

SENATE BILL No. 1052

March 28, 2012, Introduced by Senators CASPERSON, BRANDENBURG, PAVLOV, KOWALL, NOFS, EMMONS, KAHN, MEEKHOF, JANSEN, MARLEAU, GREEN and BOOHER and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 30301, 30305, 30306, 30312, 32501, 32502,
32503, 32505, 32510, 32512, 32512a, and 32513 (MCL 324.30301,
324.30305, 324.30306, 324.30312, 324.32501, 324.32502, 324.32503,
324.32505, 324.32510, 324.32512, 324.32512a, and 324.32513),
sections 30301, 30306, 30312, and 32512a as amended by 2009 PA 120,
sections 30305, 32501, and 32512 as amended by 2003 PA 14, sections
32502, 32505, and 32510 as added by 1995 PA 59, section 32503 as
amended by 2004 PA 325, and section 32513 as amended by 2011 PA 90;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 30301. (1) As used in this part:

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

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

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

~~—— (ii) Mowing of vegetation.~~

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

~~—— (iv) Grooming of soil.~~

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

~~—— (c) "Council" means the wetland advisory council created in section 30329.~~

~~—— (d) "Debris" means animal or fish carcasses, zebra mussel shells, dead vegetation, trash, and discarded materials of human-made origin.~~

~~(A) (e) "Department" means the department of environmental quality.~~

~~(B) (f) "Director" means the director of the department.~~

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

~~(C) (h) "Exceptional wetland" means wetland that provides physical or biological functions essential to the natural resources of the state and that may be lost or degraded if not preserved through an approved site protection and management plan for the purposes of providing compensatory wetland mitigation.~~

~~(D) (i) "Fill material" means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.~~

~~—— (j) "Grooming of soil" means raking or dragging, pushing, or~~

~~pulling metal teeth through the top 4 inches of soil without disturbance of or destruction to plant roots, for the purpose of removing debris.~~

(E) ~~(k)~~ "Landscape level wetland assessment" means the use of aerial photographs, maps, and other remotely sensed information to predict and evaluate wetland characteristics and functions in the context of all of the following:

(i) The wetland's landscape position and hydrologic characteristics.

(ii) The surrounding landscape.

(iii) The historic extent and condition of the wetland.

~~(l) "Leveling of sand" means the relocation of sand within areas being leveled that are predominantly free of vegetation, including the redistribution, grading, and spreading of sand that has been deposited through wind or wave action onto upland riparian property.~~

(F) ~~(m)~~ "Minor drainage" includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.

~~(n) "Mowing of vegetation" means the cutting of vegetation to a height of not less than 2 inches, without disturbance of soil or plant roots.~~

(G) ~~(o)~~ "Nationwide permit" means a nationwide permit issued by the United States army corps of engineers under 72 FR 11091 to 11198 (March 12, 2007), including all general conditions, regional

conditions, and conditions imposed by this state pursuant to a water quality certification under section 401 of title IV of the federal water pollution control act, 33 USC 1341, or a coastal zone management consistency determination under section 307 of the coastal zone management act of 1972, 16 USC 1456.

~~(p) "Ordinary high water mark" means the ordinary high water mark as specified in section 32502.~~

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

(H) ~~(r)~~ "Person" means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, an instrumentality or agency of the federal government, or other legal entity.

(I) ~~(s)~~ "Rapid wetland assessment" means a method for generally assessing the functions, values, and condition of individual wetlands based on existing data and field indicators.

(J) ~~(t)~~ "Rare and imperiled wetland" means any of the following:

(i) Great Lakes marsh.

(ii) Southern wet meadow.

(iii) Inland salt marsh.

(iv) Intermittent wetland or boggy seepage wetland.

(v) Coastal plain marsh.

