

**SUBSTITUTE FOR
SENATE BILL NO. 651**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 9101, 9104, 9105, 9106, 9107, 9108, 9109,
9110, 9112, 9113, 9115, 9117, 9118, 9119, 9120, 9121, and 9123
(MCL 324.9101, 324.9104, 324.9105, 324.9106, 324.9107, 324.9108,
324.9109, 324.9110, 324.9112, 324.9113, 324.9115, 324.9117,
324.9118, 324.9119, 324.9120, 324.9121, and 324.9123), sections
9101, 9104, 9105, 9106, 9107, 9108, 9109, 9110, 9112, 9113, 9115,
9117, 9118, 9119, 9120, and 9123 as added by 1995 PA 60 and sec-
tion 9121 as amended by 1996 PA 173, and by adding section 9123a;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9101. (1) "Agricultural practices" means all land
2 farming operations except the plowing or tilling of land for the
3 purpose of crop production or the harvesting of crops.

1 (2) "Authorized public agency" means a state ~~, local, or~~
2 ~~county~~ agency ~~designated pursuant to~~ OR AN AGENCY OF A LOCAL
3 UNIT OF GOVERNMENT AUTHORIZED UNDER section 9110 to ~~enforce~~
4 IMPLEMENT soil erosion and sedimentation control ~~requirements~~
5 PROCEDURES with regard to ~~land uses~~ EARTH CHANGES undertaken by
6 it.

7 (3) "CONSERVATION DISTRICT" MEANS A CONSERVATION DISTRICT
8 AUTHORIZED UNDER PART 93.

9 (4) "CONSULTANT" MEANS EITHER OF THE FOLLOWING:

10 (A) AN INDIVIDUAL WHO HAS A CURRENT CERTIFICATE OF TRAINING
11 UNDER SECTION 9123.

12 (B) A PERSON WHO EMPLOYS 1 OR MORE INDIVIDUALS WHO HAVE CUR-
13 RENT CERTIFICATES OF TRAINING UNDER SECTION 9123.

14 (5) ~~-(3)-~~ "County agency" means an officer, board, commis-
15 sion, department, or other entity of county government.

16 (6) ~~-(4)-~~ "County enforcing agency" means ~~an~~ A COUNTY
17 agency OR A CONSERVATION DISTRICT designated by a county board of
18 commissioners ~~pursuant to~~ UNDER section 9105.

19 (7) "COUNTY PROGRAM" OR "COUNTY'S PROGRAM" MEANS A SOIL ERO-
20 SION AND SEDIMENTATION CONTROL PROGRAM ESTABLISHED UNDER SECTION
21 9105.

22 (8) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
23 QUALITY.

24 (9) ~~-(5)-~~ "Earth change" means a human-made change in the
25 natural cover or topography of land, including cut and fill
26 activities, which may result in or contribute to soil erosion or
27 sedimentation of the waters of the state. Earth change does not

1 include the practice of plowing and tilling soil for the purpose
2 of crop production.

3 ~~-(6) "Land use" means a use of land that may result in an~~
4 ~~earth change, including but not limited to subdivision, residen=~~
5 ~~tial, commercial, industrial, recreational or other development,~~
6 ~~private and public highway, road and street construction, and~~
7 ~~drainage construction.~~

8 ~~-(7) "Local agency" means a county, city, village, or~~
9 ~~charter township.~~

10 ~~-(8) "Local enforcing agency" means an agency designated by~~
11 ~~a city, village, or charter township in accordance with section~~
12 ~~9106.~~

13 ~~-(9) "Public agency" means a general law township, a school~~
14 ~~board, or any other local or regional public body, authority,~~
15 ~~board, or commission that is not a state, local, or county~~
16 ~~agency.~~

17 (10) "LOCAL ORDINANCE" MEANS AN ORDINANCE ENACTED BY A LOCAL
18 UNIT OF GOVERNMENT UNDER THIS PART PROVIDING FOR SOIL EROSION AND
19 SEDIMENTATION CONTROL.

20 (11) "MUNICIPAL ENFORCING AGENCY" MEANS AN AGENCY DESIGNATED
21 BY A MUNICIPALITY UNDER SECTION 9106 TO ENFORCE A LOCAL
22 ORDINANCE.

(12) "MUNICIPALITY" MEANS ANY OF THE FOLLOWING:

(A) A CITY.

(B) A VILLAGE.

(C) A CHARTER TOWNSHIP.

(D) A GENERAL LAW TOWNSHIP THAT IS LOCATED IN A COUNTY WITH A
POPULATION OF 200,000 OR MORE.

23 (13) ~~-(10)~~ "Rules" means the rules promulgated pursuant to
24 ~~section 9104~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
25 306, MCL 24.201 TO 24.328.

26 (14) "SEDIMENT" MEANS SOLID PARTICULATE MATTER, INCLUDING
27 BOTH MINERAL AND ORGANIC MATTER, THAT IS IN SUSPENSION IN WATER,

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1 IS BEING TRANSPORTED, OR HAS BEEN REMOVED FROM ITS SITE OF ORIGIN
2 BY THE ACTIONS OF WIND, WATER, OR GRAVITY AND HAS BEEN DEPOSITED
3 ELSEWHERE.

4 (15) "SOIL EROSION" MEANS THE WEARING AWAY OF LAND BY THE
5 ACTION OF WIND, WATER, GRAVITY, OR A COMBINATION OF WIND, WATER,
6 OR GRAVITY.

7 (16) "STATE AGENCY" MEANS A PRINCIPAL STATE DEPARTMENT.

8 (17) "VIOLATION OF THIS PART" OR "VIOLATES THIS PART" MEANS
9 A VIOLATION OF THIS PART, THE RULES PROMULGATED UNDER THIS PART,
10 A PERMIT ISSUED UNDER THIS PART, OR A LOCAL ORDINANCE ENACTED
11 UNDER THIS PART.

12 (18) "WATERS OF THE STATE" MEANS THE GREAT LAKES AND THEIR
13 CONNECTING WATERS, INLAND LAKES AND STREAMS AS DEFINED IN RULES
14 PROMULGATED UNDER THIS PART, AND WETLANDS REGULATED UNDER
15 PART 303.

16 Sec. 9104. (1) The department, with the assistance of the
17 department of agriculture, shall promulgate rules for a unified
18 soil erosion and sedimentation control program, including provi-
19 sions for the review and approval of site plans, land use plans,
20 or permits relating to SOIL erosion control and sedimentation
21 control. The department shall notify and make copies of proposed
22 rules available to ~~state, local, county, and~~ COUNTY ENFORCING
23 AGENCIES, MUNICIPAL ENFORCING AGENCIES, AND AUTHORIZED public
24 agencies ~~affected by this part~~ for review and comment before
25 promulgation.

26 (2) THE DEPARTMENT SHALL MAKE AVAILABLE TO COUNTY ENFORCING
27 AGENCIES, MUNICIPAL ENFORCING AGENCIES, AND AUTHORIZED PUBLIC

1 AGENCIES EDUCATIONAL INFORMATION ON SOIL EROSION AND
2 SEDIMENTATION CONTROL TECHNIQUES AND THE BENEFITS OF IMPLEMENTING
3 SOIL EROSION AND SEDIMENTATION CONTROL MEASURES. COUNTY ENFORC-
4 ING AGENCIES AND MUNICIPAL ENFORCING AGENCIES SHALL DISTRIBUTE
5 THIS INFORMATION TO PERSONS RECEIVING PERMITS UNDER A COUNTY PRO-
6 GRAM OR A LOCAL ORDINANCE AND TO OTHER INTERESTED PERSONS.

7 Sec. 9105. (1) ~~A~~ SUBJECT TO SUBSECTION (6), A county is
8 responsible for the administration and enforcement of THIS PART
9 AND the rules PROMULGATED UNDER THIS PART throughout the county
10 except ~~within~~ AS FOLLOWS:

11 (A) WITHIN a ~~city, village, or charter township~~
12 MUNICIPALITY that has ~~in effect an ordinance conforming to this~~
13 ~~section and except with~~ ASSUMED THE RESPONSIBILITY FOR SOIL ERO-
14 SION AND SEDIMENTATION CONTROL UNDER SECTION 9106.

