

# HOUSE BILL No. 5371

October 26, 2005, Introduced by Reps. Kathleen Law, Anderson, Murphy, Alma Smith, Gillard, Tobocman, Byrum, Gonzales, Donigan, Vagnozzi, Leland, Cushingberry, Brandenburg, Miller, Lemmons, Jr., Hopgood, Stewart and Nofs and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 32701, 32702, 32705, 32706, 32707, 32708,  
32709, 32710, 32711, 32712, and 32713 (MCL 324.32701, 324.32702,  
324.32705, 324.32706, 324.32707, 324.32708, 324.32709, 324.32710,  
324.32711, 324.32712, and 324.32713), sections 32701, 32705, 32707,  
and 32708 as amended by 2003 PA 148, sections 32702, 32709, 32710,  
32711, and 32713 as added by 1995 PA 59, and sections 32706 and  
32712 as amended by 1996 PA 434, and by adding sections 32702a,  
32712a, 32712b, 32712c, 32712d, 32712e, 32712f, 32713a, 32715,  
32716, and 32717.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 32701. As used in this part:

1

1 (a) "Agricultural purpose" means the agricultural production  
2 of ~~these~~ plants and animals useful to human beings ~~produced by~~  
3 ~~agriculture~~ and includes, but is not limited to, forages and sod  
4 crops, grains and feed crops, field crops, dairy **ANIMALS** and dairy  
5 products, poultry and poultry products, cervidae, livestock,  
6 including breeding and grazing, equine **ANIMALS**, fish and other  
7 aquacultural products, bees and bee products, berries, herbs,  
8 fruits, vegetables, flowers, seeds, grasses, nursery stock, trees  
9 and tree products, mushrooms, and other similar products, or any  
10 other product, as determined by the commission of agriculture, that  
11 incorporates the use of food, feed, fiber, or fur.

12 (b) "Consumptive use" means that portion of water withdrawn or  
13 withheld from the Great Lakes basin and assumed to be lost or  
14 otherwise not returned to the Great Lakes basin due to evaporation,  
15 incorporation into products, or other processes.

16 (c) "Department" means the department of environmental  
17 quality.

18 **(D) "DIVERSION" MEANS A TRANSFER OF WATER FROM THE GREAT LAKES**  
19 **BASIN INTO ANOTHER WATERSHED OUTSIDE THE GREAT LAKES BASIN.**

20 **(E) ~~(d)~~ "Farm"** means that term as it is defined in section 2  
21 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

22 **(F) "GENERALLY ACCEPTED CONSERVATION PRACTICES" MEANS ANY**  
23 **BENEFICIAL REDUCTION IN WATER LOSS, WASTE, OR USE ACCOMPLISHED BY**  
24 **THE IMPLEMENTATION OF WATER MANAGEMENT PRACTICES AND WATER**  
25 **EFFICIENCY MEASURES THAT ARE ECONOMICALLY FEASIBLE BASED ON A COST-**  
26 **BENEFIT ANALYSIS THAT INCLUDES AVOIDED ENVIRONMENTAL AND ECONOMIC**  
27 **COSTS INCLUDING INFRASTRUCTURE AND OPERATION AND MAINTENANCE COSTS.**

1           (G) ~~-(e)-~~ "Great Lakes basin" means the watershed of the Great  
2 Lakes and the St. Lawrence river.

3           (H) ~~-(f)-~~ "Great Lakes charter" means the document  
4 establishing the principles for the cooperative management of the  
5 Great Lakes water resources, signed by the governors and premiers  
6 of the Great Lakes region on February 11, 1985.

7           (I) "GREAT LAKES BASIN ECOSYSTEM" MEANS THE INTERACTING  
8 COMPONENTS OF AIR, LAND, WATER, AND LIVING ORGANISMS, INCLUDING  
9 HUMANKIND, WITHIN THE GREAT LAKES BASIN.

10          (J) ~~-(g)-~~ "Great Lakes region" means the geographic region  
11 composed of the states of Illinois, Indiana, Michigan, Minnesota,  
12 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,  
13 and the provinces of Ontario and Quebec, Canada.

14          (K) "IMPROVEMENT OR RESTORATION TO THE WATERS AND WATER-  
15 DEPENDENT NATURAL RESOURCES OF THE GREAT LAKES BASIN" MEANS  
16 ADDITIONAL BENEFICIAL, RESTORATIVE EFFECTS TO THE PHYSICAL,  
17 CHEMICAL, AND BIOLOGICAL INTEGRITY OF THE WATERS AND WATER-  
18 DEPENDENT NATURAL RESOURCES OF THE BASIN, RESULTING FROM ASSOCIATED  
19 CONSERVATION MEASURES, OR ENHANCEMENT OR RESTORATION MEASURES,  
20 WHICH INCLUDE, BUT ARE NOT LIMITED TO, SUCH PRACTICES AS MITIGATING  
21 ADVERSE EFFECTS OF EXISTING WATER WITHDRAWALS, RESTORING  
22 ENVIRONMENTALLY SENSITIVE AREAS, OR IMPLEMENTING CONSERVATION  
23 MEASURES IN AREAS OR FACILITIES THAT ARE NOT PART OF THE SPECIFIC  
24 PROPOSAL UNDERTAKEN BY OR ON BEHALF OF THE WITHDRAWER.