- 1 (vi) Interdunal wetland.
- 2 (vii) Lakeplain wet prairie.
- 3 (viii) Lakeplain wet-mesic prairie.
- 4 (ix) Northern wet-mesic prairie.
- 5 (x) Wet-mesic prairie.
- 6 (xi) Wet prairie.
- 7 (xii) Prairie fen.
- 8 (xiii) Northern fen.
- 9 (xiv) Patterned fen.
- 10 (xv) Poor fen.
- 11 (xvi) Muskeg.
- 12 (xvii) Rich conifer swamp.
- 13 (xviii) Relict conifer swamp.
- 14 (xix) Hardwood-conifer swamp.
- 15 (xx) Northern swamp.
- 16 (xxi) Southern swamp.
- 17 (xxii) Southern floodplain forest.
- 18 (xxiii) Inundated shrub swamp.
- 19 ~~—— (u) "Removal of vegetation" means the manual or mechanized~~
- 20 ~~removal of vegetation, other than the manual de minimis removal of~~
- 21 ~~vegetation.~~
- 22 (K) ~~(v)~~ "Water dependent" means requiring access or proximity
- 23 to or siting within an aquatic site to fulfill its basic purpose.
- 24 (I) ~~(w)~~ "Wetland" means land characterized by the presence of
- 25 water at a frequency and duration sufficient to support, and that
- 26 under normal circumstances does support, wetland vegetation or
- 27 aquatic life, and is commonly referred to as a bog, swamp, or

1 marsh, and which is any of the following:

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

4 (ii) Not contiguous to the Great Lakes, an inland lake or pond,
5 or a river or stream; and more than 5 acres in size.

6 (iii) Not contiguous to the Great Lakes, an inland lake or pond,
7 or a river or stream; and 5 acres or less in size if the department
8 determines that protection of the area is essential to the
9 preservation of the natural resources of the state from pollution,
10 impairment, or destruction and the department has so notified the
11 owner.

12 (2) The department and local units of government shall apply
13 the technical wetland delineation standards set forth in the United
14 States army corps of engineers January 1987 wetland delineation
15 manual, technical report Y-87-1, and appropriate regional United
16 States army corps of engineers supplements, in identifying wetland
17 boundaries under this part, including, but not limited to, section
18 30307.

19 **(3) THE DEPARTMENT AND LOCAL UNITS OF GOVERNMENT SHALL NOT**
20 **REGULATE UNDER THIS PART AN AREA COMMONLY REFERRED TO AS A BEACH.**

21 Sec. 30305. (1) Activities that require a permit under part
22 325 or part 301 or a discharge that is authorized by a discharge
23 permit under section 3112 or 3113 do not require a permit under
24 this part.

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

1 (a) Fishing, trapping, or hunting.

2 (b) Swimming or boating.

3 (c) Hiking.

4 (d) Grazing of animals.

5 (e) Farming, horticulture, silviculture, lumbering, and
6 ranching activities, including plowing, irrigation, irrigation
7 ditching, seeding, cultivating, minor drainage, harvesting for the
8 production of food, fiber, and forest products, or upland soil and
9 water conservation practices. Wetland altered under this
10 subdivision shall not be used for a purpose other than a purpose
11 described in this subsection without a permit from the department.

12 (f) Maintenance or operation of serviceable structures in
13 existence on October 1, 1980 or constructed pursuant to this part
14 or former 1979 PA 203.

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

16 (h) Maintenance, operation, or improvement which includes
17 straightening, widening, or deepening of the following which is
18 necessary for the production or harvesting of agricultural
19 products:

20 (i) An existing private agricultural drain.

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

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

26 (i) Construction or maintenance of farm roads, forest roads,
27 or temporary roads for moving mining or forestry equipment, if the

1 roads are constructed and maintained in a manner to assure that any
2 adverse effect on the wetland will be otherwise minimized.

3 (j) Drainage necessary for the production and harvesting of
4 agricultural products if the wetland is owned by a person who is
5 engaged in commercial farming and the land is to be used for the
6 production and harvesting of agricultural products. Except as
7 otherwise provided in this part, wetland improved under this
8 subdivision after October 1, 1980 shall not be used for nonfarming
9 purposes without a permit from the department. This subdivision
10 does not apply to a wetland that is contiguous to a lake or stream,
11 or to a tributary of a lake or stream, or to a wetland that the
12 department has determined by clear and convincing evidence to be a
13 wetland that is necessary to be preserved for the public interest,
14 in which case a permit is required.

15 (k) Maintenance or improvement of public streets, highways, or
16 roads, within the right-of-way and in such a manner as to assure
17 that any adverse effect on the wetland will be otherwise minimized.
18 Maintenance or improvement does not include adding extra lanes,
19 increasing the right-of-way, or deviating from the existing
20 location of the street, highway, or road.