15 (B) WITH regard to ~~land uses~~ EARTH CHANGES of authorized
16 public agencies. ~~approved by the department pursuant to section~~
17 ~~9110.~~

18 (2) ~~The~~ SUBJECT TO SUBSECTION (3), THE county board of
19 commissioners OF EACH COUNTY, by resolution, shall designate a
20 county agency, or a ~~soil~~ conservation district upon the concur-
21 rence of the ~~soil~~ conservation district, as the county enforc-
22 ing agency responsible for administration and enforcement OF THIS
23 PART AND THE RULES PROMULGATED UNDER THIS PART in the name of the
24 county. The resolution may set forth a schedule of fees for
25 inspections, plan reviews, and permits and may set forth other
26 matters relating to the administration and enforcement of THE

1 COUNTY PROGRAM AND this part and the rules PROMULGATED UNDER THIS
2 PART.

3 (3) IN LIEU OF OR IN ADDITION TO A RESOLUTION PROVIDED FOR
4 IN SUBSECTION (2), THE COUNTY BOARD OF COMMISSIONERS OF A COUNTY
5 MAY PROVIDE BY ORDINANCE FOR SOIL EROSION AND SEDIMENTATION CON-
6 TROL IN THE COUNTY. AN ORDINANCE ADOPTED UNDER THIS SUBSECTION
7 MAY BE MORE RESTRICTIVE THAN, BUT SHALL NOT MAKE LAWFUL THAT
8 WHICH IS UNLAWFUL UNDER, THIS PART AND THE RULES PROMULGATED
9 UNDER THIS PART. IF AN ORDINANCE ADOPTED UNDER THIS SUBSECTION
10 IS MORE RESTRICTIVE THAN THIS PART AND THE RULES PROMULGATED
11 UNDER THIS PART, THE COUNTY ENFORCING AGENCY SHALL NOTIFY A
12 PERSON RECEIVING A PERMIT UNDER THE ORDINANCE THAT THE ORDINANCE
13 IS MORE RESTRICTIVE THAN THIS PART AND THE RULES PROMULGATED
14 UNDER THIS PART. THE ORDINANCE SHALL INCORPORATE BY REFERENCE
15 THE RULES PROMULGATED UNDER THIS PART THAT DO NOT CONFLICT WITH A
16 MORE RESTRICTIVE ORDINANCE AND MAY SET FORTH SUCH OTHER MATTERS
17 AS THE COUNTY BOARD OF COMMISSIONERS CONSIDERS NECESSARY OR
18 DESIRABLE. THE ORDINANCE MAY PROVIDE PENALTIES FOR A VIOLATION
19 OF THE ORDINANCE THAT ARE CONSISTENT WITH SECTION 9121.

20 (4) A copy of ~~the~~ A resolution OR ORDINANCE ADOPTED UNDER
21 THIS SECTION and all subsequent amendments to the resolution OR
22 ORDINANCE shall be forwarded to the department ~~—~~ FOR THE
23 DEPARTMENT'S REVIEW AND APPROVAL. THE DEPARTMENT SHALL FORWARD A
24 COPY TO THE CONSERVATION DISTRICT FOR THAT COUNTY FOR REVIEW AND
25 COMMENT.

26 (5) ~~—(3)—~~ Two or more counties may provide for joint
27 enforcement and administration OF THIS PART AND THE RULES

1 PROMULGATED UNDER THIS PART by entering into an interlocal
2 agreement pursuant to the urban cooperation act of 1967, ~~Act~~
3 ~~No. 7 of the Public Acts of the Extra Session of 1967, being sec=~~
4 ~~tions 124.501 to 124.512 of the Michigan Compiled Laws 1967 (EX~~
5 ~~SESS) PA 7, MCL 124.501 TO 124.512.~~

6 (6) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDA-
7 TORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL CONDUCT
8 AN INITIAL REVIEW OF EACH COUNTY'S SOIL EROSION AND SEDIMENTATION
9 CONTROL PROGRAM IN ACCORDANCE WITH A SCHEDULE ESTABLISHED BY THE
10 DEPARTMENT. IF THE DEPARTMENT APPROVES A COUNTY PROGRAM, ITS
11 APPROVAL IS VALID FOR A 3-YEAR PERIOD. AFTER THE INITIAL REVIEW,
12 THE DEPARTMENT SHALL CONDUCT A REVIEW OF A COUNTY'S PROGRAM EVERY
13 3 YEARS. THE REVIEW SHALL BE CONDUCTED AT LEAST 6 MONTHS BEFORE
14 THE EXPIRATION OF EACH SUCCEEDING 3-YEAR PERIOD. THE DEPARTMENT
15 SHALL APPROVE A COUNTY'S PROGRAM IF ALL OF THE FOLLOWING CONDI-
16 TIONS ARE MET:

17 (A) THE COUNTY HAS PASSED A RESOLUTION OR ENACTED AN ORDI-
18 NANCE AS PROVIDED IN THIS SECTION.

19 (B) THE INDIVIDUALS WITH DECISION-MAKING AUTHORITY WHO ARE
20 RESPONSIBLE FOR ADMINISTERING THE COUNTY PROGRAM HAVE CURRENT
21 CERTIFICATES OF TRAINING UNDER SECTION 9123.

22 (C) THE COUNTY HAS EFFECTIVELY ADMINISTERED AND ENFORCED THE
23 COUNTY PROGRAM IN THE PAST 3 YEARS OR HAS IMPLEMENTED CHANGES IN
24 ITS ADMINISTRATION OR ENFORCEMENT PROCEDURES THAT THE DEPARTMENT
25 DETERMINES WILL RESULT IN THE COUNTY EFFECTIVELY ADMINISTERING
26 AND ENFORCING THE COUNTY PROGRAM. IN DETERMINING WHETHER THE

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1 COUNTY HAS MET THE REQUIREMENT OF THIS SUBDIVISION, THE

2 DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING:

3 (i) WHETHER A MECHANISM IS IN PLACE TO PROVIDE FUNDING TO
4 ADMINISTER THE COUNTY'S PROGRAM.

5 (ii) WHETHER THE COUNTY HAS CONDUCTED ADEQUATE INSPECTIONS
6 TO ASSURE MINIMIZATION OF SOIL EROSION AND OFF-SITE
7 SEDIMENTATION.

8 (iii) THE EFFECTIVENESS OF THE COUNTY'S PAST COMPLIANCE AND
9 ENFORCEMENT EFFORTS.

10 (iv) THE ADEQUACY AND EFFECTIVENESS OF THE APPLICATIONS AND
11 SOIL EROSION AND SEDIMENTATION CONTROL PLANS BEING ACCEPTED BY
12 THE COUNTY.

13 (v) THE ADEQUACY AND EFFECTIVENESS OF THE PERMITS ISSUED BY
14 THE COUNTY AND THE INSPECTIONS BEING PERFORMED BY THE COUNTY.

15 (vi) THE CONDITIONS AT CONSTRUCTION SITES UNDER THE JURIS-
16 DICTION OF THE COUNTY AS DOCUMENTED BY DEPARTMENTAL INSPECTIONS.

17 (7) FOLLOWING A REVIEW UNDER SUBSECTION (6), THE DEPARTMENT
18 SHALL NOTIFY THE COUNTY OF THE RESULTS OF ITS REVIEW AND WHETHER
19 THE DEPARTMENT PROPOSES TO APPROVE OR DISAPPROVE THE COUNTY'S
20 PROGRAM. WITHIN 30 DAYS OF RECEIPT OF THE NOTICE UNDER THIS SUB-
21 SECTION, A COUNTY MAY REQUEST AND THE DEPARTMENT SHALL HOLD AN
22 INFORMAL MEETING TO DISCUSS THE REVIEW AND THE PROPOSED ACTION BY
23 THE DEPARTMENT.