25          (L) ~~-(h)-~~ "Industrial or processing facility" means an  
26 operating plant or other entity, including a thermoelectric power  
27 generation plant, carrying on a common manufacturing activity,

1 trade, or business on a common site, including similar plants or  
2 entities under common ownership or control located on contiguous  
3 properties. Plants or entities under common ownership or control  
4 located on separate sites shall be considered separate facilities.  
5 Industrial or processing facility does not include an irrigation  
6 facility or a farm.

7 (M) ~~-(i)-~~ "Irrigation facility" means all wells, pumps,  
8 intakes, gates, tanks, pipes, or other equipment under common  
9 ownership or control and located either on the same site or on  
10 separate sites, which are used to withdraw, convey, or distribute  
11 water for the purposes of irrigating golf courses, parks,  
12 recreational areas, or other grounds. Irrigation facility does not  
13 include a farm.

14 (N) "PERMIT" MEANS A WATER USE PERMIT ISSUED UNDER THIS PART.

15 (O) ~~-(j)-~~ "Public water supply system" means a water system  
16 that provides water for human consumption or ~~other~~ HOUSEHOLD  
17 purposes to persons other than the supplier of water AND IS SUBJECT  
18 TO THE REQUIREMENTS OF THE SAFE DRINKING WATER ACT, 1976 PA 399,  
19 MCL 325.1001 TO 325.1023.

20 (P) ~~-(k)-~~ "Registrant" means any industrial or processing  
21 facility or irrigation facility registered under this part.

22 (Q) "RETURN FLOW" MEANS THE PORTION OF WITHDRAWN WATER THAT  
23 RETURNS NATURALLY OR IS RETURNED TO THE SOURCE WATERSHED AFTER USE  
24 AND THUS BECOMES AVAILABLE FOR FURTHER USE.

25 (R) "SURFACE WATER AUGMENTATION FACILITY" MEANS A WATER WELL  
26 OR OTHER REMOVAL METHOD USED TO WITHDRAW GROUNDWATER AND CONVEY OR  
27 TRANSPORT IT TO A LAKE, AN IMPOUNDMENT, OR ANOTHER SURFACE WATER

1 BODY FOR THE PURPOSE OF MAINTAINING OR RAISING THE WATER LEVEL IN  
2 THE SURFACE WATER BODY.

3 (S) "WATER-DEPENDENT NATURAL RESOURCES" MEANS THE INTERACTING  
4 COMPONENTS OF LAND, WATER, AND LIVING ORGANISMS AFFECTED BY THE  
5 WATER OF THE GREAT LAKES BASIN.

6 (T) ~~-(I)-~~ "Water of the Great Lakes basin" means the Great  
7 Lakes and all streams, rivers, lakes, connecting channels, and  
8 other bodies of water, including groundwater, within the Great  
9 Lakes basin.

10 (U) ~~-(m)-~~ "Withdrawal" means the removal of water from its  
11 source for any purpose. ~~-, other than for hydroelectric generation~~  
12 ~~at sites certified, licensed, or permitted by the federal energy~~  
13 ~~regulatory commission.~~

14 Sec. 32702. The legislature finds and declares that:

15 (a) A diversion of water out of the basin of the Great Lakes  
16 may impair or destroy the Great Lakes. The legislature further  
17 finds that a limitation on such diversions is authorized by and is  
18 consistent with the mandate of section 52 of article IV of the  
19 state constitution of 1963 that the legislature provide for the  
20 protection of the air, water, and other natural resources of the  
21 state from pollution, impairment, and destruction.

22 (b) Water use **PERMITTING**, registration, and reporting are  
23 essential to implementing the principles of the Great Lakes charter  
24 and necessary to support the state's opposition to diversion of  
25 waters of the Great Lakes basin and to provide a source of  
26 information on water use to protect Michigan's rights when proposed  
27 water losses affect the level, flow, use, or quality of waters of

1 the Great Lakes basin.

2 (c) The waters of the state are valuable public natural  
3 resources held in trust by the state, and the state has a duty as  
4 trustee to manage its waters effectively for the use and enjoyment  
5 of present and future residents and for the protection of the  
6 environment.

7 (d) The waters of the Great Lakes basin are a valuable public  
8 natural resource, and the states and provinces of the Great Lakes  
9 region and Michigan share a common interest in the preservation of  
10 that resource.

11 (e) Any new diversion of waters of the Great Lakes basin for  
12 use outside of the Great Lakes basin will have significant economic  
13 and environmental impact adversely affecting the use of this  
14 resource by the Great Lakes states and Canadian provinces.

15 (f) The continued availability of water for domestic,  
16 municipal, industrial, and agricultural water supplies, navigation,  
17 hydroelectric power and energy production, recreation, and the  
18 maintenance of fish and wildlife habitat and a balanced ecosystem  
19 are vital to the future economic health of the states and provinces  
20 of the Great Lakes region.

21 (g) Future interbasin diversions and consumptive uses of  
22 waters of the Great Lakes basin may have significant adverse  
23 impacts upon the environment, economy, and welfare of the Great  
24 Lakes region and of this state.

25 (h) The states and provinces of the Great Lakes region have a  
26 duty to protect, conserve, and manage their shared water resources  
27 for the use and enjoyment of present and future residents.

