

**SUBSTITUTE FOR  
SENATE BILL NO. 860**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 32701, 32702, 32703, 32705, 32706, 32707,  
32708, 32708a, 32709, 32710, 32721, 32722, 32723, 32725, 32727, and  
32728 (MCL 324.32701, 324.32702, 324.32703, 324.32705, 324.32706,  
324.32707, 324.32708, 324.32708a, 324.32709, 324.32710, 324.32721,  
324.32722, 324.32723, 324.32725, 324.32727, and 324.32728),  
sections 32701, 32702, 32703, and 32707 as amended and sections  
32721, 32722, 32723, 32727, and 32728 as added by 2006 PA 33,  
sections 32705 and 32708 as amended and section 32708a as added by  
2006 PA 35, section 32706 as amended by 1996 PA 434, sections 32709  
and 32710 as added by 1995 PA 59, and section 32725 as added by  
2006 PA 36, and by adding sections 32706a, 32706b, 32706c, 32706d,

and 32729; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

Sec. 32701. (1) As used in this part:

(a) "Adverse resource impact" means ~~either~~ **ANY** of the following:

(i) ~~Decreasing~~ **UNTIL THE EFFECTIVE DATE OF THE IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, DECREASING** the flow of a RIVER OR stream by part of the index flow such that the RIVER'S OR stream's ability to support characteristic fish populations is functionally impaired.

(ii) **BEGINNING ON THE EFFECTIVE DATE OF THE IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, SUBJECT TO SUBPARAGRAPH (vi), DECREASING THE FLOW OF A COLD RIVER SYSTEM BY PART OF THE INDEX FLOW AS FOLLOWS:**

(A) **FOR A COLD STREAM, THE WITHDRAWAL WILL RESULT IN A 3% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH CURVE.**

(B) **FOR A COLD SMALL RIVER, THE WITHDRAWAL WILL RESULT IN A 1% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH CURVE.**

(iii) **BEGINNING ON THE EFFECTIVE DATE OF THE IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, SUBJECT TO SUBPARAGRAPH (vi), DECREASING THE FLOW OF A COLD-TRANSITIONAL RIVER SYSTEM BY PART OF THE INDEX FLOW SUCH THAT THE WITHDRAWAL WILL RESULT IN A 5% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH CURVE.**

(iv) **BEGINNING ON THE EFFECTIVE DATE OF THE IMPLEMENTATION OF**

1 THE ASSESSMENT TOOL UNDER SECTION 32706A, SUBJECT TO SUBPARAGRAPH  
2 (vi), DECREASING THE FLOW OF A COOL RIVER SYSTEM BY PART OF THE  
3 INDEX FLOW AS FOLLOWS:

4 (A) FOR A COOL STREAM, THE WITHDRAWAL WILL RESULT IN A 10% OR  
5 MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH POPULATIONS  
6 AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

7 (B) FOR A COOL SMALL RIVER, THE WITHDRAWAL WILL RESULT IN A  
8 15% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS  
9 AS DETERMINED BY THE THRIVING FISH CURVE.

10 (C) FOR A COOL LARGE RIVER, THE WITHDRAWAL WILL RESULT IN A  
11 12% OR MORE REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS  
12 AS DETERMINED BY THE THRIVING FISH CURVE.

13 (v) BEGINNING ON THE EFFECTIVE DATE OF THE IMPLEMENTATION OF  
14 THE ASSESSMENT TOOL UNDER SECTION 32706A, SUBJECT TO SUBPARAGRAPH  
15 (vi), DECREASING THE FLOW OF A WARM RIVER SYSTEM BY PART OF THE  
16 INDEX FLOW AS FOLLOWS:

17 (A) FOR A WARM STREAM, THE WITHDRAWAL WILL RESULT IN A 5% OR  
18 MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH POPULATIONS  
19 AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

20 (B) FOR A WARM SMALL RIVER, THE WITHDRAWAL WILL RESULT IN A  
21 10% OR MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH  
22 POPULATIONS AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

23 (C) FOR A WARM LARGE RIVER, THE WITHDRAWAL WILL RESULT IN A  
24 10% OR MORE REDUCTION IN THE ABUNDANCE OF CHARACTERISTIC FISH  
25 POPULATIONS AS DETERMINED BY THE CHARACTERISTIC FISH CURVE.

26 (vi) BEGINNING ON THE EFFECTIVE DATE OF THE IMPLEMENTATION OF  
27 THE ASSESSMENT TOOL UNDER SECTION 32706A, DECREASING THE FLOW OF A

1 STREAM OR RIVER BY MORE THAN 25% OF ITS INDEX FLOW.

2 (vii) ~~(ii)~~ Decreasing the level of a ~~body of surface water~~ LAKE  
 3 OR POND WITH A SURFACE AREA OF 5 ACRES OR MORE THROUGH A DIRECT  
 4 WITHDRAWAL FROM THE LAKE OR POND IN A MANNER THAT WOULD IMPAIR OR  
 5 DESTROY THE LAKE OR POND OR THE USES MADE OF THE LAKE OR POND,  
 6 INCLUDING THE ABILITY OF THE LAKE OR POND TO SUPPORT CHARACTERISTIC  
 7 FISH POPULATIONS, OR such that the ~~body of surface water's~~ ability  
 8 OF THE LAKE OR POND to support characteristic fish populations is  
 9 functionally impaired. AS USED IN THIS SUBPARAGRAPH, LAKE OR POND  
 10 DOES NOT INCLUDE A RETENTION POND OR OTHER ARTIFICIALLY CREATED  
 11 SURFACE WATER BODY.

12 (b) "Agricultural purpose" means the agricultural production  
 13 of plants and animals useful to human beings and includes, but is  
 14 not limited to, forages and sod crops, grains and feed crops, field  
 15 crops, dairy animals and dairy products, poultry and poultry  
 16 products, cervidae, livestock, including breeding and grazing,  
 17 equine, fish and other aquacultural products, bees and bee  
 18 products, berries, herbs, fruits, vegetables, flowers, seeds,  
 19 grasses, nursery stock, trees and tree products, mushrooms, and  
 20 other similar products, or any other product, as determined by the  
 21 commission of agriculture, that incorporates the use of food, feed,  
 22 fiber, or fur.

23 (C) "ASSESSMENT TOOL" MEANS THE WATER WITHDRAWAL ASSESSMENT  
 24 TOOL PROVIDED FOR IN SECTION 32706A.

25 (D) ~~(e)~~ "Baseline capacity", SUBJECT TO SUBSECTION (2), means  
 26 ~~either~~ ANY of the following, WHICH SHALL BE CONSIDERED THE EXISTING  
 27 WITHDRAWAL APPROVAL AMOUNT UNDER SECTION 4.12.2 OF THE COMPACT:

1 (i) The following applicable withdrawal capacity as reported to  
2 the department or the department of agriculture, as appropriate, by  
3 the person making the withdrawal in the ~~April 1, 2007~~ annual report  
4 submitted under section 32707 **NOT LATER THAN APRIL 1, 2009** or in  
5 the ~~April 1, 2007~~ water use conservation plan submitted under  
6 section 32708 **NOT LATER THAN APRIL 1, 2009**:

7 ~~— (A) For a community supply, the total designed withdrawal~~  
8 ~~capacity for the community supply under the safe drinking water~~  
9 ~~act, 1976 PA 399, MCL 325.1001 to 325.1023, on the effective date~~  
10 ~~of the amendatory act that added this subparagraph.~~

11 (A) ~~(B)~~ Unless reported under a different provision of this  
12 subparagraph, for a quarry or mine that holds an authorization to  
13 discharge under part 31 that includes a discharge volume, the  
14 discharge volume stated in that authorization on ~~the effective date~~  
15 ~~of the amendatory act that added this subparagraph~~ **FEBRUARY 28,**  
16 **2006.**

17 (B) ~~(C)~~ The system capacity used or developed to make a  
18 withdrawal on ~~the effective date of the amendatory act that added~~  
19 ~~this subparagraph~~ **FEBRUARY 28, 2006**, if the system capacity and a  
20 description of the system capacity are included in an annual report  
21 that is submitted under this part **NOT LATER THAN APRIL 1, 2009.**

22 (ii) If the person making the withdrawal does not report under  
23 subparagraph (i), the highest annual amount of water withdrawn as  
24 reported under this part for calendar year 2002, 2003, 2004, or  
25 2005. **HOWEVER, FOR A PERSON WHO IS REQUIRED TO REPORT BY VIRTUE OF**  
26 **THE 2008 AMENDMENTS TO SECTION 32705(2)(D), BASELINE CAPACITY MEANS**  
27 **THE PERSON'S WITHDRAWAL CAPACITY AS REPORTED IN THE APRIL 1, 2009**

1 ANNUAL REPORT SUBMITTED UNDER SECTION 32707.

2 (iii) FOR A COMMUNITY SUPPLY, THE TOTAL DESIGNED WITHDRAWAL  
3 CAPACITY FOR THE COMMUNITY SUPPLY UNDER THE SAFE DRINKING WATER  
4 ACT, 1976 PA 399, MCL 325.1001 TO 325.1023, ON FEBRUARY 28, 2006 AS  
5 REPORTED TO THE DEPARTMENT IN A REPORT SUBMITTED NOT LATER THAN  
6 APRIL 1, 2009.

7 (E) "CHARACTERISTIC FISH CURVE" MEANS A FISH FUNCTIONAL  
8 RESPONSE CURVE THAT DESCRIBES THE ABUNDANCE OF CHARACTERISTIC FISH  
9 POPULATIONS IN RESPONSE TO REDUCTIONS IN INDEX FLOW AS PUBLISHED IN  
10 THE DOCUMENT ENTITLED "REPORT TO THE MICHIGAN LEGISLATURE IN  
11 RESPONSE TO 2006 PUBLIC ACT 34" BY THE FORMER GROUNDWATER  
12 CONSERVATION ADVISORY COUNCIL DATED JULY 2007, WHICH IS  
13 INCORPORATED BY REFERENCE.

14 (F) "CHARACTERISTIC FISH POPULATION" MEANS THE FISH SPECIES,  
15 INCLUDING THRIVING FISH, TYPICALLY FOUND AT RELATIVELY HIGH  
16 DENSITIES IN STREAM REACHES HAVING SPECIFIC DRAINAGE AREA, INDEX  
17 FLOW, AND SUMMER TEMPERATURE CHARACTERISTICS.

18 (G) "COLD RIVER SYSTEM" MEANS A STREAM OR SMALL RIVER THAT HAS  
19 THE APPROPRIATE SUMMER WATER TEMPERATURE TO SUSTAIN THRIVING FISH  
20 POPULATIONS OF COLD-WATER FISH SPECIES, AND WHERE SMALL INCREASES  
21 IN WATER TEMPERATURE WILL NOT CAUSE A DECLINE IN THESE POPULATIONS,  
22 AS DETERMINED BY THE DEPARTMENT OF NATURAL RESOURCES USING A  
23 SCIENTIFIC METHODOLOGY ADOPTED BY ORDER OF THE COMMISSION.

24 (H) "COLD-TRANSITIONAL RIVER SYSTEM" MEANS A STREAM OR RIVER  
25 THAT HAS THE APPROPRIATE SUMMER WATER TEMPERATURE TO SUSTAIN  
26 THRIVING FISH POPULATIONS OF COLD-WATER FISH SPECIES, AND WHERE  
27 SMALL INCREASES IN WATER TEMPERATURE WILL CAUSE A DECLINE IN THESE

1 POPULATIONS, AS DETERMINED BY THE DEPARTMENT OF NATURAL RESOURCES  
2 USING A SCIENTIFIC METHODOLOGY ADOPTED BY ORDER OF THE COMMISSION.

3 (I) ~~(d)~~—"Community supply" means that term as it is defined in  
4 section 2 of the safe drinking water act, 1976 PA 399, MCL  
5 325.1002.

6 (J) "COMPACT" MEANS THE GREAT LAKES-ST. LAWRENCE RIVER BASIN  
7 WATER RESOURCES COMPACT PROVIDED FOR IN PART 342.

8 (K) ~~(e)~~—"Consumptive use" means that portion of water  
9 withdrawn or withheld from the Great Lakes basin and assumed to be  
10 lost or otherwise not returned to the Great Lakes basin due to  
11 evaporation, incorporation into products or agricultural products,  
12 use as part of the packaging of products or agricultural products,  
13 or other processes. Consumptive use includes a withdrawal of waters  
14 of the Great Lakes basin that is packaged within the Great Lakes  
15 basin in a container of 5.7 gallons (20 liters) or less AND IS  
16 BOTTLED DRINKING WATER AS DEFINED IN THE FOOD CODE, 2005  
17 RECOMMENDATIONS OF THE FOOD AND DRUG ADMINISTRATION OF THE UNITED  
18 STATES PUBLIC HEALTH SERVICE.

