serviceable structures in  
27 existence on October 1, 1980 or constructed pursuant to this part

1 or former 1979 PA 203.

2 (g) Construction or maintenance of farm or stock ponds.

3 (h) Maintenance, operation, or improvement which includes  
4 straightening, widening, or deepening of the following which is  
5 necessary for the production or harvesting of agricultural  
6 products:

7 (i) An existing private agricultural drain.

8 (ii) That portion of a drain legally established pursuant to  
9 the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, which has  
10 been constructed or improved for drainage purposes.

11 (iii) A drain constructed pursuant to other provisions of this  
12 part or former 1979 PA 203.

13 (i) Construction or maintenance of farm roads, forest roads,  
14 or temporary roads for moving mining or forestry equipment, if the  
15 roads are constructed and maintained in a manner to ~~assure~~**ENSURE**  
16 that any adverse effect on the wetland will be otherwise minimized.

17 (j) Drainage necessary for the production and harvesting of  
18 agricultural products if the wetland is owned by a person who is  
19 engaged in commercial farming and the land is to be used for the  
20 production and harvesting of agricultural products. Except as  
21 otherwise provided in this part, wetland improved under this  
22 subdivision after October 1, 1980 shall not be used for nonfarming  
23 purposes without a permit from the department. This subdivision  
24 does not apply to a wetland that is contiguous to a lake or stream,  
25 or to a tributary of a lake or stream, or to a wetland that the  
26 department has determined by clear and convincing evidence to be a  
27 wetland that is necessary to be preserved for the public interest,



1 in which case a permit is required.

2 (k) Maintenance or improvement of public streets, highways, or  
3 roads, within the right-of-way and in such a manner as to ~~assure~~  
4 **ENSURE** that any adverse effect on the wetland will be otherwise  
5 minimized. Maintenance or improvement does not include adding extra  
6 lanes, increasing the right-of-way, or deviating from the existing  
7 location of the street, highway, or road.

8 (l) Maintenance, repair, or operation of gas or oil pipelines  
9 and construction of gas or oil pipelines having a diameter of 6  
10 inches or less, if the pipelines are constructed, maintained, or  
11 repaired in a manner to ~~assure~~**ENSURE** that any adverse effect on  
12 the wetland will be otherwise minimized.

13 (m) Maintenance, repair, or operation of electric transmission  
14 and distribution power lines and construction of distribution power  
15 lines, if the distribution power lines are constructed, maintained,  
16 or repaired in a manner to ~~assure~~**ENSURE** that any adverse effect on  
17 the wetland will be otherwise minimized.

18 (n) Operation or maintenance, including reconstruction of  
19 recently damaged parts, of serviceable dikes and levees in  
20 existence on October 1, 1980 or constructed pursuant to this part  
21 or former 1979 PA 203.

22 (o) Construction of iron and copper mining tailings basins and  
23 water storage areas.

24 ~~—— (p) Until November 1, 2007, beach maintenance activities that~~  
25 ~~meet all of the following conditions:~~

26 ~~—— (i) The activities shall not occur in environmental areas and~~  
27 ~~shall not violate part 365 or rules promulgated under that part, or~~

1 ~~the endangered species act of 1973, Public Law 93-205, 87 Stat.~~  
2 ~~884, or rules promulgated under that act.~~

3 ~~—— (ii) The width of any mowing of vegetation shall not exceed the~~  
4 ~~width of the riparian property or 100 feet, whichever is less.~~

5 ~~—— (iii) All collected debris shall be disposed of properly outside~~  
6 ~~of any wetland.~~

7 ~~—— (g) Until 3 years after the effective date of the amendatory~~  
8 ~~act that added this subdivision, removal of vegetation as~~  
9 ~~authorized under section 32516.~~

10 (3) An activity in a wetland that was effectively drained for  
11 farming before October 1, 1980 and that on and after October 1,  
12 1980 has continued to be effectively drained as part of an ongoing  
13 farming operation is not subject to regulation under this part.

14 (4) A wetland that is incidentally created as a result of 1 or  
15 more of the following activities is not subject to regulation under  
16 this part:

17 (a) Excavation for mineral or sand mining, if the area was not  
18 a wetland before excavation. This exemption does not include a  
19 wetland on or adjacent to a water body of 1 acre or more in size.

20 (b) Construction and operation of a water treatment pond or  
21 lagoon in compliance with the requirements of state or federal  
22 water pollution control regulations.

23 (c) A diked area associated with a landfill if the landfill  
24 complies with the terms of the landfill construction permit and if  
25 the diked area was not a wetland before diking.

26 **SEC. 30305B. (1) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF**  
27 **THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT IN**

1 CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE SHALL IDENTIFY AT  
2 LEAST 2,500 ACRES OF LAND SUITABLE FOR CRANBERRY PRODUCTION  
3 ACTIVITIES. PRIORITY SHALL BE GIVEN TO UPLAND SITES, SITES THAT  
4 HAVE BEEN DRAINED FOR AGRICULTURAL USE AND ARE NO LONGER WETLAND,  
5 OR SITES THAT HAVE BEEN DRAINED FOR AGRICULTURAL USE AND CONTINUE  
6 TO BE WETLAND. THE SITES SHALL NOT INCLUDE SENSITIVE NATURAL  
7 RESOURCE AREAS OR NATURAL OR UNDISTURBED WETLANDS. THE DEPARTMENT  
8 AND THE DEPARTMENT OF AGRICULTURE SHALL MAKE AVAILABLE TO THE  
9 PUBLIC A MAP OF THE AREAS IDENTIFIED AS PROVIDED IN THIS SECTION.  
10 THE MAP IS FOR INFORMATIONAL PURPOSES AND DOES NOT CONSTITUTE A  
11 REGULATORY DETERMINATION FOR PURPOSES OF THIS PART.

12 (2) AFTER 2,000 ACRES OF SITES IDENTIFIED UNDER SUBSECTION (1)  
13 HAVE BEEN DEVELOPED FOR CRANBERRY PRODUCTION ACTIVITIES, AT LEAST  
14 AN ADDITIONAL 2,500 ACRES SHALL BE IDENTIFIED AS PROVIDED IN  
15 SUBSECTION (1).

16 (3) THE DEPARTMENT SHALL CONSIDER CONSTRUCTION OF CRANBERRY  
17 BEDS, INCLUDING ASSOCIATED DIKES AND WATER CONTROL STRUCTURES  
18 ASSOCIATED WITH DIKES, SUCH AS HEADGATES, WEIRS, AND DROP INLET  
19 STRUCTURES, TO BE A WATER DEPENDENT ACTIVITY. PURSUANT TO SECTIONS  
20 30302(1)(C) AND 30311(2)(i), THE DEPARTMENT SHALL GIVE DUE  
21 CONSIDERATION TO THE LOCATION OF CRANBERRY BEDS AS A CROP THAT FOR  
22 AGRICULTURAL AND ECONOMIC PURPOSES IS MOST IDEALLY SUITED TO BE  
23 GROWN WITHIN WETLANDS.

24 (4) THE FOLLOWING ACTIVITIES ASSOCIATED WITH CRANBERRY  
25 OPERATIONS ARE NOT CONSIDERED WATER DEPENDENT:

26 (A) THE CONSTRUCTION OF ROADS, DITCHES, RESERVOIRS, AND PUMP  
27 HOUSES THAT ARE USED DURING THE CULTIVATION OF CRANBERRIES.

