

SENATE BILL No. 854

November 1, 2005, Introduced by Senators BASHAM, BRATER, CLARKE, EMERSON, SCHAUER, SWITALSKI, JACOBS, OLSHOVE, THOMAS, CHERRY, SCOTT, PRUSI, BERNERO, LELAND and CLARK-COLEMAN and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 30101, 30102, 30301, and 30304 (MCL 324.30101, 324.30102, 324.30301, and 324.30304), section 30101 as amended by 1999 PA 106, section 30102 as added by 1995 PA 59, section 30301 as amended by 2003 PA 14, and section 30304 as amended by 2004 PA 325, and by adding sections 30102a, 30104a, 30104b, 30304a, and 30304b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30101. As used in this part:

2 (a) "Bottomland" means the land area of an inland lake or
3 stream that lies below the ordinary high-water mark and that may or
4 may not be covered by water.

1 (b) "Bulkhead line" means a line that is established pursuant
2 to this part beyond which dredging, filling, or construction of any
3 kind is not allowed without a permit.

4 (c) "Department" means the department of environmental
5 quality.

6 (D) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
7 ENVIRONMENTAL QUALITY.

8 (E) ~~—(d)—~~ "Fund" means the land and water management permit
9 fee fund created in section 30113.

10 (F) ~~—(e)—~~ "Impoundment" means water held back by a dam, dike,
11 floodgate, or other barrier.

12 (G) ~~—(f)—~~ "Inland lake or stream" means a natural or
13 artificial lake, pond, or impoundment; a river, stream, or creek
14 which may or may not be serving as a drain as defined by the drain
15 code of 1956, 1956 PA 40, MCL 280.1 to 280.630; or any other body
16 of water that has definite banks, a bed, and visible evidence of a
17 continued flow or continued occurrence of water, including the St.
18 Marys, St. Clair, and Detroit rivers. Inland lake or stream does
19 not include the Great Lakes, Lake St. Clair, or a lake or pond that
20 has a surface area of less than 5 acres.

21 (H) ~~—(g)—~~ "Marina" means a facility that is owned or operated
22 by a person, extends into or over an inland lake or stream, and
23 offers service to the public or members of the marina for docking,
24 loading, or other servicing of recreational watercraft.

25 (I) ~~—(h)—~~ "Minor offense" means either of the following
26 violations of this part if the project involved in the offense is a
27 minor project as listed in R 281.816 of the Michigan administrative

1 code or the department determines that restoration of the affected
2 property is not required:

3 (i) The failure to obtain a permit under this part.

4 (ii) A violation of a permit issued under this part.

5 (J) ~~—(i)—~~ "Ordinary high-water mark" means the line between
6 upland and bottomland that persists through successive changes in
7 water levels, below which the presence and action of the water is
8 so common or recurrent that the character of the land is marked
9 distinctly from the upland and is apparent in the soil itself, the
10 configuration of the surface of the soil, and the vegetation. On an
11 inland lake that has a level established by law, it means the high
12 established level. Where water returns to its natural level as the
13 result of the permanent removal or abandonment of a dam, it means
14 the natural ordinary high-water mark.

15 (K) ~~—(j)—~~ "Project" means an activity that requires a permit
16 pursuant to section 30102.

17 (L) ~~—(k)—~~ "Property owners' association" means any group of
18 organized property owners publishing a directory of their
19 membership, the majority of which are riparian owners and are
20 located on the inland lake or stream that is affected by the
21 proposed project.

22 (M) ~~—(l)—~~ "Riparian owner" means a person who has riparian
23 rights.

24 (N) ~~—(m)—~~ "Riparian rights" means those rights which are
25 associated with the ownership of the bank or shore of an inland
26 lake or stream.

27 (O) ~~—(n)—~~ "Seasonal structure" includes any type of dock, boat

1 hoist, ramp, raft, or other recreational structure that is placed
2 into an inland lake or stream and removed at the end of the boating
3 season.

4 (P) "SPRING WATER" MEANS THAT TERM AS IT IS DESCRIBED IN 21
5 CFR 165.110.