1 (I) EFFECTIVE MANAGEMENT OF THE GREAT LAKES BASIN WATER  
2 RESOURCES REQUIRES THE JOINT EXERCISE OF SUCH JURISDICTION, RIGHTS,  
3 AND RESPONSIBILITIES IN THE INTEREST OF ALL OF THE PEOPLE OF THE  
4 GREAT LAKES REGION, ACTING IN A CONTINUING SPIRIT OF COMITY AND  
5 MUTUAL COOPERATION.

6 (J) MICHIGAN AS A GREAT LAKES STATE REAFFIRMS ITS RIGHT AND  
7 OBLIGATION TO USE, CONSERVE, AND PROTECT GREAT LAKES BASIN WATER  
8 RESOURCES, AS EXPRESSED IN THE BOUNDARY WATERS TREATY OF 1909, THE  
9 GREAT LAKES WATER QUALITY AGREEMENT OF 1978, THE GREAT LAKES  
10 CHARTER OF 1985, AND THE GREAT LAKES CHARTER ANNEX OF 2001.

11 (K) THE STATE SHALL CONSERVE THE WATERS OF THE STATE BY  
12 IMPLEMENTING SUITABLE POLICIES AND BY ENCOURAGING PRIVATE EFFORTS  
13 TO CONSERVE WATER.

14 SEC. 32702A. (1) THE DEPARTMENT SHALL IMPLEMENT THIS PART IN  
15 COORDINATION WITH OTHER APPLICABLE LAW AND DEPARTMENT POLICY  
16 PERTAINING TO THE PROTECTION OF WATER QUALITY.

17 (2) THE INTERESTS AND RIGHTS OF NATIVE AMERICAN TRIBES OF THE  
18 GREAT LAKES REGION SHALL BE CONSIDERED BY THE DEPARTMENT IN THE  
19 IMPLEMENTATION OF THIS PART.

20 Sec. 32705. (1) Subject to subsection (2), a person who makes  
21 a withdrawal shall register with the department on a form provided  
22 by the department if, during the calendar year in which the  
23 withdrawal occurs, any of the following apply:

24 (a) The person owns **OR OPERATES** an industrial or processing  
25 facility that has the capacity to withdraw over 100,000 gallons of  
26 water per day average in any consecutive 30-day period from the  
27 waters of the Great Lakes basin.

1 (b) The person owns **OR OPERATES** an irrigation facility that  
2 has the capacity to withdraw over 100,000 gallons of water per day  
3 average in any consecutive 30-day period from the waters of the  
4 Great Lakes basin.

5 (c) ~~Beginning 1 year after the effective date of the~~  
6 ~~amendatory act that added this subdivision, the~~ **THE** person owns **OR**  
7 **OPERATES** a farm that has the capacity to withdraw over 100,000  
8 gallons of water per day average in any consecutive 30-day period  
9 from the waters of the Great Lakes basin.

10 **(D) THE PERSON OWNS OR OPERATES A SURFACE WATER AUGMENTATION**  
11 **FACILITY THAT HAS A CAPACITY TO WITHDRAW OVER 100,000 GALLONS OF**  
12 **WATER PER DAY AVERAGE IN ANY CONSECUTIVE 30-DAY PERIOD FROM THE**  
13 **WATERS OF THE GREAT LAKES BASIN.**

14 (2) The owner of a farm who registers under section 32708 is  
15 not required to register under subsection (1).

16 (3) In calculating the total amount of an existing or proposed  
17 withdrawal for the purpose of this section, a person shall combine  
18 all separate withdrawals that the person makes or proposes to make,  
19 whether or not these withdrawals are for a single purpose or are  
20 for related but separate purposes.

21 Sec. 32706. Each registration under ~~this part~~ **SECTION 32705**  
22 shall consist of a statement and supporting documentation that  
23 includes all of the following:

24 (a) The place and source of the proposed or existing  
25 withdrawal.

26 (b) The location of any discharge or return flow.

27 (c) The location and nature of the proposed or existing water



1 user.

2 (d) The actual or estimated average annual and monthly volumes  
3 and rate of withdrawal.

4 (e) The actual or estimated average annual and monthly volumes  
5 and rates of consumptive use from the withdrawal.

6 Sec. 32707. (1) Except as provided in subsections (2) and (3),  
7 a person who owns an industrial or processing facility, **A SURFACE**  
8 **WATER AUGMENTATION FACILITY**, an irrigation facility, or a farm  
9 registered under this part shall file a report annually with the  
10 department on a form provided by the department. Reports shall be  
11 submitted by April 1 of each year. Reports shall include the  
12 following information:

13 (a) The amount and rate of water withdrawn on an annual and  
14 monthly basis.

15 (b) The source or sources of the water supply.

16 (c) The use or uses of the water withdrawn.

17 (d) The amount of consumptive use of **THE** water withdrawn.

18 (e) ~~If the source of the water withdrawn is groundwater, the~~  
19 ~~location of the well or wells~~ **THE SOURCE OF THE WATER AND THE**  
20 **LOCATION OR LOCATIONS OF THE WITHDRAWAL** in latitude and longitude,  
21 with the accuracy of the reported location data to within 15 feet.

22 (f) If the source of water withdrawn is groundwater, the  
23 static water level of the aquifer or aquifers.

24 (g) Other information specified by rule of the department.

25 (2) If a person reports the information required by this  
26 section to the department in conjunction with a permit or for any  
27 other purpose, that reporting, upon approval of the department,

1 shall satisfy the reporting requirements of this section.