24 (8) FOLLOWING THE MEETING UNDER SUBSECTION (7), IF
25 REQUESTED, AND CONSIDERATION OF THE REVIEW UNDER SUBSECTION (6),
26 IF THE DEPARTMENT DOES NOT APPROVE A COUNTY'S PROGRAM, THE
27 DEPARTMENT SHALL ENTER AN ORDER, STIPULATION, OR CONSENT

1 AGREEMENT UNDER SECTION 9112(2) PLACING THE COUNTY ON PROBATION.
2 IN ADDITION, AT ANY TIME THAT THE DEPARTMENT DETERMINES THAT A
3 COUNTY THAT WAS PREVIOUSLY APPROVED BY THE DEPARTMENT UNDER
4 SUBSECTION (6) IS NOT SATISFACTORILY ADMINISTERING AND ENFORCING
5 THE COUNTY'S PROGRAM, THE DEPARTMENT SHALL ENTER INTO AN ORDER,
6 STIPULATION, OR CONSENT AGREEMENT UNDER SECTION 9112(2) PLACING
7 THE COUNTY ON PROBATION. DURING THE 6-MONTH PERIOD AFTER A
8 COUNTY IS PLACED ON PROBATION, THE DEPARTMENT SHALL CONSULT WITH
9 THE COUNTY ON HOW THE COUNTY COULD CHANGE ITS ADMINISTRATION OF
10 THE COUNTY PROGRAM IN A MANNER THAT WOULD RESULT IN ITS
11 APPROVAL.

12 (9) WITHIN 6 MONTHS AFTER A COUNTY HAS BEEN PLACED ON PROBA-
13 TION UNDER SUBSECTION (8), THE COUNTY MAY NOTIFY THE DEPARTMENT
14 THAT IT INTENDS TO HIRE A CONSULTANT TO ADMINISTER THE COUNTY'S
15 PROGRAM. IF, WITHIN 60 DAYS AFTER NOTIFYING THE DEPARTMENT, THE
16 COUNTY HIRES A CONSULTANT THAT IS ACCEPTABLE TO THE DEPARTMENT,
17 THEN WITHIN 1 YEAR AFTER THE COUNTY HIRES THE CONSULTANT, THE
18 DEPARTMENT SHALL CONDUCT A REVIEW OF THE COUNTY'S PROGRAM TO
19 DETERMINE WHETHER OR NOT THE COUNTY PROGRAM CAN BE APPROVED.

20 (10) IF ANY OF THE FOLLOWING OCCUR, THE DEPARTMENT SHALL
21 HIRE A CONSULTANT TO ADMINISTER THE COUNTY'S PROGRAM:

22 (A) THE COUNTY DOES NOT NOTIFY THE DEPARTMENT OF ITS INTENT
23 TO HIRE A CONSULTANT UNDER SUBSECTION (9).

24 (B) THE COUNTY DOES NOT HIRE A CONSULTANT THAT IS ACCEPTABLE
25 TO THE DEPARTMENT WITHIN 60 DAYS AFTER NOTIFYING THE DEPARTMENT
26 OF ITS INTENT TO HIRE A CONSULTANT UNDER SUBSECTION (9).

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1 (C) THE COUNTY REMAINS UNAPPROVED FOLLOWING THE DEPARTMENT'S
2 REVIEW UNDER SUBSECTION (9).

3 (11) UPON HIRING A CONSULTANT UNDER SUBSECTION (10), THE
4 DEPARTMENT MAY ESTABLISH A SCHEDULE OF FEES FOR INSPECTIONS,
5 REVIEW OF SOIL EROSION AND SEDIMENTATION CONTROL PLANS, AND PER-
6 MITS FOR THE COUNTY'S PROGRAM THAT WILL PROVIDE SUFFICIENT REVE-
7 NUES TO PAY FOR THE COST OF THE CONTRACT WITH THE CONSULTANT, OR
8 THE DEPARTMENT MAY BILL THE COUNTY FOR THE COST OF THE CONTRACT
9 WITH THE CONSULTANT. AS USED IN THIS SUBSECTION, "COST OF THE
10 CONTRACT" MEANS THE ACTUAL COST OF A CONTRACT WITH A CONSULTANT
11 PLUS THE DOCUMENTED COSTS TO THE DEPARTMENT IN ADMINISTERING THE
12 CONTRACT, BUT NOT TO EXCEED 10% OF THE ACTUAL COST OF THE
13 CONTRACT.

14 (12) AT ANY TIME THAT A COUNTY IS ON PROBATION AS PROVIDED
15 FOR IN THIS SECTION, THE COUNTY MAY REQUEST THE DEPARTMENT TO
16 CONDUCT A REVIEW OF THE COUNTY'S PROGRAM. IF, UPON SUCH REVIEW,
17 THE COUNTY HAS IMPLEMENTED APPROPRIATE CHANGES TO THE COUNTY'S
18 PROGRAM, THE DEPARTMENT SHALL APPROVE THE COUNTY'S PROGRAM. IF
19 THE DEPARTMENT APPROVES A COUNTY'S PROGRAM UNDER THIS SUBSECTION,
20 THE DEPARTMENT SHALL RESCIND ITS ORDER, STIPULATION, OR CONSENT
21 AGREEMENT THAT PLACED THE COUNTY ON PROBATION.

22 Sec. 9106. (1) ~~A city, village, or charter township~~
23 SUBJECT TO SUBSECTION (3), A MUNICIPALITY by ordinance may pro-
24 vide for soil erosion and sedimentation control on public and
25 private ~~land uses~~ EARTH CHANGES within its boundaries except
26 that a ~~charter~~ township ordinance shall not be applicable
27 within a village that has in effect SUCH an ordinance. ~~providing~~

1 ~~soil erosion and sedimentation control.~~ An ordinance may be more
2 restrictive than, but ~~may~~ SHALL not make lawful that which is
3 unlawful under, this part and the rules PROMULGATED UNDER THIS
4 PART. IF AN ORDINANCE ADOPTED UNDER THIS SECTION IS MORE
5 RESTRICTIVE THAN THIS PART AND THE RULES PROMULGATED UNDER THIS
6 PART, THE MUNICIPAL ENFORCING AGENCY SHALL NOTIFY A PERSON
7 RECEIVING A PERMIT UNDER THE ORDINANCE THAT THE ORDINANCE IS MORE
8 RESTRICTIVE THAN THIS PART AND THE RULES PROMULGATED UNDER THIS
9 PART. The ordinance ~~may adopt all or part of~~ SHALL INCORPORATE
10 BY REFERENCE the rules ~~by reference~~ PROMULGATED UNDER THIS PART
11 THAT DO NOT CONFLICT WITH A MORE RESTRICTIVE ORDINANCE, shall
12 designate a ~~local~~ MUNICIPAL enforcing agency responsible for
13 administration and enforcement of the ordinance, and may set
14 forth such other matters as the legislative body considers neces-
15 sary or desirable. The ordinance shall be applicable and shall
16 be enforced with regard to all private and public ~~land uses~~
17 EARTH CHANGES within the ~~city, village, or charter township~~
18 MUNICIPALITY except ~~land uses of~~ EARTH CHANGES BY an authorized
19 public agency. ~~designated pursuant to section 9110. The city,~~
20 ~~village, or charter township~~ THE MUNICIPALITY may consult with a
21 ~~soil~~ conservation district for assistance or advice in the
22 preparation of the ordinance. THE ORDINANCE MAY PROVIDE PENAL-
23 TIES FOR A VIOLATION OF THE ORDINANCE THAT ARE CONSISTENT WITH
24 SECTION 9121.

25 (2) ~~On July 1, 1975, an~~ AN ordinance RELATED TO SOIL ERO-
26 SION AND SEDIMENTATION CONTROL that is not approved by the
27 department as conforming to the minimum requirements of this part

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1 and the rules PROMULGATED UNDER THIS PART has no force or
2 effect. ~~With regard to a city, village, or charter township~~
3 ~~ordinance in effect prior to July 1, 1974, a copy of the ordi-~~
4 ~~nance shall be submitted to the department before September 1,~~
5 ~~1974. With regard to an ordinance or an amendment proposed to be~~
6 ~~adopted on or after July 1, 1974, a~~ A MUNICIPALITY SHALL SUBMIT
7 A copy of ~~the~~ ITS proposed ordinance or OF A proposed amendment
8 ~~shall be submitted~~ TO ITS ORDINANCE to the department for
9 approval before adoption. The department shall forward a copy to
10 THE COUNTY ENFORCING AGENCY OF THE COUNTY IN WHICH THE MUNICIPAL-
11 ITY IS LOCATED AND the appropriate ~~soil~~ conservation district
12 for review and comment. Within 90 days after ~~it~~ THE DEPARTMENT
13 receives an existing ordinance, proposed ordinance, or amendment,
14 the department shall notify the clerk of the ~~city, village, or~~
15 ~~charter township~~ MUNICIPALITY of its approval or disapproval
16 along with recommendations for revision ~~to the extent that~~ IF
17 the ordinance, proposed ordinance, or amendment does not conform
18 to the minimum requirements of this part or the rules PROMULGATED
19 UNDER THIS PART. If the department does not notify the clerk of
20 the local unit within the 90-day period, the ordinance, proposed
21 ordinance, or amendment shall be considered to have been approved
22 by the department.

