

**SUBSTITUTE FOR  
SENATE BILL NO. 444**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3301, 3306, 3307, 3309, 3311, 30103, 30113, and 32512 (MCL 324.3301, 324.3306, 324.3307, 324.3309, 324.3311, 324.30103, 324.30113, and 324.32512), sections 3301, 3307, 3309, and 3311 as added by 2004 PA 246, section 3306 as amended by 2011 PA 90, section 30103 as amended by 2013 PA 98, section 30113 as amended by 2006 PA 496, and section 32512 as amended by 2012 PA 247, and by adding sections 3315 and 3317.

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

1           Sec. 3301. As used in this part:

2           (A) "AQUATIC INVASIVE SPECIES" MEANS AN AQUATIC SPECIES THAT  
3           IS NONNATIVE TO THE ECOSYSTEM UNDER CONSIDERATION AND WHOSE

1 INTRODUCTION CAUSES OR IS LIKELY TO CAUSE ECONOMIC OR ENVIRONMENTAL  
2 HARM OR HARM TO HUMAN HEALTH.

3 (B) ~~(a)~~—"Aquatic nuisance" means an organism that lives or  
4 propagates, or both, within the aquatic environment and that  
5 impairs the use or enjoyment of the waters of the state, including  
6 the intermediate aquatic hosts for schistosomes that cause  
7 swimmer's itch.

8 (C) ~~(b)~~—"Certificate of coverage" means written authorization  
9 from the department to implement a project under a general permit.

10 (D) ~~(c)~~—"Department" means the department of environmental  
11 quality.

12 (E) ~~(d)~~—"Director" means the director of the department.

13 Sec. 3306. (1) Until October 1, ~~2015~~, **2014**, an application for  
14 a certificate of coverage under this part shall be accompanied by a  
15 fee of \$75.00. Until October 1, ~~2015~~, **2014**, **AND** subject to  
16 subsection (2), an application for an individual permit under this  
17 part shall be accompanied by the following fee, based on the size  
18 of the area of impact:

19 (a) Less than 1/2 acre, \$75.00.

20 (b) ~~One-half~~ **1/2** acre or more but less than 5 acres, \$200.00.

21 (c) ~~Five~~ **5** acres or more but less than 20 acres, \$400.00.

22 (d) ~~Twenty~~ **20** acres or more but less than 100 acres, \$800.00.

23 (e) ~~One hundred~~ **100** acres or more, \$1,500.00.

24 ~~—(2) The department shall forward fees collected under this~~  
25 ~~section to the state treasurer for deposit in the land and water~~  
26 ~~management permit fee fund created in section 30113.~~

27 (2) **FOR EACH STATE FISCAL YEAR BEGINNING WITH THE 2014-2015**

1 STATE FISCAL YEAR, THE DEPARTMENT SHALL PROPORTIONATELY ADJUST  
2 CERTIFICATE OF COVERAGE AND PERMIT APPLICATION FEES UNDER  
3 SUBSECTION (1) BY CATEGORY TO ACHIEVE A TARGET IN FEE REVENUE UNDER  
4 SUBSECTION (1) AND SHALL POST THE ADJUSTED FEES ON ITS WEBSITE BY  
5 NOVEMBER 1. THE DEPARTMENT SHALL SET THE TARGET SO THAT THE ANNUAL  
6 CUMULATIVE TOTAL OF THE TARGET AMOUNT, PLUS ALL OF THE FOLLOWING,  
7 EQUALS, AS NEARLY AS POSSIBLE, \$900,000.00:

8 (A) THE TOTAL AMOUNT OF ANNUAL FEES UNDER SECTION 3309 TO BE  
9 PAID IN THE STATE FISCAL YEAR.

10 (B) THE AMOUNT OF GENERAL FUNDS APPROPRIATED TO THE PROGRAM  
11 UNDER THIS PART.

12 (C) THE AMOUNT IN THE AQUATIC NUISANCE CONTROL FUND CREATED  
13 UNDER SUBSECTION (4) IN EXCESS OF \$100,000.00 CARRIED FORWARD FROM  
14 THE PRIOR STATE FISCAL YEAR.

