

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4471**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3104, 3109a, 3119, 30101, 30104, 30105, 30109, 32312, and 32513 (MCL 324.3104, 324.3109a, 324.3119, 324.30101, 324.30104, 324.30105, 324.30109, 324.32312, and 324.32513), section 3104 as amended by 1995 PA 169, section 3109a as added by 1995 PA 70, section 30101 as added by 1995 PA 59, section 30104 as amended by 1996 PA 97, sections 30105 and 30109 as amended by 1995 PA 171, section 32312 as amended by 1995 PA 168, and section 32513 as amended by 1995 PA 170.

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

**1** Sec. 3104. (1) The department is designated the state  
**2** agency to cooperate and negotiate with other governments,  
**3** governmental units, and governmental agencies in matters

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1 concerning the water resources of the state, including, but not  
2 limited to, flood control, beach erosion control, and water qual-  
3 ity control planning, development, and management. The depart-  
4 ment shall have control over the alterations of natural or  
5 present watercourses of all rivers and streams in the state to  
6 assure that the channels and the portions of the floodplains that  
7 are the floodways are not inhabited and are kept free and clear  
8 of interference or obstruction that will cause any undue restric-  
9 tion of the capacity of the floodway. The department may take  
10 steps as may be necessary to take advantage of any act of con-  
11 gress that may be of assistance in carrying out the purposes of  
12 this part, including the water resources planning act, Public Law  
13 89-80, 42 U.S.C. 1962 to 1962-1 and 1962a to 1962d-3, and the  
14 federal water pollution control act, chapter 758, 86 Stat. 816,  
15 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263,  
16 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313,  
17 1314 to ~~1326, 1328 to~~ 1330, 1341 to 1345, 1361 to 1377, and  
18 1381 to 1387.

19 (2) The department shall report to the governor and to the  
20 legislature at least annually any plans or projects being imple-  
21 mented or considered for implementation and shall include in the  
22 report requests for any legislation needed to implement any pro-  
23 posed projects or agreements made necessary as a result of a plan  
24 or project, together with any requests for appropriations. The  
25 department may make recommendations to the governor on the desig-  
26 nation of areawide water quality planning regions and

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1 organizations relative to the governor's responsibilities under  
2 the federal water pollution control act.

3 (3) A person shall submit an application for a permit to  
4 alter a floodplain on a form approved by the department and shall  
5 include information that may be required by the department to  
6 assess the proposed alteration's impact on the floodplain. If an  
7 alteration includes activities at multiple locations in a flood-  
8 plain, 1 application may be filed for combined activities.

9 (4) Except as provided in subsections (5) and (6), until  
10 October 1, ~~1999~~ 2003, an application for a floodplain permit  
11 shall be accompanied by a fee of \$500.00. Until October 1,  
12 ~~1999~~ 2003, if the department determines that engineering compu-  
13 tations are required to assess the impact of a proposed flood-  
14 plain alteration on flood stage or discharge characteristics, the  
15 department shall assess the applicant an additional \$1,500.00 to  
16 cover the department's cost of review.

17 (5) Until October 1, ~~1999~~ 2003, an application for a  
18 floodplain permit for a minor project category shall be accom-  
19 panied by a fee of \$100.00. Minor project categories shall be  
20 established by rule and shall include activities and projects  
21 that are similar in nature and have minimal potential for causing  
22 harmful interference.

23 (6) If work has been done in violation of a permit require-  
24 ment under this part and restoration is not ordered by the  
25 department, the department may accept an application for a permit  
26 if the application is accompanied by a fee equal to 2 times the  
27 permit fee required under subsection (4) or (5).

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1 (7) The department shall forward fees collected under this  
2 section to the state treasurer for deposit in the land and water  
3 management permit fee fund created in section 30113.

4 (8) A project that requires review and approval under this  
5 part and 1 or more of the following ~~acts~~ is subject to only the  
6 single highest permit fee required under this part or the  
7 following: ~~acts:~~

8 (a) Part 301.

9 (b) Part 303.

10 (c) Part ~~325~~ 323.

11 (d) Part ~~323~~ 325.