23 (3) AFTER A DATE DETERMINED BY A SCHEDULE ESTABLISHED BY THE
24 DEPARTMENT, BUT NOT LATER THAN 3 YEARS AFTER THE EFFECTIVE DATE
25 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, A MUNICIPALITY
26 SHALL NOT ADMINISTER AND ENFORCE THIS PART OR THE RULES
27 PROMULGATED UNDER THIS PART OR A LOCAL ORDINANCE UNLESS THE

1 DEPARTMENT HAS APPROVED THE MUNICIPALITY. AN APPROVAL UNDER THIS
2 SECTION IS VALID FOR 3 YEARS, AFTER WHICH THE DEPARTMENT SHALL
3 REVIEW THE MUNICIPALITY FOR REAPPROVAL. AT LEAST 6 MONTHS BEFORE
4 THE EXPIRATION OF EACH SUCCEEDING 3-YEAR APPROVAL PERIOD, THE
5 DEPARTMENT SHALL COMPLETE A REVIEW OF THE MUNICIPALITY FOR
6 REAPPROVAL. THE DEPARTMENT SHALL APPROVE A MUNICIPALITY IF ALL
7 OF THE FOLLOWING CONDITIONS ARE MET:

8 (A) THE MUNICIPALITY HAS ENACTED AN ORDINANCE AS PROVIDED IN
9 THIS SECTION THAT IS AT LEAST AS RESTRICTIVE AS THIS PART AND THE
10 RULES PROMULGATED UNDER THIS PART.

11 (B) THE INDIVIDUALS WITH DECISION-MAKING AUTHORITY WHO ARE
12 RESPONSIBLE FOR ADMINISTERING THE SOIL EROSION AND SEDIMENTATION
13 CONTROL PROGRAM FOR THE MUNICIPALITY HAVE CURRENT CERTIFICATES OF
14 TRAINING UNDER SECTION 9123.

15 (C) THE MUNICIPALITY HAS SUBMITTED EVIDENCE OF ITS ABILITY
16 TO EFFECTIVELY ADMINISTER AND ENFORCE A SOIL EROSION AND SEDIMEN-
17 TATION CONTROL PROGRAM. IN DETERMINING WHETHER THE MUNICIPALITY
18 HAS MET THE REQUIREMENTS OF THIS SUBDIVISION, THE DEPARTMENT
19 SHALL CONSIDER ALL OF THE FOLLOWING:

20 (i) WHETHER A MECHANISM IS IN PLACE TO PROVIDE FUNDING TO
21 ADMINISTER THE MUNICIPALITY'S SOIL EROSION AND SEDIMENTATION CON-
22 TROL PROGRAM.

23 (ii) THE ADEQUACY OF THE DOCUMENTS PROPOSED FOR USE BY THE
24 MUNICIPALITY INCLUDING, BUT NOT LIMITED TO, APPLICATION FORMS,
25 SOIL EROSION AND SEDIMENTATION CONTROL PLAN REQUIREMENTS, PERMIT
26 FORMS, AND INSPECTION REPORTS.

1 (iii) IF THE MUNICIPALITY HAS PREVIOUSLY ADMINISTERED A SOIL
2 EROSION AND SEDIMENTATION CONTROL PROGRAM, WHETHER THE
3 MUNICIPALITY EFFECTIVELY ADMINISTERED AND ENFORCED THE PROGRAM IN
4 THE PAST OR HAS IMPLEMENTED CHANGES IN ITS ADMINISTRATION OR
5 ENFORCEMENT PROCEDURES THAT THE DEPARTMENT DETERMINES WILL RESULT
6 IN THE MUNICIPALITY EFFECTIVELY ADMINISTERING AND ENFORCING A
7 SOIL EROSION AND SEDIMENTATION CONTROL PROGRAM IN COMPLIANCE WITH
8 THIS PART AND THE RULES PROMULGATED UNDER THIS PART. IN DETER-
9 MINING WHETHER THE MUNICIPALITY HAS MET THE REQUIREMENT OF THIS
10 SUBPARAGRAPH, THE DEPARTMENT SHALL CONSIDER ALL OF THE
11 FOLLOWING:

12 (A) WHETHER THE MUNICIPALITY HAS HAD ADEQUATE FUNDING TO
13 ADMINISTER THE MUNICIPALITY'S SOIL EROSION AND SEDIMENTATION CON-
14 TROL PROGRAM.

15 (B) WHETHER THE MUNICIPALITY HAS CONDUCTED ADEQUATE INSPEC-
16 TIONS TO ASSURE MINIMIZATION OF SOIL EROSION AND OFF-SITE
17 SEDIMENTATION.

18 (C) THE EFFECTIVENESS OF THE MUNICIPALITY'S PAST COMPLIANCE
19 AND ENFORCEMENT EFFORTS.

20 (D) THE ADEQUACY AND EFFECTIVENESS OF THE APPLICATIONS AND
21 SOIL EROSION AND SEDIMENTATION CONTROL PLANS BEING ACCEPTED BY
22 THE MUNICIPALITY.

23 (E) THE ADEQUACY AND EFFECTIVENESS OF THE PERMITS ISSUED BY
24 THE MUNICIPALITY AND THE INSPECTIONS BEING PERFORMED BY THE
25 MUNICIPALITY.

1 (F) THE CONDITIONS AT CONSTRUCTION SITES UNDER THE
2 JURISDICTION OF THE MUNICIPALITY AS DOCUMENTED BY DEPARTMENTAL
3 INSPECTIONS.

4 (4) IF THE DEPARTMENT DETERMINES THAT A MUNICIPALITY IS NOT
5 APPROVED UNDER SUBSECTION (3) OR THAT A MUNICIPALITY THAT WAS
6 PREVIOUSLY APPROVED UNDER SUBSECTION (3) IS NOT SATISFACTORILY
7 ADMINISTERING AND ENFORCING THIS PART AND THE RULES PROMULGATED
8 UNDER THIS PART, THE DEPARTMENT SHALL ENTER AN ORDER, STIPULA-
9 TION, OR CONSENT AGREEMENT UNDER SECTION 9112(2) DENYING THE
10 MUNICIPALITY AUTHORITY OR REVOKING THE MUNICIPALITY'S AUTHORITY
11 TO ADMINISTER A SOIL EROSION AND SEDIMENTATION CONTROL PROGRAM.
12 UPON ENTRY OF THIS ORDER, STIPULATION, OR CONSENT AGREEMENT, THE
13 COUNTY PROGRAM FOR THE COUNTY IN WHICH THE MUNICIPALITY IS
14 LOCATED BECOMES OPERATIVE WITHIN THE MUNICIPALITY.

15 (5) A MUNICIPALITY THAT ELECTS TO RESCIND ITS ORDINANCE
16 SHALL NOTIFY THE DEPARTMENT. UPON RESCISSION OF ITS ORDINANCE,
17 THE COUNTY PROGRAM FOR THE COUNTY IN WHICH THE MUNICIPALITY IS
18 LOCATED BECOMES OPERATIVE WITHIN THE MUNICIPALITY.

19 (6) A MUNICIPALITY THAT RESCINDS ITS ORDINANCE OR IS NOT
20 APPROVED BY THE DEPARTMENT TO ADMINISTER THE PROGRAM SHALL RETAIN
21 JURISDICTION OVER PROJECTS UNDER PERMIT AT THAT TIME. THE MUNIC-
22 IPALITY SHALL RETAIN JURISDICTION UNTIL THE PROJECTS ARE COM-
23 PLETED AND STABILIZED OR THE COUNTY AGREES TO ASSUME JURISDICTION
24 OVER THE PERMITTED EARTH CHANGES.

