

# SENATE BILL No. 860

October 29, 2007, Introduced by Senators BIRKHOLZ, VAN WOERKOM, PATTERSON, SANBORN, RICHARDVILLE, JANSEN, GEORGE, PAPPAGEORGE, ALLEN, KAHN, CROUSEY, HARDIMAN, GARCIA, JELINEK, GILBERT and BISHOP 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 32701, 32705, 32706, 32707, 32709, 32710, 32721, 32722, 32724, and 32725 (MCL 324.32701, 324.32705, 324.32706, 324.32707, 324.32709, 324.32710, 324.32721, 324.32722, 324.32724, and 324.32725), sections 32701 and 32707 as amended and sections 32721, 32722, and 32724 as added by 2006 PA 33, section 32705 as amended 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, and 32706c.

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

1           Sec. 32701. As used in this part:

2           (a) "Adverse resource impact" means either of the following:

1 (i) Decreasing the flow of a stream by part of the index flow  
2 ~~such that the stream's ability to support characteristic fish~~  
3 ~~populations is functionally impaired.~~ **AS FOLLOWS:**

4 (A) FOR A COLD-WATER STREAM, THE WITHDRAWAL WILL RESULT IN A  
5 5% OR MORE REDUCTION IN POPULATIONS OF THRIVING FISH.

6 (B) FOR A WARM-WATER STREAM, THE WITHDRAWAL WILL RESULT IN A  
7 20% OR MORE REDUCTION IN POPULATIONS OF CHARACTERISTIC FISH.

8 (C) FOR STREAMS THAT ARE NOT COLD-WATER STREAMS OR WARM-WATER  
9 STREAMS, THE WITHDRAWAL WILL RESULT IN A 10% OR MORE REDUCTION IN  
10 POPULATIONS OF CHARACTERISTIC FISH.

11 (ii) Decreasing the level of a body of surface water such that  
12 the body of surface water's ability to support characteristic fish  
13 populations is functionally impaired.

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

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

27 (D) ~~(e)~~ "Baseline capacity" means either of the following:

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 or in the April 1, 2007 water use  
5 conservation plan submitted under section 32708:

6 (A) For a community supply, the total designed withdrawal  
7 capacity for the community supply under the safe drinking water  
8 act, 1976 PA 399, MCL 325.1001 to 325.1023, on ~~the effective date~~  
9 ~~of the amendatory act that added this subparagraph~~ **FEBRUARY 28,**  
10 **2006.**

11 (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 (C) The system capacity used or developed to make a withdrawal  
18 on ~~the effective date of the amendatory act that added this~~  
19 ~~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.

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 2007 AMENDMENTS TO SECTION 32705(2)(D), BASELINE CAPACITY MEANS**  
27 **THE AMOUNT REPORTED IN THE APRIL 1, 2008 ANNUAL REPORT SUBMITTED**

1 UNDER SECTION 32707.

2 (E) "CHARACTERISTIC FISH" MEANS FISH SPECIES, INCLUDING  
3 THRIVING FISH, TYPICALLY FOUND IN STREAMS WITH SPECIFIC FLOW AND  
4 TEMPERATURE CHARACTERISTICS.

5 (F) "COLD TRANSITIONAL STREAM" MEANS A STREAM WHERE A  
6 WITHDRAWAL THAT REDUCES THE INDEX FLOW BY 10% OR LESS IS LIKELY TO  
7 CAUSE AN ADVERSE RESOURCE IMPACT.

8 (G) "COLD-WATER STREAM" MEANS A STREAM WITH A JULY WEEKLY MEAN  
9 TEMPERATURE OF LESS THAN OR EQUAL TO 18 DEGREES CELSIUS.

10 (H) ~~(d)~~—"Community supply" means that term as it is defined in  
11 section 2 of the safe drinking water act, 1976 PA 399, MCL  
12 325.1002.

13 (I) "COMPACT" MEANS THE GREAT LAKES-ST. LAWRENCE RIVER BASIN  
14 WATER RESOURCES COMPACT PROVIDED FOR IN PART 342.

15 (J) ~~(e)~~—"Consumptive use" means that portion of water  
16 withdrawn or withheld from the Great Lakes basin and assumed to be  
17 lost or otherwise not returned to the Great Lakes basin due to  
18 evaporation, incorporation into products or agricultural products,  
19 use as part of the packaging of products or agricultural products,  
20 or other processes. Consumptive use includes a withdrawal of waters  
21 of the Great Lakes basin that is packaged within the Great Lakes  
22 basin in a container of 5.7 gallons (20 liters) or less.

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

25 (L) ~~(f)~~—"Department" means the department of environmental  
26 quality.

27 (M) ~~(g)~~—"Designated trout stream" means a trout stream

1 identified on the document entitled "Designated Trout Streams for  
2 the State of Michigan", as issued under order of the director of  
3 the department of natural resources, FO-210.04, on October 10,  
4 2003.

5 (N) ~~(h) "Diverted" means a transfer of water by pipeline,~~  
6 ~~canal, tunnel, aqueduct, channel, modification of the direction of~~  
7 ~~a watercourse, tanker ship, tanker truck, rail tanker, or similar~~  
8 ~~means from the Great Lakes basin into a watershed outside of the~~  
9 ~~Great Lakes basin. Diverted~~ **"DIVERSION" MEANS A TRANSFER OF WATER**  
10 **FROM THE GREAT LAKES BASIN INTO ANOTHER WATERSHED, OR FROM THE**  
11 **WATERSHED OF 1 OF THE GREAT LAKES INTO THAT OF ANOTHER BY ANY MEANS**  
12 **OF TRANSFER, INCLUDING, BUT NOT LIMITED TO, A PIPELINE, CANAL,**  
13 **TUNNEL, AQUEDUCT, CHANNEL, MODIFICATION OF THE DIRECTION OF A WATER**  
14 **COURSE, A TANKER SHIP, TANKER TRUCK, OR RAIL TANKER BUT DOES NOT**  
15 **APPLY TO WATER THAT IS USED IN THE GREAT LAKES BASIN OR A GREAT**  
16 **LAKE WATERSHED TO MANUFACTURE OR PRODUCE A PRODUCT THAT IS THEN**  
17 **TRANSFERRED OUT OF THE GREAT LAKES BASIN OR WATERSHED. DIVERTED HAS**  
18 **A CORRESPONDING MEANING. DIVERSION** includes a transfer of water  
19 withdrawn from the waters of the Great Lakes basin that is removed  
20 from the Great Lakes basin in a container greater than 5.7 gallons  
21 (20 liters). ~~Diverted~~ **DIVERSION** does not include any of the  
22 following:

23 (i) A consumptive use.

