Natural resources; other; water withdrawals; require permits for certain facilities.
Natural resources: other; Water: other; Water: conservation; Environmental protection: water pollution; Natural resources: rivers and streams; Natural resources: inland lakes; Natural resources: wetlands

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, 32712g, 32713a, 32715, 32716, and 32717.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 32701. As used in this part:

(a) "Agricultural purpose" means the agricultural production of those plants and animals useful to human beings produced by

1 agriculture and includes, but is not limited to, forages and sod
2 crops, grains and feed crops, field crops, dairy and dairy
3 products, poultry and poultry products, cervidae, livestock,
4 including breeding and grazing, equine, fish and other
5 aquacultural products, bees and bee products, berries, herbs,
6 fruits, vegetables, flowers, seeds, grasses, nursery stock, trees
7 and tree products, mushrooms, and other similar products, or any
8 other product, as determined by the commission of agriculture,
9 that incorporates the use of food, feed, fiber, or fur.
10 (b) "Consumptive use" means that portion of water withdrawn
11 or withheld from the Great Lakes basin and assumed to be lost or
12 otherwise not returned to the Great Lakes basin due to
13 evaporation, incorporation into products, or other processes.
14 (c) "Department" means the department of environmental
15 quality.
16 **(d) "Diversion" means a transfer of water from the Great**
17 **Lakes basin into another watershed outside the Great Lakes**
18 **basin.**
19 **(e) "Environmentally sound and economically feasible water**
20 **conservation measure" means any beneficial reduction in water**
21 **loss, waste, or use accomplished by the implementation of water**
22 **management practices and water efficiency measures. Water**
23 **management practices and water efficiency measures must be**
24 **economically feasible based on a cost-benefit analysis that**
25 **includes avoided environmental and economic costs.**
26 **(f)** ~~(d)~~ "Farm" means that term as it is defined in section
27 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

1 **(g)** ~~(e)~~ "Great Lakes basin" means the watershed of the
2 Great 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 to the waters and water-dependent natural**
15 **resources of the Great Lakes basin" means additional beneficial,**
16 **restorative effects to the physical, chemical, and biological**
17 **integrity of the waters and water-dependent natural resources of**
18 **the basin, resulting from associated conservation measures, or**
19 **enhancement or restoration measures, which include, but are not**
20 **limited to, such practices as mitigating adverse effects of**
21 **existing water withdrawals, restoring environmentally sensitive**
22 **areas, or implementing conservation measures in areas or**
23 **facilities that are not part of the specific proposal undertaken**
24 **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,

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

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

(n) "Lake augmentation facility" means all wells, pumps, intakes, pipes, or other equipment and conveyances used to supplement the water volume in a lake for the purpose of maintaining or increasing water levels or flows.

(o) "Permit" means a water use permit issued under this part.

(p) ~~(j)~~ "Public water supply system" means a water system that provides water for human consumption or ~~other~~ **household** purposes to persons other than the supplier of water **and is subject to the requirements of the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.**

(q) ~~(k)~~ "Registrant" means any industrial or processing facility or irrigation facility registered under this part.

(r) "Return flow" means the remaining portion of water withdrawn which returns naturally or is returned to the source

1 **watershed after use and thus becomes available for further use.**

2 **(s) "Water-dependent natural resources" means the interacting**
3 **components of land, water, and living organisms affected by the**
4 **water of the Great Lakes basin.**

5 **(t)** ~~(l)~~ "Water of the Great Lakes basin" means the Great
6 Lakes and all streams, rivers, lakes, connecting channels, and
7 other bodies of water, including groundwater, within the Great
8 Lakes basin.