1           **(B) THE CONSTRUCTION OF SECONDARY SUPPORT FACILITIES FOR**  
2 **SHIPPING, STORAGE, PACKAGING, PARKING, AND SIMILAR PURPOSES.**

3           Sec. 30306. (1) Except as provided in section 30307(6), to  
4 obtain a permit for a use or development listed in section 30304, a  
5 person shall file an application with the department on a form  
6 provided by the department. The application shall include all of  
7 the following:

8           (a) The person's name and address.

9           (b) The location of the wetland.

10          (c) A description of the wetland on which the use or  
11 development is to be made.

12          (d) A statement and appropriate drawings describing the  
13 proposed use or development.

14          (e) The wetland owner's name and address.

15          (f) An environmental assessment of the proposed use or  
16 development if requested by the department. ~~which~~ **THE** assessment  
17 shall include the effects upon wetland benefits and the effects  
18 upon the water quality, flow, and levels, and the wildlife, fish,  
19 and vegetation within a contiguous lake, river, or stream.

20          (2) For the purposes of subsection (1), a proposed use or  
21 development of a wetland shall be considered as a single permit  
22 application under this part if the scope, extent, and purpose of a  
23 use or development are made known at the time of the application  
24 for the permit.

25          (3) Except as provided in subsections (4) and (5), an  
26 application for a permit submitted under subsection (1) shall be  
27 accompanied by the following fee, **AS APPLICABLE:**

1 (a) For a project in a category of activities for which a  
2 general permit is issued under section 30312, a fee of \$100.00.

3 (b) For a permit for the removal of vegetation in an area that  
4 is not more than 100 feet wide or the width of the property,  
5 whichever is less, or the mowing of vegetation in excess of what is  
6 allowed ~~in section 30305(2)(p)(ii)~~ **UNDER A GENERAL PERMIT**, in the  
7 area between the ordinary high-water mark and the water's edge, a  
8 fee of \$50.00.

9 (c) For a major project, including any of the following, a fee  
10 of \$2,000.00:

11 (i) Filling or draining of 1 acre or more of coastal or inland  
12 wetland.

13 (ii) 10,000 cubic yards or more of wetland fill.

14 (iii) A new golf course ~~impacting~~ **AFFECTING** wetland.

15 (iv) A subdivision ~~impacting~~ **AFFECTING** wetland.

16 (v) A condominium ~~impacting~~ **AFFECTING** wetland.

17 (d) For all other projects, a fee of \$500.00.

18 (4) A project that requires review and approval under this  
19 part and 1 or more of the following is subject to only the single  
20 highest permit fee required under this part or the following:

21 (a) Section 3104.

22 (b) Part 301.

23 (c) Part 323.

24 (d) Part 325.

25 (e) Section 117 of the land division act, 1967 PA 288, MCL  
26 560.117.

27 (5) If work has been done in violation of a permit requirement

1 under this part and restoration is not ordered by the department,  
2 the department may accept an application for a permit if the  
3 application is accompanied by a fee equal to twice the permit fee  
4 **OTHERWISE** required under this section.

5 (6) If the department determines that a permit is not required  
6 under this part, the department shall promptly refund the fee paid  
7 under this section.

8 Sec. 30306b. (1) If a preapplication meeting is requested in  
9 writing by the landowner or another person who is authorized in  
10 writing by the landowner, the department shall meet with the person  
11 or his or her representatives to review a proposed project or a  
12 proposed permit application in its entirety. The preapplication  
13 meeting shall take place at the department's district office for  
14 the district that includes the project site or at the project site  
15 itself, as specified in the request.

16 (2) Except as provided in this subsection, the request shall  
17 be accompanied by a fee. The fee for a preapplication meeting at  
18 the district office is \$150.00. The fee for a preapplication  
19 meeting at the project site is \$250.00 for the first acre or  
20 portion of an acre of project area, plus \$50.00 for each acre or  
21 portion of an acre in excess of the first acre, but not to exceed a  
22 fee of \$1,000.00. However, ~~if~~ **BOTH OF THE FOLLOWING APPLY:**

23 **(A) IF** the location of the project is a single family  
24 residential lot that is less than 1 acre in size, there is no fee  
25 for a preapplication meeting at the district office, and the fee  
26 for a preapplication meeting at the project site is \$100.00.

27 **(B) THERE IS NO FEE FOR A PREAPPLICATION MEETING FOR CRANBERRY**

1 PRODUCTION ACTIVITIES, WHETHER AT THE DISTRICT OFFICE OR PROJECT  
2 SITE. THIS SUBDIVISION DOES NOT APPLY ON OR AFTER OCTOBER 1, 2012.

3 (3) If the person withdraws the request at least 24 hours  
4 before the preapplication meeting, the department may agree with  
5 the person to reschedule the meeting or shall promptly refund the  
6 fee and need not meet as provided in this section. Otherwise, if,  
7 after agreeing to the time and place for a preapplication meeting,  
8 the person is not represented at the meeting, the person shall  
9 forfeit the fee for the meeting. If, after agreeing to the time and  
10 place for a preapplication meeting, the department is not  
11 represented at the meeting, the department shall refund the fee and  
12 send a representative to a rescheduled meeting to be held within 10  
13 days ~~of~~ **AFTER** the first scheduled meeting date.

14 (4) Any written agreement provided by the department as a  
15 result of the preapplication meeting regarding the need to obtain a  
16 permit is binding on the department for 2 years ~~from~~ **AFTER** the date  
17 of the agreement.

18 Sec. 30311. (1) A permit for an activity listed in section  
19 30304 shall not be approved unless the department determines that  
20 the issuance of a permit is in the public interest, that the permit  
21 is necessary to realize the benefits derived from the activity, and  
22 that the activity is otherwise lawful.

23 (2) In determining whether the activity is in the public  
24 interest, the benefit which reasonably may be expected to accrue  
25 from the proposal shall be balanced against the reasonably  
26 foreseeable detriments of the activity. The decision shall reflect  
27 the national and state concern for the protection of natural

1 resources from pollution, impairment, and destruction. The  
2 following general criteria shall be considered:

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

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

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

12 (d) The probable ~~impact~~**EFFECTS** of each proposal in relation  
13 to the cumulative ~~effect~~**EFFECTS** created by other existing and  
14 anticipated activities in the watershed.

15 (e) The probable ~~impact~~**EFFECTS** on recognized historic,  
16 cultural, scenic, ecological, or recreational values and on the  
17 public health or fish or wildlife.

18 (f) The size of the wetland being considered.

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

20 (h) Proximity to any waterway.

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

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

26 (4) A permit shall not be issued unless it is shown that an  
27 unacceptable disruption will not result to the aquatic resources.



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

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

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

8 (5) THE DEPARTMENT'S DETERMINATION OF FEASIBLE AND PRUDENT  
9 ALTERNATIVES UNDER SUBSECTIONS (2) (B) AND (4) (B) WITH RESPECT TO A  
10 PERMIT FOR A COMMERCIAL OR AGRICULTURAL ACTIVITY SHALL BE MADE  
11 AFTER REVIEW BY A DEPUTY DIRECTOR. THE DEPUTY DIRECTOR'S REVIEW  
12 SHALL INCLUDE OR BE PRECEDED BY CONSULTATION WITH THE MICHIGAN  
13 ECONOMIC DEVELOPMENT CORPORATION AND APPLICABLE REGIONAL AND LOCAL  
14 ECONOMIC DEVELOPMENT AUTHORITIES.