19 (I) "COOL RIVER SYSTEM" MEANS A STREAM OR RIVER THAT HAS THE  
20 APPROPRIATE SUMMER WATER TEMPERATURE TO SUSTAIN CHARACTERISTIC FISH  
21 POPULATIONS OF A MIX OF COLD-WATER, COOL-WATER, AND WARM-WATER FISH  
22 SPECIES, AS DETERMINED BY THE DEPARTMENT OF NATURAL RESOURCES USING  
23 A SCIENTIFIC METHODOLOGY ADOPTED BY ORDER OF THE COMMISSION.

24 (M) "COUNCIL" MEANS THE GREAT LAKES-ST. LAWRENCE RIVER BASIN  
25 WATER RESOURCES COUNCIL CREATED IN THE COMPACT.

26 (N) ~~(f)~~—"Department" means the department of environmental  
27 quality.

(O) ~~(g)~~ "Designated trout stream" means a trout stream identified on the document entitled "Designated Trout Streams for the State of Michigan", as issued under order of the director of the department of natural resources, FO-210.04, on October 10, 2003.

(P) ~~(h)~~ ~~"Diverted" means a transfer of water by pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a watercourse, tanker ship, tanker truck, rail tanker, or similar means from the Great Lakes basin into a watershed outside of the Great Lakes basin. Diverted~~ **"DIVERSION" MEANS A TRANSFER OF WATER FROM THE GREAT LAKES BASIN INTO ANOTHER WATERSHED, OR FROM THE WATERSHED OF 1 OF THE GREAT LAKES INTO THAT OF ANOTHER BY ANY MEANS OF TRANSFER, INCLUDING, BUT NOT LIMITED TO, A PIPELINE, CANAL, TUNNEL, AQUEDUCT, CHANNEL, MODIFICATION OF THE DIRECTION OF A WATER COURSE, TANKER SHIP, TANKER TRUCK, OR RAIL TANKER BUT DOES NOT APPLY TO WATER THAT IS USED IN THE GREAT LAKES BASIN OR A GREAT LAKE WATERSHED TO MANUFACTURE OR PRODUCE A PRODUCT THAT IS THEN TRANSFERRED OUT OF THE GREAT LAKES BASIN OR WATERSHED. DIVERTED HAS A CORRESPONDING MEANING. DIVERSION** includes a transfer of water withdrawn from the waters of the Great Lakes basin that is removed from the Great Lakes basin in a container greater than 5.7 gallons (20 liters). ~~Diverted~~ **DIVERSION** does not include any of the following:

(i) A consumptive use.

(ii) The supply of vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of vehicles.

(iii) Use in a noncommercial project on a short-term basis for firefighting, humanitarian, or emergency response purposes.

**(iv) A TRANSFER OF WATER FROM A GREAT LAKE WATERSHED TO THE WATERSHED OF ITS CONNECTING WATERWAYS.**

**(Q)** ~~(i)~~—"Environmentally sound and economically feasible water conservation measures" means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that meet all of the following:

(i) Are environmentally sound.

(ii) Reflect best practices applicable to the water use sector.

(iii) Are technically feasible and available.

(iv) Are economically feasible and cost-effective based on an analysis that considers direct and avoided economic and environmental costs.

(v) Consider the particular facilities and processes involved, taking into account the environmental impact, **THE** age of equipment and facilities involved, the process employed, energy impacts, and other appropriate factors.

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

~~—(k) "Generally accepted water management practices" means standards or guidelines for water use that ensure water is used efficiently.~~

**(S) "FLOW-BASED SAFETY FACTOR" MEANS A PROTECTIVE MEASURE OF THE ASSESSMENT TOOL THAT REDUCES THE PORTION OF INDEX FLOW AVAILABLE FOR A WITHDRAWAL TO 1/2 OF THE INDEX FLOW FOR THE PURPOSE**

1 OF MINIMIZING THE RISK OF ADVERSE RESOURCE IMPACTS CAUSED BY  
2 STATISTICAL UNCERTAINTY.

3 (T) "GREAT LAKES" MEANS LAKES SUPERIOR, MICHIGAN AND HURON,  
4 ERIE, AND ONTARIO AND THEIR CONNECTING WATERWAYS INCLUDING THE ST.  
5 MARYS RIVER, LAKE ST. CLAIR, THE ST. CLAIR RIVER, AND THE DETROIT  
6 RIVER. FOR PURPOSES OF THIS DEFINITION, LAKES HURON AND MICHIGAN  
7 SHALL BE CONSIDERED A SINGLE GREAT LAKE.

8 (U) ~~(H)~~ "Great Lakes basin" means the watershed of the Great  
9 Lakes and the St. Lawrence river.

10 (V) ~~(m)~~ "Great Lakes charter" means the document establishing  
11 the principles for the cooperative management of the Great Lakes  
12 water resources, signed by the governors and premiers of the Great  
13 Lakes region on February 11, 1985.

14 (W) ~~(n)~~ "Great Lakes region" means the geographic region  
15 composed of the states of Illinois, Indiana, Michigan, Minnesota,  
16 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,  
17 and the provinces of Ontario and Quebec, Canada.

18 (X) ~~(o)~~ "Index flow" means the 50% exceedance flow for the  
19 lowest **SUMMER** flow month of the flow regime, for the applicable  
20 stream reach, as determined over the period of record or  
21 extrapolated from analyses of the United States geological survey  
22 ~~stream-flow~~ gauges in Michigan. **HOWEVER, BEGINNING ON THE EFFECTIVE**  
23 **DATE OF THE IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION**  
24 **32706A, INDEX FLOW SHALL BE CALCULATED AS OF THAT EFFECTIVE DATE.**

25 (Y) "INTRABASIN TRANSFER" MEANS A DIVERSION OF WATER FROM THE  
26 SOURCE WATERSHED OF A GREAT LAKE PRIOR TO ITS USE TO THE WATERSHED  
27 OF ANOTHER GREAT LAKE.

1           (Z) "LAKE AUGMENTATION WELL" MEANS A WATER WELL USED TO  
2       WITHDRAW GROUNDWATER FOR THE PURPOSE OF MAINTAINING OR RAISING  
3       WATER LEVELS OF AN INLAND LAKE OR STREAM AS DEFINED IN SECTION  
4       30101.

5           (AA) ~~(p)~~ "Large quantity withdrawal" means 1 or more  
6       cumulative total withdrawals of over 100,000 gallons of water per  
7       day average in any consecutive 30-day period that supply a common  
8       distribution system.

9           (BB) "LARGE RIVER" MEANS A RIVER WITH A DRAINAGE AREA OF 300  
10      OR MORE SQUARE MILES.

11          (CC) ~~(q)~~ "New or increased large quantity withdrawal" means a  
12      new water withdrawal of over 100,000 gallons of water per day  
13      average in any consecutive 30-day period or an increase of over  
14      100,000 gallons of water per day average in any consecutive 30-day  
15      period beyond the baseline capacity of a withdrawal.

16          (DD) ~~(r)~~ "New or increased withdrawal capacity" means new or  
17      additional water withdrawal capacity to supply a common  
18      distribution system that is an increase from the person's baseline  
19      capacity. New or increased capacity does not include maintenance or  
20      replacement of existing withdrawal capacity.

21      ~~—— (s) "Political subdivision" means that term as it is defined~~  
22      ~~in section 2 of the safe drinking water act, 1976 PA 399, MCL~~  
23      ~~325.1002.~~

24          (EF) "ONLINE REGISTRATION PROCESS" MEANS THE ONLINE  
25      REGISTRATION PROCESS PROVIDED FOR IN SECTION 32706.

26          (FF) "PREVENTATIVE MEASURE" MEANS AN ACTION AFFECTING A STREAM  
27      OR RIVER THAT PREVENTS AN ADVERSE RESOURCE IMPACT BY DIMINISHING

1 THE EFFECT OF A WITHDRAWAL ON STREAM OR RIVER FLOW OR THE  
2 TEMPERATURE REGIME OF THE STREAM OR RIVER.

3 (GG) ~~(t)~~ "Registrant" means a person who ~~registers~~ HAS  
4 REGISTERED A water withdrawal ~~capacity under this part~~ UNDER  
5 SECTION 32705.

6 (HH) "RIVER" MEANS A FLOWING BODY OF WATER WITH A DRAINAGE  
7 AREA OF 80 OR MORE SQUARE MILES.

8 (II) "SITE-SPECIFIC REVIEW" MEANS THE DEPARTMENT'S INDEPENDENT  
9 REVIEW UNDER SECTION 32706C TO DETERMINE WHETHER THE WITHDRAWAL IS  
10 A ZONE A, ZONE B, ZONE C, OR ZONE D WITHDRAWAL AND WHETHER A  
11 WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

12 (JJ) "SMALL RIVER" MEANS A RIVER WITH A DRAINAGE AREA OF LESS  
13 THAN 300 SQUARE MILES.

14 (KK) "SOURCE WATERSHED" MEANS THE WATERSHED FROM WHICH A  
15 WITHDRAWAL ORIGINATES. IF WATER IS WITHDRAWN DIRECTLY FROM A GREAT  
16 LAKE, THEN THE SOURCE WATERSHED SHALL BE CONSIDERED TO BE THE  
17 WATERSHED OF THAT GREAT LAKE AND ITS CONNECTING WATERWAYS. IF WATER  
18 IS WITHDRAWN FROM THE WATERSHED OF A DIRECT TRIBUTARY TO A GREAT  
19 LAKE, THEN THE SOURCE WATERSHED SHALL BE CONSIDERED TO BE THE  
20 WATERSHED OF THAT GREAT LAKE AND ITS CONNECTING WATERWAYS, WITH A  
21 PREFERENCE FOR RETURNING WATER TO THE WATERSHED OF THE DIRECT  
22 TRIBUTARY FROM WHICH IT WAS WITHDRAWN.

23 (II) "STREAM" MEANS A FLOWING BODY OF WATER WITH A DRAINAGE  
24 AREA OF LESS THAN 80 SQUARE MILES.

25 (MM) "STREAM REACH" MEANS A SEGMENT OF A STREAM, SMALL RIVER,  
26 OR LARGE RIVER.

27 (NN) "THRIVING FISH CURVE" MEANS A FISH FUNCTIONAL RESPONSE

1 CURVE THAT DESCRIBES THE INITIAL DECLINE IN DENSITY OF THRIVING  
2 FISH POPULATIONS IN RESPONSE TO REDUCTIONS IN INDEX FLOW AS  
3 PUBLISHED IN THE DOCUMENT ENTITLED "REPORT TO THE MICHIGAN  
4 LEGISLATURE IN RESPONSE TO 2006 PUBLIC ACT 34" BY THE FORMER  
5 GROUNDWATER CONSERVATION ADVISORY COUNCIL DATED JULY 2007, WHICH IS  
6 INCORPORATED BY REFERENCE.

7 (OO) "THRIVING FISH POPULATION" MEANS THE FISH SPECIES THAT  
8 ARE EXPECTED TO FLOURISH AT VERY HIGH DENSITIES IN STREAM REACHES  
9 HAVING SPECIFIC DRAINAGE AREA, INDEX FLOW, AND SUMMER TEMPERATURE  
10 CHARACTERISTICS.

11 (PP) "WARM RIVER SYSTEM" MEANS A STREAM OR RIVER THAT HAS THE  
12 APPROPRIATE SUMMER WATER TEMPERATURE TO SUSTAIN THRIVING FISH  
13 POPULATIONS OF WARM-WATER FISH SPECIES, AS DETERMINED BY THE  
14 DEPARTMENT OF NATURAL RESOURCES USING A SCIENTIFIC METHODOLOGY  
15 ADOPTED BY ORDER OF THE COMMISSION.

16 (QQ) ~~(u)~~ "Waters of the Great Lakes basin" means the Great  
17 Lakes and all streams, rivers, lakes, connecting channels, and  
18 other bodies of water, including groundwater, within the Great  
19 Lakes basin.

20 (RR) ~~(v)~~ "Waters of the state" means groundwater, lakes,  
21 rivers, and streams and all other watercourses and waters,  
22 including the Great Lakes, within the territorial boundaries of the  
23 state. Waters of the state do not include drainage ways and ponds  
24 designed and constructed solely for wastewater conveyance,  
25 treatment, or control.

26 (SS) ~~(w)~~ "Withdrawal" means the removal ~~of water from its~~  
27 ~~source for any purpose, other than for hydroelectric generation at~~

1 ~~sites certified, licensed, or permitted by the federal energy~~  
2 ~~regulatory commission~~ OF WATER FROM SURFACE WATER OR GROUNDWATER.

3 (TT) "ZONE A WITHDRAWAL" MEANS THE FOLLOWING:

4 (i) FOR A COLD RIVER SYSTEM, AS FOLLOWS:

5 (A) FOR A COLD STREAM, LESS THAN A 1% REDUCTION IN THE DENSITY  
6 OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH  
7 CURVE.

8 (B) FOR A COLD SMALL RIVER, LESS THAN 50% OF THE WITHDRAWAL  
9 THAT WOULD RESULT IN AN ADVERSE RESOURCE IMPACT.

10 (ii) FOR A COLD-TRANSITIONAL RIVER SYSTEM, THERE IS NOT A ZONE  
11 A WITHDRAWAL.