6 (Q) ~~-(e)-~~ "Structure" includes a marina, wharf, dock, pier,
7 dam, weir, stream deflector, breakwater, groin, jetty, sewer,
8 pipeline, cable, ~~and~~ OR bridge.

9 (R) "SURFACE WATER AUGMENTATION FACILITY" MEANS A WATER WELL
10 OR OTHER REMOVAL METHOD USED TO WITHDRAW GROUNDWATER AND CONVEY OR
11 TRANSPORT IT TO A LAKE, AN IMPOUNDMENT, OR ANOTHER SURFACE WATER
12 BODY FOR THE PURPOSE OF MAINTAINING OR RAISING THE WATER LEVEL OF
13 THE SURFACE WATER BODY.

14 (S) ~~-(p)-~~ "Upland" means the land area that lies above the
15 ordinary high-water mark.

16 (T) "WITHDRAW" OR "WITHDRAWAL" MEANS THE REMOVAL OF WATER FROM
17 ITS SOURCE FOR ANY PURPOSE.

18 Sec. 30102. (1) Except as provided in this part, a person
19 without a permit from the department shall not do any of the
20 following:

21 (a) Dredge or fill bottomland.

22 (b) Construct, enlarge, extend, remove, or place a structure
23 on bottomland.

24 (c) Erect, maintain, or operate a marina.

25 (d) Create, enlarge, or diminish an inland lake or stream.

26 (e) Structurally interfere with the natural flow of an inland
27 lake or stream.

1 (f) Construct, dredge, commence, extend, or enlarge an
2 artificial canal, channel, ditch, lagoon, pond, lake, or similar
3 waterway ~~where~~ **IF** the purpose is ultimate connection with an
4 existing inland lake or stream, or ~~where~~ **IF** any part of the
5 artificial waterway is located within 500 feet of the ordinary
6 high-water mark of an existing inland lake or stream.

7 (g) Connect any natural or artificially constructed waterway,
8 canal, channel, ditch, lagoon, pond, lake, or similar water with an
9 existing inland lake or stream for navigation or any other purpose.

10 **(H) OPERATE A SURFACE WATER AUGMENTATION FACILITY THAT AFFECTS**
11 **AN INLAND LAKE OR STREAM.**

12 **(I) WITHDRAW TRIBUTARY SURFACE WATER, SPRING WATER, OR**
13 **GROUNDWATER IF THE WITHDRAWAL AFFECTS THE NATURAL FLOW OF WATER**
14 **INTO AN INLAND LAKE OR STREAM.**

15 **(2) A PERMIT IS NOT REQUIRED UNDER THIS PART FOR ACTIVITIES**
16 **DESCRIBED IN SUBSECTION (1) (H) OR (I) IF A PERMIT FOR THOSE**
17 **ACTIVITIES IS REQUIRED UNDER PART 327 OR PART 303.**

18 **SEC. 30102A. (1) SUBJECT TO SUBSECTION (2), AN INDIVIDUAL**
19 **PERMIT UNDER SECTION 30102(1) (I) IS REQUIRED FOR A NEW OR INCREASED**
20 **WITHDRAWAL THAT HAS THE POTENTIAL TO CAUSE ADVERSE ENVIRONMENTAL**
21 **IMPACTS ON WATER OR WATER-DEPENDENT NATURAL RESOURCES. IN**
22 **DETERMINING WHETHER A WITHDRAWAL HAS THE POTENTIAL TO CAUSE ADVERSE**
23 **ENVIRONMENTAL IMPACTS, THE DEPARTMENT SHALL CONSIDER ALL OF THE**
24 **FOLLOWING:**

25 **(A) THE SIZE OF THE WITHDRAWAL.**

26 **(B) THE TIMING OF THE WITHDRAWAL.**

27 **(C) THE LOCATION OF THE WITHDRAWAL IN RELATIONSHIP TO SURFACE**

1 WATER DRAINAGE AND GROUNDWATER FLOW.

2 (D) THE SENSITIVITY OF POTENTIALLY IMPACTED AREAS TO CHANGES
3 IN WATER FLOW OR LEVEL, INCLUDING BASE SUMMER FLOW, AND FLOW FROM
4 GROUNDWATER.