2 (3) The owner **OR OPERATOR** of a farm who reports water use  
3 under section 32708 is not required to report under subsection (1).

4 (4) The department may, upon request from a person required to  
5 report under this section, accept a formula or model that provides  
6 to the department's satisfaction the information required in  
7 subsection (1).

8 (5) The department shall develop forms for reporting under  
9 this section that minimize paperwork and allow for a notification  
10 to the department instead of a report if the annual amount of water  
11 withdrawn by a person required to report under this section is  
12 within 4% of the amount last reported and the other information  
13 required in subsection (1) has not changed since the last year in  
14 which a report was filed.

15 (6) A person who files an annual report or notification under  
16 this section shall annually ~~remit~~ **SUBMIT TO THE DEPARTMENT WITH**  
17 **THE REPORT** a water use reporting fee of \$100.00. ~~to the~~  
18 ~~department. Water use reporting fees shall be remitted to the~~  
19 ~~department in conjunction with the annual report or notification~~  
20 ~~submitted under this section.~~ The department shall transmit water  
21 use reporting fees collected under this section to the state  
22 treasurer to be credited to the water use protection fund created  
23 in section 32714. ~~A water use reporting fee is not required for a~~  
24 ~~report or notification related to a farm that reports water use~~  
25 ~~under section 32708.~~

26 Sec. 32708. (1) ~~Beginning 1 year after the effective date of~~  
27 ~~the 2003 amendatory act that amended this section~~ **EXCEPT AS**

1 **PROVIDED IN SUBSECTION (2)**, the owner **OR OPERATOR** of a farm  
2 described in section 32705(1)(c) who makes a withdrawal for an  
3 agricultural purpose, including irrigation for an agricultural  
4 purpose, may register the farm address and report the water use on  
5 the farm by annually submitting to the department of agriculture a  
6 water use conservation plan. The water use conservation plan shall  
7 include, but need not be limited to, all of the following  
8 information:

9 (a) The amount and rate of water withdrawn on an annual and  
10 monthly basis in either gallons or acre inches.

11 (b) The type of crop irrigated, if applicable.

12 (c) The acreage of each irrigated crop, if applicable.

13 (d) The source ~~or sources~~ of the water ~~supply~~ **AND THE**  
14 **LOCATION OR LOCATIONS OF THE WITHDRAWAL IN LATITUDE AND LONGITUDE,**  
15 **WITH THE ACCURACY OF THE REPORTED LOCATION DATA TO WITHIN 15 FEET.**

16 (e) If the water withdrawn is not used entirely for  
17 irrigation, the use or uses of the water withdrawn.

18 (f) If the source of water withdrawn is groundwater, the  
19 static water level of the aquifer or aquifers.

20 (g) ~~Applicable water~~ **GENERALLY ACCEPTED** conservation  
21 practices and an implementation plan for those practices.

22 (2) The department and the department of agriculture in  
23 consultation with Michigan state university shall validate and use  
24 a formula or model to estimate the consumptive use of withdrawals  
25 made for agricultural purposes consistent with the objectives of  
26 section 32707.

27 (3) The department of agriculture shall use water use

1 conservation plan information received under subsection (1) to  
2 determine an estimate of water use and consumptive use data for  
3 each township in the state. The department of agriculture shall  
4 forward the township water use and consumptive use data to the  
5 department for inclusion in the statewide groundwater inventory and  
6 map prepared under section 32802.

7 Sec. 32709. The department may contract for the preparation  
8 and distribution of informational materials to persons who withdraw  
9 water ~~for irrigation or industrial purposes~~ regarding the  
10 purposes, benefits, and requirements of this part ~~—~~ and may also  
11 provide information on complying with the registration **AND**  
12 **PERMITTING** program and on any general or applicable methods for  
13 calculating or estimating water withdrawals or consumptive uses.

14 Sec. 32710. The department shall do all of the following:

15 (a) Cooperate with the states and provinces in the Great Lakes  
16 region to develop and maintain a common base of information on the  
17 use and management of the water of the Great Lakes basin and to  
18 establish systematic arrangements for the exchange of this  
19 information.

20 (b) Collect and maintain information regarding the locations,  
21 types, and quantities of water use, including water withdrawals and  
22 consumptive uses, in a form that the department determines is  
23 comparable to the form used by other states and provinces in the  
24 Great Lakes region.

25 (c) Collect, maintain, and exchange information on current and  
26 projected future water needs with the other states and provinces in  
27 the Great Lakes region.

1 (d) Cooperate with other states and provinces in the Great  
2 Lakes region in developing a long-range plan for developing,  
3 conserving, and managing the water of the Great Lakes basin.

4 (e) Participate in the development of a regional consultation  
5 procedure for use in exchanging information on the effects of  
6 proposed water withdrawals and consumptive uses from the Great  
7 Lakes basin.

8 (f) Develop procedures for notifying water users and potential  
9 water users of the requirements of this part.

10 (G) COOPERATE WITH THE OTHER STATES AND PROVINCES IN THE GREAT  
11 LAKES REGION TO COLLECTIVELY CONDUCT, WITHIN EACH LAKE WATERSHED  
12 AND WITHIN THE ST. LAWRENCE RIVER BASIN, A PERIODIC ASSESSMENT OF  
13 THE CUMULATIVE IMPACTS OF WITHDRAWALS, DIVERSIONS, AND CONSUMPTIVE  
14 USES FROM THE WATERS OF THE GREAT LAKES BASIN.