12 (iii) FOR A COOL RIVER SYSTEM, AS FOLLOWS:

13 (A) FOR A COOL STREAM, LESS THAN A 10% REDUCTION IN THE  
14 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING  
15 FISH CURVE.

16 (B) FOR A COOL SMALL RIVER, LESS THAN A 5% REDUCTION IN THE  
17 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING  
18 FISH CURVE.

19 (C) FOR A COOL LARGE RIVER, LESS THAN AN 8% REDUCTION IN THE  
20 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING  
21 FISH CURVE.

22 (iv) FOR A WARM RIVER SYSTEM, LESS THAN A 10% REDUCTION IN THE  
23 DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING  
24 FISH CURVE.

25 (UU) "ZONE B WITHDRAWAL" MEANS THE FOLLOWING:

26 (i) THERE IS NOT A ZONE B WITHDRAWAL FOR A COLD STREAM OR SMALL  
27 RIVER.

1           (ii) FOR A COLD-TRANSITIONAL RIVER SYSTEM, LESS THAN A 5%  
2 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
3 BY THE THRIVING FISH CURVE.

4           (iii) FOR A COOL RIVER SYSTEM, AS FOLLOWS:

5           (A) FOR A COOL STREAM, A 10% OR MORE BUT LESS THAN A 20%  
6 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
7 BY THE THRIVING FISH CURVE.

8           (B) FOR A COOL SMALL RIVER, A 5% OR MORE BUT LESS THAN A 10%  
9 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
10 BY THE THRIVING FISH CURVE.

11           (C) FOR A COOL LARGE RIVER, AN 8% OR MORE BUT LESS THAN A 10%  
12 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
13 BY THE THRIVING FISH CURVE.

14           (iv) FOR A WARM RIVER SYSTEM, AS FOLLOWS:

15           (A) FOR A WARM STREAM, A 10% OR MORE BUT LESS THAN A 15%  
16 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
17 BY THE THRIVING FISH CURVE.

18           (B) FOR A WARM SMALL RIVER OR A WARM LARGE RIVER, A 10% OR  
19 MORE BUT LESS THAN A 20% REDUCTION IN THE DENSITY OF THRIVING FISH  
20 POPULATIONS AS DETERMINED BY THE THRIVING FISH CURVE.

21           (VV) "ZONE C WITHDRAWAL" MEANS THE FOLLOWING AS LONG AS THE  
22 WITHDRAWAL WILL NOT DECREASE THE FLOW OF A STREAM OR RIVER BY MORE  
23 THAN 25% OF ITS INDEX FLOW:

24           (i) FOR A COLD RIVER SYSTEM, AS FOLLOWS:

25           (A) FOR A COLD STREAM, A 1% OR MORE BUT LESS THAN A 3%  
26 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
27 BY THE THRIVING FISH CURVE.

1 (B) FOR A COLD SMALL RIVER, 50% OR MORE OF THE WITHDRAWAL THAT  
2 WOULD RESULT IN AN ADVERSE RESOURCE IMPACT BUT LESS THAN A 1%  
3 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
4 BY THE THRIVING FISH CURVE.

5 (ii) THERE IS NOT A ZONE C WITHDRAWAL FOR A COLD-TRANSITIONAL  
6 RIVER SYSTEM.

7 (iii) FOR A COOL RIVER SYSTEM, AS FOLLOWS:

8 (A) FOR A COOL STREAM, A 20% OR MORE REDUCTION IN THE DENSITY  
9 OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH  
10 CURVE BUT LESS THAN A 10% REDUCTION IN THE ABUNDANCE OF  
11 CHARACTERISTIC FISH POPULATIONS AS DETERMINED BY THE CHARACTERISTIC  
12 FISH CURVE.

13 (B) FOR COOL SMALL RIVERS, A 10% OR MORE BUT LESS THAN A 15%  
14 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
15 BY THE THRIVING FISH CURVE.

16 (C) FOR COOL LARGE RIVERS, A 10% OR MORE BUT LESS THAN A 12%  
17 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
18 BY THE THRIVING FISH CURVE.

19 (iv) FOR WARM RIVER SYSTEMS, AS FOLLOWS:

20 (A) FOR WARM STREAMS, A 15% OR MORE REDUCTION IN THE DENSITY  
21 OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH  
22 CURVE BUT LESS THAN A 5% REDUCTION IN THE ABUNDANCE OF  
23 CHARACTERISTIC FISH POPULATIONS AS DETERMINED BY THE CHARACTERISTIC  
24 FISH CURVE.

25 (B) FOR WARM SMALL RIVERS AND WARM LARGE RIVERS, A 20% OR MORE  
26 REDUCTION IN THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED  
27 BY THE THRIVING FISH CURVE BUT LESS THAN A 10% REDUCTION IN THE

1 ABUNDANCE OF CHARACTERISTIC FISH POPULATIONS AS DETERMINED BY THE  
2 CHARACTERISTIC FISH CURVE.

3 (WW) "ZONE D WITHDRAWAL" MEANS A WITHDRAWAL THAT IS LIKELY TO  
4 CAUSE AN ADVERSE RESOURCE IMPACT.

5 (2) FOR PURPOSES OF DETERMINING BASELINE CAPACITY, A PERSON  
6 WHO REPLACES HIS OR HER SURFACE WATER WITHDRAWAL CAPACITY WITH THE  
7 SAME AMOUNT OF GROUNDWATER WITHDRAWAL CAPACITY FROM THE DRAINAGE  
8 AREA OF THE SAME STREAM REACH MAY RETAIN THE BASELINE CAPACITY  
9 ESTABLISHED UNDER THIS SECTION.

10 Sec. 32702. (1) The legislature finds and declares that:

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

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

25 (c) The waters of the state are valuable public natural  
26 resources held in trust by the state, and the state has a duty as  
27 trustee to manage its waters effectively for the use and enjoyment

1 of present and future residents and for the protection of the  
2 environment.

3 (d) The waters of the Great Lakes basin are a valuable public  
4 natural resource, and the states and provinces of the Great Lakes  
5 region and Michigan share a common interest in the preservation of  
6 that resource.

7 (e) Any new diversion of waters of the Great Lakes basin for  
8 use outside of the Great Lakes basin will have significant economic  
9 and environmental impact adversely affecting the use of this  
10 resource by the Great Lakes states and Canadian provinces.

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

17 (g) Future interbasin diversions and consumptive uses of  
18 waters of the Great Lakes basin may have significant adverse  
19 impacts upon the environment, economy, and welfare of the Great  
20 Lakes region and of this state.

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

24 (i) The waters of the Great Lakes basin are capable of  
25 concurrently serving multiple uses, and such multiple uses of water  
26 resources for municipal, public, industrial, commercial,  
27 agriculture, mining, navigation, energy development and production,

1 recreation, water quality maintenance, and the maintenance of fish  
 2 and wildlife habitat and a balanced ecosystem and other purposes  
 3 are encouraged, recognizing that such uses are interdependent and  
 4 must be balanced.

5 **(J) THE WATERS OF THE GREAT LAKES BASIN ARE INTERCONNECTED AND**  
 6 **PART OF A SINGLE HYDROLOGIC SYSTEM.**

7 (2) The legislature has the authority under sections 51 and 52  
 8 of article IV of the state constitution of 1963 to regulate the  
 9 withdrawal and uses of the waters of the state, including both  
 10 surface water and groundwater, to promote the public health,  
 11 safety, and welfare and to protect the natural resources of the  
 12 state from pollution, impairment, and destruction, subject to  
 13 constitutional protections against unreasonable or arbitrary  
 14 governmental action and the taking of property without just  
 15 compensation. This authority extends to all waters within the  
 16 territorial boundaries of the state.

17 Sec. 32703. Subject to section 32704, **A DIVERSION OF** the  
 18 waters of the Great Lakes basin within the boundaries of this state  
 19 ~~shall not be diverted~~ **STATE** out of the Great Lakes basin **IS**  
 20 **PROHIBITED.**

21 Sec. 32705. (1) Except as otherwise provided in this section,  
 22 the owner of real property who ~~has the~~ **INTENDS TO DEVELOP** capacity  
 23 on that property to make a **NEW OR INCREASED** large quantity  
 24 withdrawal from the waters of this state shall register **THE**  
 25 **WITHDRAWAL** with the department **AFTER USING THE ASSESSMENT TOOL, IF**  
 26 **REQUIRED UNDER THIS PART, AND** prior to beginning that withdrawal. **A**  
 27 **REGISTRATION UNDER THIS SECTION MAY BE MADE USING THE ONLINE**

1 **REGISTRATION PROCESS.**

2 (2) The following persons are not required to register under  
3 this section:

4 (a) ~~A-SUBJECT TO SUBDIVISION (C),~~ A person who has previously  
5 registered for that property under this part **OR THE OWNER OF REAL**  
6 **PROPERTY CONTAINING THE CAPACITY TO MAKE A WITHDRAWAL THAT WAS**  
7 **PREVIOUSLY REQUESTED UNDER THIS PART,** unless ~~that registrant~~ **THE**  
8 **PROPERTY OWNER** develops new or increased withdrawal capacity on the  
9 property of an additional 100,000 gallons of water per day from the  
10 waters of the state.

11 (b) A community supply ~~owned by a political subdivision that~~  
12 ~~holds~~ **REQUIRED TO OBTAIN** a permit under the safe drinking water  
13 act, 1976 PA 399, MCL 325.1001 to 325.1023.

14 (c) A person ~~holding~~ **REQUIRED TO OBTAIN** a permit under section  
15 32723.

16 (d) The owner of a noncommercial well **LOCATED on SINGLE-FAMILY**  
17 **residential property NOT EXCEEDING 4 UNITS AND NOT MORE THAN 3**  
18 **ACRES IN SIZE UNLESS THAT WELL IS A LAKE AUGMENTATION WELL.**

19 ~~— (3) The following persons shall register under this section~~  
20 ~~but may register after beginning the withdrawal but before 90 days~~  
21 ~~after the effective date of the amendatory act that added this~~  
22 ~~section.~~

23 ~~— (a) A person who was developing new or increased withdrawal~~  
24 ~~capacity on the effective date of the amendatory act that added~~  
25 ~~this section.~~

26 ~~— (b) A person who was not required to register under this part~~  
27 ~~prior to the effective date of the amendatory act that added this~~

1 ~~section.~~

2       (3) ~~(4)~~ Subsection (1) does not limit a property owner's  
3 ability to withdraw water from a test well prior to registration if  
4 the test well is constructed in association with the development of  
5 new or increased withdrawal capacity and used only to evaluate the  
6 development of new or increased withdrawal capacity.

7       (4) ~~(5)~~ A registration under this section by the owner of a  
8 farm in which the withdrawal is intended for an agricultural  
9 purpose, including irrigation for an agricultural purpose, ~~shall~~  
10 **MAY** be submitted to the department of agriculture instead of the  
11 department.

12       (5) ~~(6)~~ A registration submitted under this section **THAT IS**  
13 **NOT SUBMITTED VIA THE ONLINE REGISTRATION PROCESS** shall be on a  
14 form provided by the department or the department of agriculture,  
15 as appropriate.

16       (6) ~~(7)~~ In calculating the total amount of an existing or  
17 proposed withdrawal for the purpose of this section, a person shall  
18 combine all separate withdrawals that the person makes or proposes  
19 to make, whether or not these withdrawals are for a single purpose  
20 or are for related but separate purposes.

21       (7) ~~(8)~~ The department shall aggregate information received by  
22 the state related to large quantity withdrawal capacities within  
23 the state and reported large quantity withdrawals in the state.

24       (8) **UNLESS A PROPERTY OWNER DEVELOPS THE CAPACITY TO MAKE THE**  
25 **NEW OR INCREASED LARGE QUANTITY WITHDRAWAL WITHIN 18 MONTHS AFTER**  
26 **THE PROPERTY OWNER REGISTERS UNDER SUBSECTION (1), THE REGISTRATION**  
27 **IS NO LONGER VALID.**

1       Sec. 32706. (1) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE  
2 OF THE AMENDATORY ACT THAT AMENDED THIS SECTION, THE DEPARTMENT  
3 SHALL DEVELOP AND IMPLEMENT AN INTERNET-BASED ONLINE REGISTRATION  
4 PROCESS THAT MAY BE USED FOR REGISTRATIONS UNDER SECTION 32705. THE  
5 ONLINE REGISTRATION PROCESS SHALL BE DESIGNED TO WORK IN  
6 CONJUNCTION WITH THE ASSESSMENT TOOL.

7       (2) Each registration under this part shall ~~consist of a~~  
8 INCLUDE BOTH OF THE FOLLOWING:

9       (A) A statement and supporting documentation that includes all  
10 of the following:

11       (i) ~~(a)~~ The place and source of the proposed ~~or existing~~  
12 withdrawal.

13       (ii) ~~(b)~~ The location of any discharge or return flow  
14 ASSOCIATED WITH THE PROPOSED WITHDRAWAL.

15       (iii) ~~(c)~~ The location and nature of the proposed ~~or existing~~  
16 water ~~user~~ USE.

17       (iv) THE CAPACITY OF THE EQUIPMENT USED FOR MAKING THE PROPOSED  
18 WITHDRAWAL.