15 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION OR  
16 SUBSECTION (2), WHILE MAINTAINING PROPORTIONALITY OF FEES, THE  
17 AMOUNT OF ANY FEE CATEGORY SHALL NOT EXCEED THE AMOUNT SET FORTH IN  
18 SUBSECTION (1). FOR EACH STATE FISCAL YEAR BEGINNING WITH THE 2015-  
19 2016 STATE FISCAL YEAR, THE STATE TREASURER SHALL ADJUST THE  
20 \$900,000.00 FIGURE IN SUBSECTION (2) BY AN AMOUNT DETERMINED BY THE  
21 STATE TREASURER AT THE END OF THE PRECEDING FISCAL YEAR TO REFLECT  
22 THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER PRICE  
23 INDEX. AS USED IN THIS SUBSECTION, "CONSUMER PRICE INDEX" MEANS THE  
24 MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THIS  
25 STATE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES  
26 DEPARTMENT OF LABOR.

27 (4) THE AQUATIC NUISANCE CONTROL FUND IS CREATED IN THE STATE

1 TREASURY. THE DEPARTMENT SHALL FORWARD ALL FEES COLLECTED UNDER  
2 THIS SECTION, SECTION 3309, AND SECTION 3311 TO THE STATE TREASURER  
3 FOR DEPOSIT INTO THE FUND. THE STATE TREASURER MAY RECEIVE MONEY OR  
4 OTHER ASSETS FROM ANY OTHER SOURCE FOR DEPOSIT INTO THE FUND. THE  
5 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE  
6 TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND  
7 INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR  
8 SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.  
9 THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR AUDITING  
10 PURPOSES. THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON  
11 APPROPRIATION, ONLY FOR THE ADMINISTRATION OF THIS PART, INCLUDING,  
12 BUT NOT LIMITED TO, THE FOLLOWING:

13 (A) ISSUANCE OF CERTIFICATES OF COVERAGE AND PERMITS.

14 (B) TECHNOLOGY AND REASONABLE LABORATORY COSTS TO OPERATE THE  
15 PROGRAM UNDER THIS PART.

16 (C) COMPLIANCE AND ENFORCEMENT ACTIVITIES RELATED TO AQUATIC  
17 NUISANCE CONTROL.

18 (D) EDUCATION OF AQUATIC HERBICIDE APPLICATORS, LOCAL AND  
19 STATE GOVERNMENT AGENCIES, LAKE BOARDS, LAKEFRONT PROPERTY OWNERS,  
20 AND THE GENERAL PUBLIC ABOUT AQUATIC NUISANCE CONTROL AND THE  
21 REQUIREMENTS OF THIS PART. THE DIRECTOR MAY CONTRACT WITH A  
22 NONPROFIT EDUCATIONAL ORGANIZATION TO ADMINISTER AN EDUCATIONAL  
23 PROGRAM AS DESCRIBED IN THIS SUBDIVISION.

24 (5) A FEE UNDER THIS SECTION, SECTION 3309, OR SECTION 3311  
25 MAY BE PAID BY CREDIT OR DEBIT CARD OR ELECTRONIC FUND TRANSFER.  
26 THE DEPARTMENT SHALL DETERMINE WHICH MAJOR CREDIT AND DEBIT CARDS  
27 MAY BE USED TO PAY A FEE. IF A FEE IS PAID BY CREDIT OR DEBIT CARD,

1 THE DEPARTMENT MAY COLLECT A SERVICE ASSESSMENT FROM THE USER OF  
 2 THE CREDIT OR DEBIT CARD. THE SERVICE ASSESSMENT SHALL NOT EXCEED  
 3 THE ACTUAL COST TO THE DEPARTMENT OF THE CREDIT OR DEBIT CARD  
 4 TRANSACTION.

5 (6) THE DEPARTMENT SHALL NOT CHARGE A FEE FOR AN AMENDMENT TO  
 6 AN APPLICATION FOR A CERTIFICATE OF COVERAGE OR PERMIT, INCLUDING  
 7 AN AMENDMENT TO AN APPLICATION AFTER THAT APPLICATION HAS BEEN  
 8 RESUBMITTED UNDER SECTION 3307(7).

9 Sec. 3307. (1) AN APPLICATION FOR A CERTIFICATE OF COVERAGE OR  
 10 PERMIT MAY BE SUBMITTED ELECTRONICALLY.

11 (2) ~~(1)~~—The department shall either approve or deny an  
 12 application for a certificate of coverage by ~~May 1 or within~~ **THE**  
 13 **LATEST OF THE FOLLOWING DATES:**

14 (A) APRIL 15.