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

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

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

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

1 (c) The waters of the state are valuable public natural
2 resources held in trust by the state, and the state has a duty as
3 trustee to manage its waters effectively for the use and
4 enjoyment of present and future residents and for the protection
5 of the environment.
6 (d) The waters of the Great Lakes basin are a valuable public
7 natural resource, and the states and provinces of the Great Lakes
8 region and Michigan share a common interest in the preservation
9 of that resource.
10 (e) Any new diversion of waters of the Great Lakes basin for
11 use outside of the Great Lakes basin will have significant
12 economic and environmental impact adversely affecting the use of
13 this resource by the Great Lakes states and Canadian provinces.
14 (f) The continued availability of water for domestic,
15 municipal, industrial, and agricultural water supplies,
16 navigation, hydroelectric power and energy production,
17 recreation, and the maintenance of fish and wildlife habitat and
18 a balanced ecosystem are vital to the future economic health of
19 the states and provinces of the Great Lakes region.
20 (g) Future interbasin diversions and consumptive uses of
21 waters of the Great Lakes basin may have significant adverse
22 impacts upon the environment, economy, and welfare of the Great
23 Lakes region and of this state.
24 (h) The states and provinces of the Great Lakes region have a
25 duty to protect, conserve, and manage their shared water
26 resources for the use and enjoyment of present and future
27 residents. **Effective management of the Great Lakes basin water**

1 **resources requires the joint exercise of such jurisdiction,**
2 **rights, and responsibilities in the interest of all of the people**
3 **of the Great Lakes region, acting in a continuing spirit of**
4 **comity and mutual cooperation.**
5 **(i) Michigan as a Great Lakes state reaffirms its right and**
6 **obligation to use, conserve, and protect Great Lakes basin water**
7 **resources, as expressed in the boundary waters treaty of 1909,**
8 **the Great Lakes water quality agreement of 1978, the Great Lakes**
9 **charter of 1985, and the Great Lakes charter annex of 2001.**
10 **(j) The state shall conserve the waters of the state by**
11 **implementing suitable policies and by encouraging private efforts**
12 **to conserve water.**
13 **Sec. 32702a. (1) The department shall implement this part**
14 **in coordination with other applicable law and department policy**
15 **pertaining to the protection of water quality.**
16 **(2) The interests and rights of Native American tribes of**
17 **the Great Lakes region shall be considered by the department in**
18 **the implementation of this part.**
19 Sec. 32705. (1) Subject to subsection (2), a person who
20 makes a withdrawal shall register with the department on a form
21 provided by the department if, during the calendar year in which
22 the withdrawal occurs, any of the following apply:
23 (a) The person owns **or operates** an industrial or processing
24 facility **or lake augmentation facility** that has the capacity to
25 withdraw over 100,000 gallons of water per day average in any
26 consecutive 30-day period from the waters of the Great Lakes
27 basin.

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

(c) Beginning ~~1 year after the effective date of the amendatory act that added this subdivision~~ **August 8, 2004**, the person owns **or operates** a farm that has the capacity to withdraw over 100,000 gallons of water per day average in any consecutive 30-day period from the waters of the Great Lakes basin.

(d) The person owns or operates a public water supply system that has the capacity to withdraw over 100,000 gallons of water per day average in any consecutive 30-day period from the waters of the Great Lakes basin, if the person is not otherwise required to report water withdrawals under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(2) The owner of a farm who registers under section 32708 is not required to register under subsection (1). **A person who has obtained a permit under section 32711 is not required to register under subsection (1).**

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

Sec. 32706. **(1)** Each registration under ~~this part~~ **section 32705** shall consist of a statement and supporting documentation that includes all of the following:

1 (a) The place and source of the proposed or existing
2 withdrawal.
3 (b) The location of any discharge or return flow.
4 (c) The location and nature of the proposed or existing water
5 user.
6 (d) The actual or estimated average annual and monthly
7 volumes and rate of withdrawal.
8 (e) The actual or estimated average annual and monthly
9 volumes and rates of consumptive use from the withdrawal.
10 **(2) Beginning January 1, 2009, each person who makes a**
11 **withdrawal from the waters of the state that exceeds 2,000,000**
12 **gallons per day in a 30-day average or 100,000,000 gallons per**
13 **year who is not required to obtain a permit shall include with**
14 **his or her next registration under section 32705 or annual report**
15 **under section 32707 a 5-year water management and conservation**
16 **plan for review and approval by the department.**
17 **(3) A water management and conservation plan required under**
18 **subsection (2) shall contain all of the following:**
19 **(a) The anticipated effects, if any, that continuation of the**
20 **withdrawal and consumptive use at the present volumes and rates**
21 **is expected to have on existing users of water resources and**
22 **related land uses within the Great Lakes basin and on the waters**
23 **and water-dependent natural resources of the Great Lakes basin.**
24 **(b) A description of the water management and conservation**
25 **practices currently employed in connection with the withdrawal.**
26 **(c) A description of the environmentally sound and**
27 **economically feasible water conservation measures that the**

1 applicant proposes to implement over the next 5 years.