19       (v) ~~(d)~~ The ~~actual or~~ estimated average annual and monthly  
20 volumes and rate of THE PROPOSED withdrawal.

21       (vi) ~~(e)~~ The ~~actual or~~ estimated average annual and monthly  
22 volumes and rates of consumptive use from the PROPOSED withdrawal.

23       (B) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE  
24 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, FOR A NEW OR INCREASED  
25 LARGE QUANTITY WITHDRAWAL FROM A STREAM OR RIVER OR GROUNDWATER,  
26 THE DETERMINATION FROM THE USE OF THE ASSESSMENT TOOL UNDER SECTION  
27 32706B OR THE DETERMINATION FROM A SITE-SPECIFIC REVIEW, AS

1 APPROPRIATE.

2 SEC. 32706A. (1) NOT LATER THAN 4 MONTHS AFTER THE EFFECTIVE  
3 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT  
4 SHALL DEVELOP AND MAKE AVAILABLE FOR TESTING AND EVALUATION AN  
5 INTERNET-BASED WATER WITHDRAWAL ASSESSMENT TOOL BASED UPON THE  
6 RECOMMENDATIONS OF THE FORMER GROUNDWATER CONSERVATION ADVISORY  
7 COUNCIL AND THE REQUIREMENTS OF THIS PART. THE ASSESSMENT TOOL  
8 SHALL CONTAIN A FLOW-BASED SAFETY FACTOR. FOR PURPOSES OF TESTING  
9 THE ASSESSMENT TOOL, THE DEPARTMENT SHALL USE THE MOST RECENT  
10 AVAILABLE DATA TO CALCULATE INDEX FLOW. BEGINNING 1 YEAR AFTER THE  
11 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE  
12 DEPARTMENT SHALL IMPLEMENT THE ASSESSMENT TOOL.

13 (2) THE ASSESSMENT TOOL SHALL DETERMINE WHETHER A PROPOSED  
14 WITHDRAWAL IS A ZONE A, ZONE B, ZONE C, OR ZONE D WITHDRAWAL AND  
15 WHETHER A PROPOSED WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE  
16 RESOURCE IMPACT BASED UPON WHETHER THE PROPOSED WITHDRAWAL IS FROM  
17 A COLD RIVER SYSTEM, A COLD-TRANSITIONAL RIVER SYSTEM, A COOL RIVER  
18 SYSTEM, OR A WARM RIVER SYSTEM. THE ASSESSMENT TOOL SHALL ALSO  
19 DISTINGUISH THE IMPACT OF A PROPOSED WITHDRAWAL BASED UPON WHETHER  
20 THE PROPOSED WITHDRAWAL IS FROM A STREAM, A SMALL RIVER, OR A LARGE  
21 RIVER, SUBJECT TO THE FOLLOWING:

22 (A) COOL STREAMS AND WARM STREAMS WITH LESS THAN 3 SQUARE  
23 MILES OF DRAINAGE AREA SHALL BE INTEGRATED INTO THE NEXT LARGEST  
24 DRAINAGE AREA FOR PURPOSES OF ASSESSMENT TOOL DETERMINATIONS.

25 (B) COOL STREAMS AND WARM STREAMS WITH LESS THAN 20 SQUARE  
26 MILES OF DRAINAGE AREA AND LESS THAN 1 CUBIC FOOT PER SECOND OF  
27 INDEX FLOW SHALL BE INTEGRATED INTO THE NEXT LARGEST DRAINAGE AREA

1 FOR PURPOSES OF ASSESSMENT TOOL DETERMINATIONS.

2 (C) COOL STREAMS AND WARM STREAMS WITH A DRAINAGE AREA OF MORE  
3 THAN 3 SQUARE MILES BUT LESS THAN 6 SQUARE MILES SHALL BE  
4 INTEGRATED INTO THE NEXT LARGEST DRAINAGE AREA FOR PURPOSES OF  
5 ASSESSMENT TOOL DETERMINATIONS FOR GROUNDWATER WITHDRAWALS.

6 (3) THE ASSESSMENT TOOL SHALL ALLOW THE USER TO ENTER INTO  
7 FIELDS THE FOLLOWING DATA RELATED TO A PROPOSED WITHDRAWAL:

8 (A) THE CAPACITY OF THE EQUIPMENT USED FOR MAKING THE  
9 WITHDRAWAL.

10 (B) THE LOCATION OF THE WITHDRAWAL.

11 (C) THE WITHDRAWAL SOURCE, WHETHER SURFACE WATER OR  
12 GROUNDWATER.

13 (D) IF THE SOURCE OF THE WITHDRAWAL IS GROUNDWATER, WHETHER  
14 THE SOURCE OF THE WITHDRAWAL IS A GLACIAL STRATUM OR BEDROCK.

15 (E) THE DEPTH OF THE WITHDRAWAL IF FROM GROUNDWATER.

16 (F) THE AMOUNT AND RATE OF WATER TO BE WITHDRAWN.

17 (G) WHETHER THE WITHDRAWAL WILL BE INTERMITTENT.

18 (4) THE ASSESSMENT TOOL SHALL CONTAIN A PRINT FUNCTION THAT  
19 ALLOWS THE USER, UPON RECEIPT OF THE ASSESSMENT TOOL'S  
20 DETERMINATION, TO PRINT THE DATA SUBMITTED AND THE DETERMINATION  
21 RETURNED ALONG WITH A DATE AND TIME.

22 (5) THE ASSESSMENT TOOL SHALL WORK IN CONJUNCTION WITH THE  
23 ONLINE REGISTRATION PROCESS AND SHALL ALSO ALLOW OPERATION  
24 INDEPENDENT OF THE ONLINE REGISTRATION PROCESS.

25 (6) ON AN ONGOING BASIS, THE DEPARTMENT SHALL ADD VERIFIED  
26 DATA TO THE ASSESSMENT TOOL'S DATABASE FROM REPORTS SUBMITTED UNDER  
27 SECTIONS 32707, WATER USE CONSERVATION PLANS SUBMITTED UNDER

1 SECTION 32708, AND PERMITS ISSUED UNDER THE SAFE DRINKING WATER  
2 ACT, 1976 PA 399, MCL 325.1001 TO 325.1023, AND OTHER SOURCES OF  
3 DATA REGARDING THE WATERS OF THE STATE. ADDITIONALLY, THE  
4 DEPARTMENT SHALL MAKE TECHNICAL MODIFICATIONS TO THE ASSESSMENT  
5 TOOL RELATED TO CONSIDERATIONS OF TEMPERATURE, HYDROLOGY, AND  
6 STREAM OR RIVER FLOW BASED UPON A SCIENTIFIC METHODOLOGY ADOPTED BY  
7 ORDER OF THE COMMISSION.

8 (7) IF A PERSON DISAGREES WITH THE DESIGNATION OF A PARTICULAR  
9 STREAM OR RIVER AS A COLD RIVER SYSTEM, A COLD-TRANSITIONAL RIVER  
10 SYSTEM, A COOL RIVER SYSTEM, OR A WARM RIVER SYSTEM FOR USE IN THE  
11 ASSESSMENT TOOL OR OTHERWISE UNDER THIS PART, THE PERSON MAY  
12 PETITION FOR A REDESIGNATION OF THAT STREAM OR RIVER. THE PETITION  
13 SHALL BE SUBMITTED TO THE COMMISSION FOR ITS REVIEW AND  
14 DETERMINATION.

15 (8) THE DEPARTMENT SHALL REPORT ANNUALLY TO THE STANDING  
16 COMMITTEES OF THE LEGISLATURE WITH JURISDICTION PRIMARILY  
17 PERTAINING TO NATURAL RESOURCES AND THE ENVIRONMENT ON THE  
18 IMPLEMENTATION OF THE ASSESSMENT TOOL AND THIS PART. THIS REPORT  
19 SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

20 (A) THE NUMBER OF ZONE C WITHDRAWAL SITE-SPECIFIC REVIEWS  
21 REQUESTED BY APPLICANTS EACH 12 MONTHS AFTER THE EFFECTIVE DATE OF  
22 THE IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A.

23 (B) THE NUMBER OF ZONE C WITHDRAWAL SITE-SPECIFIC REVIEW  
24 DETERMINATIONS THAT RESULTED IN CHANGES FROM ZONE C TO ZONE B AND  
25 THE NUMBER OF CHANGES FROM ZONE C TO ZONE A.

26 (C) THE NUMBER OF ZONE C WITHDRAWAL SITE-SPECIFIC REVIEW  
27 DETERMINATIONS THAT RESULT IN A ZONE D WITHDRAWAL DETERMINATION.

1 (D) THE NUMBER OF SITE-SPECIFIC REVIEW DETERMINATIONS WHERE  
2 THE DEPARTMENT FAILED TO MEET STATUTORY TIMELINES.

3 (E) THE NUMBER OF REGISTERED ASSESSMENT TOOL DETERMINATIONS  
4 FOR EACH ZONE.

5 (F) THE NUMBER OF VOLUNTARY REQUESTS FOR SITE-SPECIFIC REVIEWS  
6 THAT WERE SUBMITTED TO THE DEPARTMENT AND WHETHER THE DEPARTMENT  
7 FAILED TO MEET STATUTORY TIMELINES ON THESE SITE-SPECIFIC REVIEWS.

8 (G) THE NUMBER OF REGISTRATIONS SUBMITTED TO THE DEPARTMENT  
9 UNDER THIS PART.

10 SEC. 32706B. (1) BEGINNING ON THE EFFECTIVE DATE OF THE  
11 IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, PRIOR  
12 TO REGISTERING A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL UNDER  
13 SECTION 32706 FOR A PROPOSED WITHDRAWAL FROM A STREAM OR RIVER, OR  
14 FROM GROUNDWATER, THE PROPERTY OWNER PROPOSING TO MAKE THE  
15 WITHDRAWAL SHALL UTILIZE THE ASSESSMENT TOOL BY ENTERING THE DATA  
16 RELATED TO THE PROPOSED WITHDRAWAL INTO THE ASSESSMENT TOOL.

17 (2) UPON ENTRY OF THE RELEVANT DATA UNDER SUBSECTION (1), THE  
18 ASSESSMENT TOOL SHALL INDICATE TO THE USER WHETHER OR NOT THE  
19 PROPOSED WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT  
20 AND WHETHER THE PROPOSED WITHDRAWAL FALLS INTO THE CATEGORY OF ZONE  
21 A, ZONE B, ZONE C, OR ZONE D.

22 (3) IF THE ASSESSMENT TOOL DESIGNATES A PROPOSED WITHDRAWAL AS  
23 A ZONE A WITHDRAWAL, OR A ZONE B WITHDRAWAL IN A COOL RIVER SYSTEM  
24 OR A WARM RIVER SYSTEM, THE PROPERTY OWNER MAY REGISTER THE  
25 WITHDRAWAL AND PROCEED TO MAKE THE WITHDRAWAL.

26 (4) IF THE ASSESSMENT TOOL DESIGNATES A PROPOSED WITHDRAWAL AS  
27 A ZONE B WITHDRAWAL IN A COLD-TRANSITIONAL RIVER SYSTEM, OR A ZONE

1 C OR ZONE D WITHDRAWAL, THE PROPERTY OWNER SHALL NOT REGISTER THE  
2 WITHDRAWAL OR MAKE THE WITHDRAWAL EXCEPT IN ACCORDANCE WITH SECTION  
3 32706C.

4 (5) AFTER A PROPERTY OWNER REGISTERS A WITHDRAWAL, IF, IN  
5 DEVELOPING THE CAPACITY TO MAKE THE WITHDRAWAL, THE CONDITIONS OF  
6 THE WITHDRAWAL DEVIATE FROM THE SPECIFIC DATA THAT WERE ENTERED  
7 INTO THE ASSESSMENT TOOL, THE PROPERTY OWNER SHALL RERUN THE  
8 ASSESSMENT TOOL AND SHALL ENTER THE CORRECTED DATA INTO THE  
9 ASSESSMENT TOOL. THE PROPERTY OWNER SHALL NOTIFY THE DEPARTMENT OF  
10 THE CORRECTED DATA AND THE CORRECTED RESULTS FROM THE ASSESSMENT  
11 TOOL. IF THE CORRECTED DATA DO NOT CHANGE THE DETERMINATION OF THE  
12 ASSESSMENT TOOL, THE PROPERTY OWNER MAY PROCEED WITH THE  
13 WITHDRAWAL. IF THE CORRECTED DATA CHANGE THE DETERMINATION FROM THE  
14 ASSESSMENT TOOL, THE PROPERTY OWNER SHALL PROCEED UNDER THE  
15 PROVISIONS OF THIS PART RELATED TO THE CORRECTED ASSESSMENT TOOL  
16 DETERMINATION.