15 Sec. 32711. ~~A public water supply system that is required to~~  
16 ~~report water withdrawals under the safe drinking water act, Act No.~~  
17 ~~399 of the Public Acts of 1976, being sections 325.1001 to 325.1023~~  
18 ~~of the Michigan Compiled Laws, is exempt from the requirements of~~  
19 ~~this part.~~

20 (1) A PERSON SHALL NOT MAKE A WITHDRAWAL FROM THE WATERS OF  
21 THE STATE WITHOUT FIRST HAVING OBTAINED A WATER USE PERMIT IF  
22 REQUIRED BY THIS PART AND FULLY COMPLYING WITH THIS PART AND ALL  
23 ORDERS, PERMIT TERMS OR CONDITIONS, OR RULES PROMULGATED UNDER THIS  
24 PART.

25 (2) BEGINNING 6 MONTHS AFTER THE EFFECTIVE DATE OF THE 2005  
26 AMENDMENTS TO THIS SECTION, A PERSON PROPOSING A NEW OR INCREASED  
27 WITHDRAWAL FROM THE WATERS OF THE STATE SHALL OBTAIN A PERMIT IF

1 THE AMOUNT OF THE NEW OR INCREASED WITHDRAWAL WILL AVERAGE  
2 2,000,000 GALLONS PER DAY IN ANY 30-DAY PERIOD OR 100,000,000  
3 GALLONS PER YEAR.

4 (3) BEGINNING JANUARY 1, 2010, A PERSON PROPOSING A NEW OR  
5 INCREASED WITHDRAWAL FROM THE WATERS OF THE STATE SHALL OBTAIN A  
6 PERMIT IF THE AMOUNT OF THE NEW OR INCREASED WITHDRAWAL OF WATER  
7 WILL AVERAGE 1,000,000 GALLONS PER DAY IN ANY 30-DAY PERIOD OR  
8 100,000,000 GALLONS PER YEAR.

9 (4) FOR THE PURPOSE OF DETERMINING WHETHER A PERMIT IS  
10 REQUIRED UNDER THIS SECTION, IN CALCULATING THE TOTAL AMOUNT OF A  
11 NEW OR INCREASED WITHDRAWAL, A PERSON SHALL COMBINE ALL SEPARATE  
12 WITHDRAWALS THAT THE PERSON PROPOSES TO MAKE, WHETHER OR NOT THESE  
13 WITHDRAWALS ARE FOR A SINGLE PURPOSE OR ARE FOR RELATED BUT  
14 SEPARATE PURPOSES.

15 (5) FOR THE PURPOSE OF DETERMINING WHETHER A PERMIT IS  
16 REQUIRED UNDER SUBSECTION (2), UNLESS THE AMOUNT OF AN EXISTING  
17 WITHDRAWAL IS ESTABLISHED IN A PERMIT ISSUED UNDER THIS PART, THE  
18 AMOUNT OF ANY INCREASED WITHDRAWAL SHALL BE DETERMINED BY REFERENCE  
19 TO THE HIGHEST ANNUAL PRIOR USAGE THAT CAN BE DOCUMENTED OR  
20 OTHERWISE ESTABLISHED WITHIN THE 5 YEARS PRECEDING THE EFFECTIVE  
21 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

22 (6) FOR THE PURPOSE OF DETERMINING WHETHER A PERMIT IS  
23 REQUIRED UNDER SUBSECTION (3), UNLESS THE AMOUNT OF AN EXISTING  
24 WITHDRAWAL IS ESTABLISHED IN A PERMIT ISSUED UNDER THIS PART, THE  
25 AMOUNT OF ANY INCREASED WITHDRAWAL SHALL BE DETERMINED BY REFERENCE  
26 TO THE HIGHEST ANNUAL PRIOR USAGE THAT CAN BE DOCUMENTED OR  
27 OTHERWISE ESTABLISHED WITHIN THE 5 YEARS PRECEDING JANUARY 1, 2009.

1 (7) A PERMIT IS NOT REQUIRED UNDER THIS PART FOR HYDROELECTRIC  
2 FACILITIES AT SITES CERTIFIED, LICENSED, OR PERMITTED BY THE  
3 FEDERAL ENERGY REGULATORY COMMISSION.

4 Sec. 32712. ~~This part does not authorize the department to~~  
5 ~~mandate any permit or to regulate the withdrawal of water covered~~  
6 ~~under this part.~~

7 (1) AN APPLICATION FOR A PERMIT UNDER SECTION 32711 SHALL  
8 CONTAIN A STATEMENT OF AND DOCUMENTATION FOR ALL OF THE FOLLOWING:

9 (A) THE CURRENT OPERATING CAPACITY OF THE WITHDRAWAL, IF THE  
10 PROPOSED INCREASE REQUIRES THE EXPANSION OF AN EXISTING SYSTEM.

11 (B) THE TOTAL NEW OR INCREASED OPERATING CAPACITY OF THE  
12 WITHDRAWAL.

13 (C) THE PLACE AND SOURCE OF THE PROPOSED WITHDRAWAL.

14 (D) THE LOCATION OF ANY DISCHARGE OR RETURN FLOW.