5 (E) THE POTENTIAL IMPACT ON WATER OR WATER-DEPENDENT NATURAL
6 RESOURCES AND RECREATIONAL USES.

7 (F) THE POTENTIAL DIMINISHMENT IN STREAM FLOW.

8 (2) THE DEPARTMENT SHALL CREATE AN ASSESSMENT TOOL THAT
9 MEMBERS OF THE PUBLIC MAY USE TO DETERMINE IF THEY WOULD BE
10 REQUIRED TO SUBMIT AN APPLICATION FOR AN INDIVIDUAL PERMIT FOR A
11 WATER WITHDRAWAL OR WOULD BE COVERED BY A PERMIT UNDER SECTION
12 30104A.

13 SEC. 30104A. (1) THE DEPARTMENT, AFTER NOTICE AND OPPORTUNITY
14 FOR A PUBLIC HEARING, MAY ISSUE GENERAL PERMITS ON A STATEWIDE
15 BASIS OR WITHIN A LOCAL UNIT OF GOVERNMENT FOR A CATEGORY OF
16 ACTIVITIES IF THE DEPARTMENT DETERMINES THAT THE ACTIVITIES ARE
17 SIMILAR IN NATURE, WILL CAUSE ONLY MINIMAL ENVIRONMENTAL EFFECTS
18 WHEN PERFORMED SEPARATELY, AND WILL HAVE ONLY MINIMAL CUMULATIVE
19 EFFECT ON THE ENVIRONMENT. A GENERAL PERMIT ISSUED UNDER THIS
20 SUBSECTION SHALL BE BASED ON THE REQUIREMENTS OF THIS PART AND THE
21 RULES PROMULGATED UNDER THIS PART, AND SHALL SET FORTH THE
22 REQUIREMENTS AND STANDARDS THAT APPLY TO AN ACTIVITY AUTHORIZED BY
23 THE GENERAL PERMIT.

24 (2) THE DEPARTMENT MAY IMPOSE CONDITIONS ON A PERMIT IF
25 NECESSARY TO PROTECT THE WATERS OR WATER-DEPENDENT NATURAL
26 RESOURCES OF THE STATE.

27 (3) THE DEPARTMENT MAY ESTABLISH A REASONABLE TERM FOR A

1 GENERAL PERMIT. HOWEVER, A GENERAL PERMIT SHALL NOT BE VALID FOR
2 MORE THAN 5 YEARS.

3 SEC. 30104B. (1) THE DEPARTMENT MAY CONDUCT AN INVESTIGATION,
4 BASED ON PRECIPITATION, WATER USE, AND HYDROLOGIC INFORMATION, OF
5 POTENTIAL ADVERSE IMPACTS ON WATER OR WATER-DEPENDENT NATURAL
6 RESOURCES OF THE STATE RESULTING FROM 1 OR MORE WATER WITHDRAWALS.

7 (2) ANY PERSON MAY SUBMIT A PETITION TO THE DIRECTOR ALLEGING
8 THAT 1 OR MORE WATER WITHDRAWALS ARE ADVERSELY IMPACTING, OR HAVE
9 THE POTENTIAL TO ADVERSELY IMPACT, WATER OR WATER-DEPENDENT NATURAL
10 RESOURCES OF THE STATE. THE DIRECTOR SHALL FORWARD THE PETITION TO
11 THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE IF THE WATER
12 WITHDRAWALS ARE FROM AN AGRICULTURAL WELL. THE PETITION SHALL BE IN
13 WRITING AND SHALL BE SUBMITTED IN PERSON, VIA CERTIFIED MAIL, VIA
14 THE TOLL-FREE FACSIMILE TELEPHONE NUMBER PROVIDED IN SUBSECTION
15 (7), OR VIA OTHER MEANS OF ELECTRONIC SUBMITTAL AS DEVELOPED BY THE
16 DEPARTMENT. HOWEVER, THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT
17 OF AGRICULTURE MAY REFUSE TO ACCEPT AN UNREASONABLE PETITION. THE
18 PETITION SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

19 (A) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON.