15 (6) THE DEPARTMENT'S LAND AND WATER MANAGEMENT DIVISION  
16 OPERATING PROCEDURE NUMBER 303-08-01 FOR THE EVALUATION OF FEASIBLE  
17 AND PRUDENT ALTERNATIVES UNDER THIS PART IS VOID AND SHALL NOT BE  
18 UTILIZED BY DEPARTMENT STAFF. THE DEPARTMENT SHALL NOT DEVELOP ANY  
19 FURTHER OPERATING PROCEDURES OR GUIDANCE FOR THE EVALUATION OF  
20 FEASIBLE AND PRUDENT ALTERNATIVES, BUT SHALL FOLLOW DEPARTMENT  
21 RULES TO THE EXTENT THAT THEY ARE NOT MORE STRINGENT THAN  
22 CORRESPONDING FEDERAL RULES.

23 SEC. 30311B. (1) A PERMIT ISSUED UNDER THIS PART SHALL NOT BE  
24 VALID FOR MORE THAN 5 YEARS.

25 (2) THE DEPARTMENT MAY ESTABLISH A REASONABLE TIME WHEN THE  
26 CONSTRUCTION, DEVELOPMENT, OR USE AUTHORIZED UNDER ANY PERMIT  
27 ISSUED UNDER THIS PART IS TO BE COMPLETED OR TERMINATED.

1           (3) THE DEPARTMENT MAY IMPOSE ON ANY PERMIT OR AUTHORIZATION  
2 UNDER A GENERAL PERMIT UNDER THIS PART CONDITIONS DESIGNED TO DO  
3 ANY OF THE FOLLOWING:

4           (A) REMOVE OR REDUCE AN IMPAIRMENT TO WETLAND BENEFITS, AS SET  
5 FORTH IN SECTION 30302, THAT WOULD OTHERWISE RESULT FROM THE  
6 PROJECT.

7           (B) IMPROVE THE WATER QUALITY THAT WOULD OTHERWISE RESULT FROM  
8 THE PROJECT.

9           (C) REMOVE OR REDUCE THE EFFECT OF A DISCHARGE OF FILL  
10 MATERIAL.

11           (4) THE DEPARTMENT MAY IMPOSE A CONDITION ON AN AUTHORIZATION  
12 UNDER A GENERAL PERMIT UNDER SUBSECTION (3) ONLY AFTER CONSULTATION  
13 WITH THE APPLICANT.

14           SEC. 30311D. (1) THE DEPARTMENT MAY IMPOSE AS A CONDITION ON  
15 ANY PERMIT, OTHER THAN A GENERAL PERMIT, UNDER THIS PART A  
16 REQUIREMENT FOR COMPENSATORY WETLAND MITIGATION. THE DEPARTMENT MAY  
17 APPROVE 1 OR MORE OF THE FOLLOWING METHODS OF COMPENSATORY WETLAND  
18 MITIGATION:

19           (A) THE ACQUISITION OF APPROVED CREDITS FROM A WETLAND  
20 MITIGATION BANK.

21           (B) THE RESTORATION OF PREVIOUSLY EXISTING WETLANDS. THE  
22 RESTORATION OF PREVIOUSLY EXISTING WETLANDS IS PREFERRED OVER THE  
23 CREATION OF NEW WETLANDS WHERE NONE PREVIOUSLY EXISTED.

24           (C) THE CREATION OF NEW WETLANDS, IF THE PERMIT APPLICANT  
25 DEMONSTRATES THAT ECOLOGICAL CONDITIONS NECESSARY FOR ESTABLISHMENT  
26 OF A SELF-SUSTAINING WETLAND ECOSYSTEM EXIST OR WILL BE CREATED.

27           (D) THE PRESERVATION OF EXCEPTIONAL WETLANDS.

1           (2) FOR COMPENSATORY WETLAND MITIGATION UNDER SUBSECTION  
2     (1) (B), (C), OR (D), A PERMIT APPLICANT SHALL SUBMIT A MITIGATION  
3     PLAN TO THE DEPARTMENT FOR APPROVAL. IN APPROVING A COMPENSATORY  
4     MITIGATION PLAN, THE DEPARTMENT SHALL CONSIDER HOW THE LOCATION AND  
5     TYPE OF WETLAND MITIGATION SUPPORTS THE SUSTAINABILITY OR  
6     IMPROVEMENT OF AQUATIC RESOURCES IN THE WATERSHED WHERE THE  
7     ACTIVITY IS PERMITTED. THE PERMIT APPLICANT SHALL PROVIDE FOR  
8     PERMANENT PROTECTION OF THE WETLAND BENEFITS OF THE WETLAND  
9     MITIGATION SITE. THE DEPARTMENT MAY ACCEPT A CONSERVATION EASEMENT  
10    TO PROTECT WETLAND MITIGATION AND ASSOCIATED UPLANDS.

11           (3) IF A PERMITTEE CARRIES OUT COMPENSATORY WETLAND MITIGATION  
12    UNDER SUBSECTION (1) (B), (C), OR (D) IN COOPERATION WITH PUBLIC  
13    AGENCIES, PRIVATE ORGANIZATIONS, OR OTHER PARTIES, THE PERMITTEE  
14    REMAINS FULLY RESPONSIBLE FOR THE COMPENSATORY WETLAND MITIGATION.

15           (4) THE DEPARTMENT MAY REQUIRE FINANCIAL ASSURANCE TO ENSURE  
16    THAT COMPENSATORY WETLAND MITIGATION IS ACCOMPLISHED AS SPECIFIED.  
17    TO ENSURE THAT WETLAND BENEFITS ARE REPLACED BY COMPENSATORY  
18    WETLAND MITIGATION, THE DEPARTMENT MAY RELEASE FINANCIAL ASSURANCE  
19    ONLY AFTER THE PERMIT APPLICANT OR MITIGATION BANK SPONSOR HAS  
20    COMPLETED MONITORING OF THE MITIGATION SITE AND DEMONSTRATED  
21    COMPLIANCE WITH PERFORMANCE STANDARDS IN ACCORDANCE WITH A SCHEDULE  
22    IN THE PERMIT OR MITIGATION BANKING AGREEMENT.

23           Sec. 30312. (1) AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR  
24    A PUBLIC HEARING, THE DEPARTMENT MAY ESTABLISH MINOR PROJECT  
25    CATEGORIES OF ACTIVITIES THAT ARE SIMILAR IN NATURE, HAVE MINIMAL  
26    ADVERSE ENVIRONMENTAL EFFECTS WHEN PERFORMED SEPARATELY, AND WILL  
27    HAVE ONLY MINIMAL CUMULATIVE ADVERSE EFFECTS ON THE ENVIRONMENT.