25 Sec. 9107. ~~A county or local enforcing agency shall notify~~
26 ~~the department of all violations of this part or the rules or~~
27 ~~violations of the ordinance, including violations attributable to~~

1 ~~a land use by an authorized public agency.~~ IF A LOCAL UNIT OF
2 GOVERNMENT HAS NOTICE THAT A VIOLATION OF THIS PART HAS OCCURRED
3 WITHIN THE BOUNDARIES OF THAT LOCAL UNIT OF GOVERNMENT, INCLUDING
4 BUT NOT LIMITED TO A VIOLATION ATTRIBUTABLE TO AN EARTH CHANGE BY
5 AN AUTHORIZED PUBLIC AGENCY, THE LOCAL UNIT OF GOVERNMENT SHALL
6 NOTIFY THE APPROPRIATE COUNTY ENFORCING AGENCY AND MUNICIPAL
7 ENFORCING AGENCY AND THE DEPARTMENT OF THE VIOLATION.

8 Sec. 9108. As a condition for the issuance of a permit, the
9 county ENFORCING AGENCY or ~~local~~ MUNICIPAL enforcing agency may
10 require the applicant to deposit with the clerk of the ~~local~~
11 ~~agency~~ COUNTY OR MUNICIPALITY in the form of cash, a certified
12 check, or an irrevocable bank letter of credit, whichever the
13 applicant selects, or a surety bond acceptable to the legislative
14 body OF THE COUNTY OR MUNICIPALITY or TO the ~~local~~ COUNTY
15 ENFORCING AGENCY OR MUNICIPAL ENFORCING agency, in an amount suf-
16 ficient to assure the installation and completion of such protec-
17 tive or corrective measures as may be required by the county
18 ENFORCING AGENCY or ~~local~~ MUNICIPAL enforcing agency.

19 Sec. 9109. (1) An authorized public agency, ~~or a~~ county
20 ENFORCING AGENCY, or ~~local~~ MUNICIPAL enforcing agency may enter
21 into an agreement with a ~~soil~~ conservation district for assist-
22 ance and advice in overseeing and reviewing compliance with
23 ~~adequate~~ soil erosion and sedimentation control procedures and
24 in reviewing existing or proposed ~~land uses, land use~~ EARTH
25 CHANGES, EARTH CHANGE plans, or site plans with regard to techni-
26 cal matters pertaining to soil erosion and sedimentation
27 control. In addition to or in the absence of such agreements,

1 ~~soil~~ conservation districts may perform periodic reviews and
2 evaluations of the AUTHORIZED PUBLIC AGENCY'S, COUNTY ENFORCING
3 AGENCY'S, OR MUNICIPAL ENFORCING agency's ~~operation~~ PROGRAMS OR
4 procedures pursuant to standards and specifications developed in
5 cooperation with the respective districts and as approved by the
6 department. ~~Such~~ THESE reviews and evaluations shall be sub-
7 mitted to the ~~administering agency of the~~ department for appro-
8 priate action.

9 (2) A person engaged in agricultural practices may enter
10 into AN agreement with the appropriate ~~soil~~ conservation dis-
11 trict to pursue agricultural practices in accordance with and
12 subject to THIS PART, the rules promulgated ~~by the department~~
13 ~~pursuant to section 9104~~ UNDER THIS PART, AND ANY APPLICABLE
14 LOCAL ORDINANCE. If a person enters into an agreement with a
15 ~~soil~~ conservation district, the CONSERVATION district shall
16 notify the county ENFORCING AGENCY or ~~local enforcement~~
17 MUNICIPAL ENFORCING agency or the department IN WRITING of the
18 agreement. Upon ~~formal~~ ENTERING INTO THE agreement ~~and in~~
19 ~~compliance with this part as provided in~~ UNDER this subsection,
20 a person is not subject to ~~any site plans, land use plans, or~~
21 permits required ~~pursuant to~~ UNDER this part, but is ~~subject~~
22 ~~to enforcement as provided by sections 9112 and 9113 after~~
23 ~~January 1, 1979~~ REQUIRED TO DEVELOP PROJECT SPECIFIC SOIL ERO-
24 SION AND SEDIMENTATION CONTROL PLANS AND IS SUBJECT TO THE REME-
25 DIES PROVIDED FOR IN THIS PART FOR VIOLATIONS OF THIS PART.

26 Sec. 9110. (1) ~~A~~ SUBJECT TO SUBSECTION (4), A state ~~,~~
27 ~~local , or county~~ agency OR AN AGENCY OF A LOCAL UNIT OF

1 GOVERNMENT may apply to the department for designation as an
2 authorized public agency by submitting to the department the soil
3 erosion and sedimentation control procedures governing all ~~land~~
4 ~~uses~~ EARTH CHANGES normally undertaken by the agency. If the
5 applicant is ~~a local or county~~ AN agency OF A LOCAL UNIT OF
6 GOVERNMENT, the department shall submit the procedures to the
7 COUNTY ENFORCING AGENCY AND THE appropriate ~~soil~~ conservation
8 district for review. ~~, and the soil~~ THE COUNTY ENFORCING AGENCY
9 AND THE conservation district shall submit ~~its~~ THEIR comments
10 on the procedures to the department within 60 days. If the
11 applicant is a state agency, the department shall submit the pro-
12 cedures to the department of agriculture for review, and the
13 department of agriculture shall submit its comments on the proce-
14 dures to the department within 60 days.

15 (2) ~~If the department finds that a local agency's soil ero-~~
16 ~~sion and sedimentation control procedures are adequate, the~~
17 ~~department may delegate to that local agency authority to approve~~
18 ~~local or county agency soil erosion and sedimentation control~~
19 ~~procedures and designate the local or county agency as an autho-~~
20 ~~rized public agency.~~ SUBJECT TO SUBSECTION (4), IF THE DEPART-
21 MENT FINDS THAT THE SOIL EROSION AND SEDIMENTATION CONTROL PROCE-
22 DURES OF THE STATE AGENCY OR THE AGENCY OF THE LOCAL UNIT OF GOV-
23 ERNMENT MEET THE REQUIREMENTS OF THIS PART AND RULES PROMULGATED
24 UNDER THIS PART, THE DEPARTMENT SHALL DESIGNATE THE AGENCY AS AN
25 AUTHORIZED PUBLIC AGENCY.

26 (3) ~~After~~ SUBJECT TO SUBSECTION (4), AFTER approval of the
27 procedures and designation as an authorized public agency

1 pursuant to subsection (1) or (2), all ~~affected land uses~~ EARTH
2 CHANGES maintained or undertaken by the authorized public agency
3 shall be undertaken pursuant to the approved procedures. If
4 determined necessary by the department and upon request of an
5 authorized PUBLIC agency, the department may grant a variance
6 from the provisions of this subsection.

7 (4) AFTER A DATE DETERMINED BY A SCHEDULE ESTABLISHED BY THE
8 DEPARTMENT, BUT NOT LATER THAN 3 YEARS AFTER THE EFFECTIVE DATE
9 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, A STATE AGENCY
10 OR AN AGENCY OF A LOCAL UNIT OF GOVERNMENT SHALL NOT ADMINISTER
11 AND ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART
12 AS AN AUTHORIZED PUBLIC AGENCY UNLESS THE DEPARTMENT HAS APPROVED
13 THE AGENCY UNDER THIS SECTION. AN APPROVAL UNDER THIS SECTION IS
14 VALID FOR 3 YEARS, AFTER WHICH THE DEPARTMENT SHALL REVIEW THE
15 AGENCY FOR REAPPROVAL. AT LEAST 6 MONTHS BEFORE THE EXPIRATION
16 OF EACH SUCCEEDING 3-YEAR PERIOD, THE DEPARTMENT SHALL COMPLETE A
17 REVIEW OF THE AUTHORIZED PUBLIC AGENCY FOR REAPPROVAL. THE
18 DEPARTMENT SHALL APPROVE A STATE AGENCY OR AN AGENCY OF A LOCAL
19 UNIT OF GOVERNMENT IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

20 (A) THE AGENCY HAS ADOPTED SOIL EROSION AND SEDIMENTATION
21 CONTROL PROCEDURES THAT ARE AT LEAST AS RESTRICTIVE AS THIS PART
22 AND THE RULES PROMULGATED UNDER THIS PART.