20 (B) THE LOCATION OF THE POTENTIAL IMPACT, INCLUDING THE
21 COUNTY, TOWNSHIP, TOWNSHIP SECTION, AND ADDRESS OF THE PROPERTY ON
22 WHICH THE WATER BODY IS SITUATED, AND ALL OTHER AVAILABLE
23 INFORMATION THAT DEFINES THE LOCATION OF THAT WELL.

24 (C) AN EXPLANATION OF WHY THE PERSON BELIEVES THAT NATURAL
25 RESOURCES ARE BEING OR HAVE THE POTENTIAL TO BE ADVERSELY IMPACTED.

26 (D) THE DATE OR DATES THAT THE PERSON OBSERVED ANY IMPACTS.

27 (E) SUFFICIENT EVIDENCE TO ESTABLISH A REASONABLE BELIEF THAT

1 THE IMPACTS ARE OCCURRING OR WILL OCCUR IF CURRENT PRACTICES OF
2 WATER USERS IN THE AREA CONTINUE IN THE SAME MANNER AS THEY HAVE TO
3 THAT POINT.

4 (3) THE PERSON MAY CALL THE TOLL-FREE TELEPHONE LINE PROVIDED
5 FOR IN SUBSECTION (7) TO REQUEST A PETITION FORM OR OTHER
6 INFORMATION REGARDING THE DISPUTE RESOLUTION PROCESS PROVIDED IN
7 THIS SECTION.

8 (4) WITHIN 7 WORKING DAYS AFTER RECEIPT OF A PETITION UNDER
9 SUBSECTION (2), THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF
10 AGRICULTURE, AS APPROPRIATE, SHALL CONTACT THE PERSON SUBMITTING
11 THE PETITION AND BEGIN AN INVESTIGATION. WITHIN 10 WORKING DAYS
12 AFTER RECEIPT OF A PETITION UNDER SUBSECTION (2), THE DIRECTOR OR
13 THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS APPROPRIATE,
14 SHALL CONDUCT AN ON-SITE EVALUATION. HOWEVER, IF THE DEPARTMENT OR
15 DEPARTMENT OF AGRICULTURE HAS ALREADY CONDUCTED AN INVESTIGATION OF
16 CIRCUMSTANCES IN CLOSE PROXIMITY TO THE ALLEGATIONS IN THE PETITION
17 DURING THE PREVIOUS 60 DAYS, AN ON-SITE INVESTIGATION IS NOT
18 REQUIRED. THE DIRECTOR OR THE DIRECTOR OF THE DEPARTMENT OF
19 AGRICULTURE, AS APPROPRIATE, SHALL GIVE AFFECTED PERSONS AN
20 OPPORTUNITY TO CONTRIBUTE TO THE INVESTIGATION OF A PETITION.

21 (5) AFTER CONDUCTING AN INVESTIGATION INITIATED BY THE
22 DEPARTMENT OR IN RESPONSE TO A PETITION, THE DIRECTOR OR THE
23 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS APPROPRIATE, SHALL
24 MAKE A DILIGENT EFFORT TO RESOLVE THE ISSUES RAISED BY THE
25 INVESTIGATION OR IN THE PETITION. EXCEPT AS PROVIDED IN SECTION
26 32712E, BEFORE TAKING ACTION UNDER SUBSECTION (6), THE DEPARTMENT
27 IN AN EFFORT TO PREVENT POTENTIAL ADVERSE IMPACTS SHALL CALL A

1 MEETING OF ALL DOCUMENTED WATER USERS IN THE AREA IN AN ATTEMPT TO
2 COME TO A VOLUNTARY RESOLUTION OF ANY POTENTIAL PROBLEM. IN
3 ATTEMPTING TO RESOLVE THE ISSUES RAISED IN A PETITION, THE DIRECTOR
4 OR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, AS APPROPRIATE,
5 MAY PROPOSE A REMEDY THAT HE OR SHE BELIEVES WOULD EQUITABLY
6 RESOLVE THE ISSUES. IF, WITHIN 30 DAYS FOLLOWING THE SUBMITTAL OF A
7 PETITION, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE IS UNABLE
8 TO RESOLVE THE ISSUES, THE DIRECTOR OF THE DEPARTMENT OF
9 AGRICULTURE SHALL REFER THE PETITION, AND PROVIDE ALL RELEVANT
10 INFORMATION, TO THE DIRECTOR.