12 (e) Section 117 of the ~~subdivision control act of 1967, Act~~  
13 ~~No. 288 of the Public Acts of 1967, being section 560.117 of the~~  
14 ~~Michigan Compiled Laws~~ LAND DIVISION ACT, 1967 PA 288, MCL  
15 560.117.

16 Sec. 3109a. (1) Notwithstanding any other provision of this  
17 part, or rules promulgated under this part, the department shall  
18 allow for a mixing zone for discharges of venting groundwater in  
19 the same manner as the department provides for a mixing zone for  
20 point source discharges. Mixing zones for discharges of venting  
21 groundwater shall not be less protective of public health or the  
22 environment than the level of protection provided for mixing  
23 zones from point source discharges.

24 (2) Notwithstanding any other provision of this part, if a  
25 discharge of venting groundwater is in compliance with the water  
26 quality standards provided for in this part and the rules  
27 promulgated under this part, ~~and the discharge is provided for in~~

1 ~~a remedial action plan that is approved by the department~~  
2 ~~pursuant to part 201, a permit under this part is not~~  
3 ~~required for that discharge.~~

A PERMIT IS NOT REQUIRED UNDER THIS PART FOR THE DISCHARGE IF THE DISCHARGE IS PROVIDED FOR IN EITHER OR BOTH OF THE FOLLOWING:

(A) A REMEDIAL ACTION PLAN THAT IS APPROVED BY THE DEPARTMENT UNDER PART 201.

(B) A CORRECTIVE ACTION PLAN THAT IS SUBMITTED TO THE DEPARTMENT UNDER PART 213 THAT INCLUDES A MIXING ZONE DETERMINATION MADE BY THE DEPARTMENT AND THAT HAS BEEN NOTICED IN THE DEPARTMENT CALENDAR.

4 (3) As used in this section:

5 (a) "Mixing zone" means that portion of a water body where a  
6 point source discharge or venting groundwater is mixed with  
7 receiving water.

8 (b) "Venting groundwater" means groundwater that is entering  
9 a surface water of the state from a facility, as defined in  
10 section 20101.

11 Sec. 3119. (1) The storm water fund is created within the  
12 state treasury.

13 (2) The state treasurer may receive money or other assets  
14 from any source for deposit into the fund. The state treasurer  
15 shall direct the investment of the fund. The state treasurer  
16 shall credit to the fund interest and earnings from fund  
17 investments.

18 (3) Money in the fund at the close of the fiscal year shall  
19 remain in the fund and shall not lapse to the general fund.

20 (4) The department shall expend money from the fund, upon  
21 appropriation, only for 1 or more of the following purposes:

22 (a) Review of storm water permit applications.

23 (b) Storm water permit development, issuance, reissuance,  
24 ~~and~~ modification, AND TERMINATION.

25 (c) Surface water monitoring to support the storm water per-  
26 mitting process.

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1 (d) Assessment of compliance with storm water permit  
2 conditions.

3 (e) Enforcement against storm water permit violations.

4 (f) Classification of storm water control facilities.

5 (g) NOT MORE THAN 10% OF THE MONEY IN THE FUND FOR  
6 ~~Certification~~ TRAINING FOR CERTIFICATION of storm  
water operators.

7 AND EDUCATIONAL MATERIAL TO ASSIST PERSONS REGULATED UNDER  
8 THIS PART.

9 (5) Money in the fund shall not be used to support the  
10 direct costs of litigation undertaken to enforce this part.

11 (6) Upon the expenditure or appropriation of money raised in  
12 section 3118 for any other purpose than those specifically listed  
13 in this section, authorization to collect fees under section 3118  
14 shall be suspended until such time as the money expended or  
15 appropriated for purposes other than those listed in this section  
16 is returned to the fund.

17 Sec. 30101. As used in this part:

18 (a) "Bottomland" means the land area of an inland lake or  
19 stream that lies below the ordinary high-water mark and that may  
20 or may not be covered by water.

21 (b) "Bulkhead line" means a line that is established pursu-  
22 ant to this part beyond which dredging, filling, or construction  
23 of any kind is not allowed without a permit.