15 (B) 15 working days after receipt of a complete application. ~~7~~  
 16 ~~whichever is later.~~

17 (C) A DATE LATER THAN THE DATES SET FORTH IN SUBDIVISIONS (A)  
 18 AND (B) IF REQUESTED BY THE APPLICANT FOR THE CERTIFICATE OF  
 19 COVERAGE AND AGREED TO BY THE DEPARTMENT.

20 (3) If the department denies an application for a certificate  
 21 of coverage, the department shall notify the applicant, in writing,  
 22 of the reasons for the denial.

23 (4) ~~(2)~~—The department shall approve an application for a  
 24 permit in whole or part and issue the permit, or shall deny the  
 25 application, by ~~May 1 or within~~ **THE LATEST OF THE FOLLOWING DATES:**

26 (A) APRIL 15.

27 (B) 30 working days after receipt of a complete application. ~~7~~

1 ~~whichever is later.~~ THIS SUBDIVISION DOES NOT APPLY IF SUBDIVISION  
2 (C) APPLIES.

3 (C) 15 WORKING DAYS AFTER RECEIPT OF A COMPLETE APPLICATION IF  
4 THE WATERBODY IS LISTED ON THE REGISTRY UNDER SECTION 3315 AS BEING  
5 INFESTED WITH THE PARTICULAR AQUATIC INVASIVE SPECIES THAT THE  
6 APPLICANT PROPOSES TO CONTROL UNDER THE PERMIT.

7 (D) A DATE LATER THAN THE LATEST DATE OTHERWISE PROVIDED FOR  
8 IN THIS SUBSECTION IF REQUESTED BY THE PERMIT APPLICANT AND AGREED  
9 TO BY THE DEPARTMENT.

10 (5) THE DEPARTMENT SHALL NOT DELAY PROCESSING AN APPLICATION  
11 FOR A PERMIT OR CERTIFICATE OF COVERAGE BECAUSE THE DEPARTMENT HAS  
12 NOT COMPLETED PROCESSING OF THE FEE PAYMENT ACCOMPANYING THE  
13 APPLICATION. THIS SUBSECTION DOES NOT APPLY TO AN APPLICANT IF A  
14 PREVIOUS FEE PAYMENT BY THE APPLICANT UNDER SECTION 3306 OR SECTION  
15 3309 FAILED BECAUSE OF NONSUFFICIENT FUNDS.

16 (6) If the department approves the application FOR A PERMIT in  
17 part or denies the application, the department shall, by the ~~same~~  
18 deadline FOR APPROVAL OR DENIAL OF THE APPLICATION, notify the  
19 applicant, in writing, of the reasons for the partial approval or  
20 denial.

21 (7) THE DEPARTMENT SHALL NOT DENY AN APPLICATION FOR A  
22 CERTIFICATE OF COVERAGE OR A PERMIT BECAUSE IT WAS SUBMITTED AFTER  
23 A CERTAIN DATE IN THE YEAR IN WHICH TREATMENT IS PROPOSED. IF THE  
24 DEPARTMENT APPROVES AN APPLICATION IN PART OR DENIES AN  
25 APPLICATION, THE APPLICANT MAY RESUBMIT THE APPLICATION WITH  
26 CHANGES TO ADDRESS THE REASONS FOR PARTIAL APPROVAL OR DENIAL. THE  
27 RESUBMITTED APPLICATION IS NOT SUBJECT TO AN ADDITIONAL FEE.

1           (8) ~~(3)~~ If the department fails to satisfy the requirements of  
2 ~~subsection (1) or (2)~~ **SUBSECTIONS (2) TO (7)** with respect to an  
3 application for a certificate of coverage or a permit, ~~the~~ **ALL OF**  
4 **THE FOLLOWING APPLY:**

5           **(A) THE** department shall pay the applicant an amount equal to  
6 15% of the application fee for that certificate of coverage or  
7 permit **SPECIFIED UNDER SECTION 3306.**

8           **(B) THE APPLICATION SHALL BE CONSIDERED TO BE APPROVED AND THE**  
9 **DEPARTMENT SHALL BE CONSIDERED TO HAVE MADE ANY DETERMINATION**  
10 **REQUIRED FOR APPROVAL IF ALL OF THE FOLLOWING APPLY:**

11           **(i) THE PROPOSED AREA OF IMPACT IS THE SAME AS OR ENTIRELY**  
12 **CONTAINED WITHIN THE AREA OF IMPACT APPROVED IN A PREVIOUS PERMIT.**