1 THE DEPARTMENT MAY ACT UPON AN APPLICATION RECEIVED PURSUANT TO  
2 SECTION 30306 FOR AN ACTIVITY WITHIN A MINOR PROJECT CATEGORY  
3 WITHOUT HOLDING A PUBLIC HEARING OR PROVIDING NOTICE PURSUANT TO  
4 SECTION 30307(1) OR (3). A MINOR PROJECT CATEGORY SHALL NOT BE  
5 VALID FOR MORE THAN 5 YEARS, BUT MAY BE REESTABLISHED. ALL OTHER  
6 PROVISIONS OF THIS PART, EXCEPT PROVISIONS APPLICABLE ONLY TO  
7 GENERAL PERMITS, ARE APPLICABLE TO A MINOR PROJECT.

8 (2) ~~(1)~~—The department, after notice and opportunity for a  
9 public hearing, may issue general permits on a statewide basis or  
10 within a local unit of government for a category of activities if  
11 the department determines that the activities are similar in  
12 nature, will cause only minimal adverse environmental effects when  
13 performed separately, and will have only minimal cumulative adverse  
14 ~~effect~~ **EFFECTS** on the environment. A general permit ~~issued under~~  
15 ~~this subsection~~ shall be based on the requirements of this part and  
16 the rules promulgated under this part, and shall set forth the  
17 requirements and standards that shall apply to an activity  
18 authorized by the general permit. **A GENERAL PERMIT SHALL NOT BE**  
19 **VALID FOR MORE THAN 5 YEARS, BUT MAY BE REISSUED.**

20 ~~—— (2) The department may impose conditions on a permit for a use~~  
21 ~~or development if the conditions are designed to remove an~~  
22 ~~impairment to the wetland benefits, to mitigate the impact of a~~  
23 ~~discharge of fill material, or to otherwise improve the water~~  
24 ~~quality.~~

25 ~~—— (3) The department may establish a reasonable time when the~~  
26 ~~construction, development, or use is to be completed or terminated.~~  
27 ~~A general permit shall not be valid for more than 5 years.~~

1 ~~—— (4) A general permit under this section may be issued for the~~  
2 ~~mowing of vegetation or the removal of vegetation in the area~~  
3 ~~between the ordinary high water mark and the water's edge. An~~  
4 ~~application under this subsection may be submitted by a local unit~~  
5 ~~of government on behalf of property owners within its jurisdiction~~  
6 ~~or by 1 or more adjacent property owners for riparian property~~  
7 ~~located within the same county.~~

8 (3) BEFORE AUTHORIZING A SPECIFIC PROJECT TO PROCEED UNDER A  
9 GENERAL PERMIT, THE DEPARTMENT SHALL NOT PROVIDE NOTICE OR HOLD A  
10 PUBLIC HEARING AND SHALL NOT TYPICALLY REQUIRE A SITE INSPECTION.  
11 THE DEPARTMENT SHALL ISSUE AN AUTHORIZATION UNDER A GENERAL PERMIT  
12 IF THE CONDITIONS OF THE GENERAL PERMIT AND THE REQUIREMENTS OF  
13 SECTION 30311 ARE MET. HOWEVER, IN DETERMINING WHETHER TO ISSUE AN  
14 AUTHORIZATION UNDER A GENERAL PERMIT, THE DEPARTMENT SHALL NOT  
15 CONSIDER OFF-SITE ALTERNATIVES TO BE FEASIBLE AND PRUDENT  
16 ALTERNATIVES.

17 (4) IF THE DEPARTMENT DETERMINES THAT ACTIVITY IN A PROPOSED  
18 PROJECT, ALTHOUGH WITHIN A MINOR PROJECT CATEGORY OR A GENERAL  
19 PERMIT, IS LIKELY TO CAUSE MORE THAN MINIMAL ADVERSE EFFECTS ON  
20 AQUATIC RESOURCES, INCLUDING HIGH-VALUE AQUATIC HABITATS, THE  
21 DEPARTMENT MAY REQUIRE THAT THE APPLICATION BE PROCESSED UNDER  
22 SECTION 30307.

23 (5) THE DEPARTMENT SHALL COORDINATE GENERAL PERMIT AND MINOR  
24 PROJECT CATEGORIES UNDER THIS PART AND PARTS 301 AND 325 CONSISTENT  
25 WITH NATIONWIDE PERMITS, AS APPROPRIATE.

26 SEC. 30312B. (1) THE DEPARTMENT SHALL PROPOSE OR MAINTAIN  
27 GENERAL PERMITS UNDER THIS PART EQUIVALENT TO THE FOLLOWING

1 NATIONWIDE PERMITS, TO THE EXTENT APPLICABLE TO WETLAND, WITHOUT  
2 FURTHER LIMITATIONS:

3 (A) MAINTENANCE.

4 (B) SCIENTIFIC MEASURING DEVICES.

5 (C) SURVEY ACTIVITIES.

6 (D) OIL SPILL CLEANUP.

7 (E) MOIST SOIL MANAGEMENT.

8 (F) CLEANUP OF HAZARDOUS AND TOXIC WASTE.

9 (G) STORM WATER MANAGEMENT FACILITIES.

10 (H) PIPELINE SAFETY PROGRAM DESIGNATED TIME SENSITIVE

11 INSPECTIONS AND REPAIRS.

12 (2) THE DEPARTMENT SHALL PROPOSE OR MAINTAIN GENERAL PERMITS  
13 OR MINOR PROJECT CATEGORIES EQUIVALENT TO THE FOLLOWING NATIONWIDE  
14 PERMITS, TO THE EXTENT APPLICABLE TO WETLAND, BUT SUBJECT TO  
15 ADDITIONAL LIMITATIONS THAT MAY BE ESTABLISHED BY THE DEPARTMENT  
16 AFTER RECEIVING PUBLIC COMMENT AND CONSIDERING BEST MANAGEMENT  
17 PRACTICES:

18 (A) OUTFALL STRUCTURES AND ASSOCIATED INTAKE STRUCTURES.

19 (B) MINOR DISCHARGES.

20 (C) UTILITY LINE ACTIVITIES.

21 (D) EXPANSION OF EXISTING CRANBERRY PRODUCTION ACTIVITIES.

22 (3) THE DEPARTMENT SHALL PROPOSE OR MAINTAIN GENERAL PERMITS  
23 OR MINOR PROJECT CATEGORIES FOR THE FOLLOWING:

24 (A) TEMPORARY RECREATIONAL STRUCTURES.

25 (B) LINEAR TRANSPORTATION PROJECTS.

26 (C) AQUATIC HABITAT RESTORATION, ESTABLISHMENT, AND

27 ENHANCEMENT ACTIVITIES, INCLUDING REVERSION OF TEMPORARY WETLAND

1 RESTORATIONS.

2 (D) RESIDENTIAL DEVELOPMENTS.

3 (E) COMPLETED ENFORCEMENT ACTIONS.

4 (F) TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING.

5 (G) CRANBERRY PRODUCTION ACTIVITIES. THE GENERAL PERMIT OR  
6 MINOR PROJECT CATEGORY UNDER THIS SUBDIVISION SHALL NOT APPLY TO  
7 ACTIVITIES IN SENSITIVE NATURAL RESOURCE AREAS OR NATURAL OR  
8 UNDISTURBED WETLANDS.

9 (H) AGRICULTURAL ACTIVITIES.

10 (I) RESHAPING EXISTING DRAINAGE DITCHES.

11 (J) RECREATIONAL FACILITIES.