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

27 (iii) Use in a noncommercial project on a short-term basis for

1 firefighting, humanitarian, or emergency response purposes.

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

7 (i) Are environmentally sound.

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

9 (iii) Are technically feasible and available.

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

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

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

19 (Q) **"FLOW-BASED SAFETY FACTOR" MEANS A PROTECTIVE MEASURE OF**  
20 **THE ASSESSMENT TOOL'S SCREENING MODE THAT REDUCES THE PORTION OF**  
21 **STREAM-SPECIFIC INDEX FLOW AVAILABLE FOR A WITHDRAWAL TO 1/2 OF THE**  
22 **STREAM-SPECIFIC INDEX FLOW FOR THE PURPOSE OF MINIMIZING THE RISK**  
23 **OF ADVERSE RESOURCE IMPACTS CAUSED BY STATISTICAL UNCERTAINTY.**

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

27 (S) **"GREAT LAKES" MEANS LAKES SUPERIOR, MICHIGAN AND HURON,**

1 ERIE, AND ONTARIO AND THEIR CONNECTING WATERWAYS INCLUDING THE ST.  
2 MARYS RIVER, LAKE ST. CLAIR, THE ST. CLAIR RIVER, AND THE DETROIT  
3 RIVER. FOR PURPOSES OF THIS DEFINITION, LAKES HURON AND MICHIGAN  
4 SHALL BE CONSIDERED A SINGLE GREAT LAKE.

5 (T) ~~(l)~~—"Great Lakes basin" means the watershed of the Great  
6 Lakes and the St. Lawrence river.

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

11 (V) ~~(n)~~—"Great Lakes region" means the geographic region  
12 composed of the states of Illinois, Indiana, Michigan, Minnesota,  
13 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,  
14 and the provinces of Ontario and Quebec, Canada.

15 (W) ~~(o)~~—"Index flow" means the 50% exceedance flow for the  
16 lowest flow month of the flow regime, for the applicable stream  
17 reach, as determined over the period of record or extrapolated from  
18 analyses of the United States geological survey stream flow gauges  
19 in Michigan.

20 (X) "LAKE AUGMENTATION WELL" MEANS A WATER WELL USED TO  
21 WITHDRAW GROUNDWATER FOR THE PURPOSE OF MAINTAINING OR RAISING  
22 WATER LEVELS OF AN INLAND LAKE OR STREAM AS DEFINED IN SECTION  
23 30101.

24 (Y) ~~(p)~~—"Large quantity withdrawal" means 1 or more cumulative  
25 total withdrawals of over 100,000 gallons of water per day average  
26 in any consecutive 30-day period that supply a common distribution  
27 system.

1           (Z) ~~(q)~~—"New or increased large quantity withdrawal" means a  
2 new water withdrawal of over 100,000 gallons of water per day  
3 average in any consecutive 30-day period or an increase of over  
4 100,000 gallons of water per day average in any consecutive 30-day  
5 period beyond the baseline capacity of a withdrawal.

6           (AA) ~~(r)~~—"New or increased withdrawal capacity" means new or  
7 additional water withdrawal capacity to supply a common  
8 distribution system that is an increase from the person's baseline  
9 capacity. New or increased capacity does not include maintenance or  
10 replacement of existing withdrawal capacity.

11           (BB) "ONLINE REGISTRATION PROCESS" MEANS THE ONLINE  
12 REGISTRATION PROCESS PROVIDED FOR IN SECTION 32706.

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

16           (DD) ~~(t)~~—"Registrant" means a person who registers water  
17 withdrawal capacity under this part.

18           (EE) "SCREENING MODE" MEANS AN OPERATION OF THE WATER  
19 WITHDRAWAL ASSESSMENT TOOL THAT USES MODELED STREAM FLOW DATA AND  
20 THE CAPACITY FOR THE WITHDRAWAL, AND INCORPORATES INTO ITS  
21 DETERMINATION A FLOW-BASED SAFETY FACTOR. THE SCREENING MODE SHALL  
22 BE DESIGNED TO DETERMINE, WITH A FLOW-BASED SAFETY FACTOR, WHETHER  
23 A WITHDRAWAL IS A ZONE A, ZONE B, ZONE C, OR ZONE D WITHDRAWAL AND  
24 WHETHER THE WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE  
25 IMPACT.

26           (FF) "SITE-SPECIFIC MODE" MEANS AN OPERATION OF THE WATER  
27 WITHDRAWAL ASSESSMENT TOOL THAT USES SITE-SPECIFIC DATA AND DOES

1 NOT INCORPORATE INTO ITS DETERMINATION A FLOW-BASED SAFETY FACTOR.  
2 THE SITE-SPECIFIC MODE SHALL BE DESIGNED TO DETERMINE, BASED UPON  
3 SITE-SPECIFIC DATA, WHETHER A WITHDRAWAL IS A ZONE A, ZONE B, ZONE  
4 C, OR ZONE D WITHDRAWAL AND WHETHER THE WITHDRAWAL IS LIKELY TO  
5 CAUSE AN ADVERSE RESOURCE IMPACT.