15 (E) THE LOCATION AND PURPOSE OF THE PROPOSED WATER USE.

16 (F) THE ESTIMATED WITHDRAWAL AND RETURN FLOW, INCLUDING DAILY,  
17 MONTHLY, SEASONAL, AND ANNUAL MEAN AND PEAK VOLUMES OF WITHDRAWALS  
18 AND RETURN FLOWS.

19 (G) A LIST OF ALL FEDERAL, STATE, AND LOCAL APPROVALS,  
20 PERMITS, LICENSES, AND OTHER AUTHORIZATIONS REQUIRED FOR ANY  
21 PROPOSED CONSTRUCTION.

22 (H) A DESCRIPTION OF ALTERNATE SOURCES OR OTHER WAYS THE  
23 APPLICANT'S NEED FOR WATER MAY BE SATISFIED IF THE APPLICATION IS  
24 DENIED OR MODIFIED.

25 (I) A DESCRIPTION OF THE GENERALLY ACCEPTED CONSERVATION  
26 PRACTICES THE APPLICANT WILL IMPLEMENT.

27 (J) A DESCRIPTION OF ANY PROPOSED IMPROVEMENT OR RESTORATION

1 TO THE WATERS AND WATER-DEPENDENT NATURAL RESOURCES OF THE GREAT  
2 LAKES BASIN.

3 (K) EVIDENCE THAT ALL ADJACENT PROPERTY OWNERS HAVE RECEIVED  
4 WRITTEN NOTIFICATION OF THE PROPOSED WITHDRAWAL.

5 (I) ANY OTHER INFORMATION NECESSARY TO ESTABLISH THAT THE  
6 CRITERIA OF SECTION 32712C ARE SATISFIED.

7 (2) THE DEPARTMENT SHALL CHARGE AND COLLECT FROM EACH  
8 APPLICANT FOR A PERMIT AN APPLICATION FEE AS ESTABLISHED BY THE  
9 DEPARTMENT BY RULE. THE DEPARTMENT SHALL ALSO ESTABLISH BY RULE AND  
10 COLLECT AN ANNUAL PERMIT FEE FOR EACH PERMITTEE. THE FEES  
11 ESTABLISHED UNDER THIS SECTION SHALL BE SUFFICIENT TO ENABLE THE  
12 DEPARTMENT TO RECOVER THE REASONABLE COSTS OF ADMINISTERING THIS  
13 PART. THE DEPARTMENT SHALL TRANSMIT ALL MONEY COLLECTED UNDER THIS  
14 SUBSECTION TO THE STATE TREASURER TO BE CREDITED TO THE WATER USE  
15 PROTECTION FUND CREATED IN SECTION 32714.

16 SEC. 32712A. WITHIN 30 DAYS AFTER RECEIVING A COMPLETE  
17 APPLICATION FOR A PERMIT, THE DEPARTMENT SHALL POST NOTICE OF THE  
18 APPLICATION ON THE DEPARTMENT'S WEBSITE. THE NOTICE SHALL IDENTIFY  
19 THE LOCATION AND AMOUNT OF THE PROPOSED WITHDRAWAL AND SHALL  
20 CONTAIN INSTRUCTIONS EXPLAINING HOW INTERESTED PERSONS CAN OBTAIN  
21 ADDITIONAL INFORMATION OR PROVIDE COMMENTS TO THE DEPARTMENT.

22 SEC. 32712B. (1) UNLESS A SHORTER TIME PERIOD IS ESTABLISHED  
23 BY THE DEPARTMENT BY RULE, NOT LATER THAN 6 MONTHS AFTER THE  
24 RECEIPT OF A COMPLETE APPLICATION, THE DEPARTMENT SHALL NOTIFY THE  
25 APPLICANT THAT THE APPLICATION IS GRANTED, GRANTED WITH  
26 MODIFICATION, OR DENIED BASED UPON THE CRITERIA ESTABLISHED IN  
27 SECTION 32712C AND, IF IT IS DENIED, THE REASON FOR THE DENIAL.



1           (2) THE DEPARTMENT SHALL PROCESS APPLICATIONS IN THE ORDER IN  
2 WHICH THEY ARE RECEIVED, EXCEPT AS FOLLOWS:

3           (A) IF TO DO SO WOULD PREVENT PROMPT APPROVAL OF ROUTINE  
4 APPLICATIONS.

5           (B) IF THE PUBLIC HEALTH, SAFETY, OR WELFARE OF THE PEOPLE OF  
6 THE STATE WOULD BE THREATENED BY DELAY.

7           (C) IF THE DEPARTMENT UNDERTAKES JOINT CONSIDERATION OF  
8 PENDING APPLICATIONS PROPOSING TO WITHDRAW WATER FROM THE SAME  
9 SOURCE OF SUPPLY.

10          (D) IF THE PROPOSED WITHDRAWAL IS A HIGH-PRIORITY ECONOMIC  
11 DEVELOPMENT PROJECT FOR THE MICHIGAN ECONOMIC DEVELOPMENT  
12 CORPORATION.

13          (3) PRIOR TO GRANTING OR DENYING A PERMIT UNDER THIS SECTION,  
14 THE DEPARTMENT MAY HOLD A PUBLIC HEARING FOR THE PURPOSE OF  
15 OBTAINING COMMENTS FROM MEMBERS OF THE PUBLIC.