17 SEC. 32706C. (1) IF THE ASSESSMENT TOOL DETERMINES THAT A  
18 PROPOSED WITHDRAWAL IS A ZONE B WITHDRAWAL IN A COLD-TRANSITIONAL  
19 RIVER SYSTEM, OR A ZONE C OR ZONE D WITHDRAWAL, THE PROPERTY OWNER  
20 SHALL SUBMIT TO THE DEPARTMENT A REQUEST FOR A SITE-SPECIFIC  
21 REVIEW. ADDITIONALLY, IF THE ASSESSMENT TOOL DETERMINES THAT A  
22 PROPOSED WITHDRAWAL IS A ZONE A WITHDRAWAL, OR A ZONE B WITHDRAWAL  
23 IN A COOL RIVER SYSTEM OR A WARM RIVER SYSTEM AND THE PROPERTY  
24 OWNER WISHES TO HAVE A SITE-SPECIFIC REVIEW, THE PROPERTY OWNER MAY  
25 SUBMIT TO THE DEPARTMENT A REQUEST FOR A SITE-SPECIFIC REVIEW. A  
26 REQUEST FOR A SITE-SPECIFIC REVIEW SHALL BE SUBMITTED TO THE  
27 DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT AND SHALL INCLUDE

1 ALL OF THE FOLLOWING:

2 (A) THE INFORMATION DESCRIBED IN SECTION 32706A(3).

3 (B) THE INTENDED MAXIMUM MONTHLY AND ANNUAL VOLUMES AND RATES  
4 OF THE PROPOSED WITHDRAWAL, IF DIFFERENT FROM THE CAPACITY OF THE  
5 EQUIPMENT USED FOR MAKING THE PROPOSED WITHDRAWAL.

6 (C) IF THE AMOUNT AND RATE OF THE PROPOSED WITHDRAWAL WILL  
7 HAVE SEASONAL FLUCTUATIONS, THE RELEVANT INFORMATION RELATED TO THE  
8 SEASONAL USE OF THE PROPOSED WITHDRAWAL.

9 (D) A DESCRIPTION OF HOW THE WATER WILL BE USED AND THE  
10 LOCATION, AMOUNT, AND RATE OF ANY RETURN FLOW.

11 (E) ANY OTHER INFORMATION THE PROPERTY OWNER WOULD LIKE THE  
12 DEPARTMENT TO CONSIDER IN MAKING ITS DETERMINATION UNDER THIS  
13 SECTION.

14 (2) UPON RECEIPT OF A REQUEST FOR A SITE-SPECIFIC REVIEW, THE  
15 DEPARTMENT SHALL CONSIDER THE INFORMATION SUBMITTED TO THE  
16 DEPARTMENT UNDER SUBSECTION (1) AND SHALL CONSIDER THE ACTUAL  
17 STREAM OR RIVER FLOW DATA OF ANY AFFECTED STREAM REACH. THE  
18 DEPARTMENT SHALL ALSO APPLY THE DRAINAGE AREA AGGREGATION STANDARDS  
19 PROVIDED IN SECTION 32706A(2)(A), (B), AND (C), IF APPLICABLE. THE  
20 DEPARTMENT SHALL NOT RELY ON THE ASSESSMENT TOOL'S DETERMINATION IN  
21 MAKING ITS DETERMINATION UNDER A SITE-SPECIFIC REVIEW.

22 (3) THE DEPARTMENT SHALL COMPLETE ITS SITE-SPECIFIC REVIEW  
23 WITHIN 10 WORKING DAYS OF SUBMITTAL OF A REQUEST FOR A SITE-  
24 SPECIFIC REVIEW. IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-  
25 SPECIFIC REVIEW, THAT THE PROPOSED WITHDRAWAL IS A ZONE A OR A ZONE  
26 B WITHDRAWAL, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTIFICATION TO  
27 THE PROPERTY OWNER AND THE PROPERTY OWNER MAY REGISTER THE

1 WITHDRAWAL AND MAY PROCEED WITH THE WITHDRAWAL.

2 (4) IF THE DEPARTMENT DETERMINES IN CONDUCTING A SITE-SPECIFIC  
3 REVIEW THAT THE PROPOSED WITHDRAWAL IS A ZONE C WITHDRAWAL, THE  
4 PROPERTY OWNER MAY REGISTER THE WITHDRAWAL AND PROCEED TO MAKE THE  
5 WITHDRAWAL IF THE PROPERTY OWNER SELF-CERTIFIES THAT HE OR SHE IS  
6 IMPLEMENTING APPLICABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY  
7 FEASIBLE WATER CONSERVATION MEASURES PREPARED UNDER SECTION 32708A  
8 THAT THE PROPERTY OWNER CONSIDERS TO BE REASONABLE OR HAS SELF-  
9 CERTIFIED THAT HE OR SHE IS IMPLEMENTING APPLICABLE ENVIRONMENTALLY  
10 SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES  
11 DEVELOPED FOR THE WATER USE ASSOCIATED WITH THAT SPECIFIC  
12 WITHDRAWAL THAT THE PROPERTY OWNER CONSIDERS TO BE REASONABLE.

13 (5) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC  
14 REVIEW, THAT THE PROPOSED WITHDRAWAL IS A ZONE D WITHDRAWAL, THE  
15 PROPERTY OWNER SHALL NOT REGISTER THE WITHDRAWAL AND SHALL NOT MAKE  
16 THE WITHDRAWAL UNLESS HE OR SHE APPLIES FOR A WATER WITHDRAWAL  
17 PERMIT UNDER SECTION 32723 AND THE WITHDRAWAL IS AUTHORIZED UNDER  
18 THAT SECTION.

19 (6) AFTER A PROPERTY OWNER REGISTERS A WITHDRAWAL FOLLOWING A  
20 SITE-SPECIFIC REVIEW, IF, IN DEVELOPING THE CAPACITY TO MAKE THE  
21 WITHDRAWAL, THE CONDITIONS OF THE WITHDRAWAL DEVIATE FROM THE  
22 SPECIFIC DATA THAT WERE EVALUATED IN THE SITE-SPECIFIC REVIEW, THE  
23 PROPERTY OWNER SHALL NOTIFY THE DEPARTMENT OF THE CORRECTED DATA  
24 AND THE DEPARTMENT SHALL CONFIRM ITS DETERMINATION UNDER THE SITE-  
25 SPECIFIC REVIEW. IF THE CORRECTED DATA DO NOT CHANGE THE  
26 DETERMINATION UNDER THE SITE-SPECIFIC REVIEW, THE PROPERTY OWNER  
27 MAY PROCEED WITH THE WITHDRAWAL. IF THE CORRECTED DATA CHANGE THE

1 DETERMINATION UNDER THE SITE-SPECIFIC REVIEW, THE PROPERTY OWNER  
2 SHALL PROCEED UNDER THE PROVISIONS OF THIS PART RELATED TO THE  
3 CORRECTED DETERMINATION.

4 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, PRIOR  
5 TO THE IMPLEMENTATION DATE OF THE ASSESSMENT TOOL UNDER SECTION  
6 32706A, A PROPERTY OWNER PROPOSING TO DEVELOP CAPACITY ON HIS OR  
7 HER PROPERTY TO MAKE A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL  
8 MAY SUBMIT TO THE DEPARTMENT A REQUEST FOR AN INTERIM SITE-SPECIFIC  
9 REVIEW UNDER THIS SUBSECTION TO DETERMINE WHETHER OR NOT THE  
10 PROPOSED WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.  
11 DURING THE INTERIM PERIOD PRIOR TO THE IMPLEMENTATION DATE OF THE  
12 ASSESSMENT TOOL UNDER SECTION 32706A, THE DEPARTMENT, UPON REQUEST,  
13 SHALL CONDUCT A SITE-SPECIFIC REVIEW WITHIN A REASONABLE TIME  
14 PERIOD NOT TO EXCEED 30 DAYS BASED UPON AN EVALUATION OF REASONABLY  
15 AVAILABLE INFORMATION. FOR PURPOSES OF THIS PART, A DETERMINATION  
16 UNDER AN INTERIM SITE-SPECIFIC REVIEW SHALL BE AFFORDED THE SAME  
17 STATUS AS A SITE-SPECIFIC REVIEW OTHERWISE CONDUCTED UNDER THIS  
18 SECTION.

19 SEC. 32706D. (1) THE DEPARTMENT SHALL DEVELOP A PROTOCOL FOR  
20 THE COLLECTION OF STREAM OR RIVER FLOW MEASUREMENTS BY PERSONS  
21 OTHER THAN THE DEPARTMENT FOR USE BY THE DEPARTMENT IN THE  
22 ADMINISTRATION OF THIS PART. THE PROTOCOL MAY SPECIFY A MINIMUM  
23 NUMBER OF MEASUREMENTS, STREAM OR RIVER FLOW AND WEATHER CONDITIONS  
24 WHEN THE MEASUREMENTS ARE TO BE MADE, AND ANY OTHER CONDITIONS  
25 NECESSARY TO ENSURE THE ADEQUACY AND QUALITY OF THE MEASUREMENTS.  
26 THE PROTOCOL SHALL ENSURE THAT STREAM OR RIVER FLOW MEASUREMENTS  
27 COLLECTED FOR THIS PURPOSE MEET THE SAME DATA QUALITY STANDARDS AS

1 STREAM OR RIVER FLOW MEASUREMENTS COLLECTED BY THE UNITED STATES  
2 GEOLOGICAL SURVEY. THE DEPARTMENT SHALL CONSULT WITH THE UNITED  
3 STATES GEOLOGICAL SURVEY AND OTHER RECOGNIZED SCIENTIFIC EXPERTS IN  
4 DEVELOPING THIS PROTOCOL.

5 (2) THE DEPARTMENT MAY USE STREAM OR RIVER FLOW DATA COLLECTED  
6 USING THE PROTOCOL UNDER SUBSECTION (1) IN CONDUCTING SITE-SPECIFIC  
7 REVIEWS, IN MAKING WATER WITHDRAWAL PERMIT DECISIONS UNDER SECTION  
8 32723, IN ISSUING PERMITS UNDER THE SAFE DRINKING WATER ACT, 1976  
9 PA 399, MCL 325.1001 TO 325.1023, IN UPDATING THE WATER WITHDRAWAL  
10 ASSESSMENT TOOL AS APPROPRIATE, OR IN OTHER ACTIONS REQUIRING AN  
11 EVALUATION OF STREAM OR RIVER FLOW.

12 (3) THE DEPARTMENT MAY ESTABLISH A PROGRAM TO TRAIN AND  
13 CERTIFY INDIVIDUALS IN THE COLLECTION OF STREAM OR RIVER FLOW  
14 MEASUREMENTS. THE DEPARTMENT SHALL CHARGE A FEE SUFFICIENT TO  
15 REIMBURSE THE DEPARTMENT FOR THE COST OF A PROGRAM DEVELOPED UNDER  
16 THIS SUBSECTION. THE DEPARTMENT MAY ENTER INTO A COOPERATIVE  
17 AGREEMENT WITH THE UNITED STATES GEOLOGICAL SURVEY TO PROVIDE  
18 TRAINING AND CERTIFICATION UNDER THIS SECTION.

19 Sec. 32707. (1) Except as provided in subsections (2) and (3),  
20 a person who is required to register under section 32705 or holds a  
21 permit under section 32723 shall file a report annually with the  
22 department on a form provided by the department. Reports shall be  
23 submitted by April 1 of each year. Except as provided in subsection  
24 (8), reports shall include the following information:

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

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

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

2 (d) The amount of consumptive use of water withdrawn.

3 (e) If the source of the water withdrawn is groundwater, the  
4 location of the well or wells in latitude and longitude, with the  
5 accuracy of the reported location data to within 25 feet.

6 (f) If the source of water withdrawn is groundwater, the  
7 static water level of the aquifer or aquifers, if practicable.

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

9 (h) At the discretion of the registrant or permit holder, the  
10 baseline capacity of the withdrawal and, if applicable, a  
11 description of the system capacity. ~~If the registrant or permit~~  
12 ~~holder chooses to report the baseline capacity under this~~  
13 ~~subdivision, that information shall be included in the next report~~  
14 ~~submitted by the registrant or permit holder after the effective~~  
15 ~~date of the amendatory act that added this subdivision. Information~~  
16 ~~reported under this subdivision needs only to be reported to the~~  
17 ~~department on 1 occasion.~~

18 (i) At the discretion of the registrant or permit holder, the  
19 amount of water returned to the source watershed.

20 **(J) BEGINNING IN 2010, AN ACKNOWLEDGMENT THAT THE REGISTRANT**  
21 **HAS REVIEWED APPLICABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY**  
22 **FEASIBLE WATER CONSERVATION MEASURES PREPARED UNDER SECTION 32708A.**

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~~ **SATISFIES** the reporting requirements of this section.

27 (3) The owner of a farm who reports water use under section

1 32708 is not required to report under subsection (1).

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

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

13 (6) Information described in section ~~32701(e)(i)(C)~~  
14 **32701(D)(i)(B)** that is provided to the department under subsection  
15 (1)(h) is exempt from disclosure under the freedom of information  
16 act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed  
17 unless the department determines that the withdrawal is causing an  
18 adverse resource impact.