6 (GG) "SITE-SPECIFIC REVIEW" MEANS THE DEPARTMENT'S USE OF THE  
7 SITE-SPECIFIC MODE UNDER SECTION 32706C TO DETERMINE WHETHER A  
8 WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

9 (HH) "SOURCE WATERSHED" MEANS THE WATERSHED FROM WHICH A  
10 WITHDRAWAL ORIGINATES. IF WATER IS WITHDRAWN DIRECTLY FROM A GREAT  
11 LAKE, THEN THE SOURCE WATERSHED SHALL BE CONSIDERED TO BE THE  
12 WATERSHED OF THAT GREAT LAKE AND ITS CONNECTING WATERWAYS. IF WATER  
13 IS WITHDRAWN FROM THE WATERSHED OF A STREAM THAT IS A DIRECT  
14 TRIBUTARY TO A GREAT LAKE, THEN THE SOURCE WATERSHED SHALL BE  
15 CONSIDERED TO BE THE WATERSHED OF THAT GREAT LAKE AND ITS  
16 CONNECTING WATERWAYS, WITH A PREFERENCE FOR RETURNING WATER TO THE  
17 DIRECT TRIBUTARY STREAM WATERSHED FROM WHICH IT WAS WITHDRAWN.

18 (II) "THRIVING FISH" MEANS FISH SPECIES THAT FLOURISH IN  
19 STREAMS WITH SPECIFIC FLOW AND TEMPERATURE CHARACTERISTICS.

20 (JJ) "WARM-WATER STREAM" MEANS A STREAM WITH A JULY WEEKLY  
21 MEAN TEMPERATURE GREATER THAN OR EQUAL TO 22 DEGREES CELSIUS.

22 (KK) ~~(u)~~—"Waters of the Great Lakes basin" means the Great  
23 Lakes and all streams, rivers, lakes, connecting channels, and  
24 other bodies of water, including groundwater, within the Great  
25 Lakes basin.

26 (ll) ~~(v)~~—"Waters of the state" means groundwater, lakes,  
27 rivers, and streams and all other watercourses and waters,

1 including the Great Lakes, within the territorial boundaries of the  
2 state. Waters of the state do not include drainage ways and ponds  
3 designed and constructed solely for wastewater conveyance,  
4 treatment, or control.

5 (MM) ~~(w)~~ "Withdrawal" means the ~~removal of water from its~~  
6 ~~source for any purpose, other than for hydroelectric generation at~~  
7 ~~sites certified, licensed, or permitted by the federal energy~~  
8 ~~regulatory commission~~ **TAKING OF WATER FROM SURFACE WATER OR**  
9 **GROUNDWATER.**

10 (NN) "ZONE A WITHDRAWAL" MEANS A WITHDRAWAL AS DETERMINED BY  
11 THE ASSESSMENT TOOL THAT WILL RESULT IN LESS THAN A 10% REDUCTION  
12 IN POPULATIONS OF THRIVING FISH IN A STREAM AND IS NOT LIKELY TO  
13 CAUSE AN ADVERSE RESOURCE IMPACT.

14 (OO) "ZONE B WITHDRAWAL" MEANS A WITHDRAWAL AS DETERMINED BY  
15 THE ASSESSMENT TOOL THAT WILL RESULT IN LESS THAN A 20% REDUCTION  
16 IN POPULATIONS OF THRIVING FISH IN A STREAM, IS NOT A ZONE A  
17 WITHDRAWAL, AND IS NOT LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

18 (PP) "ZONE C WITHDRAWAL" MEANS A WITHDRAWAL AS DETERMINED BY  
19 THE ASSESSMENT TOOL THAT IS NOT A ZONE A OR A ZONE B WITHDRAWAL AND  
20 IS NOT LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT.

21 (QQ) "ZONE D WITHDRAWAL" MEANS A WITHDRAWAL AS DETERMINED BY  
22 THE ASSESSMENT TOOL THAT IS LIKELY TO CAUSE AN ADVERSE RESOURCE  
23 IMPACT.

24 Sec. 32705. (1) Except as otherwise provided in this section,  
25 the owner of real property who ~~has the~~ **INTENDS TO DEVELOP** capacity  
26 on that property to make a large quantity withdrawal from the  
27 waters of this state shall register with the department **AFTER USING**

1 **THE ASSESSMENT TOOL AND** prior to beginning that withdrawal. **A**  
2 **REGISTRATION UNDER THIS SECTION MAY BE MADE USING THE ONLINE**  
3 **REGISTRATION PROCESS.**

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

6 (a) A person who has previously registered for that property  
7 under this part, unless that registrant develops new or increased  
8 withdrawal capacity on the property of an additional 100,000  
9 gallons of water per day from the waters of the state.

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

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

15 (d) The owner of a noncommercial well **LOCATED** on **SINGLE-FAMILY**  
16 residential property **UNLESS THAT WELL IS A LAKE AUGMENTATION WELL.**

17 (3) The following persons shall register under this section  
18 but may register after beginning the withdrawal but before ~~90 days~~  
19 ~~after the effective date of the amendatory act that added this~~  
20 ~~section~~ **MAY 29, 2006:**

21 (a) A person who was developing new or increased withdrawal  
22 capacity on ~~the effective date of the amendatory act that added~~  
23 ~~this section~~ **FEBRUARY 28, 2006.**

24 (b) A person who was not required to register under this part  
25 prior to ~~the effective date of the amendatory act that added this~~  
26 ~~section~~ **FEBRUARY 28, 2006.**

27 (4) **A PERSON WHO IS REQUIRED TO REGISTER BY VIRTUE OF THE 2007**

1 **AMENDMENTS TO SUBSECTION (2) (D) SHALL REGISTER UNDER THIS PART**  
2 **WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE 2007 AMENDATORY ACT**  
3 **THAT AMENDED THIS SECTION.**

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

9 (6) ~~(5)~~ A registration under this section by the owner of a  
10 farm in which the withdrawal is intended for an agricultural  
11 purpose, including irrigation for an agricultural purpose, shall be  
12 submitted to the department of agriculture instead of the  
13 department.