11 (6) IF WITHIN 30 DAYS AFTER THE DATE OF THE MEETING OF ALL
12 DOCUMENTED WATER USERS UNDER SUBSECTION (5) THE VOLUNTARY DISPUTES
13 RESOLUTION PROCESS UNDER THIS SECTION FAILS TO RESULT IN CHANGES
14 THAT ARE EXPECTED TO AVERT POTENTIAL ADVERSE IMPACTS ON WATER OR
15 WATER-DEPENDENT NATURAL RESOURCES, THE DIRECTOR MAY ISSUE AN ORDER
16 TO REQUIRE THE OWNER OR OPERATOR OF A WATER WITHDRAWAL FACILITY TO
17 TAKE ANY OF THE FOLLOWING ACTIONS:

18 (A) REDUCE PUMPING RATES OF A WATER WITHDRAWAL, OR ALTER THE
19 TIMING OF SUCH WITHDRAWALS.

20 (B) IMPLEMENT WATER CONSERVATION PRACTICES.

21 (C) OTHER ACTION NECESSARY TO AVOID POTENTIAL ENVIRONMENTAL
22 IMPACTS.

23 (7) THE DIRECTOR SHALL PROVIDE FOR THE USE OF A TOLL-FREE
24 FACSIMILE TELEPHONE LINE TO RECEIVE PETITIONS AND A TOLL-FREE
25 TELEPHONE LINE FOR OWNERS OF SMALL QUANTITY WELLS TO REQUEST
26 PETITION FORMS AND TO OBTAIN OTHER INFORMATION REGARDING THE
27 DISPUTE RESOLUTION PROCESS PROVIDED IN THIS SECTION.

1 (8) THE DIRECTOR AND THE DIRECTOR OF THE DEPARTMENT OF
2 AGRICULTURE SHALL DO BOTH OF THE FOLLOWING:

3 (A) PUBLICIZE THE TOLL-FREE FACSIMILE LINE AND THE TOLL-FREE
4 TELEPHONE LINE PROVIDED FOR IN SUBSECTION (7).

5 (B) ENTER INTO A MEMORANDUM OF UNDERSTANDING THAT DESCRIBES
6 THE PROCESS THAT WILL BE FOLLOWED BY EACH DIRECTOR WHEN A PETITION
7 INVOLVES AN AGRICULTURAL WELL.

8 (9) A PERSON WHO SUBMITS MORE THAN 2 UNVERIFIED PETITIONS
9 UNDER THIS SECTION WITHIN 1 YEAR MAY BE ORDERED BY THE DIRECTOR TO
10 PAY FOR THE FULL COSTS OF INVESTIGATION OF ANY THIRD OR SUBSEQUENT
11 UNVERIFIED NOTICE. AS USED IN THIS SUBSECTION, "UNVERIFIED NOTICE"
12 MEANS A PETITION IN RESPONSE TO WHICH THE DIRECTOR DETERMINES THAT
13 THERE IS NOT REASONABLE EVIDENCE TO SUSPECT ADVERSE NATURAL
14 RESOURCE IMPACTS.

15 Sec. 30301. As used in this part:

16 (a) "Beach" means the area landward of the shoreline of the
17 Great Lakes as the term shoreline is defined in section 32301.

18 (b) "Beach maintenance activities" means any of the following
19 in the area of Great Lakes bottomlands lying below the ordinary
20 high-water mark and above the water's edge:

21 (i) Manual or mechanized leveling of sand.