19 (7) Except as otherwise provided in this subsection, a person  
20 who files an annual report or notification under this section shall  
21 annually remit a water use reporting fee of \$200.00 to the  
22 department. ~~Beginning when a water withdrawal assessment tool~~  
23 ~~becomes effective upon legislative enactment pursuant to the~~  
24 ~~recommendations of the groundwater conservation advisory council~~  
25 ~~under section 32803, a person who files an annual report or~~  
26 ~~notification under this section shall annually remit a water use~~  
27 ~~reporting fee of \$100.00 to the department. Water use reporting~~

1 fees shall be remitted to the department in conjunction with the  
2 annual report or notification submitted under this section. The  
3 department shall transmit water use reporting fees collected under  
4 this section to the state treasurer to be credited to the water use  
5 protection fund created in section 32714. A water use reporting fee  
6 is not required for a report or notification related to a farm that  
7 reports withdrawals under section 32708 or for a report under  
8 subsection (8).

9 (8) A person who withdraws less than 1,500,000 gallons of  
10 water in any year shall indicate this fact on the reporting form  
11 and is not required to provide information under subsection (1) (a)  
12 or (d). A person who withdraws less than 1,500,000 gallons of water  
13 in any year is not required to pay the water use reporting fee  
14 under subsection (7).

15 Sec. 32708. (1) The owner of a farm that is registered under  
16 this part who makes a withdrawal for an agricultural purpose,  
17 including irrigation for an agricultural purpose, may report the  
18 water use on the farm by annually submitting to the department of  
19 agriculture a water use conservation plan. Conservation plans shall  
20 be submitted by April 1 of each year. The water use conservation  
21 plan shall include, but need not be limited to, all of the  
22 following information:

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

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

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

27 (d) The source or sources of the water supply.

1 (e) If the source of the water withdrawn is groundwater, the  
2 location of the well or wells in latitude and longitude, with the  
3 accuracy of the reported location data to within 25 feet.

4 (f) If the water withdrawn is not used entirely for  
5 irrigation, the use or uses of the water withdrawn.

6 (g) If the source of water withdrawn is groundwater, the  
7 static water level of the aquifer or aquifers, if practicable.

8 (h) Applicable water conservation practices and an  
9 implementation plan for those practices. **BEGINNING IN 2010, THE**  
10 **WATER USE CONSERVATION PLAN SHALL INCLUDE AN ACKNOWLEDGMENT THAT**  
11 **THE OWNER OF THE FARM HAS REVIEWED APPLICABLE ENVIRONMENTALLY SOUND**  
12 **AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES PREPARED**  
13 **UNDER SECTION 32708A.**

14 (i) At the discretion of the registrant, the baseline capacity  
15 of the withdrawal based upon system capacity and a description of  
16 the system capacity. ~~If the registrant chooses to report the~~  
17 ~~baseline capacity under this subdivision, that information shall be~~  
18 ~~included in the next report submitted by the registrant after the~~  
19 ~~effective date of the amendatory act that added this subdivision.~~  
20 ~~Information reported under this subdivision needs only to be~~  
21 ~~reported to the department of agriculture on 1 occasion.~~

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

27 (3) Subject to subsection (4), information provided to the

1 department of agriculture under subsection (1)(a), (d), and (e)  
2 shall be forwarded to the department for inclusion in the statewide  
3 groundwater inventory and map prepared under section 32802.

4 (4) Information provided under subsection (1)(a), (e), and (i)  
5 is exempt from disclosure under the freedom of information act,  
6 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by  
7 the department, the department of agriculture, or the department of  
8 natural resources unless the department determines that the  
9 withdrawal is causing an adverse resource impact.

10 Sec. 32708a. ~~(1) Within 12 months after the effective date of~~  
11 ~~the amendatory act that added this section, each water user's~~  
12 ~~sector shall begin designing guidelines for generally accepted~~  
13 ~~water management practices or environmentally sound and~~  
14 ~~economically feasible water conservation measures within that~~  
15 ~~sector. Within 24 months after the effective date of the amendatory~~  
16 ~~act that added this section, the department shall review and report~~  
17 ~~to the appropriate standing committees of the legislature on~~  
18 ~~whether or not there are reasonably detailed criteria for assisting~~  
19 ~~a facility in determining whether water is being used in an~~  
20 ~~efficient manner. Such guidelines may be adopted by an established~~  
21 ~~statewide professional or trade association representing that~~  
22 ~~sector.~~

23 (1) NOT LATER THAN MARCH 31, 2009, THE DEPARTMENT SHALL  
24 PREPARE, BASED UPON RECOMMENDATIONS FROM REPRESENTATIVE TRADE  
25 ASSOCIATIONS, A SET OF GENERIC WATER CONSERVATION MEASURES THAT ARE  
26 APPLICABLE TO ALL PERSONS MAKING LARGE QUANTITY WITHDRAWALS. THE  
27 DEPARTMENT SHALL POST THESE GENERIC WATER CONSERVATION MEASURES ON

1 ITS WEBSITE.

2 (2) SUBJECT TO SUBSECTION (3), EACH WATER USER'S SECTOR MAY  
3 PREPARE AND SUBMIT TO THE DEPARTMENT WATER CONSERVATION MEASURES  
4 THAT ARE APPLICABLE FOR WATER USERS WITHIN ITS SECTOR. UPON RECEIPT  
5 OF WATER CONSERVATION MEASURES FROM A WATER USER'S SECTOR, THE  
6 DEPARTMENT SHALL REVIEW THE WATER CONSERVATION MEASURES, AND, IF  
7 THE DEPARTMENT DETERMINES THAT THOSE WATER CONSERVATION MEASURES  
8 ARE APPROPRIATE FOR THAT SECTOR, THE DEPARTMENT SHALL ACCEPT THOSE  
9 WATER CONSERVATION MEASURES. UPON ACCEPTANCE, THE DEPARTMENT SHALL  
10 POST THE WATER CONSERVATION MEASURES ON ITS WEBSITE AND THOSE WATER  
11 CONSERVATION MEASURES SHALL SUPERSEDE THE GENERIC WATER  
12 CONSERVATION MEASURES PREPARED UNDER SUBSECTION (1) FOR WATER USERS  
13 WITHIN THAT SECTOR. IF THE DEPARTMENT DETERMINES THAT THE WATER  
14 CONSERVATION MEASURES ARE NOT APPROPRIATE FOR THE WATER USER'S  
15 SECTOR, THE DEPARTMENT SHALL PROVIDE COMMENTS TO THE WATER USER'S  
16 SECTOR AND SUGGESTIONS THAT WOULD RESULT IN THE DEPARTMENT'S  
17 ACCEPTANCE OF THE WATER CONSERVATION MEASURES. A WATER USER'S  
18 SECTOR MAY RESUBMIT WATER CONSERVATION MEASURES IN RESPONSE TO THE  
19 DEPARTMENT'S COMMENTS AND SUGGESTIONS.

20 (3) WATER CONSERVATION MEASURES FOR AGRICULTURAL PURPOSES  
21 SHALL BE DEVELOPED AND APPROVED BY THE COMMISSION OF AGRICULTURE  
22 AND SHALL BE UPDATED ANNUALLY AS PART OF THE PROCESS FOR REVIEW AND  
23 UPDATE OF GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES  
24 UNDER THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.471 TO  
25 286.474. WATER CONSERVATION MEASURES APPROVED UNDER THIS SUBSECTION  
26 SHALL BE POSTED ON THE DEPARTMENT OF AGRICULTURE'S WEBSITE AND  
27 SHALL BE FORWARDED TO THE DEPARTMENT FOR POSTING ON ITS WEBSITE.

1           (4) BY APRIL 1, 2010, THE DEPARTMENT SHALL REPORT TO THE  
2     STANDING COMMITTEES OF THE LEGISLATURE WITH JURISDICTION PRIMARILY  
3     RELATED TO NATURAL RESOURCES AND THE ENVIRONMENT ON THE STATUS OF  
4     THE PREPARATION AND ACCEPTANCE OF WATER USER SECTOR CONSERVATION  
5     MEASURES.

6           (5) IF THE DEPARTMENT RECEIVES A REGISTRATION FOR A ZONE C  
7     WITHDRAWAL, THE DEPARTMENT SHALL NOTIFY ALL OTHER REGISTRANTS AND  
8     PERMIT HOLDERS WHOSE WITHDRAWALS ARE FROM THE SAME WATER SOURCE AS  
9     THE ZONE C WITHDRAWAL OF THE STATUS OF THE WATER SOURCE. UPON  
10    RECEIPT OF NOTIFICATION UNDER THIS SUBSECTION, EACH OF THESE  
11    REGISTRANTS AND PERMIT HOLDERS SHALL REVIEW AND CONSIDER  
12    IMPLEMENTING THE APPLICABLE WATER CONSERVATION MEASURES PREPARED  
13    UNDER THIS SECTION.

14          (6) ~~(2) Compliance with generally accepted water management~~  
15    ~~practices or environmentally sound and economically feasible water~~  
16    conservation measures does not authorize a water withdrawal that is  
17    otherwise prohibited by law.

18          (7) AS USED IN THIS SECTION:

19          (A) "PERMIT HOLDERS" MEANS PERSONS HOLDING A PERMIT UNDER  
20    SECTION 32723 AND PERSONS HOLDING A PERMIT UNDER THE SAFE DRINKING  
21    WATER ACT, 1976 PA 399, MCL 325.1001 TO 325.1023.

22          (B) "WATER CONSERVATION MEASURES" MEANS ENVIRONMENTALLY SOUND  
23    AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES.

24          Sec. 32709. The department may contract for the preparation  
25    and distribution of informational materials to ~~persons who withdraw~~  
26    ~~water for irrigation or industrial purposes regarding the~~ MEMBERS  
27    OF THE PUBLIC RELATED TO ANY OF THE FOLLOWING:

1       (A) **THE** purposes, benefits, and requirements of this part. 7  
2 ~~and may also provide information~~

3       (B) **INFORMATION** on complying with the registration ~~program~~  
4 **REQUIREMENT OF THIS PART** and on any general or applicable methods  
5 for calculating or estimating water withdrawals or consumptive  
6 uses.

7       Sec. 32710. (1) The department shall do all of the following:

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

13       (b) Collect and maintain information regarding the locations,  
14 types, and quantities of water use, including water withdrawals and  
15 consumptive uses, in a form that the department determines is  
16 comparable to the form used by other states and provinces in the  
17 Great Lakes region.

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

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

24       (e) Participate in the development of a regional consultation  
25 procedure for use in exchanging information on the effects of  
26 proposed water withdrawals and consumptive uses from the Great  
27 Lakes basin.

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

3 (G) IF THE DEPARTMENT RECEIVES A REGISTRATION FOR A ZONE B OR  
4 A ZONE C WITHDRAWAL OR ISSUES A PERMIT UNDER SECTION 32723 OR THE  
5 SAFE DRINKING WATER ACT, 1976 PA 399, MCL 325.1001 TO 325.1023, FOR  
6 A ZONE B OR ZONE C WITHDRAWAL, PLACE A NOTICE ON THE DEPARTMENT'S  
7 WEBSITE AND NOTIFY BY ELECTRONIC MAIL ALL OF THE FOLLOWING THAT  
8 HAVE REQUESTED UNDER SUBSECTION (2) AN ELECTRONIC MAIL  
9 NOTIFICATION:

10 (i) CONSERVATION DISTRICTS.

11 (ii) REGIONAL PLANNING AGENCIES.

12 (iii) WATERSHED MANAGEMENT PLANNING COMMITTEES.

13 (iv) STORM WATER COMMITTEES ESTABLISHED UNDER PART 31.

14 (v) THE CHIEF ELECTED OFFICIALS OF THE LOCAL UNITS OF  
15 GOVERNMENT.

16 (vi) COMMUNITY SUPPLIES OWNED BY POLITICAL SUBDIVISIONS.

17 (vii) A WATER USERS COMMITTEE ESTABLISHED UNDER SECTION 32725.

18 (2) AN ORGANIZATION LISTED IN SUBSECTION (1) (G) THAT WISHES TO  
19 RECEIVE AN ELECTRONIC MAIL NOTIFICATION OF WITHDRAWALS DESCRIBED IN  
20 SUBSECTION (1) (G) THAT ARE LOCATED IN ITS VICINITY SHALL PROVIDE TO  
21 THE DEPARTMENT AN ELECTRONIC MAIL ADDRESS.

22 (3) UPON RECEIPT OF NOTIFICATION FROM THE DEPARTMENT UNDER  
23 SUBSECTION (1) (G), THE NOTIFIED ENTITIES MAY FORM A WATER RESOURCES  
24 ASSESSMENT AND EDUCATION COMMITTEE IN ORDER TO ASSESS TRENDS IN  
25 WATER USE IN THE VICINITY OF THE WITHDRAWAL AND EDUCATE WATER  
26 USERS. THE DEPARTMENT SHALL ASSIST IN THE FORMATION OF THESE WATER  
27 RESOURCES ASSESSMENT AND EDUCATION COMMITTEES AND MAY PROVIDE THEM

1 WITH TECHNICAL INFORMATION REGARDING WATER USE AND CAPACITY WITHIN  
 2 THEIR VICINITY, AGGREGATED AT THE STREAM REACH LEVEL. MEETINGS OF  
 3 WATER RESOURCES ASSESSMENT AND EDUCATION COMMITTEES SHALL BE OPEN  
 4 TO THE GENERAL PUBLIC. A WATER RESOURCES ASSESSMENT AND EDUCATION  
 5 COMMITTEE FORMED UNDER THIS SUBSECTION MAY PROVIDE EDUCATIONAL  
 6 MATERIALS AND RECOMMENDATIONS REGARDING ANY OF THE FOLLOWING:

7 (A) LONG-TERM WATER RESOURCES PLANNING.