23 (B) THE INDIVIDUALS WITH DECISION-MAKING AUTHORITY WHO ARE
24 RESPONSIBLE FOR ADMINISTERING THE SOIL EROSION AND SEDIMENTATION
25 CONTROL PROCEDURES HAVE CURRENT CERTIFICATES OF TRAINING UNDER
26 SECTION 9123.

1 (C) THE AGENCY HAS SUBMITTED EVIDENCE OF ITS ABILITY TO
2 EFFECTIVELY ADMINISTER SOIL EROSION AND SEDIMENTATION CONTROL
3 PROCEDURES. IN DETERMINING WHETHER THE AGENCY HAS MET THE
4 REQUIREMENT OF THIS SUBDIVISION, THE DEPARTMENT SHALL CONSIDER
5 ALL OF THE FOLLOWING:

6 (i) FUNDING TO ADMINISTER THE AGENCY'S SOIL EROSION AND SED-
7 IMENTATION CONTROL PROGRAM.

8 (ii) THE AGENCY'S PLANS FOR INSPECTIONS TO ASSURE MINIMIZA-
9 TION OF SOIL EROSION AND OFF-SITE SEDIMENTATION.

10 (iii) THE ADEQUACY OF THE AGENCY'S SOIL EROSION AND SEDIMEN-
11 TATION CONTROL PROCEDURES.

12 (iv) IF THE AGENCY HAS PREVIOUSLY ADMINISTERED SOIL EROSION
13 AND SEDIMENTATION CONTROL PROCEDURES, THE AGENCY HAS EFFECTIVELY
14 ADMINISTERED THESE PROCEDURES OR HAS IMPLEMENTED CHANGES IN THEIR
15 ADMINISTRATION THAT THE DEPARTMENT DETERMINES WILL RESULT IN THE
16 AGENCY EFFECTIVELY ADMINISTERING THE SOIL EROSION AND SEDIMENTA-
17 TION CONTROL PROCEDURES. IN DETERMINING WHETHER THE AGENCY HAS
18 MET THE REQUIREMENT OF THIS SUBPARAGRAPH, THE DEPARTMENT SHALL
19 CONSIDER ALL OF THE FOLLOWING:

20 (A) WHETHER THE AGENCY HAS HAD ADEQUATE FUNDING TO ADMINIS-
21 TER THE AGENCY'S SOIL EROSION AND SEDIMENTATION CONTROL PROGRAM.

22 (B) WHETHER THE AGENCY HAS CONDUCTED ADEQUATE INSPECTIONS TO
23 ASSURE MINIMIZATION OF SOIL EROSION AND OFF-SITE SEDIMENTATION.

24 (C) THE EFFECTIVENESS OF THE AGENCY'S PAST COMPLIANCE AND
25 ENFORCEMENT EFFORTS.

26 (D) THE ADEQUACY OF THE AGENCY'S SOIL EROSION AND
27 SEDIMENTATION CONTROL PLANS AND PROCEDURES AS REQUIRED BY RULE.

1 (E) THE CONDITIONS AT CONSTRUCTION SITES UNDER THE
2 JURISDICTION OF THE AGENCY AS DOCUMENTED BY DEPARTMENTAL
3 INSPECTIONS.

4 (5) IF THE DEPARTMENT DETERMINES THAT A STATE AGENCY OR AN
5 AGENCY OF A LOCAL UNIT OF GOVERNMENT IS NOT APPROVED UNDER SUB-
6 SECTION (4) OR THAT A STATE AGENCY OR AN AGENCY OF A LOCAL UNIT
7 OF GOVERNMENT THAT WAS PREVIOUSLY APPROVED UNDER SUBSECTION (4)
8 IS NOT SATISFACTORILY ADMINISTERING AND ENFORCING THIS PART AND
9 THE RULES PROMULGATED UNDER THIS PART, THE DEPARTMENT SHALL ENTER
10 AN ORDER, STIPULATION, OR CONSENT AGREEMENT UNDER SECTION 9112(2)
11 DENYING OR REVOKING THE DESIGNATION OF THE STATE AGENCY OR AGENCY
12 OF A LOCAL UNIT OF GOVERNMENT AS AN AUTHORIZED PUBLIC AGENCY.

13 Sec. 9112. (1) A person shall not maintain or undertake ~~a~~
14 ~~land use or~~ AN earth change governed by this part, ~~or~~ the
15 rules ~~or governed by~~ PROMULGATED UNDER THIS PART, OR an appli-
16 cable local ordinance, except in accordance with this part and
17 the rules PROMULGATED UNDER THIS PART or with the applicable
18 local ordinance, and pursuant to a permit approved by the appro-
19 priate county ENFORCING AGENCY or ~~local~~ MUNICIPAL enforcing
20 agency. ~~A person who violates this subsection is guilty of a~~
21 ~~misdemeanor.~~

22 (2) If in the opinion of the department a person, ~~or a~~
23 ~~state, local, county, or public agency~~ INCLUDING AN AUTHORIZED
24 PUBLIC AGENCY, violates this part, the rules PROMULGATED UNDER
25 THIS PART, or an applicable local ordinance, or ~~an appropriate~~
26 ~~local~~ A COUNTY ENFORCING AGENCY OR MUNICIPAL ENFORCING agency
27 fails to enforce this part, the rules PROMULGATED UNDER THIS

1 PART, or an applicable local ordinance, the department may notify
2 the alleged offender IN WRITING of its determination. IF THE
3 DEPARTMENT PLACES A COUNTY ON PROBATION UNDER SECTION 9105, A
4 MUNICIPALITY IS NOT APPROVED UNDER SECTION 9106, OR A STATE
5 AGENCY OR AGENCY OF A LOCAL UNIT OF GOVERNMENT IS NOT APPROVED
6 UNDER SECTION 9110, OR IF THE DEPARTMENT DETERMINES THAT A MUNIC-
7 IPAL ENFORCING AGENCY OR AUTHORIZED PUBLIC AGENCY IS NOT SATIS-
8 FACTORILY ADMINISTERING AND ENFORCING THIS PART AND RULES PROMUL-
9 GATED UNDER THIS PART, THE DEPARTMENT SHALL NOTIFY THE COUNTY,
10 MUNICIPALITY, STATE AGENCY, OR AGENCY OF A LOCAL UNIT OF GOVERN-
11 MENT IN WRITING OF ITS DETERMINATION OR ACTION. The notice shall
12 contain, in addition to a statement of the specific violation OR
13 FAILURE that the department believes to exist, a proposed ~~form~~
14 ~~of~~ order, stipulation for agreement, or other action that the
15 department considers appropriate to assure timely correction of
16 the violation ~~, and the~~ OR FAILURE. THE notice shall set a
17 date for a hearing not less than 4 nor more than 8 weeks from the
18 date of the notice of determination. Extensions of the date of
19 the hearing may be granted by the department or on request. At
20 the hearing, any interested party may appear, present witnesses,
21 and submit evidence. A person ~~or a state, local, county, or~~
22 ~~public agency that~~ WHO has been served with a notice of determi-
23 nation may file a written answer to the notice of determination
24 before the date set for hearing or at the hearing may appear and
25 present oral or written testimony and evidence on the charges and
26 proposed requirements of the department to assure correction of
27 the violation OR FAILURE. If a person ~~or a state, local,~~

1 ~~county, or public agency~~ served with the notice of determination
 2 agrees with the proposed requirements of the department and noti-
 3 fies the department of that agreement before the date set for the
 4 hearing, disposition of the case may be made with the approval of
 5 the department by stipulation or consent ~~order~~ AGREEMENT with-
 6 out further hearing. The final order of determination following
 7 the hearing, or the stipulation or consent order as authorized by
 8 this section and approved by the department, is conclusive unless
 9 reviewed in accordance with the administrative procedures act of
 10 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
 11 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
 12 306, MCL 24.201 TO 24.328, in the circuit court of Ingham county,
 13 or of the county in which the violation occurred, upon petition
 14 filed within 15 days after the service upon the person ~~or the~~
 15 ~~state, local, county, or public agency~~ of the final order of
 16 determination.