21 (l) Maintenance, repair, or operation of gas or oil pipelines
22 and construction of gas or oil pipelines having a diameter of 6
23 inches or less, if the pipelines are constructed, maintained, or
24 repaired in a manner to assure that any adverse effect on the
25 wetland will be otherwise minimized.

26 (m) Maintenance, repair, or operation of electric transmission
27 and distribution power lines and construction of distribution power

1 lines, if the distribution power lines are constructed, maintained,
2 or repaired in a manner to assure that any adverse effect on the
3 wetland will be otherwise minimized.

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

8 (o) Construction of iron and copper mining tailings basins and
9 water storage areas.

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

12 ~~—— (i) The activities shall not occur in environmental areas and~~
13 ~~shall not violate part 365 or rules promulgated under that part, or~~
14 ~~the endangered species act of 1973, Public Law 93-205, 87 Stat.~~
15 ~~884, or rules promulgated under that act.~~

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

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

20 ~~—— (q) Until 3 years after the effective date of the amendatory~~
21 ~~act that added this subdivision, removal of vegetation as~~
22 ~~authorized under section 32516.~~

23 (3) An activity in a wetland that was effectively drained for
24 farming before October 1, 1980 and that on and after October 1,
25 1980 has continued to be effectively drained as part of an ongoing
26 farming operation is not subject to regulation under this part.

27 (4) A wetland that is incidentally created as a result of 1 or

1 more of the following activities is not subject to regulation under
2 this part:

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

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

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

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

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

18 (b) The location of the wetland.

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

21 (d) A statement and appropriate drawings describing the
22 proposed use or development.

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

24 (f) An environmental assessment of the proposed use or
25 development if requested by the department. The assessment shall
26 include the effects upon wetland benefits and the effects upon the
27 water quality, flow, and levels, and the wildlife, fish, and

1 vegetation within a contiguous lake, river, or stream.

2 (2) For the purposes of subsection (1), a proposed use or
3 development of a wetland ~~shall be considered as~~ **MAY BE COVERED BY** a
4 single permit application under this part if the scope, extent, and
5 purpose of a use or development are made known at the time of the
6 application for the permit.

7 (3) Except as provided in subsections (4) and (5), an
8 application for a permit submitted under subsection (1) shall be
9 accompanied by the following fee, as applicable:

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

12 ~~—— (b) For a permit for the removal of vegetation in an area that~~
13 ~~is not more than 100 feet wide or the width of the property,~~
14 ~~whichever is less, or the mowing of vegetation under a general~~
15 ~~permit, in the area between the ordinary high water mark and the~~
16 ~~water's edge, a fee of \$50.00.~~

17 **(B)** ~~(c)~~ For a major project, including any of the following, a
18 fee of \$2,000.00:

19 (i) Filling or draining of 1 acre or more of coastal or inland
20 wetland.

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

22 (iii) A new golf course affecting wetland.

23 (iv) A subdivision affecting wetland.

24 (v) A condominium affecting wetland.

25 **(C)** ~~(d)~~ For all other projects, a fee of \$500.00.

26 (4) A project that requires review and approval under this
27 part and 1 or more of the following is subject to only the single

1 highest permit fee required under this part or the following:

2 (a) Section 3104.

3 (b) Part 301.

4 (c) Part 323.

5 (d) Part 325.

6 (e) Section 117 of the land division act, 1967 PA 288, MCL
7 560.117.

8 (5) If work has been done in violation of a permit requirement
9 under this part and restoration is not ordered by the department,
10 the department may accept an application for a permit if the
11 application is accompanied by a fee equal to twice the permit fee
12 otherwise required under this section.

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

16 Sec. 30312. (1) After providing notice and an opportunity for
17 a public hearing, the department shall establish minor project
18 categories of activities that are similar in nature, have minimal
19 adverse environmental effects when performed separately, and will
20 have only minimal cumulative adverse effects on the environment.
21 The department may act upon an application received pursuant to
22 section 30306 for an activity within a minor project category
23 without holding a public hearing or providing notice pursuant to
24 section 30307(1) or (3). A minor project category shall not be
25 valid for more than 5 years, but may be reestablished. All other
26 provisions of this part, except provisions applicable only to
27 general permits, are applicable to a minor project.