12 (4) THE DEPARTMENT SHALL ISSUE A GENERAL PERMIT THAT, SUBJECT  
13 TO SPECIFIED CONDITIONS, AUTHORIZES SHORELINE MANAGEMENT ACTIVITIES  
14 IN A BAY AREA DESIGNATED UNDER SECTION 30305B IF THE SHORELINE  
15 MANAGEMENT ACTIVITIES ARE AUTHORIZED BY A PERMIT ISSUED BY THE  
16 UNITED STATES ARMY CORPS OF ENGINEERS UNDER 33 USC 1344. THIS  
17 SUBSECTION DOES NOT REQUIRE A PERMIT FOR ACTIVITIES THAT ARE EXEMPT  
18 FROM PERMIT REQUIREMENTS UNDER SECTION 30305B. A GENERAL PERMIT  
19 ISSUED UNDER THIS SUBSECTION SHALL NOT AUTHORIZE ANY OF THE  
20 FOLLOWING:

21 (A) ACTIVITIES IN AN ENVIRONMENTAL AREA AS DEFINED IN SECTION  
22 32301 OR A CRITICAL DUNE AREA AS DEFINED IN SECTION 35301.

23 (B) ACTIVITIES THAT VIOLATE ANY OF THE FOLLOWING:

24 (i) PART 365 OR RULES PROMULGATED UNDER THAT PART.

25 (ii) THE ENDANGERED SPECIES ACT OF 1973, PUBLIC LAW 93-205, OR  
26 RULES PROMULGATED UNDER THAT ACT.

27 (5) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY

1 ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL PURSUE AN  
2 AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS FOR THE  
3 CORPS TO ISSUE STATE PROGRAMMATIC GENERAL PERMITS UNDER SECTION  
4 404(E) OF TITLE IV OF THE FEDERAL WATER POLLUTION CONTROL ACT, 33  
5 USC 1344, FOR ACTIVITIES IN WATERS OVER WHICH THE CORPS RETAINS  
6 JURISDICTION UNDER SECTION 10 OF THE RIVERS AND HARBORS  
7 APPROPRIATIONS ACT OF 1899, 33 USC 403.

8 (6) THIS SECTION IS REPEALED EFFECTIVE OCTOBER 1, 2012.

9 SEC. 30312D. THE DEPARTMENT SHALL DEVELOP A DISTINCT PROGRAM  
10 TO FACILITATE ECOLOGICALLY RESPONSIBLE VOLUNTARY WETLAND  
11 RESTORATION AND ENHANCEMENT PROJECTS IN COORDINATION WITH STATE,  
12 FEDERAL, TRIBAL, AND NONGOVERNMENTAL GROUPS SPECIALIZING IN WETLAND  
13 RESTORATION AND CONSERVATION. THE PROGRAM SHALL INCLUDE, BUT NOT BE  
14 LIMITED TO, ENHANCING COORDINATION, CONSISTENCY, AND OPERATIONAL  
15 PROCEDURES AND IMPROVING AND STREAMLINING THE PERMITTING PROCESS TO  
16 FACILITATE A NET GAIN IN WETLAND QUANTITY, QUALITY, OR BOTH.

17 Sec. 30317. (1) The civil fines collected under this part  
18 shall be forwarded to the state treasurer for deposit in the  
19 general fund of the state. The fees collected under this part shall  
20 be deposited in the land and water management permit fee fund  
21 created in section 30113.

22 (2) SUBSECTION (1) DOES NOT APPLY TO FINES OR FEES COLLECTED  
23 UNDER AN ORDINANCE ADOPTED UNDER SECTION 30307.

24 (3) Subject to section 30113, the department shall expend  
25 money from the land and water management permit fee fund, upon  
26 appropriation, to support guidance for property owners and  
27 applicants, permit processing, compliance inspections, and



1 enforcement activities under this part. Not more than 90 days after  
2 the end of each state fiscal year, ~~ending after 1997,~~ the  
3 department shall prepare a report describing how money from the  
4 land and water management permit fee fund was expended during that  
5 fiscal year ~~and an evaluation of the current statutory and~~  
6 ~~department rules, bulletins, and letters definition of a wetland~~  
7 ~~and any appropriate changes to that definition in the first report~~  
8 ~~submitted to the legislature under this section~~ and shall submit  
9 the report to the standing committees of the house of  
10 representatives and the senate that primarily address issues  
11 pertaining to the protection of natural resources and the  
12 environment, and the appropriations committees in the house of  
13 representatives and the senate. Other than civil fines and costs,  
14 the disposition of which is governed by section 8379 of the revised  
15 judicature act of 1961, 1961 PA 236, MCL 600.8379, or criminal  
16 fines, funds collected by a local unit of government under an  
17 ordinance authorized under section 30307(4) shall be deposited in  
18 the general fund of the local unit of government.

19 **SEC. 30325. THE DEPARTMENT SHALL PURSUE AN AGREEMENT WITH THE**  
20 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO EXPAND THE**  
21 **CATEGORIES OF DISCHARGES SUBJECT TO THE WAIVER FROM THE**  
22 **REQUIREMENTS OF SECTION 404 (J) OF TITLE IV OF THE FEDERAL WATER**  
23 **POLLUTION CONTROL ACT, 33 USC 1344, PURSUANT TO SECTION 404 (K) OF**  
24 **TITLE IV OF THE FEDERAL WATER POLLUTION CONTROL ACT, 33 USC 1344.**

25 **SEC. 30327. THE DEPARTMENT MAY PROVIDE CERTIFICATIONS UNDER**  
26 **SECTION 401 OF TITLE IV OF THE FEDERAL WATER POLLUTION CONTROL ACT,**  
27 **33 USC 1341.**

1           SEC. 30329. (1) THE WETLAND ADVISORY COUNCIL IS CREATED WITHIN  
2 THE DEPARTMENT. THE COUNCIL SHALL CONSIST OF THE FOLLOWING:

3           (A) THE DIRECTOR OF THE DEPARTMENT OR HIS OR HER DESIGNEE. THE  
4 DIRECTOR OF THE DEPARTMENT SHALL INVITE A REPRESENTATIVE OF THE  
5 UNITED STATES ARMY CORPS OF ENGINEERS, A REPRESENTATIVE OF THE  
6 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AND A REPRESENTATIVE  
7 OF THE UNITED STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCE  
8 CONSERVATION SERVICE TO ALSO SERVE AS MEMBERS OF THE COUNCIL.

9           (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR HIS  
10 OR HER DESIGNEE.

11           (C) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS OR  
12 HER DESIGNEE.

13           (D) THE FOLLOWING MEMBERS APPOINTED BY THE SENATE MAJORITY  
14 LEADER:

15           (i) ONE INDIVIDUAL REPRESENTING A STATEWIDE ASSOCIATION OF HOME  
16 BUILDERS.

17           (ii) ONE INDIVIDUAL REPRESENTING THE LARGEST STATEWIDE  
18 CONSERVATION ORGANIZATION.

19           (iii) ONE INDIVIDUAL REPRESENTING A STATEWIDE ASSOCIATION OF  
20 LOCAL UNITS OF GOVERNMENT.

21           (E) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE  
22 HOUSE OF REPRESENTATIVES:

23           (i) ONE INDIVIDUAL REPRESENTING A STATEWIDE ENVIRONMENTAL  
24 PROTECTION ORGANIZATION.