13           **(ii) THE ACTIVE INGREDIENT OR TRADE NAME OF EACH CHEMICAL**  
14 **PROPOSED TO BE APPLIED IS THE SAME AS APPROVED IN A PREVIOUS PERMIT**  
15 **AND EACH CHEMICAL IS CURRENTLY APPROVED FOR USE BY THE DEPARTMENT.**

16           **(iii) THE APPLICATION RATE AND NUMBER OF TREATMENTS DO NOT**  
17 **EXCEED THOSE APPROVED IN THE PREVIOUS PERMIT.**

18           **(iv) THE MINIMUM LENGTH OF TIME BETWEEN TREATMENTS IS NOT LESS**  
19 **THAN THAT APPROVED IN THE PREVIOUS PERMIT.**

20           Sec. 3309. **(1) THE TERM OF A CERTIFICATE OF COVERAGE SHALL NOT**  
21 **BE LESS THAN 3 YEARS UNLESS THE APPLICANT REQUESTS A SHORTER TERM.**

22           **(2) A permit under this part shall, at a minimum, include all**  
23 **of the following information:**

24           **(a) The active ingredient or the trade name of each chemical**  
25 **to be applied.**

26           **(b) The application rate of each chemical.**

27           **(c) The maximum amount of each chemical to be applied per**

1 treatment.

2 (d) Minimum length of time between treatments for each  
3 chemical.

4 (e) A map or maps that clearly delineate the approved area of  
5 impact.

6 (F) THE TERM OF THE PERMIT. THE TERM SHALL NOT BE LESS THAN 3  
7 YEARS UNLESS THE APPLICANT REQUESTS A SHORTER TERM.

8 (3) A PERMIT UNDER THIS PART SHALL AUTHORIZE CHEMICAL  
9 TREATMENT IN EACH YEAR COVERED BY THE PERMIT. THIS SUBSECTION DOES  
10 NOT APPLY TO A CHEMICAL IF ITS ANNUAL USE WAS RESTRICTED IN RULES  
11 IN EFFECT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
12 THIS SUBSECTION.

13 (4) BY APRIL 1 OF THE SECOND AND EACH SUBSEQUENT YEAR OF A  
14 PERMIT, THE PERMITTEE SHALL PAY THE DEPARTMENT AN ANNUAL FEE. THE  
15 ANNUAL FEE SHALL EQUAL THE PERMIT APPLICATION FEE PAID FOR THAT  
16 SPECIFIC PERMIT UNDER SECTION 3306 INCLUDING, FOR ANNUAL FEES DUE  
17 AFTER THE INITIAL TREATMENT OF AN EXPANDED AREA OF IMPACT UNDER  
18 SECTION 3311(3), THE ADDITIONAL FEE UNDER SECTION 3311(3)(E). IF AN  
19 ANNUAL FEE IS NOT RECEIVED BY THE DEPARTMENT BY APRIL 1, THE PERMIT  
20 IS SUSPENDED UNTIL THE ANNUAL FEE IS PAID. WHEN THE APPLICATION FEE  
21 FOR A PERMIT IS PAID, AN APPLICANT MAY CHOOSE TO ALSO PAY IN  
22 ADVANCE ALL THE ANNUAL FEES THAT WILL BECOME DUE UNDER THIS  
23 SUBSECTION IF THE PERMIT IS GRANTED FOR THE TERM REQUESTED BY THE  
24 APPLICANT. IF THE APPLICATION IS DENIED OR IS GRANTED FOR A SHORTER  
25 PERIOD THAN THE APPLICANT REQUESTED, THE DEPARTMENT SHALL REFUND  
26 THOSE ANNUAL FEES THAT WILL NOT BECOME DUE.

27 (5) ~~(2)~~—The department may impose additional conditions on a



1 permit under this part to protect the natural resources or the  
2 public health, to prevent economic loss or impairment of  
3 recreational uses, to protect nontarget organisms, or to help  
4 ensure control of the aquatic nuisance.

5       Sec. 3311. (1) The department may make ~~minor~~ revisions to a  
6 permit under this part, to minimize the impacts to the natural  
7 resources, public health, and safety, ~~or~~ to improve aquatic  
8 nuisance control, if the proposed revisions do not ~~involve a change~~  
9 ~~in~~ the scope of the project, ~~and~~ the permittee requests the  
10 revisions in writing. **THE DEPARTMENT SHALL NOT CHARGE A FEE FOR A**  
11 **REQUEST FOR REVISIONS TO A PERMIT. THE DEPARTMENT SHALL APPROVE A**  
12 **REQUEST FOR REVISIONS TO A PERMIT IN WHOLE OR IN PART OR DENY THE**  
13 **REQUEST WITHIN 3 BUSINESS DAYS AFTER THE REQUEST IS RECEIVED.** The  
14 request shall include all of the following information:

15       (a) The proposed changes to the permit.