8 (B) USE OF CONSERVATION MEASURES.

9 (C) DROUGHT MANAGEMENT ACTIVITIES.

10 (D) OTHER TOPICS RELATED TO WATER USE AS IDENTIFIED BY THE  
 11 COMMITTEE.

12 Sec. 32721. (1) A person shall not make a new or increased  
 13 large quantity withdrawal from the waters of the state that causes  
 14 an adverse resource impact. ~~to a designated trout stream.~~

15 ~~—— (2) Beginning 2 years after the effective date of the~~  
 16 ~~amendatory act that added this section, a person shall not make a~~  
 17 ~~new or increased large quantity withdrawal from the waters of the~~  
 18 ~~state that causes an adverse resource impact.~~

19 (2) ~~(3)~~ This section does not apply to the baseline capacity  
 20 of a large quantity withdrawal or a well capable of making a large  
 21 quantity withdrawal that existed on ~~the effective date of the~~  
 22 ~~amendatory act that added this section~~ **FEBRUARY 28, 2006.**

23 (3) ~~(4)~~ This section does not apply to a withdrawal that is  
 24 utilized solely for fire suppression.

25 (4) A PERSON WHO DEVELOPED THE CAPACITY TO MAKE A NEW OR  
 26 INCREASED LARGE QUANTITY WITHDRAWAL ON OR AFTER FEBRUARY 28, 2006  
 27 AND PRIOR TO THE EFFECTIVE DATE OF THE IMPLEMENTATION OF THE

1 ASSESSMENT TOOL UNDER SECTION 32706A OR WHO RECEIVED A  
2 DETERMINATION UNDER FORMER SECTION 32724 DURING THAT PERIOD IS  
3 SUBJECT TO THE DEFINITION OF ADVERSE RESOURCE IMPACT THAT EXISTED  
4 ON FEBRUARY 28, 2006.

5 Sec. 32722. (1) ~~Until a water withdrawal assessment tool~~  
6 ~~becomes effective upon legislative enactment pursuant to the~~  
7 ~~recommendations of the groundwater conservation advisory council~~  
8 ~~under section 32803~~ **FOR NEW OR INCREASED LARGE QUANTITY WITHDRAWALS**  
9 **DEVELOPED ON OR AFTER FEBRUARY 28, 2006 AND PRIOR TO THE**  
10 **IMPLEMENTATION DATE OF THE ASSESSMENT TOOL UNDER SECTION 32706A,**  
11 there is a rebuttable presumption that ~~a new or increased large~~  
12 ~~quantity~~ **THE** withdrawal will not cause an adverse resource impact  
13 in violation of section 32721 under either of the following  
14 circumstances:

15 (a) The location of the withdrawal is more than 1,320 feet  
16 from the banks of a ~~designated trout~~ **AN AFFECTED** stream **REACH**.

17 (b) The withdrawal depth of the well is at least 150 feet.

18 (2) **IF THE ASSESSMENT TOOL DETERMINES THAT A WITHDRAWAL IS A**  
19 **ZONE A OR A ZONE B WITHDRAWAL AND IS NOT LIKELY TO CAUSE AN ADVERSE**  
20 **RESOURCE IMPACT, THERE IS A REBUTTABLE PRESUMPTION THAT THE**  
21 **WITHDRAWAL UNDER THE CONDITIONS THAT WERE THE BASIS FOR THE**  
22 **ASSESSMENT TOOL'S DETERMINATION WILL NOT CAUSE AN ADVERSE RESOURCE**  
23 **IMPACT IN VIOLATION OF SECTION 32721.**

24 (3) **IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC**  
25 **REVIEW, OR IN CONNECTION WITH A PERMIT OR APPROVAL ISSUED UNDER**  
26 **SECTION 32723 OR THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL**  
27 **325.1001 TO 325.1023, THAT A WITHDRAWAL IS NOT LIKELY TO CAUSE AN**

ADVERSE RESOURCE IMPACT, THERE IS A REBUTTABLE PRESUMPTION THAT THE WITHDRAWAL UNDER THE CONDITIONS THAT WERE THE BASIS OF THE DEPARTMENT'S DETERMINATION WILL NOT CAUSE AN ADVERSE RESOURCE IMPACT IN VIOLATION OF SECTION 32721.

(4) ~~(2)~~—A PRESUMPTION UNDER THIS SECTION IS NOT VALID IF THE CAPACITY TO MAKE THE WITHDRAWAL IS NOT DEVELOPED WITHIN 18 MONTHS AFTER THE WITHDRAWAL IS REGISTERED. A presumption under ~~subsection~~ ~~(1)~~—THIS SECTION may be rebutted by a preponderance of evidence that a new or increased large quantity withdrawal from the waters of the state has caused or is likely to cause an adverse resource impact.

Sec. 32723. (1) Except as provided in subsection ~~(10)~~—(13), the following persons shall obtain a water withdrawal permit prior to making the withdrawal:

(a) A person who ~~develops~~ **PROPOSES TO DEVELOP** withdrawal capacity to make a new withdrawal of ~~over~~ **MORE THAN** 2,000,000 gallons of water per day from the waters of the state, ~~other than the Great Lakes and their connecting waterways,~~ to supply a common distribution system.

(b) A person who ~~develops~~ **PROPOSES TO DEVELOP** increased withdrawal capacity beyond baseline capacity of more than 2,000,000 gallons of water per day from the waters of the state, ~~other than the Great Lakes and their connecting waterways,~~ to supply a common distribution system.

~~—(c) A person who develops withdrawal capacity to make a new withdrawal of more than 5,000,000 gallons of water per day from the Great Lakes and their connecting waterways to supply a common~~

1 ~~distribution system.~~

2 ~~—— (d) A person who develops increased withdrawal capacity beyond~~  
 3 ~~baseline capacity of more than 5,000,000 gallons of water per day~~  
 4 ~~from the Great Lakes and their connecting waterways to supply a~~  
 5 ~~common distribution system.~~

6 (C) A PERSON WHO PROPOSES TO DEVELOP A NEW OR INCREASED  
 7 WITHDRAWAL CAPACITY THAT WILL RESULT IN AN INTRABASIN TRANSFER OF  
 8 MORE THAN 100,000 GALLONS PER DAY AVERAGE OVER ANY 90-DAY PERIOD.

9 (2) A person shall apply for a **WATER WITHDRAWAL** permit under  
 10 this section by submitting an application to the department  
 11 containing the information described in section ~~32706~~**32706C(1) (A)**  
 12 **TO (E) AND AN EVALUATION OF EXISTING HYDROLOGICAL AND**  
 13 **HYDROGEOLOGICAL CONDITIONS. IF THE APPLICANT PROPOSES TO UNDERTAKE**  
 14 **A PREVENTATIVE MEASURE ALONG WITH THE WITHDRAWAL, THE PROPERTY**  
 15 **OWNER SHALL PROVIDE THE DEPARTMENT WITH A DETAILED DESCRIPTION OF**  
 16 **THE PREVENTATIVE MEASURE AND RELEVANT INFORMATION AS TO HOW THE**  
 17 **PREVENTATIVE MEASURE WILL BE IMPLEMENTED.** In addition, ~~until 5~~  
 18 ~~years after the effective date of the amendatory act that added~~  
 19 ~~this section,~~ the applicant shall submit an application fee in the  
 20 amount of \$2,000.00. The department shall transmit ~~water use~~  
 21 ~~reporting~~**APPLICATION** fees collected under this section to the  
 22 state treasurer to be credited to the water use protection fund  
 23 created in section 32714. ~~The department shall provide public~~  
 24 ~~notice of all applications received under this section.~~

25 (3) ~~A permit~~**AN** application **SUBMITTED UNDER SUBSECTION (2)** is  
 26 considered to be administratively complete effective 30 days after  
 27 it is received by the department unless the department notifies the

1 applicant, in writing, during this 30-day period that the  
 2 application is not administratively complete or that the fee  
 3 required to be accompanied with the application has not been paid.  
 4 If the department determines that the application is not  
 5 administratively complete, the notification shall specify the  
 6 information necessary to make the application administratively  
 7 complete. If the department notifies the applicant as provided in  
 8 this subsection, the 30-day period is tolled until the applicant  
 9 submits to the department the specified information or fee.

10 (4) THE DEPARTMENT SHALL PROVIDE PUBLIC NOTIFICATION OF ITS  
 11 RECEIPT OF APPLICATIONS UNDER THIS SECTION AND SHALL PROVIDE A  
 12 PUBLIC COMMENT PERIOD OF NOT LESS THAN 45 DAYS BEFORE APPLICATIONS  
 13 ARE ACTED UPON UNDER SUBSECTION (5).

14 (5) ~~(4)~~—The department shall make a decision whether to grant  
 15 or deny a **WATER WITHDRAWAL** permit under this section within 120  
 16 days of receipt of an administratively complete application.

17 ~~—(5) The department shall issue a permit under subsection~~  
 18 ~~(1)(a) or (b) if the department determines that the withdrawal is~~  
 19 ~~not likely to cause an adverse resource impact.~~

20 (6) The department shall issue a **WATER WITHDRAWAL** permit under  
 21 subsection ~~(1)(c) or (d)~~ **(1) (A) OR (B)** if all of the following  
 22 conditions are met:

23 (a) All water withdrawn, less any consumptive use, is  
 24 returned, either naturally or after use, to the source watershed.

25 (b) The withdrawal will be implemented so as to ensure that  
 26 the proposal will result in no individual or cumulative adverse  
 27 resource impacts. Cumulative adverse resource impacts under this

1 subdivision shall be evaluated by the department based upon  
2 available information gathered by the department.

3 (c) Subject to section 32726, the withdrawal will be  
4 implemented so as to ensure that it is in compliance with all  
5 applicable local, state, and federal laws as well as all legally  
6 binding regional interstate and international agreements, including  
7 the boundary waters treaty of 1909.

8 (d) The proposed use is reasonable under common law principles  
9 of water law in Michigan.

10 (e) ~~The~~ **FOR PERMIT APPLICATIONS RECEIVED ON OR AFTER JANUARY**  
11 **1, 2009, THE** applicant has ~~considered voluntary generally accepted~~  
12 ~~water management practices or~~ **SELF-CERTIFIED THAT HE OR SHE IS IN**  
13 **COMPLIANCE WITH** environmentally sound and economically feasible  
14 water conservation measures **DEVELOPED BY THE APPLICABLE WATER**  
15 **USER'S SECTOR UNDER SECTION 32708A OR HAS SELF-CERTIFIED THAT HE OR**  
16 **SHE IS IN COMPLIANCE WITH ENVIRONMENTALLY SOUND AND ECONOMICALLY**  
17 **FEASIBLE WATER CONSERVATION MEASURES DEVELOPED FOR THE WATER USE**  
18 **ASSOCIATED WITH THAT SPECIFIC WITHDRAWAL.**

19 (f) **THE DEPARTMENT DETERMINES THAT THE PROPOSED WITHDRAWAL**  
20 **WILL NOT VIOLATE PUBLIC OR PRIVATE RIGHTS AND LIMITATIONS IMPOSED**  
21 **BY MICHIGAN WATER LAW OR OTHER MICHIGAN COMMON LAW DUTIES.**

22 (7) **THE DEPARTMENT SHALL ISSUE A WATER WITHDRAWAL PERMIT UNDER**  
23 **SUBSECTION (1) (C) IF THE TRANSFER COMPLIES WITH SECTION 4.9 OF THE**  
24 **COMPACT.**

25 (8) **IN REVIEWING A PROPOSED PREVENTATIVE MEASURE, THE**  
26 **DEPARTMENT SHALL CONSIDER THE EFFECT OF THE PREVENTATIVE MEASURE ON**  
27 **PREVENTING AN ADVERSE RESOURCE IMPACT BY DIMINISHING THE EFFECT OF**

1 THE WITHDRAWAL ON STREAM OR RIVER FLOW OR THE TEMPERATURE REGIME OF  
2 THE STREAM OR RIVER. IF THE DEPARTMENT APPROVES A PREVENTATIVE  
3 MEASURE IN CONJUNCTION WITH A WATER WITHDRAWAL PERMIT UNDER THIS  
4 SECTION, THE DEPARTMENT SHALL ENTER INTO A LEGALLY ENFORCEABLE  
5 IMPLEMENTATION SCHEDULE FOR COMPLETION OF THE PREVENTATIVE MEASURE.

6 (9) A PROPOSED USE FOR WHICH A WATER WITHDRAWAL PERMIT IS  
7 ISSUED UNDER THIS SECTION SHALL BE CONSIDERED TO SATISFY THE  
8 REQUIREMENTS OF SECTION 4.11 OF THE COMPACT.