2 (d) An analysis of the expected benefits in terms of
3 reduction in the amount or rate of withdrawal or consumptive use
4 associated with each measure and an analysis of the corresponding
5 costs.

6 (e) An analysis of alternative water conservation measures
7 considered by the person for use at the facility and an
8 explanation of why these measures were rejected.

9 (f) Any other information relative to the purposes of this
10 part the department requires by rule.

11 (4) The department shall review each water management and
12 conservation plan to determine whether the plan identifies
13 reasonable environmentally sound and economically feasible water
14 conservation measures that are likely to reduce the volumes and
15 rates of withdrawal or consumptive use and to identify whether
16 the plan minimizes any adverse environmental impacts associated
17 with the withdrawal. If the department determines that the water
18 management and conservation plan fails to incorporate adequate
19 information or reasonable environmentally sound and economically
20 feasible water conservation measures, the department may reject
21 the plan and provide an explanation of the basis for its
22 rejection to the person submitting the plan. Within 60 days
23 after receipt of the department's written explanation, the person
24 shall resubmit a revised water management and conservation plan
25 meeting the requirements of this section.

26 (5) Each water management and conservation plan approved
27 under subsection (4) shall be effective for 5 years. Not later

1 **than 120 days before the expiration of his or her approved water**
2 **management and conservation plan, each person with an approved**
3 **plan shall file a new 5-year water management and conservation**
4 **plan for review and approval by the department.**
5 Sec. 32707. (1) Except as provided in subsections (2) and
6 (3), a person who owns an industrial or processing facility, **a**
7 **lake augmentation facility,** an irrigation facility, or a farm
8 registered under this part shall file a report annually with the
9 department on a form provided by the department. Reports shall
10 be submitted by April 1 of each year. Reports shall include the
11 following information:
12 (a) The amount and rate of water withdrawn on an annual and
13 monthly basis.
14 (b) The source or sources of the water supply.
15 (c) The use or uses of the water withdrawn.
16 (d) The amount of consumptive use of **the** water withdrawn.
17 (e) If the source of the water withdrawn is groundwater, the
18 location of the well or wells in latitude and longitude, with the
19 accuracy of the reported location data to within 15 feet.
20 (f) If the source of water withdrawn is groundwater, the
21 static water level of the aquifer or aquifers.
22 (g) Other information specified by rule of the department.
23 (2) If a person reports the information required by this
24 section to the department in conjunction with a permit or for any
25 other purpose, that reporting, upon approval of the department,
26 shall satisfy the reporting requirements of this section.
27 (3) The owner **or operator** of a farm who reports water use

1 under section 32708 is not required to report under subsection
2 (1).
3 (4) The department may, upon request from a person required
4 to report under this section, accept a formula or model that
5 provides to the department's satisfaction the information
6 required in subsection (1).
7 (5) The department shall develop forms for reporting under
8 this section that minimize paperwork and allow for a notification
9 to the department instead of a report if the annual amount of
10 water withdrawn by a person required to report under this section
11 is within 4% of the amount last reported and the other
12 information required in subsection (1) has not changed since the
13 last year in which a report was filed.
14 (6) A person who files an annual report or notification under
15 this section shall annually remit a water use reporting fee of
16 $100.00 to the department. Water use reporting fees shall be
17 remitted to the department in conjunction with the annual report
18 or notification submitted under this section. The department
19 shall transmit water use reporting fees collected under this
20 section to the state treasurer to be credited to the water use
21 protection fund created in section 32714. A water use reporting
22 fee is not required for a report or notification related to a
23 farm that reports water use under section 32708.
24 Sec. 32708. (1) Beginning ~~1 year after the effective date~~
25 ~~of the 2003 amendatory act that amended this section,~~ **August 8,**
26 **2004, except as provided in subsection (2),** the owner **or operator**
27 of a farm described in section 32705(1)(c) who makes a withdrawal