14 ~~—— (6) A registration submitted under this section shall be on a~~  
15 ~~form provided by the department or the department of agriculture,~~  
16 ~~as appropriate.~~

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

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

25 **Sec. 32706. (1) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT AN**  
26 **INTERNET-BASED ONLINE REGISTRATION PROCESS THAT MAY BE USED FOR**  
27 **REGISTRATIONS UNDER SECTION 32705. THE ONLINE REGISTRATION PROCESS**

1 SHALL BE DESIGNED TO WORK IN CONJUNCTION WITH THE ASSESSMENT TOOL.

2 (2) Each registration under this part shall ~~consist of a~~

3 INCLUDE BOTH OF THE FOLLOWING:

4 (A) A statement and supporting documentation that includes all  
5 of the following:

6 (i) ~~(a)~~—The place and source of the proposed or existing  
7 withdrawal.

8 (ii) ~~(b)~~—The location of any discharge or return flow.

9 (iii) ~~(c)~~—The location and nature of the proposed or existing  
10 water user.

11 (iv) THE CAPACITY OF THE EQUIPMENT USED FOR MAKING THE  
12 WITHDRAWAL.

13 (v) ~~(d)~~—The actual or estimated average annual and monthly  
14 volumes and rate of withdrawal.

15 (vi) ~~(e)~~—The actual or estimated average annual and monthly  
16 volumes and rates of consumptive use from the withdrawal.

17 (B) FOR A NEW OR INCREASED WITHDRAWAL, THE DETERMINATION FROM  
18 THE USE OF THE ASSESSMENT TOOL UNDER SECTION 32706B, THE  
19 DETERMINATION FROM THE SITE-SPECIFIC REVIEW UNDER SECTION 32706C,  
20 OR THE DEPARTMENT'S DETERMINATION UNDER SECTION 32724.

21 SEC. 32706A. (1) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT AN  
22 INTERNET-BASED WATER WITHDRAWAL ASSESSMENT TOOL BASED UPON THE  
23 RECOMMENDATIONS OF THE GROUNDWATER CONSERVATION ADVISORY COUNCIL  
24 CREATED IN SECTION 32803. THE ASSESSMENT TOOL SHALL BE DESIGNED TO  
25 OPERATE IN 2 MODES, A SCREENING MODE AND A SITE-SPECIFIC MODE.

26 (2) THE SCREENING MODE SHALL BE DESIGNED TO ALLOW THE USER TO  
27 ENTER INTO FIELDS THE FOLLOWING DATA RELATED TO A PROPOSED

1 WITHDRAWAL:

2 (A) THE CAPACITY OF THE EQUIPMENT USED FOR MAKING THE  
3 WITHDRAWAL.

4 (B) THE LOCATION OF THE WITHDRAWAL.

5 (C) THE WITHDRAWAL SOURCE, WHETHER SURFACE WATER OR  
6 GROUNDWATER.

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

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

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

11 (G) WHETHER THE WITHDRAWAL WILL BE CONTINUOUS OR SEASONAL.

12 (3) IN ADDITION TO THE FIELDS PROVIDED IN SUBSECTION (2), THE  
13 SITE-SPECIFIC MODE SHALL BE DESIGNED TO ALLOW THE USER TO ENTER THE  
14 FOLLOWING DATA RELATED TO A PROPOSED WITHDRAWAL:

15 (A) THE INTENDED MAXIMUM MONTHLY AND ANNUAL VOLUMES AND RATES  
16 OF THE WITHDRAWAL, IF DIFFERENT FROM THE CAPACITY OF THE EQUIPMENT  
17 USED FOR MAKING THE WITHDRAWAL.

18 (B) IF THE AMOUNT AND RATE OF THE INTENDED WITHDRAWAL WILL  
19 HAVE SEASONAL FLUCTUATIONS, THE RELEVANT INFORMATION RELATED TO THE  
20 SEASONAL USE OF THE WITHDRAWAL.

21 (C) THE AMOUNT AND RATE OF ANY RETURN FLOW.

22 (D) ACTUAL STREAM FLOW DATA FROM THE AFFECTED STREAM AS  
23 OPPOSED TO MODELED DATA.

24 (4) THE ASSESSMENT TOOL, BOTH IN SCREENING MODE AND IN SITE-  
25 SPECIFIC MODE, SHALL CONTAIN A PRINT FUNCTION THAT ALLOWS THE USER,  
26 UPON RECEIPT OF THE ASSESSMENT TOOL'S DETERMINATION, TO PRINT THE  
27 DATA SUBMITTED AND THE DETERMINATION RETURNED ALONG WITH A DATE AND

1 TIME.

2 (5) THE ASSESSMENT TOOL, BOTH IN SCREENING MODE AND IN SITE-  
3 SPECIFIC MODE, SHALL BE DESIGNED TO WORK IN CONJUNCTION WITH THE  
4 ONLINE REGISTRATION PROCESS FOR ZONE A AND ZONE B WITHDRAWALS AND  
5 SHALL ALSO ALLOW OPERATION INDEPENDENT OF THE ONLINE REGISTRATION  
6 PROCESS.

7 (6) ON AN ONGOING BASIS, THE DEPARTMENT SHALL ADD DATA TO THE  
8 ASSESSMENT TOOL'S DATABASE FROM REPORTS SUBMITTED UNDER SECTIONS  
9 32707 AND 32708, PERMITS ISSUED UNDER SECTION 32723, AND OTHER  
10 SOURCES OF DATA REGARDING THE WATERS OF THE STATE.

11 SEC. 32706B. (1) PRIOR TO REGISTERING A WITHDRAWAL UNDER  
12 SECTION 32706, THE PROPERTY OWNER SHALL UTILIZE THE ASSESSMENT TOOL  
13 BY ENTERING THE DATA RELATED TO THE PROPOSED WITHDRAWAL INTO THE  
14 SCREENING MODE.