1 (2) The department, after notice and opportunity for a public
2 hearing, shall issue general permits on a statewide basis or within
3 a local unit of government for a category of activities if the
4 department determines that the activities are similar in nature,
5 will cause only minimal adverse environmental effects when
6 performed separately, and will have only minimal cumulative adverse
7 effects on the environment. A general permit shall be based on the
8 requirements of this part and the rules promulgated under this
9 part, and shall set forth the requirements and standards that shall
10 apply to an activity authorized by the general permit. A general
11 permit shall not be valid for more than 5 years, but may be
12 reissued.

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

20 (3) ~~(4)~~ Before authorizing a specific project to proceed under
21 a general permit, the department may provide notice pursuant to
22 section 30307(3) but shall not hold a public hearing and shall not
23 typically require a site inspection. The department shall issue an
24 authorization under a general permit if the conditions of the
25 general permit and the requirements of section 30311 are met.
26 However, in determining whether to issue an authorization under a
27 general permit, the department shall not consider off-site

alternatives to be feasible and prudent alternatives.

(4) ~~(5)~~—If the department determines that activity in a proposed project, although within a minor project category or a general permit, is likely to cause more than minimal adverse effects on aquatic resources, including high-value aquatic habitats, the department may require that the application be processed under section 30307.

(5) ~~(6)~~—The department shall coordinate general permit and minor project categories under this part and parts 301 and 325 consistent with nationwide permits, as appropriate.

Sec. 32501. As used in this part:

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

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

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

~~—(ii) Mowing of vegetation.~~

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

~~—(iv) Grooming of soil.~~

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

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

(A) ~~(d)~~—"Department" means the department of environmental quality.

(B) ~~(e)~~—"Director" means the director of the department.

1 ~~—— (f) "Environmental area" means an environmental area as~~
2 ~~defined in section 32301.~~

3 ~~—— (g) "Grooming of soil" means raking or dragging, pushing, or~~
4 ~~pulling metal teeth through the top 4 inches of soil without~~
5 ~~disturbance of or destruction to plant roots, for the purpose of~~
6 ~~removing debris.~~

7 ~~—— (h) "Leveling of sand" means the relocation of sand within~~
8 ~~areas being leveled that are predominantly free of vegetation,~~
9 ~~including the redistribution, grading, and spreading of sand that~~
10 ~~has been deposited through wind or wave action onto upland riparian~~
11 ~~property.~~

12 (C) ~~(i)~~ "Marina purposes" means an operation making use of
13 submerged ~~bottomlands~~ **LANDS** or filled-in ~~bottomlands~~ **LANDS** of the
14 Great Lakes for the purpose of service to boat owners or operators,
15 which operation may restrict or prevent the free public use of the
16 affected ~~bottomlands~~ **SUBMERGED LANDS** or filled-in lands.

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

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

25 ~~—— (l) "Removal of vegetation" means the manual or mechanized~~
26 ~~removal of vegetation other than the de minimis removal of~~
27 ~~vegetation.~~

1 ~~_____ (m) "Wetland" means that term as it is defined in section~~
 2 ~~30301.~~

3 (D) "REGULATORY WATER MARK" MEANS THE FOLLOWING ELEVATIONS
 4 ABOVE SEA LEVEL, INTERNATIONAL GREAT LAKES DATUM OF 1955: LAKE
 5 SUPERIOR, 601.5 FEET; LAKES MICHIGAN AND HURON, 579.8 FEET; LAKE
 6 ST. CLAIR, 574.7 FEET; AND LAKE ERIE, 571.6 FEET.