16          (4) A PERMIT ISSUED UNDER THIS SECTION SHALL EXPIRE 5 YEARS  
17 FROM THE DATE IT IS APPROVED BY THE DEPARTMENT.

18          SEC. 32712C. THE DEPARTMENT SHALL NOT ISSUE A PERMIT UNLESS  
19 THE DEPARTMENT DETERMINES THAT THE APPLICANT HAS DEMONSTRATED ALL  
20 OF THE FOLLOWING:

21          (A) THAT A REASONABLE ALTERNATIVE WATER SUPPLY DOES NOT EXIST  
22 WITHIN THE WATERSHED IN WHICH THE WATER IS PROPOSED FOR USE.

23          (B) THAT THE WITHDRAWAL WILL NOT POLLUTE, IMPAIR, OR DESTROY  
24 THE NATURAL RESOURCES OF THE STATE OR THE PUBLIC TRUST THEREIN AND  
25 THAT PUBLIC WATER RIGHTS IN NAVIGABLE WATERS WILL NOT BE ADVERSELY  
26 AFFECTED.

27          (C) THAT BOTH THE APPLICANT'S CURRENT WATER USE, IF ANY, AND

1 THE APPLICANT'S PROPOSED PLANS FOR WITHDRAWAL OF WATER RESOURCES  
2 INCORPORATE REASONABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY  
3 FEASIBLE WATER CONSERVATION MEASURES.

4 (D) THAT THE PROPOSED WITHDRAWAL WILL NOT HAVE AN ADVERSE  
5 IMPACT ON THE QUANTITY AND QUALITY OF THE WATERS AND WATER-  
6 DEPENDENT NATURAL RESOURCES OF THE GREAT LAKES BASIN.

7 (E) THAT THE PROPOSED WITHDRAWAL IS CONSISTENT WITH THE  
8 PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE AND THE  
9 ENVIRONMENT AND WILL NOT BE DETRIMENTAL TO THE PUBLIC INTEREST.

10 (F) THAT ANY POTENTIAL IMPACTS ARE MINIMIZED THROUGH THE USE  
11 OF RETURN FLOW.

12 (G) THAT THE PROPOSED WITHDRAWAL INCORPORATES PLANS FOR AN  
13 IMPROVEMENT TO THE WATERS AND WATER-DEPENDENT NATURAL RESOURCES OF  
14 THE GREAT LAKES BASIN.

15 SEC. 32712D. (1) THE DEPARTMENT MAY AT ANY TIME PROPOSE  
16 MODIFICATIONS TO A PERMIT OR ADDITIONAL CONDITIONS, LIMITATIONS, OR  
17 RESTRICTIONS DETERMINED TO BE NECESSARY TO ENSURE CONTINUED  
18 COMPLIANCE WITH THIS PART OR WITH ANY OTHER APPLICABLE STATUTE OR  
19 RULE.

20 (2) IF THE DEPARTMENT DETERMINES THAT A PERSON TO WHOM A  
21 PERMIT HAS BEEN ISSUED WILL BE UNABLE UNDER ANY CONDITIONS,  
22 LIMITATIONS, OR RESTRICTIONS TO COMPLY WITH THIS PART OR ANOTHER  
23 APPLICABLE STATUTE OR RULE, THE DEPARTMENT MAY REVOKE, LIMIT, OR  
24 OTHERWISE CONDITION THE PERMIT.

25 (3) IF THE DEPARTMENT DETERMINES THAT A PERSON TO WHOM A  
26 PERMIT HAS BEEN ISSUED OBTAINED THAT PERMIT THROUGH THE SUBMISSION  
27 OF FALSE INFORMATION, THE DEPARTMENT SHALL REVOKE THE PERMIT.

1           (4) THE PERSON HOLDING A PERMIT IS ENTITLED TO A CONTESTED  
2 CASE HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969  
3 PA 306, MCL 24.201 TO 24.328, BEFORE A REVOCATION OR MODIFICATION  
4 TAKES EFFECT. ANY OTHER PERSON WHO MAY BE ADVERSELY AFFECTED BY A  
5 PROPOSED MODIFICATION MAY PETITION THE DEPARTMENT FOR A CONTESTED  
6 CASE HEARING BEFORE A MODIFICATION TAKES EFFECT.

7           SEC. 32712E. THE DEPARTMENT MAY, WITHOUT A PRIOR HEARING,  
8 ORDER A PERSON HOLDING A PERMIT TO IMMEDIATELY STOP A WITHDRAWAL IF  
9 THE DEPARTMENT DETERMINES THAT THERE IS A DANGER OF IMMINENT HARM  
10 TO THE PUBLIC HEALTH, SAFETY, OR WELFARE, TO THE ENVIRONMENT, OR TO  
11 WATER DEPENDENT NATURAL RESOURCES. THE ORDER SHALL SPECIFY THE DATE  
12 ON WHICH THE WITHDRAWAL MUST BE STOPPED AND THE DATE, IF ANY, ON  
13 WHICH IT MAY BE RESUMED. THE ORDER SHALL NOTIFY THE PERSON THAT THE  
14 PERSON MAY REQUEST A CONTESTED CASE HEARING UNDER THE  
15 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO  
16 24.328. THE HEARING SHALL BE HELD WITHIN 10 BUSINESS DAYS FOLLOWING  
17 THE REQUEST, UNLESS THE PERMITTEE REQUESTS A LATER DATE. AN ORDER  
18 ISSUED UNDER THIS SECTION REMAINS IN EFFECT PENDING THE RESULT OF  
19 THE HEARING.