16       (b) An explanation of the necessity for the proposed changes.

17       (c) Maps that clearly delineate any proposed changes to the  
18 area of impact.

19       (d) Additional information that would help the department  
20 reach a decision on a permit amendment.

21       (2) **IF THE PERMITTEE HAS WRITTEN AUTHORIZATION TO ACT ON**  
22 **BEHALF OF A PERSON DESCRIBED IN SECTION 3303(4)(A), (B), OR (C),**  
23 **UPON WRITTEN REQUEST OF THAT PERSON, THE DEPARTMENT SHALL TRANSFER**  
24 **THE PERMIT TO A NEW PERMITTEE WITH WRITTEN AUTHORIZATION TO ACT ON**  
25 **BEHALF OF THAT PERSON. THE DEPARTMENT SHALL NOTIFY THE ORIGINAL**  
26 **PERMITTEE OF THE TRANSFER OF THE PERMIT.**

27       (3) **SUBJECT TO SUBSECTION (4), A PERMITTEE MAY, WITHOUT A**

1 REVISION TO THE PERMIT OR CERTIFICATE OF COVERAGE, EXPAND THE AREA  
2 OF IMPACT BEYOND THAT AUTHORIZED IN THE PERMIT OR CERTIFICATE OF  
3 COVERAGE TO INCLUDE ADJACENT AREAS OF THE SAME WATERBODY THAT  
4 BECOME INFESTED AFTER THE APPLICATION FOR THE PERMIT OR CERTIFICATE  
5 OF COVERAGE WAS SUBMITTED TO THE DEPARTMENT. THE PERMITTEE MAY  
6 INCREASE THE AMOUNT OF CHEMICALS USED, AS AUTHORIZED IN THE PERMIT  
7 OR CERTIFICATE OF COVERAGE, BY AN AMOUNT PROPORTIONATE TO THE  
8 EXPANSION IN THE AREA OF IMPACT. THE PERMITTEE SHALL, WITHIN 15  
9 BUSINESS DAYS AFTER THE INITIAL TREATMENT OF THE EXPANDED AREA OF  
10 IMPACT, PROVIDE THE DEPARTMENT WITH ALL OF THE FOLLOWING:

11 (A) A WRITTEN EXPLANATION OF THE NECESSITY FOR THE EXPANSION  
12 OF THE AREA OF IMPACT.

13 (B) A MAP THAT CLEARLY DELINEATES THE CHANGES TO THE AREA OF  
14 IMPACT.

15 (C) A WRITTEN STATEMENT SPECIFYING THE INCREASE IN THE AMOUNT  
16 OF CHEMICALS USED OR TO BE USED AS A RESULT OF THE EXPANSION OF THE  
17 AREA OF IMPACT.

18 (D) THE TREATMENT DATES FOR THE EXPANDED AREA OF IMPACT.

19 (E) IF THE PERMIT APPLICATION FEE UNDER SECTION 3306 WOULD  
20 HAVE BEEN HIGHER IF THE EXPANDED AREA OF IMPACT HAD BEEN INCLUDED  
21 IN THE PERMIT APPLICATION, A FEE EQUAL TO THE DIFFERENCE BETWEEN  
22 THE APPLICATION FEE PAID AND THE APPLICATION FEE THAT WOULD HAVE  
23 BEEN DUE.

24 (4) IF THE AREA OF IMPACT AUTHORIZED IN A PERMIT OR  
25 CERTIFICATE OF COVERAGE IS GREATER THAN 100 ACRES, A PERMITTEE  
26 SHALL NOT EXPAND THE AREA OF IMPACT UNDER SUBSECTION (3) BY MORE  
27 THAN 50% UNLESS BOTH OF THE FOLLOWING APPLY:

1 (A) THE PERMITTEE HAS NOTIFIED THE DEPARTMENT IN ADVANCE OF  
2 THE PROPOSAL TO EXPAND THE AREA OF IMPACT. THE NOTIFICATION SHALL  
3 INCLUDE THE INFORMATION DESCRIBED IN SUBSECTION (3) (A) AND (B).