1 for an agricultural purpose, including irrigation for an
2 agricultural purpose, may register the farm address and report
3 the water use on the farm by annually submitting to the
4 department of agriculture a water use conservation plan. The
5 water use conservation plan shall include, but need not be
6 limited to, all of the following information:
7 (a) The amount and rate of water withdrawn on an annual and
8 monthly basis in either gallons or acre inches.
9 (b) The type of crop irrigated, if applicable.
10 (c) The acreage of each irrigated crop, if applicable.
11 (d) The source or sources of the water supply.
12 (e) If the water withdrawn is not used entirely for
13 irrigation, the use or uses of the water withdrawn.
14 (f) If the source of water withdrawn is groundwater, the
15 static water level of the aquifer or aquifers.
16 (g) Applicable water conservation practices and an
17 implementation plan for those practices.
18 **(2) Beginning January 1, 2009, in lieu of the water use**
19 **conservation plan required under subsection (1), the owner or**
20 **operator of a farm who makes a withdrawal from the waters of the**
21 **state that exceeds 2,000,000 gallons per day in a 30-day average**
22 **or 100,000,000 gallons per year who is not required to obtain a**
23 **permit shall include with his or her registration under this**
24 **section a water management and conservation plan under section**
25 **32706.**
26 **(3)** ~~(2)~~ The department and the department of agriculture in
27 consultation with Michigan state university shall validate and

use a formula or model to estimate the consumptive use of withdrawals made for agricultural purposes consistent with the objectives of section 32707.

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

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

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

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

(b) Collect and maintain information regarding the locations, types, and quantities of water use, including water withdrawals and consumptive uses, in a form that the department determines is comparable to the form used by other states and provinces in the

1 Great Lakes region.

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

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

8 (e) Participate in the development of a regional consultation
9 procedure for use in exchanging information on the effects of
10 proposed water withdrawals and consumptive uses from the Great
11 Lakes basin.

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

14 **(g) Cooperate with the other states and provinces in the**
15 **Great Lakes region to collectively conduct, within each lake**
16 **watershed and within the St. Lawrence river basin, a periodic**
17 **assessment of the cumulative impacts of withdrawals, diversions,**
18 **and consumptive uses from the waters of the Great Lakes basin.**

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

24 **(1) A person shall not make a withdrawal from the waters of**
25 **the state without first having obtained a water use permit if**
26 **required by this part and fully complying with this part and all**
27 **orders, permit terms or conditions, or rules promulgated under**

1 this part.

2 (2) Beginning 18 months after the effective date of the 2004
3 amendments to this section, a person proposing a new or increased
4 withdrawal from the waters of the state shall obtain a permit if
5 the amount of the new or increased withdrawal will average
6 2,000,000 gallons per day in any 30-day period or 100,000,000
7 gallons per year.

8 (3) Beginning 18 months after the effective date of the 2004
9 amendments to this section, a person who is withdrawing from the
10 waters of the state in excess of 100,000 gallons per day in any
11 30-day period and, as determined by the department, is causing or
12 is likely to cause an adverse impact on the quantity or quality
13 of the waters or water-dependent natural resources of the Great
14 Lakes basin, to the public health, safety, or welfare or the
15 environment, or to the public trust in the natural resources of
16 the state or public rights in navigable waters, may be required
17 by the department to file an application for a permit under
18 section 32712. Upon review of the application, the department
19 may issue a permit imposing limitations or other conditions on
20 the withdrawals as appropriate.

21 (4) Beginning January 1, 2010, a person proposing a new or
22 increased withdrawal from the waters of the state shall obtain a
23 permit if the amount of the new or increased withdrawal of water
24 will average 100,000 gallons per day in any 30-day period.