22 (ii) Mowing of vegetation.

23 (iii) Manual de minimis removal of vegetation.

24 (iv) Grooming of soil.

25 (v) Construction and maintenance of a path.

26 (c) "Debris" means animal or fish carcasses, zebra mussel
27 shells, dead vegetation, trash, and discarded materials of human-

1 made origin.

2 (d) "Department" means the department of environmental
3 quality.

4 (e) "Director" means the director of the department.

5 (f) "Fill material" means soil, rocks, sand, waste of any
6 kind, or any other material that displaces soil or water or reduces
7 water retention potential.

8 (g) "Environmental area" means an environmental area as
9 defined in section 32301.

10 (h) "Grooming of soil" means raking or dragging, pushing, or
11 pulling metal teeth through the top 4 inches of soil without
12 disturbance of or destruction to plant roots, for the purpose of
13 removing debris.

14 (i) "Leveling of sand" means the relocation of sand within
15 areas being leveled that are predominantly free of vegetation,
16 including the redistribution, grading, and spreading of sand that
17 has been deposited through wind or wave action onto upland riparian
18 property.

19 (j) "Minor drainage" includes ditching and tiling for the
20 removal of excess soil moisture incidental to the planting,
21 cultivating, protecting, or harvesting of crops or improving the
22 productivity of land in established use for agriculture,
23 horticulture, silviculture, or lumbering.

24 (k) "Mowing of vegetation" means the cutting of vegetation to
25 a height of not less than 2 inches, without disturbance of soil or
26 plant roots.

27 (l) "Ordinary high-water mark" means that term as it is defined

1 in section 32502.

2 (m) "Path" means a temporary access walkway from the upland
3 riparian property directly to the shoreline across swales with
4 standing water, not exceeding 6 feet in bottom width and consisting
5 of sand and pebbles obtained from the exposed, nonvegetated
6 bottomlands or from the upland riparian property.

7 (n) "Person" means an individual, sole proprietorship,
8 partnership, corporation, association, municipality, this state, an
9 instrumentality or agency of this state, the federal government, an
10 instrumentality or agency of the federal government, or other legal
11 entity.

12 (o) "Removal of vegetation" means the manual or mechanized
13 removal of vegetation, other than the manual de minimis removal of
14 vegetation.

15 (P) "SPRING WATER" MEANS THAT TERM AS IT IS DEFINED IN 21 CFR
16 165.110.

17 (Q) "SURFACE WATER AUGMENTATION FACILITY" MEANS A WATER WELL
18 OR OTHER REMOVAL METHOD USED TO WITHDRAW GROUNDWATER AND CONVEY OR
19 TRANSPORT IT TO A LAKE, AN IMPOUNDMENT, OR ANOTHER SURFACE WATER
20 BODY FOR THE PURPOSE OF MAINTAINING OR RAISING THE WATER LEVEL OF
21 THE SURFACE WATER BODY.

22 (R) ~~—(p)—~~ "Wetland" means land characterized by the presence
23 of water at a frequency and duration sufficient to support, and
24 that under normal circumstances does support, wetland vegetation or
25 aquatic life, and is commonly referred to as a bog, swamp, or marsh
26 and which is any of the following:

27 (i) Contiguous to the Great Lakes or Lake St. Clair, an inland

1 lake or pond, or a river or stream.

2 (ii) Not contiguous to the Great Lakes, an inland lake or pond,
3 or a river or stream; and more than 5 acres in size; except this
4 subparagraph shall not be of effect, except for the purpose of
5 inventorying, in counties of less than 100,000 population until the
6 department certifies to the commission it has substantially
7 completed its inventory of wetlands in that county.

8 (iii) Not contiguous to the Great Lakes, an inland lake or pond,
9 or a river or stream; and 5 acres or less in size if the department
10 determines that protection of the area is essential to the
11 preservation of the natural resources of the state from pollution,
12 impairment, or destruction and the department has so notified the
13 owner; except this subparagraph may be utilized regardless of
14 wetland size in a county in which subparagraph (ii) is of no effect;
15 except for the purpose of inventorying, at the time.