25           (ii) ONE INDIVIDUAL REPRESENTING THE LARGEST STATEWIDE  
26 AGRICULTURE ORGANIZATION.

27           (iii) ONE INDIVIDUAL REPRESENTING A STATEWIDE ASSOCIATION OF

1 REALTORS.

2 (F) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

3 (i) ONE INDIVIDUAL REPRESENTING A WATERSHED ORGANIZATION.

4 (ii) ONE INDIVIDUAL REPRESENTING UTILITIES.

5 (iii) ONE INDIVIDUAL REPRESENTING A CONSERVATION DISTRICT.

6 (iv) ONE INDIVIDUAL REPRESENTING A STATEWIDE ASSOCIATION OF  
7 BUSINESSES.

8 (v) ONE INDIVIDUAL REPRESENTING THE GENERAL PUBLIC.

9 (vi) A UNIVERSITY PROFESSOR WITH EXPERTISE IN WETLAND SCIENCE.

10 (vii) A PROFESSIONAL WETLAND CONSULTANT WHO REGULARLY SUBMITS  
11 APPLICATIONS FOR PERMITS AND OBTAINS PERMITS FROM THE DEPARTMENT.

12 (2) THE APPOINTMENTS TO THE COUNCIL UNDER SUBSECTION (1) SHALL  
13 BE MADE NOT LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THE  
14 AMENDATORY ACT THAT ADDED THIS SECTION.

15 (3) AN APPOINTED MEMBER OF THE COUNCIL SHALL SERVE FOR A TERM  
16 OF 3 YEARS. IF A VACANCY OCCURS ON THE COUNCIL, THE VACANCY SHALL  
17 BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL  
18 APPOINTMENT. THE APPOINTING OFFICER MAY REMOVE A MEMBER OF THE  
19 COUNCIL FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE,  
20 MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

21 (4) THE FIRST MEETING OF THE COUNCIL SHALL BE CALLED BY THE  
22 DIRECTOR OF THE DEPARTMENT. AT THE FIRST MEETING, THE COUNCIL SHALL  
23 ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND ANY OTHER OFFICERS  
24 THAT IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST  
25 MEETING, THE COUNCIL SHALL MEET AT LEAST QUARTERLY, OR MORE  
26 FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY 2 OR  
27 MORE MEMBERS.

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

5 (6) THE BUSINESS THAT THE COUNCIL MAY PERFORM SHALL BE  
6 CONDUCTED AT A PUBLIC MEETING OF THE COUNCIL HELD IN COMPLIANCE  
7 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. A  
8 WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR RETAINED BY  
9 THE COUNCIL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS SUBJECT  
10 TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO  
11 15.246.

12 (7) MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT COMPENSATION.  
13 HOWEVER, THE MEMBER OF THE COUNCIL REPRESENTING THE DEPARTMENT OF  
14 NATURAL RESOURCES OR THE DEPARTMENT SHALL SERVE WITHOUT ADDITIONAL  
15 COMPENSATION.

16 (8) BY OCTOBER 1, 2010, THE COUNCIL SHALL SUBMIT A REPORT TO  
17 THE GOVERNOR, THE DEPARTMENT, AND THE STANDING COMMITTEES AND  
18 APPROPRIATIONS SUBCOMMITTEES OF THE LEGISLATURE WITH PRIMARY  
19 RESPONSIBILITY OVER ISSUES PRIMARILY PERTAINING TO NATURAL  
20 RESOURCES AND THE ENVIRONMENT. THE REPORT SHALL EVALUATE AND MAKE  
21 RECOMMENDATIONS ON ALL OF THE FOLLOWING:

22 (A) IMPROVING THE PERMIT APPLICATION, REVIEW, AND DECISION-  
23 MAKING PROCESS UNDER THIS PART, INCLUDING CONSIDERATION OF ALL OF  
24 THE FOLLOWING:

25 (i) THE QUALITY OF APPLICATIONS SUBMITTED.

26 (ii) THE EFFECT OF MANDATORY DECISION-MAKING TIME FRAMES ON  
27 MEETING THE PURPOSES OF THIS PART, AND, IF APPROPRIATE, THE TIME

1 FRAMES THAT SHOULD APPLY TO DECISION-MAKING UNDER THIS PART.

2 (B) CONSISTENT APPLICATION OF THE FEASIBLE AND PRUDENT  
3 ALTERNATIVE STANDARD UNDER SECTION 30311.

4 (C) THE POINT IN THE DEPARTMENT'S PROCESS OF DECISION-MAKING  
5 ON A PERMIT APPLICATION AT WHICH THE POSSIBILITY OF MITIGATION  
6 SHOULD BE CONSIDERED.

7 (D) ACTIONS NECESSARY TO ADOPT AND IMPLEMENT MEASURES  
8 DETERMINED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO  
9 SUPPORT CONSISTENCY WITH THE REQUIREMENTS OF SECTION 404 OF TITLE  
10 IV OF THE FEDERAL WATER POLLUTION CONTROL ACT, 33 USC 1344, AS SET  
11 FORTH IN "FINAL REPORT RESULTS OF THE U.S. ENVIRONMENTAL PROTECTION  
12 AGENCY REGION 5 REVIEW OF MICHIGAN DEPARTMENT OF ENVIRONMENTAL  
13 QUALITY'S SECTION 404 PROGRAM", DATED MAY 2008.

14 (9) BY OCTOBER 1, 2012, THE COUNCIL SHALL SUBMIT A REPORT TO  
15 THE GOVERNOR, THE DEPARTMENT, AND THE STANDING COMMITTEES AND  
16 APPROPRIATIONS SUBCOMMITTEES OF THE LEGISLATURE WITH PRIMARY  
17 RESPONSIBILITY OVER ISSUES PRIMARILY PERTAINING TO NATURAL  
18 RESOURCES AND THE ENVIRONMENT. THE REPORT SHALL EVALUATE AND MAKE  
19 RECOMMENDATIONS ON ALL OF THE FOLLOWING:

20 (A) IMPROVING COORDINATION AND REDUCING DUPLICATION OF EFFORT  
21 WITH THE UNITED STATES ARMY CORPS OF ENGINEERS.

22 (B) POTENTIAL LONG-TERM CHANGES IN PROGRAM STRUCTURE,  
23 INCLUDING ALL OF THE FOLLOWING:

24 (i) SCIENTIFIC METHODS TO ACHIEVE MORE CONSISTENT AND ACCURATE  
25 DETERMINATIONS OF WETLAND FUNCTIONS AND VALUES FOR REVIEWING  
26 APPLICATIONS FOR PERMITS, WATERSHED PLANNING, CONSERVATION PLANS,  
27 AND OTHER PURPOSES. THESE METHODS INCLUDE RAPID WETLAND ASSESSMENT

1 AND LANDSCAPE LEVEL WETLAND ASSESSMENT.

2 (ii) THE APPROPRIATE ROLE OF LOCAL UNITS OF GOVERNMENT AND  
3 CONSERVATION DISTRICTS IN THE ADMINISTRATION OF THIS PART.