17 Sec. 9113. (1) Notwithstanding the existence or pursuit of
 18 any other remedy, ~~except as provided in section 9109,~~ the
 19 department or ~~any local or~~ A county ENFORCING AGENCY OR
 20 MUNICIPAL enforcing agency may maintain an action in its own name
 21 in a court of competent jurisdiction for an injunction or other
 22 process against ~~any~~ A person to restrain or prevent violations
 23 of this part. ~~, the rules, or an applicable local ordinance.~~

24 (2) ~~The department or any~~ AN agent ~~duly~~ appointed by ~~it~~
 25 ~~or any county or local enforcement~~ THE DEPARTMENT, A COUNTY
 26 ENFORCING AGENCY, OR A MUNICIPAL ENFORCING agency may enter at
 27 all reasonable times in or upon any private or public property

1 for the purpose of inspecting and investigating conditions or
2 practices that may be in violation of this part. ~~, the rules, or~~
3 ~~an applicable local ordinance.~~

4 Sec. 9115. ~~This part does not apply to land on which a~~
5 ~~person is engaged in the industry generally referred to as log-~~
6 ~~ging, the industry generally referred to as mining, or the plow-~~
7 ~~ing or tilling of land for the purpose of crop production or the~~
8 ~~harvesting of crops.~~

9 (1) SUBJECT TO SUBSECTION (2), A PERSON ENGAGED IN THE LOGGING
10 INDUSTRY, THE MINING
11 INDUSTRY, OR THE PLOWING OR TILLING OF LAND FOR THE PURPOSE OF
12 CROP PRODUCTION OR THE HARVESTING OF CROPS IS NOT REQUIRED TO
13 OBTAIN A PERMIT UNDER THIS PART. HOWEVER, ALL EARTH CHANGES
14 ASSOCIATED WITH THE ACTIVITIES LISTED IN THIS SECTION SHALL CON-
15 FORM TO THE SAME STANDARDS AS IF THEY REQUIRED A PERMIT UNDER
16 THIS PART. THE EXEMPTION FROM OBTAINING A PERMIT UNDER THIS SUB-

17 (A) ACCESS ROADS TO AND FROM THE SITE WHERE ACTIVE MINING OR
18 LOGGING IS TAKING PLACE.

19 (B) ANCILLARY ACTIVITIES ASSOCIATED WITH LOGGING AND
20 MINING.

21 (2) THIS PART DOES NOT APPLY TO A METALLIC MINERAL MINING
ACTIVITY THAT IS REGULATED UNDER A MINING AND RECLAMATION PLAN THAT
CONTAINS SOIL EROSION AND SEDIMENTATION CONTROL PROVISIONS AND THAT
IS APPROVED BY THE DEPARTMENT UNDER PART 631.

22 (3) AS USED IN THIS SECTION, "MINING" DOES NOT INCLUDE THE
23 REMOVAL OF CLAY, GRAVEL, SAND, PEAT, OR TOPSOIL.

24 Sec. 9117. If the county ENFORCING AGENCY or ~~local~~
25 MUNICIPAL enforcing agency that is responsible for enforcing this
26 part AND THE RULES PROMULGATED UNDER THIS PART determines that
27 soil erosion ~~and~~ OR sedimentation of ADJACENT PROPERTIES OR the
waters of ~~this~~ THE state has or will reasonably occur from ~~a~~

1 ~~parcel of~~ land in violation of this part ~~, it~~ OR THE RULES
2 PROMULGATED UNDER THIS PART OR AN APPLICABLE LOCAL ORDINANCE, THE
3 COUNTY ENFORCING AGENCY OR MUNICIPAL ENFORCING AGENCY may seek to
4 enforce A VIOLATION OF this part by notifying the person who owns
5 the land, by mail, with return receipt requested, of its
6 determination. The notice shall contain a description of
7 ~~specific soil and sedimentation control measures that, if imple-~~
8 ~~mented by the landowner, would bring the landowner into~~
9 ~~compliance~~ THE VIOLATION AND WHAT MUST BE DONE TO REMEDY THE
10 VIOLATION AND SHALL SPECIFY A TIME TO COMPLY with this part and
11 ~~would prevent soil erosion and sedimentation of the waters of~~
12 ~~this state~~ THE RULES PROMULGATED UNDER THIS PART OR AN APPLICA-
13 BLE LOCAL ORDINANCE.

14 Sec. 9118. ~~A~~ WITHIN 5 DAYS AFTER A NOTICE OF VIOLATION
15 HAS BEEN ISSUED UNDER SECTION 9117, A person who owns land
16 subject to this part AND THE RULES PROMULGATED UNDER THIS PART
17 shall implement and maintain soil erosion and sedimentation con-
18 trol measures in conformance with this part, ~~within 10 days~~
19 ~~after the notice of violation of this part is given under section~~
20 ~~9117~~ THE RULES PROMULGATED UNDER THIS PART, OR AN APPLICABLE
21 LOCAL ORDINANCE.

22 Sec. 9119. Except as otherwise provided in this section,
23 ~~no~~ NOT sooner than ~~10~~ 5 days after notice of violation of
24 this part has been mailed under section 9117, if the condition of
25 the land, in the opinion of the county ENFORCING AGENCY or
26 ~~local~~ MUNICIPAL enforcing agency, may result in or contribute
27 to soil erosion ~~and~~ OR sedimentation of ADJACENT PROPERTIES OR

1 TO the waters of ~~this~~ THE state, and if soil erosion and
2 sedimentation control measures in conformance with this part AND
3 THE RULES PROMULGATED UNDER THIS PART OR AN APPLICABLE LOCAL
4 ORDINANCE are not in place, the county ENFORCING AGENCY or
5 ~~local~~ MUNICIPAL enforcing agency, or a designee of either of
6 these agencies, may enter upon the land and construct, implement,
7 and maintain soil erosion and sedimentation control measures in
8 conformance with this part AND THE RULES PROMULGATED UNDER THIS
9 PART OR AN APPLICABLE LOCAL ORDINANCE. However, the enforcing
10 agency shall not expend more than ~~\$500.00~~ \$10,000.00 for the
11 cost of the work, materials, ~~or~~ labor, AND ADMINISTRATION with-
12 out prior written notice in the notice provided in section 9117
13 for the person who owns the land that the expenditure of more
14 than ~~\$500.00~~ \$10,000.00 may be made. If more than ~~\$500.00~~
15 \$10,000.00 is to be expended under this section, then the work
16 shall not begin until at least ~~20~~ 10 days after the notice of
17 violation has been mailed.

18 Sec. 9120. (1) All expenses incurred by ~~the~~ A county
19 ENFORCING AGENCY or ~~local~~ A MUNICIPAL enforcing agency under
20 section 9119 to construct, implement, and maintain soil erosion
21 and sedimentation control measures to bring ~~the~~ land ~~in~~ INTO
22 conformance with this part AND THE RULES PROMULGATED UNDER THIS
23 PART OR AN APPLICABLE LOCAL ORDINANCE shall be reimbursed to the
24 county ENFORCING AGENCY or ~~local~~ MUNICIPAL enforcing agency by
25 the person who owns the land.

26 (2) The county ENFORCING AGENCY or ~~local~~ MUNICIPAL
27 enforcing agency shall have a lien for the expenses incurred

1 under section 9119 of bringing the land into conformance with
2 this part AND THE RULES PROMULGATED UNDER THIS PART OR AN APPLI-
3 CABLE LOCAL ORDINANCE. However, with respect to single-family or
4 ~~multi-family~~ MULTIFAMILY residential property, the lien for
5 such expenses shall have priority over all liens and encumbrances
6 filed or recorded after the date of such expenditure. With
7 respect to all other property, the lien for such expenses shall
8 be collected and treated in the same manner as provided for prop-
9 erty tax liens under the general property tax act, ~~Act No. 206~~
10 ~~of the Public Acts of 1893, being sections 211.1 to 211.157 of~~
11 ~~the Michigan Compiled Laws 1893 PA 206, MCL 211.1 TO 211.157.~~

12 Sec. 9121. ~~A person who owns land that is not in compli-~~
13 ~~ance with this part and who, after notice, refuses to implement~~
14 ~~and maintain soil erosion and sedimentation control measures in~~
15 ~~conformance with this part is responsible for a state civil~~
16 ~~infraction and may be ordered to pay a civil fine of not more~~
17 ~~than \$500.00.~~

18 (1) A PERSON WHO VIOLATES THIS PART IS RESPONSIBLE FOR
19 EITHER OF THE FOLLOWING:

20 (A) IF THE ACTION IS BROUGHT BY A COUNTY ENFORCING AGENCY OR
21 A MUNICIPAL ENFORCING AGENCY OF A LOCAL UNIT OF GOVERNMENT THAT
22 HAS ENACTED AN ORDINANCE UNDER THIS PART THAT PROVIDES A PENALTY
23 FOR VIOLATIONS, THE PERSON IS RESPONSIBLE FOR A MUNICIPAL CIVIL
24 INFRACTION OF NOT MORE THAN \$2,500.00.