24 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL  
25 QUALITY.

26 (D) ~~(c)~~ "Fund" means the land and water management permit  
27 fee fund created in section 30113.

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1 (E) ~~(d)~~ "Impoundment" means water held back by a dam,  
2 dike, floodgate, or other barrier.

3 (F) ~~(e)~~ "Inland lake or stream" means a natural or artifi-  
4 cial lake, pond, or impoundment; a river, stream, or creek which  
5 may or may not be serving as a drain as defined by the drain code  
6 of 1956, ~~Act No. 40 of the Public Acts of 1956, being sections~~  
7 ~~280.1 to 280.630 of the Michigan Compiled Laws~~ 1956 PA 40, MCL  
8 280.1 TO 280.630; or any other body of water that has definite  
9 banks, a bed, and visible evidence of a continued flow or contin-  
10 ued occurrence of water, including the St. Marys, St. Clair, and  
11 Detroit rivers. Inland lake or stream does not include the Great  
12 Lakes, Lake St. Clair, or a lake or pond that has a surface area  
13 of less than 5 acres.

14 (G) ~~(f)~~ "Marina" means a facility that is owned or oper-  
15 ated by a person, extends into or over an inland lake or stream,  
16 and offers service to the public or members of the marina for  
17 docking, loading, or other servicing of recreational watercraft.

18 (H) ~~(g)~~ "Minor offense" means either of the following vio-  
19 lations of this part if the project involved in the offense is a  
20 minor project as listed in R 281.816 of the Michigan administra-  
21 tive code or the department determines that restoration of the  
22 affected property is not required:

23 (i) The failure to obtain a permit under this part.

24 (ii) A violation of a permit issued under this part.

25 (I) ~~(h)~~ "Ordinary high-water mark" means the line between  
26 upland and bottomland that persists through successive changes in  
27 water levels, below which the presence and action of the water is

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1 so common or recurrent that the character of the land is marked  
2 distinctly from the upland and is apparent in the soil itself,  
3 the configuration of the surface of the soil, and the  
4 vegetation. On an inland lake that has a level established by  
5 law, it means the high established level. Where water returns to  
6 its natural level as the result of the permanent removal or aban-  
7 donment of a dam, it means the natural ordinary high-water mark.

8 (J) ~~(i)~~ "Project" means an activity that requires a permit  
9 pursuant to section 30102.

10 (K) ~~(j)~~ "Property owners' association" means any group of  
11 organized property owners publishing a directory of their member-  
12 ship, the majority of which are riparian owners and are located  
13 on the inland lake or stream that is affected by the proposed  
14 project.

15 (L) ~~(k)~~ "Riparian owner" means a person who has riparian  
16 rights.

17 (M) ~~(l)~~ "Riparian rights" means those rights which are  
18 associated with the ownership of the bank or shore of an inland  
19 lake or stream.

20 (N) ~~(m)~~ "Seasonal structure" includes any type of dock,  
21 boat hoist, ramp, raft, or other recreational structure that is  
22 placed into an inland lake or stream and removed at the end of  
23 the boating season.

24 (O) ~~(n)~~ "Structure" includes a marina, wharf, dock, pier,  
25 dam, weir, stream deflector, breakwater, groin, jetty, sewer,  
26 pipeline, cable, and bridge.



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1 (P) ~~(o)~~ "Upland" means the land area that lies above the  
2 ordinary high-water mark.

3 Sec. 30104. (1) Before a project that is subject to this  
4 part is undertaken, a person shall file an application and  
5 receive a permit from the department. The application shall be  
6 on a form prescribed by the department and shall include any  
7 information that may be required by the department. If a project  
8 includes activities at multiple locations, 1 application may be  
9 filed for the combined activities.