7 Sec. 32502. ~~The~~ EXCEPT AS PROVIDED IN SECTION 32512, THE lands
 8 covered and affected by this part are all of the unpatented ~~lake~~
 9 ~~bottomlands~~ SUBMERGED LANDS and unpatented made lands in the Great
 10 Lakes, including the bays and harbors of the Great Lakes, belonging
 11 to the state or held in trust by it, including those lands that
 12 have been artificially filled in. The waters covered and affected
 13 by this part are all of the waters of the Great Lakes within the
 14 boundaries of the state. This part shall be construed so as to
 15 preserve and protect the interests of the general public in the
 16 lands and waters described in this section, to provide for the
 17 sale, lease, exchange, or other disposition of unpatented SUBMERGED
 18 lands and the private or public use of waters over patented and
 19 unpatented SUBMERGED lands, and to permit the filling in of
 20 patented submerged lands whenever it is determined by the
 21 department that the private or public use of those lands and waters
 22 will not substantially affect the public use of those lands and
 23 waters for hunting, fishing, swimming, pleasure boating, or
 24 navigation or that the public trust in the state will not be
 25 impaired by those agreements for use, sales, lease, or other
 26 disposition. The word "land" or "lands" as used in this part refers
 27 to the aforesaid described unpatented ~~lake bottomlands~~ SUBMERGED

1 **LANDS** and unpatented made lands and patented lands in the Great
2 Lakes and the bays and harbors of the Great Lakes lying below and
3 lakeward of the ~~natural ordinary high water mark~~ **WATER'S EDGE**, but
4 this part does not affect property rights secured by virtue of a
5 swamp land grant or rights acquired by accretions occurring through
6 natural means or reliction. ~~For purposes of this part, the ordinary~~
7 ~~high water mark shall be at the following elevations above sea~~
8 ~~level, international Great Lakes datum of 1955: Lake Superior,~~
9 ~~601.5 feet; Lakes Michigan and Huron, 579.8 feet; Lake St. Clair,~~
10 ~~574.7 feet; and Lake Erie, 571.6 feet.~~

11 Sec. 32503. (1) Except as otherwise provided in this section,
12 the department, after finding that the public trust in the waters
13 will not be impaired or substantially affected, may enter into
14 agreements pertaining to waters over and the filling in of
15 submerged patented lands, or to lease or deed unpatented **SUBMERGED**
16 lands, after approval of the state administrative board. Quitclaim
17 deeds, leases, or agreements covering unpatented **SUBMERGED** lands
18 may be issued or entered into by the department with any person,
19 and shall contain such terms, conditions, and requirements as the
20 department determines to be just and equitable and in conformance
21 with the public trust. The department shall reserve to the state
22 all mineral rights, including, but not limited to, coal, oil, gas,
23 sand, gravel, stone, and other materials or products located or
24 found in those lands, except where lands are occupied or to be
25 occupied for residential purposes at the time of conveyance.

26 ~~—— (2) A riparian owner shall not dredge or place spoil or other~~
27 ~~materials on bottomland except as authorized by a permit issued by~~

1 ~~the department pursuant to part 13.~~

2 (2) ~~(3)~~ The department shall not enter into a lease or deed
3 that allows drilling operations beneath unpatented **SUBMERGED** lands
4 for the exploration or production of oil or gas.

5 (3) ~~(4)~~ An agreement, lease, or deed entered into under this
6 part by the department with the United States shall be entered into
7 and executed pursuant to the property rights acquisition act, 1986
8 PA 201, MCL 3.251 to 3.262.

9 Sec. 32505. (1) If the department determines that it is in the
10 public interest to grant an applicant a deed or lease to such
11 **SUBMERGED** lands or enter into an agreement to permit use and
12 improvements in the waters or to enter into any other agreement in
13 regard thereto, the department shall determine the amount of
14 consideration to be paid to the state by the applicant for the
15 conveyance or lease of unpatented **SUBMERGED** lands.

16 (2) The department may permit, by lease or agreement, the
17 filling in of patented and unpatented submerged lands and permit
18 permanent improvements and structures after finding that the public
19 trust will not be impaired or substantially injured.

20 (3) The department may issue deeds or may enter into leases if
21 the unpatented **SUBMERGED** lands applied for have been artificially
22 filled in or are proposed to be changed from the condition that
23 exists on October 14, 1955 by filling, sheet piling, shoring, or by
24 any other means, and such lands are used or to be used or occupied
25 in whole or in part for uses other than existing, lawful riparian
26 or littoral purposes. The consideration to be paid to the state for
27 the conveyance or lease of unpatented **SUBMERGED** lands by the

1 applicant shall be not less than the fair, cash market value of the
2 lands determined as of the date of the filing of the application,
3 minus any improvements placed on the lands, but the sale price
4 shall not be less than 30% of the value of the land. In determining
5 the fair, cash market value of the lands applied for, the
6 department may give due consideration to the fact that the lands
7 are connected with the riparian or littoral property belonging to
8 the applicant, and to the uses, including residential and
9 commercial, being made or which can be made of the lands.