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

20 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF THE  
21 ASSESSMENT TOOL DESIGNATES A WITHDRAWAL AS A ZONE A OR A ZONE B  
22 WITHDRAWAL, THE PROPERTY OWNER MAY REGISTER THE WITHDRAWAL AND  
23 PROCEED TO MAKE THE WITHDRAWAL. UPON REGISTRATION, THE WITHDRAWAL  
24 IS AFFORDED THE PRESUMPTION PROVIDED FOR IN SECTION 32722. HOWEVER,  
25 IF THE CAPACITY TO MAKE THE WITHDRAWAL IS NOT DEVELOPED WITHIN 1  
26 YEAR AFTER REGISTRATION, THE PRESUMPTION IS NOT VALID. IF THE  
27 ASSESSMENT TOOL DESIGNATES A WITHDRAWAL AFFECTING A COLD

1 TRANSITIONAL STREAM AS A ZONE B WITHDRAWAL, THE PROPERTY OWNER  
2 SHALL NOT PROCEED WITH REGISTRATION OR WITH THE WITHDRAWAL UNLESS A  
3 SITE-SPECIFIC REVIEW BY THE DEPARTMENT UNDER SECTION 32706C  
4 CONFIRMS THAT THE WITHDRAWAL WILL NOT CAUSE AN ADVERSE RESOURCE  
5 IMPACT.

6 (4) IF THE ASSESSMENT TOOL DESIGNATES A WITHDRAWAL AS A ZONE C  
7 OR A ZONE D WITHDRAWAL, THE PROPERTY OWNER SHALL NOT REGISTER THE  
8 WITHDRAWAL OR MAKE THE WITHDRAWAL UNLESS THE DEPARTMENT DETERMINES,  
9 BASED UPON A SITE-SPECIFIC REVIEW UNDER SECTION 32706C, THAT THE  
10 WITHDRAWAL WILL NOT CAUSE AN ADVERSE RESOURCE IMPACT.

11 SEC. 32706C. (1) IF THE SCREENING MODE DETERMINES THAT A  
12 WITHDRAWAL IS A ZONE C OR ZONE D WITHDRAWAL OR IS A ZONE B  
13 WITHDRAWAL AFFECTING A COLD TRANSITIONAL STREAM, PRIOR TO  
14 REGISTERING AND MAKING THE WITHDRAWAL, THE PROPERTY OWNER SHALL  
15 SUBMIT TO THE DEPARTMENT A REQUEST FOR A SITE-SPECIFIC REVIEW. A  
16 REQUEST FOR A SITE-SPECIFIC REVIEW SHALL BE SUBMITTED TO THE  
17 DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT AND SHALL INCLUDE  
18 ALL OF THE FOLLOWING:

19 (A) THE INTENDED MAXIMUM MONTHLY AND ANNUAL VOLUMES AND RATES  
20 OF THE WITHDRAWAL, IF DIFFERENT FROM THE CAPACITY OF THE EQUIPMENT  
21 USED FOR MAKING THE WITHDRAWAL.

22 (B) IF THE AMOUNT AND RATE OF THE INTENDED WITHDRAWAL WILL  
23 HAVE SEASONAL FLUCTUATIONS, THE RELEVANT INFORMATION RELATED TO THE  
24 SEASONAL USE OF THE WITHDRAWAL.

25 (C) THE AMOUNT AND RATE OF ANY RETURN FLOW.

26 (2) UPON RECEIPT OF A REQUEST FOR A SITE-SPECIFIC REVIEW, THE  
27 DEPARTMENT SHALL ENTER THE DATA SUBMITTED WITH THE REQUEST ALONG

1 WITH THE ACTUAL STREAM FLOW DATA OF ANY AFFECTED STREAM OR STREAM  
2 SEGMENT INTO THE SITE-SPECIFIC MODE. IF THE DEPARTMENT DETERMINES,  
3 BASED UPON A SITE-SPECIFIC REVIEW, THAT THE WITHDRAWAL IS A ZONE A  
4 OR A ZONE B WITHDRAWAL, THE DEPARTMENT SHALL PROVIDE WRITTEN  
5 NOTIFICATION TO THE PROPERTY OWNER AND THE PROPERTY OWNER MAY  
6 REGISTER THE WITHDRAWAL AND MAY PROCEED WITH THE WITHDRAWAL. UPON  
7 REGISTRATION, THE PROPERTY OWNER IS AFFORDED THE PRESUMPTION  
8 PROVIDED IN SECTION 32722 UNDER THE CONDITIONS FOR WHICH THE  
9 DETERMINATION WAS MADE.

10 (3) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC  
11 REVIEW, THAT THE WITHDRAWAL IS A ZONE C WITHDRAWAL, THE DEPARTMENT  
12 SHALL PROVIDE WRITTEN NOTIFICATION TO THE PROPERTY OWNER AND THE  
13 PROPERTY OWNER MAY REGISTER THE WITHDRAWAL AND MAY PROCEED WITH THE  
14 WITHDRAWAL. HOWEVER, THE PROPERTY OWNER SHALL, WHEN HE OR SHE  
15 REGISTERS THE WITHDRAWAL, SELF-CERTIFY THAT HE OR SHE IS IN  
16 COMPLIANCE WITH GENERALLY ACCEPTED WATER MANAGEMENT PRACTICES OR  
17 ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION  
18 MEASURES DEVELOPED BY THE APPLICABLE WATER USER'S SECTOR UNDER  
19 SECTION 32708A. UPON REGISTRATION, THE PROPERTY OWNER IS AFFORDED  
20 THE PRESUMPTION IN SECTION 32722 UNDER THE CONDITIONS FOR WHICH THE  
21 DETERMINATION WAS MADE.

22 (4) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC  
23 REVIEW, THAT A WITHDRAWAL IS A ZONE C WITHDRAWAL, THE DEPARTMENT  
24 SHALL INITIATE THE FORMATION OF A WATER USERS COMMITTEE UNDER  
25 SECTION 32725 UNLESS A WATER USERS COMMITTEE ALREADY EXISTS FOR  
26 THAT WATERSHED.

27 (5) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC

1 REVIEW, THAT THE WITHDRAWAL IS A ZONE D WITHDRAWAL, THE PROPERTY  
2 OWNER SHALL NOT REGISTER THE WITHDRAWAL AND SHALL NOT MAKE THE  
3 WITHDRAWAL UNLESS HE OR SHE PETITIONS THE DEPARTMENT UNDER SECTION  
4 32724 FOR A HYDROGEOLOGICAL ANALYSIS AND THE DEPARTMENT DETERMINES  
5 ON THE BASIS OF THAT ANALYSIS THAT THE WITHDRAWAL IS NOT LIKELY TO  
6 CAUSE AN ADVERSE RESOURCE IMPACT.