10 (2) Except as provided in subsections (3) and (4), an appli-  
11 cation for a permit shall be accompanied by a fee based on an  
12 administrative cost in accordance with the following schedule:

13 (a) Until October 1, ~~1999~~ 2003:

14 (i) For a minor project listed in R 281.816 of the Michigan  
15 administrative code, or a seasonal drawdown or the associated  
16 reflooding, or both, of a dam or impoundment for the purpose of  
17 weed control, a fee of \$50.00. However, for a permit for a sea-  
18 sonal drawdown or associated reflooding, or both, of a dam or  
19 impoundment for the purpose of weed control that is issued for  
20 the first time after ~~the effective date of the 1995 amendatory~~  
21 ~~act that added this sentence~~ OCTOBER 9, 1995, an initial fee of  
22 \$500.00 with subsequent permits for the same purpose being  
23 assessed a \$50.00 fee.

24 (ii) For construction or expansion of a marina, a fee of:

25 (A) \$50.00 for an expansion of 1-10 slips to an existing  
26 permitted marina.

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

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

5 (D) \$500.00 for a new marina with 11-50 proposed marina  
6 slips, plus \$10.00 for each slip over 50.

7 (E) \$1,500.00 if an existing permitted marina proposes main-  
8 tenance dredging of 10,000 cubic yards or more or the addition of  
9 seawalls, bulkheads, or revetments of 500 feet or more.

10 (iii) For renewal of a marina operating permit, a fee of  
11 \$50.00.

12 (iv) For major projects other than a project described in  
13 subparagraph (ii)(E), involving any of the following, a fee of  
14 \$2,000.00:

15 (A) Dredging of 10,000 cubic yards or more.

16 (B) Filling of 10,000 cubic yards or more.

17 (C) Seawalls, bulkheads, or revetment of 500 feet or more.

18 (D) Filling or draining of 1 acre or more of wetland conti-  
19 guous to a lake or stream.

20 (E) New dredging or upland boat basin excavation in areas of  
21 suspected contamination.

22 (F) Shore projections, such as groins and underwater stabi-  
23 lizers, that extend 150 feet or more into a lake or stream.

24 (G) New commercial docks or wharves of 300 feet or more in  
25 length.

26 (H) Stream enclosures 100 feet or more in length.

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- 1 (I) Stream relocations 500 feet or more in length.
- 2 (J) New golf courses.
- 3 (K) Subdivisions.
- 4 (L) Condominiums.
- 5 (v) For all other projects not listed in subparagraphs (i)
- 6 through (iv), a fee of \$500.00.
- 7 (b) Beginning October 1, ~~1999~~ 2003, a fee of \$25.00 for
- 8 any project listed in subdivision (a).
- 9 (3) A project that requires review and approval under this
- 10 part and 1 or more of the following acts or parts of acts is
- 11 subject to only the single highest permit fee required under this
- 12 part or the following acts or parts of acts:
- 13 (a) Part 303.
- 14 (b) Part ~~325~~ 323.
- 15 (c) Part ~~323~~ 325.
- 16 (d) Section 3104.
- 17 (E) SECTION 117 OF THE LAND DIVISION ACT, 1967 PA 288, MCL
- 18 560.117.
- 19 (4) If work has been done in violation of a permit require-
- 20 ment under this part and restoration is not ordered by the
- 21 department, the department may accept an application for a permit
- 22 if the application is accompanied by a fee equal to 2 times the
- 23 permit fee required under this section.
- 24 Sec. 30105. (1) Until October 1, ~~1999~~ 2003, a person who
- 25 desires notification of pending applications may submit a written
- 26 request to the department accompanied by an annual fee of
- 27 \$25.00. The department shall forward all annual fees to the

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1 state treasurer for deposit into the fund. The department shall  
2 prepare a monthly list of the applications made during the previ-  
3 ous month and shall promptly mail copies of the list for the  
4 remainder of the calendar year to the persons who have so  
5 requested notice. The monthly list shall state the name and  
6 address of each applicant, the legal description of the lands  
7 included in the applicant's project, and a summary statement of  
8 the purpose of the project. The department may hold a public  
9 hearing on pending applications.