4 (iii) A CERTIFICATION PROCESS FOR PROFESSIONAL WETLAND  
5 CONSULTANTS. THE COUNCIL SHALL CONSIDER INFORMATION REPORTED UNDER  
6 SECTION 30303B IN EVALUATING AND MAKING RECOMMENDATIONS UNDER THIS  
7 SUBPARAGRAPH.

8 (iv) THE DEFINITION OF WETLAND AND WETLAND DELINEATION METHODS,  
9 INCLUDING THE ROLE OF HYDRIC SOILS AS A FACTOR IN WETLAND  
10 DELINEATION. IN MAKING RECOMMENDATIONS UNDER THIS SUBPARAGRAPH, THE  
11 COUNCIL SHALL EVALUATE DIFFERENCES IN THE STATE AND FEDERAL WETLAND  
12 PROGRAMS.

13 (C) THE APPROPRIATE MEANS AND LEVEL OF PROGRAM FUNDING UNDER  
14 THIS PART.

15 (D) MINOR PERMIT CATEGORIES AND GENERAL PERMITS UNDER SECTION  
16 30312B(1) TO (3).

17 (E) THE APPROPRIATENESS OF STATE PROGRAMMATIC GENERAL PERMITS  
18 UNDER SECTION 404(E) OF TITLE IV OF THE FEDERAL WATER POLLUTION  
19 CONTROL ACT, 33 USC 1344, FOR ACTIVITIES IN WATERS OVER WHICH THE  
20 CORPS RETAINS JURISDICTION UNDER SECTION 10 OF THE RIVERS AND  
21 HARBORS APPROPRIATIONS ACT OF 1899, 33 USC 403, AS A MEANS OF  
22 REDUCING REGULATORY BURDENS FROM DUAL FEDERAL AND STATE REGULATION.

23 (F) THE PROMOTION OF THE DEVELOPMENT OF WETLAND MITIGATION  
24 BANKS.

25 (G) WAYS FOR THE PUBLIC AND INTERESTED PARTIES TO ADVISE THE  
26 DEPARTMENT ON A CONTINUING BASIS CONCERNING THE ADMINISTRATION AND  
27 ENFORCEMENT OF THIS PART.

1           Sec. 32501. As used in this part:

2       ~~—— (a) "Beach" means the area landward of the shoreline of the~~  
3 ~~Great Lakes as the term shoreline is defined in section 32301.~~

4       ~~—— (b) "Beach maintenance activities" means any of the following~~  
5 ~~in the area of Great Lakes bottomlands lying below the ordinary~~  
6 ~~high water mark and above the water's edge.~~

7       ~~—— (i) Manual or mechanized leveling of sand.~~

8       ~~—— (ii) Mowing of vegetation.~~

9       ~~—— (iii) Manual de minimis removal of vegetation.~~

10       ~~—— (iv) Grooming of soil.~~

11       ~~—— (v) Construction and maintenance of a path.~~

12       (A) ~~(c)~~ "Debris" means animal or fish carcasses, zebra mussel  
13 shells, dead vegetation, trash, and discarded materials of human-  
14 made origin.

15       (B) ~~(d)~~ "Department" means the department of environmental  
16 quality.

17       (C) ~~(e)~~ "Director" means the director of the department.

18       (D) ~~(f)~~ "Environmental area" means an environmental area as  
19 defined in section 32301.

20       (E) ~~(g)~~ "Grooming of ~~soil~~ **SAND**" means raking, ~~or~~ dragging,  
21 ~~pushing,~~ or pulling metal teeth **OR OTHER GROOMING EQUIPMENT** through  
22 the top 4 inches of ~~soil~~ **SAND** without disturbance of or destruction  
23 to plant roots, for the purpose of removing debris.

24       (F) ~~(h)~~ "Leveling of sand" means the relocation of sand ~~within~~  
25 ~~areas being leveled that are predominantly free of vegetation~~ **TO**  
26 **SAND AREAS**, including the redistribution, grading, and spreading of  
27 sand that has been deposited through wind or wave action onto

1 upland riparian property.

2 (G) ~~(i)~~—"Marina purposes" means an operation making use of  
3 submerged bottomlands or filled-in bottomlands of the Great Lakes  
4 for the purpose of service to boat owners or operators, which  
5 operation may restrict or prevent the free public use of the  
6 affected bottomlands or filled-in lands.

7 (H) ~~(j)~~—"Mowing of vegetation" means the cutting of vegetation  
8 ~~to a height of not less than 2 inches,~~ without disturbance of soil  
9 or plant roots.

10 (I) ~~(k)~~—"Path" means a temporary access walkway from ~~the~~  
11 upland riparian property directly to the shoreline across swales  
12 with standing water, not exceeding 6 feet in bottom width and  
13 consisting of sand and pebbles obtained from the exposed,  
14 nonvegetated bottomlands or from the upland riparian property.

15 (J) ~~(l)~~—"Removal of vegetation" means the manual or mechanized  
16 removal of vegetation other than the **MANUAL** de minimis removal of  
17 vegetation.

18 (K) **"SHORELINE MANAGEMENT ACTIVITIES" MEANS ANY OF THE**  
19 **FOLLOWING IN THE AREA OF GREAT LAKES BOTTOMLANDS LYING BELOW THE**  
20 **ORDINARY HIGH-WATER MARK AND ABOVE THE WATER'S EDGE:**

21 (i) **LEVELING OF SAND.**

22 (ii) **GROOMING OF SAND.**

23 (iii) **CONSTRUCTION AND MAINTENANCE OF A PATH.**

24 (iv) **MOWING OF VEGETATION.**

25 (L) ~~(m)~~—"Wetland" means that term as it is defined in section  
26 30301.

27 Sec. 32512. ~~(1)~~—Unless a permit has been granted by the



1 department or authorization has been granted by the legislature, or  
2 except as to boat wells and slips facilitating private,  
3 noncommercial, recreational boat use, not exceeding 50 feet in  
4 length where the spoil is not disposed of below the ordinary high-  
5 water mark of the body of water to which ~~it~~**THE WELL OR SLIP** is  
6 connected, a person shall not do any of the following:

7 (a) Construct, dredge, commence, or do any work with respect  
8 to an artificial canal, channel, ditch, lagoon, pond, lake, or  
9 similar waterway where the purpose is ultimate connection of the  
10 waterway with any of the Great Lakes, including Lake St. Clair.

11 (b) Connect any natural or artificially constructed waterway,  
12 canal, channel, ditch, lagoon, pond, lake, or similar waterway with  
13 any of the Great Lakes, including Lake St. Clair, for navigation or  
14 any other purpose.

15 (c) Dredge or place spoil or other material on bottomland.

16 (d) Construct a marina.