7 (6) THE DEPARTMENT SHALL MAKE A DETERMINATION UNDER THIS  
8 SECTION WITHIN 30 DAYS OF ITS RECEIPT OF THE INFORMATION SUBMITTED  
9 UNDER SUBSECTION (1).

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

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

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

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

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

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

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

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

27 (h) At the discretion of the registrant or permit holder, the

1 baseline capacity of the withdrawal and, if applicable, a  
2 description of the system capacity. ~~If the registrant or permit~~  
3 ~~holder chooses to report the baseline capacity under this~~  
4 ~~subdivision, that information shall be included in the next report~~  
5 ~~submitted by the registrant or permit holder after the effective~~  
6 ~~date of the amendatory act that added this subdivision. Information~~  
7 ~~reported under this subdivision needs only to be reported to the~~  
8 ~~department on 1 occasion.~~

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

11 (2) If a person reports the information required by this  
12 section to the department in conjunction with a permit or for any  
13 other purpose, that reporting, upon approval of the department,  
14 ~~shall satisfy~~ **SATISFIES** the reporting requirements of this section.

15 (3) The owner of a farm who reports water use under section  
16 32708 is not required to report under subsection (1).

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

21 (5) The department shall develop forms for reporting under  
22 this section that minimize paperwork and allow for a notification  
23 to the department instead of a report if the annual amount of water  
24 withdrawn by a person required to report under this section is  
25 within 4% of the amount last reported and the other information  
26 required in subsection (1) has not changed since the last year in  
27 which a report was filed.

1           (6) Information described in section ~~32701(e)(i)(C)~~  
2 **32701(D)(i)(C)** that is provided to the department under subsection  
3 (1)(h) is exempt from disclosure under the freedom of information  
4 act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed  
5 unless the department determines that the withdrawal is causing an  
6 adverse resource impact.

7           (7) Except as otherwise provided in this subsection, a person  
8 who files an annual report or notification under this section shall  
9 annually remit a water use reporting fee of ~~\$200.00~~ **\$100.00** to the  
10 department. ~~Beginning when a water withdrawal assessment tool~~  
11 ~~becomes effective upon legislative enactment pursuant to the~~  
12 ~~recommendations of the groundwater conservation advisory council~~  
13 ~~under section 32803, a person who files an annual report or~~  
14 ~~notification under this section shall annually remit a water use~~  
15 ~~reporting fee of \$100.00 to the department.~~ Water use reporting  
16 fees shall be remitted to the department in conjunction with the  
17 annual report or notification submitted under this section. The  
18 department shall transmit water use reporting fees collected under  
19 this section to the state treasurer to be credited to the water use  
20 protection fund created in section 32714. A water use reporting fee  
21 is not required for a report or notification related to a farm that  
22 reports withdrawals under section 32708 or for a report under  
23 subsection (8).

24           (8) A person who withdraws less than 1,500,000 gallons of  
25 water in any year shall indicate this fact on the reporting form  
26 and is not required to provide information under subsection (1)(a)  
27 or (d). A person who withdraws less than 1,500,000 gallons of water

1 in any year is not required to pay the water use reporting fee  
2 under subsection (7).

3 Sec. 32709. The department may contract for the preparation  
4 and distribution of informational materials to ~~persons who withdraw~~  
5 ~~water for irrigation or industrial purposes regarding the~~ **MEMBERS**  
6 **OF THE PUBLIC RELATED TO ANY OF THE FOLLOWING:**

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

9 (B) **INFORMATION** on complying with the registration ~~program~~  
10 **REQUIREMENT OF THIS PART** and on any general or applicable methods  
11 for calculating or estimating water withdrawals or consumptive  
12 uses.

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

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

19 (b) Collect and maintain information regarding the locations,  
20 types, and quantities of water use, including water withdrawals and  
21 consumptive uses, in a form that the department determines is  
22 comparable to the form used by other states and provinces in the  
23 Great Lakes region.

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

27 (d) Cooperate with other states and provinces in the Great

1 Lakes region in developing a long-range plan for developing,  
2 conserving, and managing the water of the Great Lakes basin.

3 (e) Participate in the development of a regional consultation  
4 procedure for use in exchanging information on the effects of  
5 proposed water withdrawals and consumptive uses from the Great  
6 Lakes basin.

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

9 (G) UPON RECEIPT OF AN ASSESSMENT TOOL DETERMINATION OF A ZONE  
10 B, A ZONE C, OR A ZONE D WITHDRAWAL, OR AN ASSESSMENT TOOL  
11 DETERMINATION THAT A WITHDRAWAL WILL REDUCE THE POPULATION OF  
12 THRIVING FISH IN A COLD-WATER STREAM BY MORE THAN 1%, NOTIFY THE  
13 CONSERVATION DISTRICT AND ANY REGIONAL PLANNING AGENCY WITH  
14 JURISDICTION OVER THE LOCATION OF THE PROPOSED WITHDRAWAL.

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

18 (2) Beginning ~~2 years after the effective date of the~~  
19 ~~amendatory act that added this section~~ **FEBRUARY 28, 2008**, a person  
20 shall not make a new or increased large quantity withdrawal from  
21 the waters of the state that causes an adverse resource impact.

22 (3) This section does not apply to the baseline capacity of a  
23 large quantity withdrawal or a well capable of making a large  
24 quantity withdrawal. ~~that existed on the effective date of the~~  
25 ~~amendatory act that added this section.~~

26 (4) This section does not apply to a withdrawal that is  
27 utilized solely for fire suppression.