10 (2) Except as otherwise provided in this section, upon  
11 receiving an application, the department shall submit copies for  
12 review to the director of ~~public~~ THE DEPARTMENT OF COMMUNITY  
13 health or the local health department designated by the director  
14 of ~~public~~ THE DEPARTMENT OF COMMUNITY health, to the city, vil-  
15 lage, or township and the county where the project is to be  
16 located, to the local soil conservation district, to the ~~local~~  
17 watershed council organized under part 311, if any, to the local  
18 port commission, if any, and to the persons required to be  
19 included in the application pursuant to section 30104(1). Each  
20 copy of the application shall be accompanied by a statement that  
21 unless a written request is filed with the department within 20  
22 days after the submission for review, the department may grant  
23 the application without a public hearing where the project is  
24 located. The department may hold a public hearing upon the writ-  
25 ten request of the applicant or a riparian owner or a person or  
26 governmental unit that is entitled to receive a copy of the  
27 application pursuant to this subsection.

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

5 (4) At least 10 days' notice of a hearing to be held under  
6 this section shall be given by publication in a newspaper circu-  
7 lated in the county where the project is to be located and by  
8 mailing copies of the notice to the persons who have requested  
9 the monthly list pursuant to subsection (1), to the person  
10 requesting the hearing, and to the persons and governmental units  
11 that are entitled to receive a copy of the application pursuant  
12 to subsection (2).

13 (5) The department shall grant or deny the permit within 60  
14 days, or within 90 days if a public hearing is held, after the  
15 filing of an application pursuant to section 30104. If a permit  
16 is denied, the department shall provide to the applicant a con-  
17 cise written statement of its reasons for denial of the permit,  
18 and, if it appears that a minor modification of the application  
19 would result in the granting of the permit, the nature of the  
20 modification shall be stated. In an emergency, the department  
21 may issue a conditional permit before the expiration of the  
22 20-day period referred to in subsection (2).

23 (6) The department, by rule promulgated under section  
24 30110(1), may establish minor project categories of activities  
25 and projects that are similar in nature and have minimal adverse  
26 environmental impact. The department may act upon an application  
27 received pursuant to section 30104 for an activity or project

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1 within a minor project category after an on-site inspection of  
2 the land and water involved without providing notices or holding  
3 a public hearing pursuant to subsection (2). A final inspection  
4 or certification of a project completed under a permit granted  
5 pursuant to this subsection is not required, but all other provi-  
6 sions of this part are applicable to a minor project.

7       Sec. 30109. Upon the written request of a riparian owner  
8 and upon payment of a service fee, the department may enter into  
9 a written agreement with a riparian owner establishing the loca-  
10 tion of the ordinary high-water mark for his or her property. In  
11 the absence of substantially changed conditions, the agreement  
12 shall be conclusive proof of the location in all matters between  
13 the state and the riparian owner and his or her successors in  
14 interest. Until October 1, ~~1999~~ 2003, the service fee provided  
15 for in this section shall be \$500.00. Beginning October 1,  
16 ~~1999~~ 2003, the service fee provided for in this section shall  
17 be \$50.00. The department shall forward all service fees to the  
18 state treasurer for deposit into the fund.

19       Sec. 32312. (1) The department, in order to regulate the  
20 uses and development of high-risk areas, flood risk areas, and  
21 environmental areas and to implement the purposes of this part,  
22 shall promulgate rules. Until October 1, ~~1999~~ 2003, if permits  
23 are required pursuant to rules promulgated under this part, a fee  
24 of \$500.00 shall be submitted to the department with each appli-  
25 cation for a commercial or multi-family residential project, a  
26 fee of \$100.00 shall be submitted with each application for a  
27 single-family home construction, and a fee of \$50.00 shall be

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1 submitted with each application for an addition to an existing  
2 single-family home or for a project that has a minor impact on  
3 fish and wildlife resources in environmental areas as determined  
4 by the department.

5 (2) A project that requires review and approval under this  
6 part and under 1 or more of the following is subject to only the  
7 single highest permit fee required under this part or the  
8 following:

9 (a) Part ~~303~~ 301.

10 (b) Part ~~325~~ 303.

11 (c) Part ~~301~~ 325.

12 (d) Section 3104.

13 (E) SECTION 117 OF THE LAND DIVISION ACT, 1967 PA 288, MCL  
14 560.117.