25 (5) For the purpose of determining whether a permit is
26 required under this section, in calculating the total amount of a
27 new or increased withdrawal, a person shall combine all separate

1 withdrawals that the person proposes to make, whether or not
2 these withdrawals are for a single purpose or are for related but
3 separate purposes.
4 (6) For the purpose of determining whether a permit is
5 required under subsection (2), unless the amount of an existing
6 withdrawal is established in a permit issued under this part, the
7 amount of any increased withdrawal shall be determined by
8 reference to the highest annual prior usage that can be
9 documented or otherwise established within the 5 years preceding
10 the effective date of the amendatory act that added this
11 subsection.
12 (7) For the purpose of determining whether a permit is
13 required under subsection (4), unless the amount of an existing
14 withdrawal is established in a permit issued under this part, the
15 amount of any increased withdrawal shall be determined by
16 reference to the highest annual prior usage that can be
17 documented or otherwise established within the 5 years preceding
18 January 1, 2009.
19 Sec. 32712. ~~This part does not authorize the department to~~
20 ~~mandate any permit or to regulate the withdrawal of water covered~~
21 ~~under this part.~~
22 (1) An application for a permit under section 32711 shall
23 contain a statement of and documentation for all of the
24 following:
25 (a) The current operating capacity of the withdrawal, if the
26 proposed increase requires the expansion of an existing system.
27 (b) The total new or increased operating capacity of the

1 withdrawal.

2 (c) The place and source of the proposed withdrawal.

3 (d) The location of any discharge or return flow.

4 (e) The location and purpose of the proposed water use.

5 (f) The estimated withdrawal, including daily, monthly,
6 seasonal, and annual mean and peak volumes of withdrawals.

7 (g) The estimated consumptive use from the withdrawal,
8 including daily, monthly, and annual mean and peak volumes and
9 rates of consumptive use.

10 (h) The anticipated effects, if any, that the withdrawal will
11 have on existing uses of water resources and related land uses
12 within the Great Lakes basin.

13 (i) A list of all federal, state, and local approvals,
14 permits, licenses, and other authorizations required for any
15 proposed construction.

16 (j) A description of alternate sources or other ways the
17 applicant's need for water may be satisfied if the application is
18 denied or modified.

19 (k) A description of the environmentally sound and
20 economically feasible water conservation measures the applicant
21 will implement. For withdrawals subject to section 32712a(2),
22 this should include a water management and conservation plan as
23 described in section 32706(3) and status of implementation.

24 (*l*) For withdrawals subject to section 32712a(2), a
25 description of proposed improvements.

26 (m) All adjacent property owners have received written
27 notification of the proposed withdrawal.

1 (n) Any other information required by the department by
2 rule.
3 (o) Any other information the applicant determines is
4 necessary to establish that the criteria of section 32712c are
5 satisfied.
6 (2) The department shall charge and collect from each
7 applicant for a permit an application fee as established by the
8 department by rule. The department shall also establish by rule
9 and collect an annual permit fee for each permittee. The fees
10 established under this section shall be sufficient to enable the
11 department to recover the reasonable costs of administering this
12 part. The department shall transmit all money collected under
13 this subsection to the state treasurer to be credited to the
14 water use protection fund created in section 32714.
15 Sec. 32712a. (1) Within 30 days after receiving a complete
16 application for a permit, the department shall post notice of the
17 application on the department's website. The notice shall
18 identify the location and amount of the proposed withdrawal and
19 shall contain instructions explaining how interested persons can
20 obtain additional information or provide comments to the
21 department.
22 (2) If the department receives an application that, if
23 approved, will result in a new or increased consumptive use
24 averaging more than 5,000,000 gallons per day in any 30-day
25 period, in accordance with the Great Lakes charter, the
26 department shall notify the office of the governor or premier and
27 the agency responsible for management of water resources in each