16 (S) "WITHDRAW" OR "WITHDRAWAL" MEANS THE REMOVAL OF WATER FROM
17 ITS SOURCE FOR ANY PURPOSE.

18 Sec. 30304. (1) Except as otherwise provided in this part or
19 by a permit issued by the department under ~~sections 30306 to 30314~~
20 ~~and~~ **THIS PART** pursuant to part 13, a person shall not do any of
21 the following:

22 (a) Deposit or permit the placing of fill material in a
23 wetland.

24 (b) Dredge, remove, or permit the removal of soil or minerals
25 from a wetland.

26 (c) Construct, operate, or maintain any use or development in
27 a wetland.

(d) Drain surface water from a wetland.

(E) OPERATE A SURFACE WATER AUGMENTATION FACILITY THAT AFFECTS A WETLAND.

(F) WITHDRAW TRIBUTARY SURFACE WATER, SPRING WATER, OR GROUNDWATER IF THE WITHDRAWAL AFFECTS THE NATURAL FLOW OF WATER INTO A WETLAND.

(2) A PERMIT IS NOT REQUIRED UNDER THIS PART FOR ACTIVITIES DESCRIBED IN SUBSECTION (1) (E) OR (F) IF A PERMIT FOR THOSE ACTIVITIES IS REQUIRED UNDER PART 327 OR PART 301.

SEC. 30304A. (1) SUBJECT TO SUBSECTION (2), AN INDIVIDUAL PERMIT UNDER SECTION 30304(F) IS REQUIRED FOR A NEW OR INCREASED WITHDRAWAL THAT HAS THE POTENTIAL TO CAUSE ADVERSE ENVIRONMENTAL IMPACTS ON WATER OR WATER-DEPENDENT NATURAL RESOURCES. IN DETERMINING WHETHER A WITHDRAWAL HAS THE POTENTIAL TO CAUSE ADVERSE ENVIRONMENTAL IMPACTS, THE DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING:

(A) THE SIZE OF THE WITHDRAWAL.

(B) THE TIMING OF THE WITHDRAWAL.

(C) THE LOCATION OF THE WITHDRAWAL IN RELATIONSHIP TO SURFACE WATER DRAINAGE AND GROUNDWATER FLOW.

(D) THE SENSITIVITY OF POTENTIALLY IMPACTED AREAS TO CHANGES IN WATER FLOW OR LEVEL, INCLUDING BASE SUMMER FLOW, AND FLOW FROM GROUNDWATER.

(E) THE POTENTIAL IMPACT ON WATER OR WATER-DEPENDENT NATURAL RESOURCES AND RECREATIONAL USES.

(F) THE POTENTIAL DIMINISHMENT IN STREAM FLOW.

(2) THE DEPARTMENT SHALL CREATE A TOOL THAT MEMBERS OF THE

1 PUBLIC MAY USE TO DETERMINE IF THEY WOULD BE REQUIRED TO SUBMIT AN
2 APPLICATION FOR AN INDIVIDUAL PERMIT FOR A WATER WITHDRAWAL OR
3 WOULD BE COVERED BY A PERMIT UNDER SECTION 30312.

4 SEC. 30304B. THE DEPARTMENT MAY CONDUCT AN INVESTIGATION,
5 BASED UPON PRECIPITATION, WATER USE, AND HYDROLOGIC INFORMATION, OF
6 POTENTIAL ADVERSE IMPACTS ON WATER OR WATER-DEPENDENT NATURAL
7 RESOURCES OF THE STATE RESULTING FROM 1 OR MORE WATER WITHDRAWALS.
8 ANY PERSON MAY SUBMIT A PETITION UNDER SECTION 30104B, ALLEGING
9 THAT 1 OR MORE WATER WITHDRAWALS ARE ADVERSELY IMPACTING, OR HAVE
10 THE POTENTIAL TO ADVERSELY IMPACT, THE WATER OR WATER-DEPENDENT
11 NATURAL RESOURCES OF A WETLAND.