

Act No. 485
Public Act of 1988
Approved by the Governor
January 18, 1989
Filed by the Secretary of State
January 19, 1989

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988**

Introduced by Senators Arthurhultz, Binsfeld and Mack

ENROLLED SENATE BILL No. 1039

AN ACT to amend section 4 of Act No. 346 of the Public Acts of 1972, entitled "An act to regulate inland lakes and streams; to protect riparian rights and the public trust in inland lakes and streams; to prescribe powers and duties; to provide remedies and penalties; and to repeal certain acts and parts of acts," as amended by Act No. 262 of the Public Acts of 1980, being section 281.954 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 4 of Act No. 346 of the Public Acts of 1972, as amended by Act No. 262 of the Public Acts of 1980, being section 281.954 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 4. (1) A permit shall not be required for:

(a) Any fill or structure existing before April 1, 1966, in waters covered by former Act No. 291 of the Public Acts of 1965, and any fill or structures existing before January 9, 1973, in waters covered for the first time by this act.

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

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

(d) Construction or maintenance of a private agricultural drain regardless of outlet.

(e) A waste collection or treatment facility which is approved for construction by the department of public health or ordered or approved by the water resources commission.

(f) Construction and maintenance of minor drainage structures and facilities which are identified by rule promulgated by the commission pursuant to section 11(1). Before such a rule is promulgated, it shall be approved by the majority of a committee consisting of the director of the department, the director of the department of agriculture, and the director of the state transportation department or their designated representatives. The initial rules shall be issued before July 8, 1973, and shall be reviewed at least annually thereafter.

(g) Maintenance and improvement of all drains legally established or constructed prior to January 1, 1973, pursuant to the drain code of 1956, Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.630 of the Michigan Compiled Laws, except those legally established drains constituting mainstream portions of certain natural watercourses identified in rules promulgated by the commission pursuant to section 11.

(h) Projects constructed under the watershed protection and flood prevention act, 16 U.S.C. 1001 to 1009.

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

(j) Maintenance of a structure constructed under a permit issued pursuant to this act and identified by rule promulgated pursuant to section 11(1), if the maintenance is in place and in kind with no design or materials modification.

(2) For 3 years after the effective date of this subsection, a permit shall not be required under this act for the repair, reconstruction, or improvement of a dam located in Everett township, Newaygo county, and/or a dam located in the village of Luther, Lake county, which is 75 years old if the dam was damaged or destroyed by an act of God in 1986. However, a person who is performing a project for the repair, reconstruction, or improvement of a fill or structure that is exempt from obtaining a permit under this subsection shall submit to the department and the joint capital outlay committee plans and specifications for the project. These plans and specifications shall be prepared by a licensed professional engineer and shall meet acceptable standards in the industry and must be approved by the joint capital outlay committee in order for a dam to be repaired, reconstructed, or improved. In reviewing for approval plans and specifications for the project, the joint capital outlay committee may require environmental considerations to protect water quality such as underspill devices, minimum flow releases and removal of contaminated sediments that may be resuspended in the water column upon impoundment. Such contaminated sediments shall be disposed of in accordance with state law. A licensed professional engineer shall also supervise the performance of the project and certify its completion to the department.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.