10 (4) Agreements for the **SUBMERGED** lands or water area described
11 in section 32502 may be granted to or entered into with local units
12 of government for public purposes and containing those terms and
13 conditions that may be considered just and equitable in view of the
14 public trust involved and may include the granting of permission to
15 make such fills as may be necessary.

16 (5) If the unpatented **SUBMERGED** lands applied for have not
17 been filled in or in any way substantially changed from their
18 natural character at the time the application is filed with the
19 department, and the application is filed for the purpose of flood
20 control, shore erosion control, drainage and sanitation control, or
21 to straighten irregular shore lines, then the consideration to be
22 paid to the state by the applicant shall be the fair, cash value of
23 such land, giving due consideration to its being adjacent to and
24 connected with the riparian or littoral property owned by the
25 applicant.

26 (6) Leases or agreements covering unpatented **SUBMERGED** lands
27 may be granted or entered into with riparian or littoral

1 proprietors for commercial marina purposes or for marinas operated
2 by persons for consideration and containing terms and conditions
3 that are considered by the department to be just and equitable. The
4 leases may include either filled or unfilled ~~lake-bottomlands,~~
5 **SUBMERGED LANDS**, or both. Rental shall commence as of the date of
6 use of the unpatented **SUBMERGED** lands for the marina operations.
7 Dockage and other uses by marinas in waters over patented lands on
8 October 14, 1955 shall be considered to be lawful riparian use.

9 (7) If the department after investigation determines that an
10 applicant has willfully and knowingly filled in or in any way
11 substantially changed the lands applied for with an intent to
12 defraud, or if the applicant has acquired such lands with knowledge
13 of such a fraudulent intent and is not an innocent purchaser, the
14 sale price shall be the fair, cash market value of the land. An
15 applicant may request a hearing of a determination made under this
16 subsection. The department shall grant a hearing if requested.

17 Sec. 32510. (1) Except as provided in subsection (2), a person
18 who excavates or fills or in any manner alters or modifies **LANDS**
19 **REGULATED UNDER SECTION 32512 OR** any of the land or waters subject
20 to this part without the approval of the department is guilty of a
21 misdemeanor ~~—~~ punishable by imprisonment for not more than 1 year
22 or a fine of not more than \$1,000.00, or both. Land altered or
23 modified in violation of this part shall not be sold to any person
24 convicted under this section at less than fair, cash market value.

25 (2) A person who commits a minor offense is guilty of a
26 misdemeanor ~~—~~ punishable by a fine of not more than \$500.00 for
27 each violation. A law enforcement officer may issue and serve an

1 appearance ticket upon a person for a minor offense pursuant to
2 sections ~~9a-9C~~ to 9g of chapter IV of the code of criminal
3 procedure, ~~Act No. 175 of the Public Acts of 1927, being sections~~
4 ~~764.9a to 764.9g of the Michigan Compiled Laws.1927 PA 175, MCL~~
5 **764.9C TO 764.9G.**

6 (3) As used in this section, "minor offense" means either of
7 the following violations of this part if the department determines
8 that restoration of the affected property is not required:

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

10 (b) A violation of a permit issued under this part.

11 Sec. 32512. (1) Unless a permit has been granted by the
12 department or authorization has been granted by the legislature, or
13 except as to boat wells and slips facilitating private,
14 noncommercial, recreational boat use, not exceeding 50 feet in
15 length where the spoil is not disposed of below the ~~ordinary high~~
16 ~~water~~ **REGULATORY WATER** mark of the body of water to which it is
17 connected, a person shall not do any of the following **ON SUBMERGED**
18 **LANDS OR ANY SHORELANDS ADJACENT THERETO BELOW THE REGULATORY WATER**
19 **MARK:**

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

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

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

(d) Construct a marina.

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

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

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

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

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

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

(2) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO AFFECT THE RIGHT OF A RIPARIAN OWNER TO MOW, GROOM, REMOVE VEGETATION, OR OTHERWISE MAINTAIN LAND ABOVE THE WATER'S EDGE.