4 (B) THE DEPARTMENT HAS NOT, WITHIN 2 BUSINESS DAYS AFTER  
5 RECEIVING NOTIFICATION UNDER SUBDIVISION (A), NOTIFIED THE  
6 PERMITTEE OF SPECIFIC CONCERNS ABOUT THE PROPOSAL AND THAT THE  
7 PROPOSAL REQUIRES A REVISION OF THE PERMIT OR CERTIFICATE OF  
8 COVERAGE.

9 SEC. 3315. THE DEPARTMENT SHALL POST, BY JANUARY 1, 2016, AND  
10 MAINTAIN ON ITS WEBSITE A REGISTRY OF WATERBODIES INFESTED BY  
11 AQUATIC INVASIVE SPECIES AND THE PARTICULAR AQUATIC INVASIVE  
12 SPECIES INFESTING EACH WATERBODY. THE REGISTRY SHALL BE BASED ON  
13 INFORMATION FROM ALL OF THE FOLLOWING:

14 (A) PERMITS AND CERTIFICATES OF COVERAGE ISSUED UNDER THIS  
15 PART.

16 (B) REPORTS RECEIVED BY THE DEPARTMENT FROM ANY OF THE  
17 FOLLOWING:

18 (i) CERTIFIED APPLICATORS OR REGISTERED APPLICATORS UNDER PART  
19 83.

20 (ii) REPRESENTATIVES OF PUBLIC OR PRIVATE INSTITUTIONS OF  
21 HIGHER EDUCATION.

22 (iii) REPRESENTATIVES OF ANY OTHER STATE, LOCAL, OR FEDERAL  
23 AGENCY WITH RESPONSIBILITY FOR THE ENVIRONMENT OR NATURAL  
24 RESOURCES.

25 SEC. 3317. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT AN  
26 ORDINANCE FOR THE PREVENTION, CONTROL, OR ERADICATION OF AQUATIC  
27 NUISANCES IN A WATERBODY, OTHER THAN A GREAT LAKE OR CONNECTING

1 WATER, THAT LIES IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF THE  
2 LOCAL UNIT OF GOVERNMENT.

3 (2) AN ORDINANCE ADOPTED UNDER SUBSECTION (1) MAY PROVIDE FOR  
4 THE IMPOSITION OF FEES. HOWEVER, A FEE SHALL NOT BE IMPOSED UNLESS  
5 AN AQUATIC NUISANCE IS PRESENT IN THE WATERBODY. THE ORDINANCE  
6 SHALL EXEMPT A PESTICIDE APPLICATOR, LAKE MANAGEMENT CONSULTANT, OR  
7 OTHER PERSON ENGAGED IN AQUATIC NUISANCE MANAGEMENT ACTIVITIES FROM  
8 PAYMENT OF A FEE. THE ORDINANCE MAY EXEMPT A GOVERNMENT ENTITY OR A  
9 NONPROFIT ORGANIZATION FROM PAYMENT OF A FEE. FEES COLLECTED UNDER  
10 THE ORDINANCE SHALL BE DEPOSITED IN A RESTRICTED FUND. ANY INTEREST  
11 AND EARNINGS FROM INVESTMENTS OF RESTRICTED FUND ASSETS SHALL BE  
12 DEPOSITED IN THE RESTRICTED FUND. MONEY IN THE RESTRICTED FUND  
13 SHALL BE EXPENDED EXCLUSIVELY FOR THE PURPOSES DESCRIBED IN  
14 SUBSECTION (1), INCLUDING THE COSTS OF ADMINISTERING AND ENFORCING  
15 THE ORDINANCE. MONEY IN THE RESTRICTED FUND AT THE CLOSE OF THE  
16 LOCAL UNIT OF GOVERNMENT'S FISCAL YEAR SHALL REMAIN IN THE  
17 RESTRICTED FUND AND SHALL NOT LAPSE TO ANY OTHER FUND.

18 (3) AN ORDINANCE UNDER THIS SECTION IS NOT ENFORCEABLE UNLESS  
19 1 OF THE FOLLOWING APPLIES:

20 (A) THE SAME ORDINANCE IS ADOPTED BY AT LEAST 50% OF THE  
21 CITIES AND TOWNSHIPS WITHIN WHICH THE WATERBODY IS LOCATED AND AT  
22 LEAST 2/3 OF THE SURFACE AREA OF THE WATERBODY IS LOCATED WITHIN  
23 THOSE CITIES AND TOWNSHIPS.

24 (B) THE SAME ORDINANCE IS ADOPTED BY AT LEAST 50% OF THE  
25 COUNTIES WITHIN WHICH THE WATERBODY IS LOCATED AND AT LEAST 2/3 OF  
26 THE SURFACE AREA OF THE WATERBODY IS LOCATED WITHIN THOSE COUNTIES.