1 state and province of the Great Lakes region. In making its
2 determination on an application, the department shall consider
3 any comments of the Great Lakes governors and premiers that are
4 received within the time limit established under section 32712b.
5 Sec. 32712b. (1) Following the receipt of a permit
6 application, within the time limit established by the department
7 by rule, but not later than 6 months after the receipt of a
8 complete application, the department shall notify the applicant
9 that the application is granted, granted with modification, or
10 denied based upon the criteria established in section 32712c and,
11 if it is denied, the reason for the denial.
12 (2) The department shall process applications in the order
13 in which they are received, except as follows:
14 (a) If to do so would prevent prompt approval of routine
15 applications.
16 (b) If the public health, safety, or welfare of the people
17 of the state would be threatened by delay.
18 (c) If the department undertakes joint consideration of
19 pending applications proposing to withdraw water from the same
20 source of supply.
21 (d) If the proposed withdrawal is a high-priority economic
22 development project for the Michigan economic development
23 corporation.
24 (3) Prior to granting or denying a permit under this
25 section, the department may hold a public hearing for the purpose
26 of obtaining comments from members of the public, including
27 representatives of other Great Lakes states or provinces. For

1 withdrawals subject to section 32712a(2), the department shall
2 hold a public hearing.
3 (4) Unless otherwise provided by the department, a permit is
4 effective when it has been signed and accepted by the permit
5 applicant and returned to the department.
6 (5) A permit issued under this section shall expire 20 years
7 from the date it is approved by the department.
8 Sec. 32712c. Before issuing a permit, the department shall
9 determine that the applicant has demonstrated all of the
10 following:
11 (a) That the withdrawal will not pollute, impair, or destroy
12 the natural resources of the state or the public trust therein
13 and that no public water rights in navigable waters will be
14 adversely affected.
15 (b) That both the applicant's current water use, if any, and
16 the applicant's proposed plans for withdrawal of water resources
17 incorporate reasonable environmentally sound and economically
18 feasible water conservation measures.
19 (c) That the proposed withdrawal will not have an adverse
20 impact on the quantity and quality of the waters and
21 water-dependent natural resources of the Great Lakes basin.
22 (d) That the proposed withdrawal is consistent with the
23 protection of the public health, safety, and welfare and the
24 environment and will not be detrimental to the public interest.
25 (e) If required by other applicable law, the proposed
26 withdrawal incorporates plans for an improvement to the waters
27 and water-dependent natural resources of the Great Lakes basin.

1 Sec. 32712d. A permit that is issued under this part or a
2 modification of a permit as provided for in section 32712e shall
3 specify all of the following:
4 (a) The location of the withdrawal.
5 (b) The amount and rates of the permitted water withdrawal,
6 including the proposed method of measurement.
7 (c) The dates on which or seasons during which water may be
8 withdrawn.
9 (d) The uses for which water may be withdrawn.
10 (e) The amount and quality of return flow required and the
11 place of discharge.
12 (f) The requirements for reporting volumes and rates of
13 withdrawal and any other data specified by the department.
14 (g) Any other conditions, limitations, and restrictions that
15 the department determines are necessary to protect the
16 environment and the public health, safety, and welfare and to
17 ensure the conservation and proper management of the waters of
18 the state.
19 (h) Any requirements for metering, surveillance, and
20 reporting that the department determines are necessary to ensure
21 compliance with other conditions, limitations, or restrictions of
22 the approval.
23 (i) The date on which approval for the withdrawal expires,
24 and the date by which a new application must be submitted.
25 Sec. 32712e. (1) The department may at any time propose
26 modifications to a permit or additional conditions, limitations,
27 or restrictions determined to be necessary to ensure continued