Sec. 32512a. (1) After providing notice and an opportunity for a public hearing, the department shall establish minor project categories of activities that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. The department may act upon an application received pursuant to

1 section 32513 for an activity within a minor project category
2 without providing notice pursuant to section 32514. A minor project
3 category shall not be valid for more than 5 years, but may be
4 reestablished. All other provisions of this part, except provisions
5 applicable only to general permits, are applicable to a minor
6 project.

7 (2) The department, after notice and opportunity for a public
8 hearing, shall issue general permits on a statewide basis or within
9 a local unit of government for a category of activities if the
10 department determines that the activities are similar in nature,
11 will cause only minimal adverse environmental effects when
12 performed separately, and will have only minimal cumulative adverse
13 effects on the environment. A general permit shall be based on the
14 requirements of this part and the rules promulgated under this
15 part, and shall set forth the requirements and standards that shall
16 apply to an activity authorized by the general permit. Before
17 authorizing a specific project to proceed under a general permit,
18 the department may provide notice pursuant to section 32514 but
19 shall not hold a public hearing and shall not typically require a
20 site inspection. A general permit shall not be valid for more than
21 5 years, but may be reissued.

22 ~~—— (3) A general permit under this section may be issued for the~~
23 ~~mowing of vegetation or the removal of vegetation in the area~~
24 ~~between the ordinary high water mark and the water's edge. An~~
25 ~~application under this subsection may be submitted by a local unit~~
26 ~~of government on behalf of property owners within its jurisdiction~~
27 ~~or by 1 or more adjacent property owners for riparian property~~

1 ~~located within the same county.~~

2 Sec. 32513. (1) To obtain a permit for any work or connection
3 specified in section 32512, a person shall file an application with
4 the department on a form provided by the department. The
5 application shall include all of the following:

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

7 (b) The legal description of the lands included in the
8 project.

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

10 (d) A map or diagram showing the proposal on an adequate scale
11 with contours and cross-section profiles of any waterway to be
12 constructed.

13 (e) Other information required by the department.

14 (2) Except as provided in subsections (3) and (4), until
15 October 1, 2015, an application for a permit under this section
16 shall be accompanied by the following fee, as applicable:

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

19 (b) For activities included in a minor project category, ~~and~~
20 ~~for a permit for the removal of vegetation in an area that is not~~
21 ~~more than 100 feet wide or the width of the property, whichever is~~
22 ~~less, or the mowing of vegetation under a general permit, in the~~
23 ~~area between the ordinary high water mark and the water's edge, a~~
24 fee of \$50.00.

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

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

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

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

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

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

9 (d) For major projects other than a project described in
10 subdivision (c)(v), involving any of the following, a fee of
11 \$2,000.00:

12 (i) Dredging of 10,000 cubic yards or more.

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

14 (iii) Seawalls, bulkheads, or revetment of 500 feet or more.

15 (iv) Filling or draining of 1 acre or more of coastal wetland.

16 (v) New dredging or upland boat basin excavation in areas of
17 suspected contamination.

18 (vi) New breakwater or channel jetty.

19 (vii) Shore protection, such as groins and underwater
20 stabilizers, that extend 150 feet or more ~~on Great Lakes~~

21 ~~bottomlands.~~ **ONTO SUBMERGED LANDS.**

22 (viii) New commercial dock or wharf of 300 feet or more in
23 length.

24 (e) For all other projects not listed in subdivisions (a) to
25 (d), \$500.00.

26 (3) A project that requires review and approval under this
27 part and 1 or more of the following is subject to only the single

1 highest permit fee required under this part or the following:

2 (a) Part 301.

3 (b) Part 303.

4 (c) Part 323.

5 (d) Section 3104.

6 (e) Section 117 of the land division act, 1967 PA 288, MCL
7 560.117.

8 (4) If work has been done in violation of a permit requirement
9 under this part and restoration is not ordered by the department,
10 the department may accept an application for a permit if the
11 application is accompanied by a fee equal to 2 times the permit fee
12 otherwise required under this section.

13 (5) The department shall forward all fees collected under this
14 section to the state treasurer for deposit into the land and water
15 management permit fee fund created in section 30113.

16 Enacting section 1. Section 32516 of the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.32516, is
18 repealed.