17 ~~—— (2) Notwithstanding subsection (1), and with respect to lands  
18 covered and affected by this part, a permit or other approval is  
19 not required under this part for either of the following:~~

20 ~~—— (a) Until November 1, 2007, beach maintenance activities that  
21 meet all of the following conditions:~~

22 ~~—— (i) The activities shall not occur in environmental areas and  
23 shall not violate part 365 or rules promulgated under that part, or  
24 the endangered species act of 1973, Public Law 93-205, 87 Stat.  
25 884, or rules promulgated under that act.~~

26 ~~—— (ii) The width of any mowing of vegetation shall not exceed the  
27 width of the riparian property or 100 feet, whichever is less.~~

1 ~~—— (iii) All collected debris shall be disposed of properly outside~~  
2 ~~of any wetland.~~

3 ~~—— (b) Until 3 years after the effective date of the amendatory~~  
4 ~~act that added this subdivision, removal of vegetation as~~  
5 ~~authorized in section 32516.~~

6       Sec. 32512a. (1) **AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR**  
7 **A PUBLIC HEARING, THE DEPARTMENT MAY ESTABLISH MINOR PROJECT**  
8 **CATEGORIES OF ACTIVITIES THAT ARE SIMILAR IN NATURE, HAVE MINIMAL**  
9 **ADVERSE ENVIRONMENTAL EFFECTS WHEN PERFORMED SEPARATELY, AND WILL**  
10 **HAVE ONLY MINIMAL CUMULATIVE ADVERSE EFFECTS ON THE ENVIRONMENT.**  
11 **THE DEPARTMENT MAY ACT UPON AN APPLICATION RECEIVED PURSUANT TO**  
12 **SECTION 32513 FOR AN ACTIVITY WITHIN A MINOR PROJECT CATEGORY**  
13 **WITHOUT PROVIDING NOTICE PURSUANT TO SECTION 32514. A MINOR PROJECT**  
14 **CATEGORY SHALL NOT BE VALID FOR MORE THAN 5 YEARS, BUT MAY BE**  
15 **REESTABLISHED. ALL OTHER PROVISIONS OF THIS PART, EXCEPT PROVISIONS**  
16 **APPLICABLE ONLY TO GENERAL PERMITS, ARE APPLICABLE TO A MINOR**  
17 **PROJECT.**

18       (2) ~~(1)~~The department, after notice and opportunity for a  
19 public hearing, may issue general permits on a statewide basis or  
20 within a local unit of government for a category of activities if  
21 the department determines that the activities are similar in  
22 nature, will cause only minimal adverse environmental effects when  
23 performed separately, and will have only minimal cumulative adverse  
24 ~~effect~~**EFFECTS** on the environment. A general permit ~~issued under~~  
25 ~~this subsection~~ shall be based on the requirements of this part and  
26 the rules promulgated under this part, and shall set forth the  
27 requirements and standards that shall apply to an activity

1 authorized by the general permit. **BEFORE AUTHORIZING A SPECIFIC**  
2 **PROJECT TO PROCEED UNDER A GENERAL PERMIT, THE DEPARTMENT SHALL NOT**  
3 **PROVIDE NOTICE OR HOLD A PUBLIC HEARING AND SHALL NOT TYPICALLY**  
4 **REQUIRE A SITE INSPECTION.**

5 ~~——(2) A general permit issued under this section shall not be~~  
6 ~~valid for more than 5 years, **BUT MAY BE REISSUED.**~~

7 ~~——(3) A general permit under this section may be issued for the~~  
8 ~~mowing of vegetation or the removal of vegetation in the area~~  
9 ~~between the ordinary high water mark and the water's edge. An~~  
10 ~~application under this subsection may be submitted by a local unit~~  
11 ~~of government on behalf of property owners within its jurisdiction~~  
12 ~~or by 1 or more adjacent property owners for riparian property~~  
13 ~~located within the same county.~~

14 Sec. 32513. (1) ~~Before~~ **TO OBTAIN A PERMIT FOR** any work or  
15 connection specified in section 32512, ~~or 32512a is undertaken, a~~  
16 person shall file an application with the department of  
17 ~~environmental quality setting forth~~ **ON A FORM PROVIDED BY THE**  
18 **DEPARTMENT. THE APPLICATION SHALL INCLUDE ALL OF** the following:

19 (a) The name and address of the applicant.

20 (b) The legal description of the lands included in the  
21 project.

22 (c) A summary statement of the purpose of the project.

23 (d) A map or diagram showing the proposal on an adequate scale  
24 with contours and cross-section profiles of the waterway to be  
25 constructed.

26 (e) Other information required by the department. ~~of~~  
27 ~~environmental quality.~~

1 (2) Except as provided in subsections (3) and (4), until  
2 October 1, 2011, an application for a permit under this section  
3 shall be accompanied by a ~~fee according to the following schedule~~

4 **FEE, AS APPLICABLE:**

5 (a) For a project in a category of activities for which a  
6 general permit is issued under section 32512a, a fee of \$100.00.

7 (b) For activities included in the minor project category as  
8 described in rules promulgated under this part and for a permit for  
9 the removal of vegetation in an area that is not more than 100 feet  
10 wide or the width of the property, whichever is less, or the mowing  
11 of vegetation in excess of what is allowed ~~in section~~

12 ~~32512(2)(a)(ii)~~ **UNDER A GENERAL PERMIT**, in the area between the  
13 ordinary high-water mark and the water's edge, a fee of \$50.00.

14 (c) For construction or expansion of a marina, a fee of:

15 (i) \$50.00 for an expansion of 1-10 slips to an existing  
16 permitted marina.

17 (ii) \$100.00 for a new marina with 1-10 proposed marina slips.

18 (iii) \$250.00 for an expansion of 11-50 slips to an existing  
19 permitted marina, plus \$10.00 for each slip over 50.

20 (iv) \$500.00 for a new marina with 11-50 proposed marina slips,  
21 plus \$10.00 for each slip over 50.

22 (v) \$1,500.00 if an existing permitted marina proposes  
23 maintenance dredging of 10,000 cubic yards or more or the addition  
24 of seawalls, bulkheads, or revetments of 500 feet or more.

25 (d) For major projects other than a project described in  
26 subdivision (c)(v), involving any of the following, a fee of  
27 \$2,000.00:

- 1 (i) Dredging of 10,000 cubic yards or more.  
2 (ii) Filling of 10,000 cubic yards or more.  
3 (iii) Seawalls, bulkheads, or revetment of 500 feet or more.  
4 (iv) Filling or draining of 1 acre or more of coastal wetland.  
5 (v) New dredging or upland boat basin excavation in areas of  
6 suspected contamination.

7 (vi) New breakwater or channel jetty.

8 (vii) Shore protection, such as groins and underwater  
9 stabilizers, that extend 150 feet or more on Great Lakes  
10 bottomlands.

11 (viii) New commercial dock or wharf of 300 feet or more in  
12 length.

13 (e) For all other projects not listed in subdivisions (a)  
14 ~~through~~ TO (d), \$500.00.

15 (3) A project that requires review and approval under this  
16 part and 1 or more of the following is subject to only the single  
17 highest permit fee required under this part or the following:

18 (a) Part 301.

19 (b) Part 303.

20 (c) Part 323.

21 (d) Section 3104.

22 (e) Section 117 of the land division act, 1967 PA 288, MCL  
23 560.117.

24 (4) If work has been done in violation of a permit requirement  
25 under this part and restoration is not ordered by the department,  
26 ~~of environmental quality, the department of environmental quality~~  
27 may accept an application for a permit if the application is

1 accompanied by a fee equal to 2 times the permit fee **OTHERWISE**  
2 required under this section.

3 (5) The department ~~of environmental quality~~ shall forward all  
4 fees collected under this section to the state treasurer for  
5 deposit into the land and water management permit fee fund created  
6 in section 30113.

7 Enacting section 1. Section 32516 of the natural resources and  
8 environmental protection act, 1994 PA 451, MCL 324.32516, is  
9 repealed.