1 compliance with this part or with any other applicable statute or
2 rule.
3 (2) If the department determines that a person to whom a
4 permit has been issued would be unable under any conditions,
5 limitations, or restrictions to comply with this part or another
6 applicable statute or rule, the department may revoke, limit, or
7 otherwise condition the permit.
8 (3) If the department determines that a person to whom a
9 permit has been issued obtained that permit through the
10 submission of false information, the department shall revoke the
11 permit.
12 (4) The person holding a permit is entitled to a contested
13 case hearing under the administrative procedures act of 1969,
14 1969 PA 306, MCL 24.201 to 24.328, before a revocation or
15 modification takes effect. Any other person who may be adversely
16 affected by a proposed modification may petition the department
17 for a contested case hearing before a modification takes effect.
18 Sec. 32712f. The department may, without a prior hearing,
19 order a person holding a permit to immediately stop a withdrawal
20 if the department determines that there is a danger of imminent
21 harm to the public health, safety, or welfare, to the
22 environment, or to the water resources or related land resources
23 of this state. The order shall specify the date on which the
24 withdrawal must be stopped and the date, if any, on which it may
25 be resumed. The order shall notify the person that the person
26 may request a contested case hearing under the administrative
27 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The

1 **hearing shall be held within 10 business days following the**
2 **request, unless the permittee requests a later date. An**
3 **emergency order remains in effect pending the result of the**
4 **hearing.**
5 **Sec. 32712g. A permit may be transferred to a successive**
6 **owner or operator of the property at which the withdrawal is**
7 **located. However, the new owner or operator shall notify the**
8 **department immediately after the conveyance and request transfer**
9 **of the permit. All permit conditions continue to be binding on**
10 **the successive permittee.**
11 Sec. 32713. The department may request the attorney general
12 to commence a civil action for appropriate relief, including a
13 permanent or temporary injunction, for a violation of this part
14 or a rule promulgated under this part. An action under this
15 section shall be brought in the circuit court for the county of
16 Ingham or for the county in which the defendant is located,
17 resides, or is doing business. The court has jurisdiction to
18 restrain the violation and to require compliance. In addition to
19 any other relief granted, the court may impose a civil fine of
20 not more than ~~$1,000.00~~ **$10,000.00 per day**. In addition to a
21 fine, the attorney general may file a suit in a court of
22 competent jurisdiction to recover the full value of the costs of
23 surveillance and enforcement by the state resulting from the
24 violation.
25 **Sec. 32713a. (1) If the department has reason to believe**
26 **that any person has violated this part or any order, permit term**
27 **or condition, or rule promulgated under this part, the department**

1 may order the person to cease the violation or restore the
2 condition of the waters of the state and related land resources
3 to their condition prior to the violation, or both, as is
4 reasonably necessary to the enforcement of this part.
5 (2) Except as provided in subsection (3), prior to issuing an
6 order under subsection (1), the department shall issue and serve
7 on that person a written notice of violation indicating the
8 provisions, orders, permit terms or conditions, or rules
9 allegedly violated and the facts alleged to constitute the
10 violation. The department shall give the person an opportunity
11 to answer the allegations and to appear at an administrative
12 hearing to be held not less than 30 days after the person was
13 served with the notice of violation.
14 (3) If the department determines that an emergency exists
15 requiring immediate correction of the violation, the department
16 shall, without a hearing, issue an order with immediate effect
17 with a hearing to follow within 10 business days of the issuance
18 of this order.
19 Sec. 32715. This part does not apply to brine wells
20 regulated under part 625.
21 Sec. 32716. (1) This part does not limit the right to any
22 remedy available to any person in an action under the statutory
23 or common law of this state.
24 (2) This part, or any permit issued under this part, does not
25 authorize any person to pollute, impair, or destroy the natural
26 resources of the state or the public trust in those resources or
27 otherwise to endanger the public health, safety, or welfare.

1 (3) This part does not preempt the authority of any local
2 unit of government, including a local health department, to
3 regulate water withdrawals within its jurisdiction.
4 (4) This part does not relieve any person of the obligation
5 to obtain any other permits or approvals required by law.
6 (5) This part shall not be construed to create, convey, or
7 transfer any property interests in water. A permit issued under
8 this part does not confer any property interests on the permit
9 holder.
10 Sec. 32717. (1) The department may promulgate rules as
11 necessary to implement or administer this part.
12 (2) The department may, by rule, provide for a streamlined
13 application procedure for certain water withdrawals as
14 appropriate and may also establish general permit categories for
15 certain water withdrawals less than 2,000,000 gallons per day and
16 100,000,000 gallons per year as appropriate.