25 (B) IF THE ACTION IS BROUGHT BY THE STATE OR A COUNTY
26 ENFORCING AGENCY OF A COUNTY THAT HAS NOT ENACTED AN ORDINANCE

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1 UNDER THIS PART, THE PERSON IS RESPONSIBLE FOR A STATE CIVIL
2 INFRACTION OF NOT MORE THAN \$2,500.00.

3 (2) A PERSON WHO KNOWINGLY VIOLATES THIS PART OR KNOWINGLY
4 MAKES A FALSE STATEMENT IN AN APPLICATION FOR A PERMIT OR IN A
5 SOIL EROSION AND SEDIMENTATION CONTROL PLAN IS RESPONSIBLE FOR
6 THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$10,000.00 FOR EACH
7 DAY OF VIOLATION.

8 (3) A PERSON WHO KNOWINGLY VIOLATES THIS PART AFTER RECEIV-
9 ING A NOTICE OF DETERMINATION UNDER SECTION 9112 OR 9117 IS
10 RESPONSIBLE FOR THE PAYMENT OF A CIVIL FINE OF NOT LESS THAN
11 \$2,500.00 OR MORE THAN \$25,000.00 FOR EACH DAY OF VIOLATION.

12 (4) CIVIL FINES COLLECTED UNDER SUBSECTIONS (2) AND (3)
13 SHALL BE DEPOSITED AS FOLLOWS:

14 (A) IF THE STATE FILED THE ACTION UNDER THIS SECTION, IN THE
15 GENERAL FUND OF THE STATE.

16 (B) IF A COUNTY ENFORCING AGENCY OR MUNICIPAL ENFORCING
17 AGENCY FILED THE ACTION UNDER THIS SECTION, WITH THE COUNTY OR
18 MUNICIPALITY THAT FILED THE ACTION TO BE USED TO ADMINISTER AND
19 ENFORCE THIS PART.

20 (C) IF AN ACTION WAS FILED JOINTLY BY THE STATE AND A COUNTY
21 ENFORCING AGENCY OR MUNICIPAL ENFORCING AGENCY, THE CIVIL FINES
22 COLLECTED UNDER THIS SUBSECTION SHALL BE DIVIDED IN PROPORTION TO
23 EACH AGENCY'S INVOLVEMENT AS MUTUALLY AGREED UPON BY THE
24 AGENCIES. ALL FINES GOING TO THE DEPARTMENT SHALL BE DEPOSITED
25 INTO THE GENERAL FUND OF THE STATE.

26 (5) A DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS
27 ORDERED UNDER THIS SECTION OR AN INSTALLMENT OF THE FINE OR COSTS

1 MAY BE REMEDIED BY ANY MEANS AUTHORIZED UNDER THE REVISED
2 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.101 TO 600.9948.

3 (6) IN ADDITION TO A FINE ASSESSED UNDER THIS SECTION, A
4 PERSON WHO VIOLATES THIS PART IS LIABLE TO THE STATE FOR DAMAGES
5 FOR INJURY TO, DESTRUCTION OF, OR LOSS OF NATURAL RESOURCES
6 RESULTING FROM THE VIOLATION. THE COURT MAY ORDER A PERSON WHO
7 VIOLATES THIS PART TO RESTORE THE AREA OR AREAS AFFECTED BY THE
8 VIOLATION TO THEIR CONDITION AS EXISTING IMMEDIATELY PRIOR TO THE
9 VIOLATION.

10 (7) THIS SECTION APPLIES TO AN AUTHORIZED PUBLIC AGENCY, IN
11 ADDITION TO OTHER PERSONS. THIS SECTION DOES NOT APPLY TO A
12 COUNTY ENFORCING AGENCY OR A MUNICIPAL ENFORCING AGENCY WITH
13 RESPECT TO ITS ADMINISTRATION AND ENFORCEMENT OF THIS PART AND
14 RULES PROMULGATED UNDER THIS PART.

15 Sec. 9123. (1) ~~Each~~ BEGINNING 3 YEARS AFTER THE EFFECTIVE
16 DATE OF THE 2000 AMENDMENTS TO THIS SECTION, EACH individual who
17 is responsible for administering ~~former Act No. 347 of the~~
18 ~~Public Acts of 1972 on June 15, 1988~~ THIS PART AND THE RULES
19 PROMULGATED UNDER THIS PART OR A LOCAL ORDINANCE AND WHO HAS
20 DECISION-MAKING AUTHORITY FOR SOIL EROSION AND SEDIMENTATION CON-
21 TROL PLAN DEVELOPMENT OR REVIEW, INSPECTIONS, PERMIT ISSUANCE, OR
22 ENFORCEMENT shall ~~complete the~~ BE TRAINED BY THE DEPARTMENT.
23 THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF TRAINING TO INDIVIDU-
24 ALS UNDER THIS SECTION IF THEY DO BOTH OF THE FOLLOWING:

25 (A) COMPLETE A soil erosion and sedimentation control train-
26 ing program sponsored by the department. ~~within 2 years, unless~~
27 ~~the individual has completed the training program prior to~~

~~1 June 15, 1988. Individuals who undertake responsibilities for
2 administering this part or former Act No. 347 of the Public Acts
3 of 1972 after June 15, 1988 shall complete this training program
4 within 2 years after the date on which they begin administering
5 this part or former Act No. 347 of the Public Acts of 1972.~~

6 (B) PASS AN EXAMINATION ON THE SUBJECT MATTER COVERED IN THE
7 TRAINING PROGRAM UNDER SUBDIVISION (A).

8 (2) A CERTIFICATE OF TRAINING UNDER SUBSECTION (1) IS VALID
9 FOR 5 YEARS. FOR RECERTIFICATIONS, THE DEPARTMENT MAY OFFER A
10 REFRESHER COURSE OR OTHER UPDATE IN LIEU OF THE REQUIREMENTS OF
11 SUBSECTION (1)(A) AND (B).

12 (3) THE DEPARTMENT MAY CHARGE FEES FOR ADMINISTERING THE
13 TRAINING PROGRAM AND THE EXAMINATION UNDER THIS SECTION THAT ARE
14 NOT GREATER THAN THE DEPARTMENT'S COST OF ADMINISTERING THE
15 TRAINING PROGRAM AND THE EXAMINATION. ALL FEES COLLECTED UNDER
16 THIS SECTION SHALL BE DEPOSITED INTO THE SOIL EROSION AND SEDI-
17 MENTATION CONTROL TRAINING FUND CREATED IN SECTION 9123A.

18 SEC. 9123A. (1) THE SOIL EROSION AND SEDIMENTATION CONTROL
19 TRAINING FUND IS CREATED WITHIN THE STATE TREASURY.

20 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
21 FROM ANY SOURCE FOR DEPOSIT INTO THE SOIL EROSION AND SEDIMENTA-
22 TION CONTROL TRAINING FUND. THE STATE TREASURER SHALL DIRECT THE
23 INVESTMENT OF THE SOIL EROSION AND SEDIMENTATION CONTROL TRAINING
24 FUND. THE STATE TREASURER SHALL CREDIT TO THE SOIL EROSION AND
25 SEDIMENTATION CONTROL TRAINING FUND INTEREST AND EARNINGS FROM
26 FUND INVESTMENTS.

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1 (3) MONEY IN THE SOIL EROSION AND SEDIMENTATION CONTROL
2 TRAINING FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE
3 FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

4 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
5 APPROPRIATION, ONLY TO ADMINISTER THE SOIL EROSION AND SEDIMENTA-
6 TION CONTROL TRAINING PROGRAM AND EXAMINATION UNDER SECTION 9123.

7 Enacting section 1. Sections 9102, 9103, and 9111 of the
8 natural resources and environmental protection act, 1994 PA 451,
9 MCL 324.9102, 324.9103, and 324.9111, are repealed.