27 (4) AN ORDINANCE ADOPTED UNDER THIS SECTION SHALL NOT CONFLICT

1 **WITH STATE LAW.**

2 Sec. 30103. (1) A permit is not required under this part for  
3 any of the following:

4 (a) Any fill or structure existing before April 1, 1966, in  
5 waters covered by former 1965 PA 291, and any fill or structures  
6 existing before January 9, 1973, in waters covered for the first  
7 time by former 1972 PA 346.

8 (b) A seasonal structure placed on bottomland to facilitate  
9 private noncommercial recreational use of the water if it does not  
10 unreasonably interfere with the use of the water by others entitled  
11 to use the water or interfere with water flow.

12 (c) Reasonable sanding of beaches to the existing water's edge  
13 by a riparian owner.

14 (d) Maintenance of an agricultural drain, regardless of  
15 outlet, if all of the following requirements are met:

16 (i) The maintenance includes only activities that maintain the  
17 location, depth, and bottom width of the drain as constructed or  
18 modified at any time before July 1, 2014.

19 (ii) The maintenance is performed by the landowner or pursuant  
20 to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

21 (e) A waste collection or treatment facility that is ordered  
22 to be constructed or is approved for construction under state or  
23 federal water pollution control law, if constructed in upland.

24 (f) Construction and maintenance of minor drainage structures  
25 and facilities which are identified by rule promulgated by the  
26 department pursuant to section 30110. Before such a rule is  
27 promulgated, the rule shall be approved by the majority of a

1 committee consisting of the director of the department, the  
2 director of the department of agriculture and rural development,  
3 and the director of the state transportation department or their  
4 designated representatives. The rules shall be reviewed at least  
5 annually.

6 (g) Maintenance of a drain that either was legally established  
7 and constructed before January 1, 1973, pursuant to the drain code  
8 of 1956, 1956 PA 40, MCL 280.1 to 280.630, except those legally  
9 established drains constituting mainstream portions of certain  
10 natural watercourses identified in rules promulgated by the  
11 department under section 30110, or was constructed or modified  
12 under a permit issued pursuant to this part. As used in this  
13 subdivision, "maintenance of a drain" means the physical  
14 preservation of the location, depth, and bottom width of a drain  
15 and appurtenant structures to restore the function and approximate  
16 capacity of the drain as constructed or modified at any time before  
17 July 1, 2014, and includes, but is not limited to, the following  
18 activities if performed with best management practices:

19 (i) Excavation of accumulated sediments back to original  
20 contours.

21 (ii) Reshaping of the side slopes.

22 (iii) Bank stabilization where reasonably necessary to prevent  
23 erosion. Materials used for stabilization must be compatible with  
24 existing bank or bed materials.

25 (iv) Armoring, lining, or piping if a previously armored,  
26 lined, or piped section is being repaired and all work occurs  
27 within the footprint of the previous work.

1 (v) Replacement of existing control structures, if the  
2 original function of the drain is not changed and the original  
3 approximate capacity of the drain is not increased.

4 (vi) Repair of stabilization structures.

5 (vii) Culvert replacement, including culvert extensions of not  
6 more than 24 additional feet per culvert.

7 (viii) Emergency reconstruction of recently damaged parts of the  
8 drain. Emergency reconstruction must occur within a reasonable  
9 period of time after damage occurs in order to qualify for this  
10 exemption.

11 (h) Projects constructed under the watershed protection and  
12 flood prevention act, chapter 656, 68 Stat. 666, 16 USC 1001 to  
13 1008, ~~and 1010~~, **AND 1011**.

14 (i) Construction and maintenance of privately owned cooling or  
15 storage ponds used in connection with a public utility except at  
16 the interface with public waters.

17 (j) Maintenance of a structure constructed under a permit  
18 issued pursuant to this part and identified by rule promulgated  
19 under section 30110, if the maintenance is in place and in kind  
20 with no design or materials modification.

21 (k) A water withdrawal.

22 (l) Annual installation of a seasonal dock or docks, pilings,  
23 mooring buoys, or other mooring structures previously authorized by  
24 and in accordance with a permit issued under this part.

25 (m) Controlled access of livestock to streams for watering or  
26 crossing if constructed in accordance with applicable practice  
27 standards set by the United States department of agriculture,

1 natural resources conservation service.