1           Sec. 32722. (1) ~~Until a water withdrawal~~ **IF THE** assessment  
 2 tool ~~becomes effective upon legislative enactment pursuant to the~~  
 3 ~~recommendations of the groundwater conservation advisory council~~  
 4 ~~under section 32803~~ **DETERMINES THAT A WITHDRAWAL IS NOT LIKELY TO**  
 5 **CAUSE AN ADVERSE RESOURCE IMPACT**, there is a rebuttable presumption  
 6 that a ~~new or increased large quantity~~ **THE** withdrawal **UNDER THE**  
 7 **CONDITIONS THAT WERE THE BASIS OF THE ASSESSMENT TOOL'S**  
 8 **DETERMINATION** will not cause an adverse resource impact in  
 9 violation of section 32721. ~~under either of the following~~  
 10 ~~circumstances:~~

11           ~~— (a) The location of the withdrawal is more than 1,320 feet~~  
 12 ~~from the banks of a designated trout stream.~~

13           ~~— (b) The withdrawal depth of the well is at least 150 feet.~~

14           **(2) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC**  
 15 **REVIEW, THAT A WITHDRAWAL IS NOT LIKELY TO CAUSE AN ADVERSE**  
 16 **RESOURCE IMPACT, THERE IS A REBUTTABLE PRESUMPTION THAT THE**  
 17 **WITHDRAWAL UNDER THE CONDITIONS THAT WERE THE BASIS OF THE**  
 18 **DEPARTMENT'S DETERMINATION WILL NOT CAUSE AN ADVERSE RESOURCE**  
 19 **IMPACT IN VIOLATION OF SECTION 32721.**

20           **(3) IF THE DEPARTMENT DETERMINES UNDER SECTION 32724 THAT A**  
 21 **WITHDRAWAL IS NOT LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT, THERE**  
 22 **IS A REBUTTABLE PRESUMPTION THAT THE WITHDRAWAL WILL NOT CAUSE AN**  
 23 **ADVERSE RESOURCE IMPACT IN VIOLATION OF SECTION 32721.**

24           **(4) (2)**—A presumption under ~~subsection (1)~~ **THIS SECTION** may be  
 25 rebutted by a preponderance of evidence that a new or increased  
 26 large quantity withdrawal from the waters of the state has caused  
 27 or is likely to cause an adverse resource impact.

1           Sec. 32724. (1) ~~A person who intends to make~~ **UPON PETITION BY**  
2 **THE OWNER OF REAL PROPERTY, THE DEPARTMENT SHALL CONDUCT A**  
3 **HYDROGEOLOGICAL ANALYSIS TO DETERMINE WHETHER** a new or increased  
4 large quantity withdrawal **ON THAT PROPERTY,** for which a permit is  
5 not required under section 32723, ~~may petition the department for a~~  
6 ~~determination that the new or increased withdrawal is not~~ **IS** likely  
7 to cause an adverse resource impact.

8           (2) A petition under subsection (1) shall be submitted on a  
9 form provided by the department. ~~A report shall be submitted~~ **THE**  
10 **PETITIONER SHALL SUBMIT** with the petition ~~containing the~~  
11 information described in section 32706 and an evaluation of  
12 environmental, hydrological, and hydrogeological conditions that  
13 exist and the predicted effects of the intended withdrawal that  
14 provides a reasonable basis for the determination to be made. **IF**  
15 **THE PETITIONER WISHES TO PROPOSE THAT RESTORATIVE MEASURES BE**  
16 **CONSIDERED IN CONJUNCTION WITH THE DETERMINATION, THE PETITIONER**  
17 **MAY SUBMIT ANY OTHER INFORMATION RELATED TO THOSE RESTORATIVE**  
18 **MEASURES.** The petitioner shall also include with the petition a fee  
19 of \$5,000.00. The department shall transmit water use reporting  
20 fees collected under this section to the state treasurer to be  
21 credited to the water use protection fund created in section 32714.

22           (3) A petition is considered to be administratively complete  
23 effective 30 days after it is received by the department unless the  
24 department notifies the petitioner, in writing, during this 30-day  
25 period that the petition is not administratively complete or that  
26 the fee required to be accompanied with the petition has not been  
27 paid. If the department determines that the petition is not

1 administratively complete, the notification shall specify the  
2 information necessary to make the petition administratively  
3 complete. If the department notifies the petitioner as provided in  
4 this subsection, the 30-day period is tolled until the petitioner  
5 submits to the department the appropriate information or fee.

6 (4) Within 120 days after receipt of an administratively  
7 complete petition, the department shall issue a written  
8 determination to the petitioner that does either-1 of the  
9 following:

10 (a) Affirms that the proposed withdrawal is not likely to  
11 cause an adverse resource impact.

12 **(B) AFFIRMS THAT THE PROPOSED WITHDRAWAL ALONG WITH THE**  
13 **IMPLEMENTATION OF RESTORATIVE MEASURES IS NOT LIKELY TO CAUSE AN**  
14 **ADVERSE RESOURCE IMPACT.**

15 (C) ~~(b)~~ Specifies the reasons that an affirmative  
16 determination under subdivision (a) cannot be made and, **IF**  
17 **APPROPRIATE**, states how the petitioner can meet the criteria to  
18 obtain an affirmative determination.

19 ~~—— (5) In making a determination under subsection (4) with regard~~  
20 ~~to a community supply owned by a political subdivision, the~~  
21 ~~department shall consider the factors provided in section 4(4)(a)~~  
22 ~~and (b) of the safe drinking water act, 1976 PA 399, MCL 325.1004.~~

23 **(5) IF THE DEPARTMENT APPROVES RESTORATIVE MEASURES UNDER**  
24 **SUBSECTION (4) (B), THE DEPARTMENT SHALL ESTABLISH AN IMPLEMENTATION**  
25 **SCHEDULE FOR COMPLETION OF THE RESTORATIVE MEASURES.**

26 **(6) UPON RECEIPT OF A DETERMINATION UNDER SUBSECTION (4) (A) OR**  
27 **(B), THE PROPERTY OWNER MAY REGISTER THE WITHDRAWAL AND MAY PROCEED**

1 TO MAKE THE WITHDRAWAL. HOWEVER, THE PROPERTY OWNER SHALL, AT THE  
2 TIME HE OR SHE REGISTERS THE WITHDRAWAL, SELF-CERTIFY THAT HE OR  
3 SHE IS IN COMPLIANCE WITH GENERALLY ACCEPTED WATER MANAGEMENT  
4 PRACTICES OR ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER  
5 CONSERVATION MEASURES DEVELOPED BY THE APPLICABLE WATER USER'S  
6 SECTOR UNDER SECTION 32708A. ADDITIONALLY, UNLESS A WATER USERS  
7 COMMITTEE ALREADY EXISTS FOR THE WATERSHED, THE DEPARTMENT SHALL  
8 INITIATE THE FORMATION OF A WATER USERS COMMITTEE UNDER SECTION  
9 32725.