20           SEC. 32712F. A PERMIT MAY BE TRANSFERRED TO A SUCCESSIVE OWNER  
21 OR OPERATOR OF THE PROPERTY AT WHICH THE WITHDRAWAL IS LOCATED.  
22 HOWEVER, THE NEW OWNER OR OPERATOR SHALL NOTIFY THE DEPARTMENT  
23 IMMEDIATELY AFTER THE CONVEYANCE AND REQUEST TRANSFER OF THE  
24 PERMIT. IF A PERMIT IS TRANSFERRED, ALL PERMIT CONDITIONS CONTINUE  
25 TO BE BINDING ON THE SUCCESSIVE PERMITTEE.

26           Sec. 32713. The department may request the attorney general to  
27 commence a civil action for appropriate relief, including a

1 permanent or temporary injunction, for a violation of this part or  
2 a rule promulgated **OR PERMIT ISSUED** under this part. An action  
3 under this section shall be brought in the circuit court for the  
4 county of Ingham or for the county in which the defendant is  
5 located, resides, or is doing business. The court has jurisdiction  
6 to restrain the violation and to require compliance. In addition to  
7 any other relief granted, the court may impose a civil fine of not  
8 more than ~~-\$1,000.00-~~ **\$10,000.00 PER DAY**. In addition to a fine,  
9 the attorney general may file a suit in a court of competent  
10 jurisdiction to recover the full value of the costs of surveillance  
11 and enforcement by the state resulting from the violation.

12 **SEC. 32713A. (1) IF THE DEPARTMENT HAS REASON TO BELIEVE THAT**  
13 **ANY PERSON HAS VIOLATED THIS PART OR ANY ORDER OR PERMIT ISSUED OR**  
14 **RULE PROMULGATED UNDER THIS PART, THE DEPARTMENT MAY ORDER THE**  
15 **PERSON TO CEASE THE VIOLATION OR RESTORE THE WATERS OF THE STATE**  
16 **AND RELATED LAND RESOURCES TO THEIR CONDITION PRIOR TO THE**  
17 **VIOLATION, OR BOTH, AS IS REASONABLY NECESSARY TO THE ENFORCEMENT**  
18 **OF THIS PART.**

19 **(2) EXCEPT AS PROVIDED IN SUBSECTION (3), PRIOR TO ISSUING AN**  
20 **ORDER TO A PERSON UNDER SUBSECTION (1), THE DEPARTMENT SHALL ISSUE**  
21 **AND SERVE ON THAT PERSON A WRITTEN NOTICE OF VIOLATION INDICATING**  
22 **THE PROVISIONS, ORDERS, PERMIT TERMS OR CONDITIONS, OR RULES**  
23 **ALLEGEDLY VIOLATED AND THE FACTS ALLEGED TO CONSTITUTE THE**  
24 **VIOLATION. THE DEPARTMENT SHALL GIVE THE PERSON AN OPPORTUNITY TO**  
25 **ANSWER THE ALLEGATIONS AND TO APPEAR AT AN ADMINISTRATIVE HEARING**  
26 **TO BE HELD NOT LESS THAN 30 DAYS AFTER THE PERSON WAS SERVED WITH**  
27 **THE NOTICE OF VIOLATION.**

1           (3) IF THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS  
2 REQUIRING IMMEDIATE CORRECTION OF THE VIOLATION, THE DEPARTMENT  
3 SHALL, WITHOUT A HEARING, ISSUE AN ORDER WITH IMMEDIATE EFFECT WITH  
4 A HEARING TO FOLLOW WITHIN 10 BUSINESS DAYS OF THE ISSUANCE OF THIS  
5 ORDER.

6           SEC. 32715. THIS PART DOES NOT APPLY TO BRINE WELLS REGULATED  
7 UNDER PART 625.

8           SEC. 32716. (1) THIS PART DOES NOT LIMIT THE RIGHT TO ANY  
9 REMEDY AVAILABLE TO ANY PERSON IN AN ACTION UNDER THE STATUTORY OR  
10 COMMON LAW OF THIS STATE.

11           (2) THIS PART DOES NOT PREEMPT THE AUTHORITY OF ANY LOCAL UNIT  
12 OF GOVERNMENT, INCLUDING A LOCAL HEALTH DEPARTMENT, TO REGULATE  
13 WATER WITHDRAWALS WITHIN ITS JURISDICTION.

14           (3) THIS PART DOES NOT RELIEVE ANY PERSON OF THE OBLIGATION TO  
15 OBTAIN ANY OTHER PERMITS OR APPROVALS REQUIRED BY LAW.

16           (4) THIS PART SHALL NOT BE CONSTRUED TO CREATE, CONVEY, OR  
17 TRANSFER ANY PROPERTY INTERESTS IN WATER. A PERMIT ISSUED UNDER  
18 THIS PART DOES NOT CONFER ANY PROPERTY INTERESTS ON THE PERMIT  
19 HOLDER.

20           SEC. 32717. THE DEPARTMENT MAY PROMULGATE RULES AS NECESSARY  
21 TO IMPLEMENT OR ADMINISTER THIS PART.