2 (n) Temporary drawdowns of impoundments at hydroelectric  
3 projects licensed by the federal energy regulatory commission  
4 (FERC) and subject to FERC's authority if both of the following  
5 apply:

6 (i) The FERC licensee has consulted this state during the  
7 drawdown plan development and this state's concerns have been  
8 addressed in the drawdown plan as FERC considers appropriate.

9 (ii) Adverse environmental impacts, including stream flow,  
10 aquatic resources, and timing, have been avoided and minimized to  
11 the extent practical.

12 (O) REMOVING PLANTS THAT ARE AN AQUATIC NUISANCE AS DEFINED IN  
13 SECTION 3301 BY HAND-PULLING WITHOUT USING A POWERED OR MECHANIZED  
14 TOOL. ALL PLANT FRAGMENTS SHALL BE REMOVED FROM THE WATER AND  
15 PROPERLY DISPOSED OF ON LAND ABOVE THE ORDINARY HIGH-WATER MARK AS  
16 DEFINED IN SECTION 30101.

17 (2) As used in this section, "water withdrawal" means the  
18 removal of water from its source for any purpose.

19 (3) As used in this part, "agricultural drain" means a human-  
20 made conveyance of water that meets all of the following  
21 requirements:

22 (a) Does not have continuous flow.

23 (b) Flows primarily as a result of precipitation-induced  
24 surface runoff or groundwater drained through subsurface drainage  
25 systems.

26 (c) Serves agricultural production.

27 (d) Was constructed before January 1, 1973, or was constructed



1 in compliance with this part or former 1979 PA 203.

2       Sec. 30113. (1) The land and water management permit fee fund  
3 is created within the state treasury.

4       (2) The state treasurer may receive money or other assets from  
5 any source for deposit into the fund. The state treasurer shall  
6 direct the investment of the fund. The state treasurer shall credit  
7 to the fund interest and earnings from fund investments. The state  
8 treasurer shall annually present to the department an accounting of  
9 the amount of money in the fund. **THE DEPARTMENT SHALL BE THE**  
10 **ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.**

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

13       (4) The department shall expend money from the fund, upon  
14 appropriation, only to implement this part and the following:

15       (a) Sections 3104, 3107, and 3108.

16 ~~(b) Before October 1, 2004, section 12562 of the public health~~  
17 ~~code, 1978 PA 368, MCL 333.12562, or, on or after October 1, 2004,~~  
18 ~~part 33.~~

19       (B) ~~(e)~~ Part 303.

20       (C) ~~(d)~~ Part 315.

21       (D) ~~(e)~~ Part 323.

22       (E) ~~(f)~~ Part 325.

23       (F) ~~(g)~~ Part 339.

24       (G) ~~(h)~~ Part 353.

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

27       (5) The department shall annually report to the legislature

1 how money in the fund was expended during the previous fiscal year.

2       Sec. 32512. (1) Except as provided in subsection (2), unless a  
3 permit has been granted by the department pursuant to part 13 or  
4 authorization has been granted by the legislature, or except as to  
5 boat wells and slips facilitating private, noncommercial,  
6 recreational boat use, not exceeding 50 feet in length where the  
7 spoil is not disposed of below the ordinary high-water mark of the  
8 body of water to which it is connected, a person shall not do any  
9 of the following:

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

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

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

19       (d) Construct a marina.

20       (2) Except as provided in subsection (3), the following  
21 activities are not subject to regulation under this part:

22       (a) Leveling of sand, removal of vegetation, grooming of soil,  
23 or removal of debris, in an area of unconsolidated material  
24 predominantly composed of sand, rock, or pebbles, located between  
25 the ordinary high-water mark and the water's edge.

26       (b) Mowing of vegetation between the ordinary high-water mark  
27 and the water's edge.

1           (C) REMOVING PLANTS THAT ARE AN AQUATIC NUISANCE AS DEFINED IN  
2 SECTION 3301 BY HAND-PULLING WITHOUT USING A POWERED OR MECHANIZED  
3 TOOL. ALL PLANT FRAGMENTS SHALL BE REMOVED FROM THE WATER AND  
4 PROPERLY DISPOSED OF ON LAND ABOVE THE ORDINARY HIGH-WATER MARK AS  
5 DEFINED IN SECTION 30101.

6           (3) Subsection (2) does not apply to lands included in the  
7 survey of the delta of the St. Clair River, otherwise referred to  
8 as the St. Clair flats, located within Clay township, St. Clair  
9 county, as provided for in 1899 PA 175.