9 (10) ~~(7)~~—A permit issued under part 31 pursuant to 33 USC  
10 1326(b) shall be considered sufficient to demonstrate that there  
11 will not be an adverse resource impact under section 32721 and  
12 satisfies the conditions for a **WATER WITHDRAWAL** permit under this  
13 section. Upon receipt of a ~~permit~~ **AN** application **UNDER THIS SECTION**  
14 and evidence that the applicant holds a part 31 permit described in  
15 this subsection, the department shall grant the applicant a **WATER**  
16 **WITHDRAWAL** permit under this subsection.

17 (11) ~~(8)~~—The department may revoke a **WATER WITHDRAWAL** permit  
18 issued under this section if the department determines following a  
19 hearing, based upon clear and convincing scientific evidence, that  
20 the withdrawal is causing an adverse resource impact.

21 (12) ~~(9)~~—A person who is aggrieved by a determination of the  
22 department under this section related to a **WATER WITHDRAWAL** permit  
23 may file a sworn petition with the department setting forth the  
24 grounds and reasons for the complaint and asking for a contested  
25 case hearing on the matter pursuant to the administrative  
26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A  
27 petition filed more than 60 days after action on the **WATER**

1 **WITHDRAWAL** permit may be rejected by the department as being  
 2 untimely. The department shall issue a final decision on a petition  
 3 for a contested case hearing within 6 months after receiving the  
 4 petition. A determination, action, or inaction by the department  
 5 following a contested case hearing is subject to judicial review as  
 6 provided in the administrative procedures act of 1969, 1969 PA 306,  
 7 MCL 24.201 to 24.328.

8 (13) ~~(10)~~ The following **WITHDRAWALS** are not required to obtain  
 9 a **WATER WITHDRAWAL** permit under this section:

10 (a) A **WITHDRAWAL BY A** community supply ~~owned by a political~~  
 11 ~~subdivision~~ that holds a permit under the safe drinking water act,  
 12 1976 PA 399, MCL 325.1001 to 325.1023.

13 (b) ~~A person who makes seasonal~~ **SEASONAL** withdrawals of not  
 14 more than 2,000,000 gallons of water per day average in any  
 15 consecutive 90-day period to supply a common distribution system  
 16 **UNLESS THE WITHDRAWALS RESULT IN A DIVERSION.**

17 (c) ~~A person engaged in producing~~ **WITHDRAWAL FOR THE**  
 18 **PRODUCTION OF** bottled drinking water ~~who receives approval~~ **APPROVED**  
 19 by the department under a water source review conducted under  
 20 section 17 of the safe drinking water act, 1976 PA 399, MCL  
 21 325.1017.

22 ~~———— (11) As used in this section:—~~

23 ~~———— (a) "Great Lakes and their connecting waterways" means Lakes~~  
 24 ~~Superior, Michigan, Huron, Erie, and Ontario and their connecting~~  
 25 ~~waterways including the St. Marys river, Lake St. Clair, the St.~~  
 26 ~~Clair river, and the Detroit river. For purposes of this section,~~  
 27 ~~Lakes Huron and Michigan shall be considered a single Great Lake.~~

~~(b) "Source watershed" means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake, then the source watershed shall be considered to be the watershed of that Great Lake and its connecting waterways. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake, then the source watershed shall be considered to be the watershed of that Great Lake, with a preference for returning water to the direct tributary stream watershed from which it was withdrawn.~~

Sec. 32725. (1) All persons making large quantity withdrawals within a watershed are encouraged to establish a water users committee to evaluate the status of current water resources, water use, and trends in water use within the watershed and to assist in long-term water resources planning. A water users committee may be composed of all registrants, ~~water withdrawal~~ permit holders, and local government officials within the watershed. **UPON ESTABLISHMENT OF A WATER USERS COMMITTEE, A PARTICIPATING LOCAL GOVERNMENT OFFICIAL MAY CREATE AN AD HOC SUBCOMMITTEE OF RESIDENTS OF THAT LOCAL UNIT OF GOVERNMENT TO PROVIDE THAT LOCAL GOVERNMENT OFFICIAL WITH INFORMATION AND ADVICE ON WATER RESOURCES, WATER USE, AND TRENDS IN WATER USE WITHIN THE LOCAL UNIT OF GOVERNMENT.**

(2) **IF THE DEPARTMENT AUTHORIZES A ZONE B WITHDRAWAL IN A COLD-TRANSITIONAL RIVER SYSTEM OR A ZONE C WITHDRAWAL, THE DEPARTMENT SHALL NOTIFY ALL REGISTRANTS, PERMIT HOLDERS, AND LOCAL GOVERNMENT OFFICIALS WITHIN THE WATERSHED OF THE WITHDRAWAL AND OF THE AUTHORITY UNDER THIS SECTION TO ESTABLISH A WATER USERS COMMITTEE AND MAY PROVIDE THEM TECHNICAL INFORMATION REGARDING**

1 **WATER USE AND CAPACITY WITHIN THEIR VICINITY AGGREGATED AT THE**  
2 **STREAM REACH LEVEL.**

3 (3) ~~(2)~~—If the department determines by reasonable  
4 scientifically-based evidence that adverse resource impacts are  
5 occurring or are likely to occur from 1 or more large quantity  
6 withdrawals, the department shall notify the water users committee  
7 in the watershed or shall convene a meeting of all registrants and  
8 ~~water withdrawal~~ permit holders within the watershed and shall  
9 attempt to facilitate an agreement on voluntary measures that would  
10 prevent adverse resource impacts.

11 (4) ~~(3)~~—If, within 30 days after the department has notified  
12 the water users committee or convened the meeting under subsection  
13 ~~(2)~~ (3), the registrants and ~~water withdrawal~~ permit holders are  
14 not able to voluntarily agree to measures that would prevent  
15 adverse resource impacts, the department may propose a solution  
16 that the department believes would equitably resolve the situation  
17 and prevent adverse resource impacts. The recommended solution is  
18 not binding on any of the parties.

19 (5) ~~(4)~~—The director may, without a prior hearing, order a  
20 ~~person holding a water withdrawal permit~~ **HOLDERS** to immediately  
21 restrict a withdrawal if the director determines by clear and  
22 convincing scientific evidence that there is a substantial and  
23 imminent threat that the withdrawal is causing or is likely to  
24 cause an adverse resource impact. The order shall specify the date  
25 on which the withdrawal must be restricted and the date on which it  
26 may be resumed. An order issued under this section shall remain in  
27 force and effect for not more than 30 days and may be renewed for

1 an additional 30 days if the director determines by clear and  
2 convincing scientific evidence that conditions continue to pose a  
3 substantial and imminent threat that the withdrawal is causing or  
4 is likely to cause an adverse resource impact. The order shall  
5 notify the person that the person may request a contested case  
6 hearing under the administrative procedures act of 1969, 1969 PA  
7 306, MCL 24.201 to 24.328. The hearing shall be held within 10  
8 business days following the request, unless the permittee requests  
9 a later date. As an alternative to requesting a contested case  
10 hearing, a person subject to an order under this section may seek  
11 judicial review of the order as provided in the revised judicature  
12 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

13 (6) ~~(5)~~ A registrant or ~~water withdrawal~~ permit holder may  
14 submit a petition to the director alleging that adverse resource  
15 impacts are occurring or are likely to occur from 1 or more water  
16 withdrawals. The director shall either investigate the petition or  
17 forward the petition to the director of the department of  
18 agriculture if the water withdrawals are from an agricultural well.  
19 The petition shall be in writing and shall include all the  
20 information requested by the director or the director of the  
21 department of agriculture, as appropriate.

22 (7) ~~(6)~~ A person who submits more than 2 unverified petitions  
23 under this section within 1 year may be ordered by the director to  
24 pay for the full costs of investigating any third or subsequent  
25 unverified petition. As used in this subsection, "unverified  
26 petition" means a petition in response to which the director  
27 determines that there is not reasonable evidence to suspect adverse

1 resource impacts.

2 (8) AS USED IN THIS SECTION, "PERMIT HOLDERS" MEANS PERSONS  
3 HOLDING A PERMIT UNDER SECTION 32723 AND PERSONS HOLDING A PERMIT  
4 UNDER THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL 325.1001 TO  
5 325.1023.

6 Sec. 32727. (1) ~~A withdrawal pursuant to part 111, 115, 201,~~  
7 ~~or 213 is~~ THE FOLLOWING WITHDRAWALS ARE exempt from the  
8 requirements of this part ~~—~~UNLESS THEY RESULT IN A DIVERSION:

9 (A) A WITHDRAWAL UNDERTAKEN AS PART OF AN ACTIVITY AUTHORIZED  
10 BY THE DEPARTMENT UNDER PART 111, 115, 201, 213, OR 615.

11 (B) A WITHDRAWAL UNDERTAKEN AS PART OF AN ACTIVITY AUTHORIZED  
12 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER EITHER  
13 OF THE FOLLOWING:

14 (i) THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND  
15 LIABILITY ACT OF 1980, PUBLIC LAW 96-510.

16 (ii) THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, PUBLIC  
17 LAW 94-580.

18 (C) A WITHDRAWAL THAT IS UNDERTAKEN FOR HYDROELECTRIC  
19 GENERATION AT SITES CERTIFIED, LICENSED, OR PERMITTED BY THE  
20 FEDERAL ENERGY REGULATORY COMMISSION.

21 (D) A HYDROELECTRIC FACILITY AUTHORIZED UNDER SECTION 12 OF  
22 CHAPTER 264 OF THE ACT OF MARCH 3, 1909, COMMONLY KNOWN AS THE  
23 RIVER AND HARBOR ACT OF 1909, 35 STAT. 821.

24 (E) A HYDROELECTRIC FACILITY AUTHORIZED UNDER SECTION 1075(C)  
25 OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991,  
26 PUBLIC LAW 102-240.

27 (F) A HYDROELECTRIC FACILITY AUTHORIZED UNDER PUBLIC LAW 85,

1 CHAPTER 1368, 34 STAT. 102.

2 (G) REMOVAL OF WATER FROM AN ARTIFICIALLY CREATED SURFACE  
3 WATER BODY THAT HAS AS ITS PRIMARY SOURCE OF WATER EITHER OF THE  
4 FOLLOWING:

5 (i) A WITHDRAWAL THAT IS NOT A NEW OR INCREASED LARGE QUANTITY  
6 WITHDRAWAL.

7 (ii) A REGISTERED NEW OR INCREASED LARGE QUANTITY WITHDRAWAL  
8 THAT HAS BEEN DETERMINED BY THE ASSESSMENT TOOL, A SITE-SPECIFIC  
9 REVIEW, OR A PERMIT ISSUED UNDER SECTION 32723 TO BE A WITHDRAWAL  
10 THAT IS NOT LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

11 (H) A WITHDRAWAL FROM A NONCOMMERCIAL WELL LOCATED ON SINGLE-  
12 FAMILY RESIDENTIAL PROPERTY NOT EXCEEDING 4 UNITS AND NOT MORE THAN  
13 3 ACRES IN SIZE. HOWEVER, THE EXEMPTION PROVIDED FOR IN THIS  
14 SUBDIVISION DOES NOT APPLY TO LAKE AUGMENTATION WELLS.

15 (2) THE DIRECTOR OF THE DEPARTMENT SHALL ENSURE THAT DATA IN  
16 THE POSSESSION OF THE STATE RELATED TO WITHDRAWALS THAT ARE NOT  
17 REGULATED UNDER THIS PART ARE COMPILED AND SHARED WITH DEPARTMENTAL  
18 PERSONNEL RESPONSIBLE FOR IMPLEMENTING THIS PART.

19 Sec. 32728. (1) This part shall not be construed as affecting,  
20 intending to affect, or in any way altering or interfering with  
21 common law water rights or the applicability of other laws  
22 providing for the protection of natural resources or the  
23 environment OR LIMIT THE RIGHT OF A PERSON WHOSE INTERESTS HAVE  
24 BEEN OR WILL BE ADVERSELY AFFECTED TO INSTITUTE PROCEEDINGS IN  
25 CIRCUIT COURT AGAINST ANY PERSON TO PROTECT SUCH INTERESTS.

26 (2) EXCEPT AS SPECIFICALLY AUTHORIZED UNDER THIS PART, THIS  
27 PART DOES NOT AUTHORIZE THE PROMULGATION OF RULES.

1        SEC. 32729. EXCEPT AS SPECIFICALLY AUTHORIZED UNDER THIS PART,  
2        THIS PART DOES NOT AUTHORIZE THE ASSESSMENT OF FEES.

3        Enacting section 1. Section 32724 of the natural resources and  
4        environmental protection act, 1994 PA 451, MCL 324.32724, is  
5        repealed.

6        Enacting section 2. This amendatory act does not take effect  
7        unless all of the following bills of the 94th Legislature are  
8        enacted into law:

9        (a) Senate Bill No. 212.

10       (b) Senate Bill No. 723.

11       (c) Senate Bill No. 727.

12       (d) Senate Bill No. 858.

13       (e) Senate Bill No. 859.