10 (7) ~~(6)~~—A water withdrawal with regard to which an affirmative  
11 determination is issued under this section shall be presumed not to  
12 create an adverse resource impact. A presumption under this  
13 subsection may be rebutted by a preponderance of evidence that the  
14 withdrawal has caused or is likely to cause an adverse resource  
15 impact.

16 (8) THE DEPARTMENT MAY REVOKE A DETERMINATION OF THE  
17 DEPARTMENT ISSUED UNDER THIS SECTION IF THE DEPARTMENT DETERMINES,  
18 FOLLOWING A HEARING, BASED UPON CLEAR AND CONVINCING SCIENTIFIC  
19 EVIDENCE, THAT THE WITHDRAWAL IS CAUSING AN ADVERSE RESOURCE  
20 IMPACT.

21 (9) ~~(7)~~—The department shall submit a report every 2 years to  
22 the senate and house appropriations committees and to the standing  
23 committees of the senate and house of representatives with  
24 jurisdiction primarily related to natural resources and the  
25 environment that identifies the costs to the department in  
26 reviewing petitions under this section and in reviewing  
27 applications for permits under section 32723. Additionally, the

1 report shall detail the revenues generated from petitions under  
2 this section, permit applicants under section 32723, and reporting  
3 fees under section 32707.

4           **(10) AS USED IN THIS SECTION, "RESTORATIVE MEASURE" MEANS AN**  
5 **ACTION THAT WILL RESTORE OR IMPROVE STREAM HYDROLOGY, IMPROVE THE**  
6 **TEMPERATURE GRADIENT OF A STREAM, IMPROVE FISHERIES-RELATED**  
7 **HABITAT, OR OTHERWISE PREVENT AN ADVERSE RESOURCE IMPACT.**

8           Sec. 32725. (1) All persons making large quantity withdrawals  
9 within a watershed are encouraged to establish a water users  
10 committee to evaluate the status of current water resources, water  
11 use, and trends in water use within the watershed and to assist in  
12 long-term water resources planning. A water users committee may be  
13 composed of all registrants, water withdrawal permit holders, and  
14 local government officials within the watershed.

15           (2) If the department determines **BASED UPON USE OF THE**  
16 **ASSESSMENT TOOL OR** by **OTHER** reasonable scientifically-based  
17 evidence that adverse resource impacts are occurring or are likely  
18 to occur from 1 or more large quantity withdrawals, the department  
19 shall notify the water users committee in the watershed or shall  
20 convene a meeting of all registrants and water withdrawal permit  
21 holders within the watershed and shall attempt to facilitate an  
22 agreement on voluntary measures that would prevent adverse resource  
23 impacts.

24           (3) If, within 30 days after the department has notified the  
25 water users committee or convened the meeting under subsection (2),  
26 the registrants and water withdrawal permit holders are not able to  
27 voluntarily agree to measures that would prevent adverse resource

1 impacts, the department may propose a solution that the department  
2 believes would equitably resolve the situation and prevent adverse  
3 resource impacts. The recommended solution is not binding on any of  
4 the parties.

5 (4) The director may, without a prior hearing, order a person  
6 holding a water withdrawal permit **UNDER SECTION 32723 OR A**  
7 **DETERMINATION UNDER SECTION 32724** to immediately restrict a  
8 withdrawal if the director determines by clear and convincing  
9 scientific evidence that there is a substantial and imminent threat  
10 that the withdrawal is causing or is likely to cause an adverse  
11 resource impact. The order shall specify the date on which the  
12 withdrawal must be restricted and the date on which it may be  
13 resumed. An order issued under this section shall remain in force  
14 and effect for not more than 30 days and may be renewed for an  
15 additional 30 days if the director determines by clear and  
16 convincing scientific evidence that conditions continue to pose a  
17 substantial and imminent threat that the withdrawal is causing or  
18 is likely to cause an adverse resource impact. The order shall  
19 notify the person that the person may request a contested case  
20 hearing under the administrative procedures act of 1969, 1969 PA  
21 306, MCL 24.201 to 24.328. The hearing shall be held within 10  
22 business days following the request, unless the permittee requests  
23 a later date. As an alternative to requesting a contested case  
24 hearing, a person subject to an order under this section may seek  
25 judicial review of the order as provided in the revised judicature  
26 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

27 (5) A registrant or water withdrawal permit holder may submit

1 a petition to the director alleging that adverse resource impacts  
2 are occurring or are likely to occur from 1 or more water  
3 withdrawals. The director shall either investigate the petition or  
4 forward the petition to the director of the department of  
5 agriculture if the water withdrawals are from an agricultural well.  
6 The petition shall be in writing and shall include all the  
7 information requested by the director or the director of the  
8 department of agriculture, as appropriate.

9 (6) A person who submits more than 2 unverified petitions  
10 under this section within 1 year may be ordered by the director to  
11 pay for the full costs of investigating any third or subsequent  
12 unverified petition. As used in this subsection, "unverified  
13 petition" means a petition in response to which the director  
14 determines that there is not reasonable evidence to suspect adverse  
15 resource impacts.

16 Enacting section 1. This amendatory act does not take effect  
17 unless all of the following bills of the 94th Legislature are  
18 enacted into law:

19 (a) Senate Bill No. 212.

20 (b) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
21 01274'07 a \*).

22 (c) Senate Bill No. 859.

23