15 (3) The department shall forward fees collected under this  
16 section to the state treasurer for deposit in the land and water  
17 management permit fee fund created in section 30113.

18 (4) A circuit court, upon petition and a showing by the  
19 department that a violation of a rule promulgated under subsec-  
20 tion (1) exists, shall issue any necessary order to the defendant  
21 to correct the violation or to restrain the defendant from fur-  
22 ther violation of the rule.

23 Sec. 32513. (1) Before any work or connection specified in  
24 section 32512 is undertaken, a person shall file an application  
25 with the department OF ENVIRONMENTAL QUALITY setting forth the  
26 following:

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- 1 (a) The name and address of the applicant.
- 2 (b) The legal description of the lands included in the  
3 project.
- 4 (c) A summary statement of the purpose of the project.
- 5 (d) A map or diagram showing the proposal on an adequate  
6 scale with contours and cross-section profiles of the waterway to  
7 be constructed.
- 8 (e) Other information required by the department OF ENVIRON-  
9 MENTAL QUALITY.
- 10 (2) Except as provided in subsections (3) and (4), an appli-  
11 cation for a permit under this section shall be accompanied by a  
12 fee according to the following schedule:
- 13 (a) Until October 1, ~~1999~~ 2003:
- 14 (i) For activities included in the minor project category as  
15 described in rules promulgated under this part, \$50.00.
- 16 (ii) For construction or expansion of a marina, a fee of:
- 17 (A) \$50.00 for an expansion of 1-10 slips to an existing  
18 permitted marina.
- 19 (B) \$100.00 for a new marina with 1-10 proposed marina  
20 slips.
- 21 (C) \$250.00 for an expansion of 11-50 slips to an existing  
22 permitted marina, plus \$10.00 for each slip over 50.
- 23 (D) \$500.00 for a new marina with 11-50 proposed marina  
24 slips, plus \$10.00 for each slip over 50.
- 25 (E) \$1,500.00 if an existing permitted marina proposes main-  
26 tenance dredging of 10,000 cubic yards or more or the addition of  
27 seawalls, bulkheads, or revetments of 500 feet or more.



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1       (iii) For major projects other than a project described in  
2 subparagraph (ii)(E), involving any of the following, a fee of  
3 \$2,000.00:

4       (A) Dredging of 10,000 cubic yards or more.

5       (B) Filling of 10,000 cubic yards or more.

6       (C) Seawalls, bulkheads, or revetment of 500 feet or more.

7       (D) Filling or draining of 1 acre or more of coastal  
8 wetland.

9       (E) New dredging or upland boat basin excavation in areas of  
10 suspected contamination.

11       (F) New breakwater or channel jetty.

12       (G) Shore protection, such as groins and underwater stabi-  
13 lizers, that extend 150 feet or more on Great Lakes bottomlands.

14       (H) New commercial dock or wharf of 300 feet or more in  
15 length.

16       (iv) For all other projects not listed in subparagraphs (i)  
17 through (iii), \$500.00.

18       (b) Beginning October 1, ~~1999~~ 2003, a fee of \$50.00 for  
19 any project listed in subdivision (a).

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

23       (a) Part 301.

24       (b) Part 303.

25       (c) Part 323.

26       (d) Section 3104.

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1 (e) Section 117 of the ~~subdivision control act of 1967, Act~~  
2 ~~No. 288 of the Public Acts of 1967, being section 560.117 of the~~  
3 ~~Michigan Compiled Laws~~ LAND DIVISION ACT, 1967 PA 288, MCL  
4 560.117.

5 (4) If work has been done in violation of a permit require-  
6 ment under this part and restoration is not ordered by the  
7 department OF ENVIRONMENTAL QUALITY, the department OF ENVIRON-  
8 MENTAL QUALITY may accept an application for a permit if the  
9 application is accompanied by a fee equal to 2 times the permit  
10 fee required under this section.

11 (5) The department OF ENVIRONMENTAL QUALITY shall forward  
12 all fees collected under this section to the state treasurer for  
13 deposit into the land and water management permit fee fund cre-  
14 ated in section 30113.