

# HOUSE BILL No. 4294

March 5, 2015, Introduced by Reps. McBroom, Goike, Dianda, Kivela, Chatfield, Johnson, Aaron Miller, Lyons, Forlini, Victory and Outman and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 30103 (MCL 324.30103), as amended by 2014 PA  
253.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 30103. (1) A permit is not required under this part for  
2 any of the following:

3       (a) Any fill or structure existing before April 1, 1966, in  
4 waters covered by former 1965 PA 291, and any fill or structures  
5 existing before January 9, 1973, in waters covered for the first  
6 time by former 1972 PA 346.

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

1 (c) Reasonable sanding of beaches to the existing water's edge  
2 by the riparian owner or a person authorized by the riparian owner.

3 (d) Maintenance of an agricultural drain, regardless of  
4 outlet, if all of the following requirements are met:

5 (i) The maintenance includes only activities that maintain the  
6 location, depth, and bottom width of the drain as constructed or  
7 modified at any time before July 1, 2014.

8 (ii) The maintenance is performed by the landowner or pursuant  
9 to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

10 (e) A waste collection or treatment facility that is ordered  
11 to be constructed or is approved for construction under state or  
12 federal water pollution control law, if constructed in upland.

13 (f) Construction and maintenance of minor drainage structures  
14 and facilities which are identified by rule promulgated by the  
15 department pursuant to section 30110. Before such a rule is  
16 promulgated, the rule shall be approved by the majority of a  
17 committee consisting of the director of the department, the  
18 director of the department of agriculture and rural development,  
19 and the director of the state transportation department or their  
20 designated representatives. The rules shall be reviewed at least  
21 annually.

22 (g) Maintenance of a drain that either was legally established  
23 and constructed before January 1, 1973, pursuant to the drain code  
24 of 1956, 1956 PA 40, MCL 280.1 to 280.630, except those legally  
25 established drains constituting mainstream portions of certain  
26 natural watercourses identified in rules promulgated by the  
27 department under section 30110, or was constructed or modified

1 under a permit issued pursuant to this part. As used in this  
2 subdivision, "maintenance of a drain" means the physical  
3 preservation of the location, depth, and bottom width of a drain  
4 and appurtenant structures to restore the function and approximate  
5 capacity of the drain as constructed or modified at any time before  
6 July 1, 2014, and includes, but is not limited to, the following  
7 activities if performed with best management practices:

8 (i) Excavation of accumulated sediments back to original  
9 contours.

10 (ii) Reshaping of the side slopes.

11 (iii) Bank stabilization where reasonably necessary to prevent  
12 erosion. Materials used for stabilization must be compatible with  
13 existing bank or bed materials.

14 (iv) Armoring, lining, or piping if a previously armored,  
15 lined, or piped section is being repaired and all work occurs  
16 within the footprint of the previous work.

17 (v) Replacement of existing control structures, if the  
18 original function of the drain is not changed and the original  
19 approximate capacity of the drain is not increased.

20 (vi) Repair of stabilization structures.

21 (vii) Culvert replacement, including culvert extensions of not  
22 more than 24 additional feet per culvert.

23 (viii) Emergency reconstruction of recently damaged parts of the  
24 drain. Emergency reconstruction must occur within a reasonable  
25 period of time after damage occurs in order to qualify for this  
26 exemption.

27 (h) Projects constructed under the watershed protection and

1 flood prevention act, ~~chapter 656, 68 Stat. 666,~~ 16 USC 1001 to  
 2 ~~1008, 1010, and 1011.~~ **1012.**

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

6 (j) Maintenance of a structure constructed under a permit  
 7 issued pursuant to this part and identified by rule promulgated  
 8 under section 30110, if the maintenance is in place and in kind  
 9 with no design or materials modification.

10 (k) A water withdrawal.

11 (l) Annual installation of a seasonal dock or docks, pilings,  
 12 mooring buoys, or other mooring structures previously authorized by  
 13 and in accordance with a permit issued under this part.

14 (m) Controlled access of livestock to streams for watering or  
 15 crossing if constructed in accordance with applicable practice  
 16 standards set by the United States ~~department of agriculture,~~  
 17 ~~natural resources conservation service.~~ **DEPARTMENT OF AGRICULTURE,**  
 18 **NATURAL RESOURCES CONSERVATION SERVICE.**

19 (n) Temporary drawdowns of impoundments at hydroelectric  
 20 projects licensed by the ~~federal energy regulatory commission~~  
 21 **FEDERAL ENERGY REGULATORY COMMISSION** (FERC) and subject to FERC's  
 22 authority if both of the following apply:

23 (i) The FERC licensee has consulted this state during the  
 24 drawdown plan development and this state's concerns have been  
 25 addressed in the drawdown plan as FERC considers appropriate.

26 (ii) Adverse environmental impacts, including stream flow,  
 27 aquatic resources, and timing, have been avoided and minimized to

1 the extent practical.

2 (o) Removal, by the riparian owner or a person authorized by  
3 the riparian owner, of plants that are an aquatic nuisance as  
4 defined in section 3301, if the removal is accomplished by hand-  
5 pulling without using a powered or mechanized tool and all plant  
6 fragments are removed from the water and properly disposed of on  
7 land above the ordinary high-water mark as defined in section  
8 30101.

9 (p) Raking of lake bottomlands by the riparian owner or a  
10 person authorized by the riparian owner. To minimize effects on the  
11 lake bottomlands, the areas raked shall be unvegetated before  
12 raking and predominantly composed of sand or pebbles, and the  
13 raking shall be performed without using a powered or mechanized  
14 tool. For the purposes of this subdivision, the pulling of a  
15 nonpowered, nonmechanized tool with a boat is not the use of a  
16 powered or mechanized tool.

17 **(Q) EXCAVATION OR MINING ACTIVITIES ASSOCIATED WITH AN ACTIVE**  
18 **MINING OPERATION UNLESS THE EXCAVATION OR MINING ACTIVITIES CREATE**  
19 **AN INLAND LAKE WITH A SURFACE AREA OF 5 ACRES OR GREATER. IF THE**  
20 **CREATION OF AN INLAND LAKE IS PREVENTED, OR IF A BODY OF WATER IS**  
21 **CREATED BUT THE SURFACE AREA OF THE BODY OF WATER IS MAINTAINED AT**  
22 **LESS THAN 5 ACRES, THROUGH PUMPING OR OTHER NATURAL OR ARTIFICIAL**  
23 **MEANS, THEN A PERMIT IS NOT REQUIRED UNLESS PUMPING OR OTHER**  
24 **NATURAL OR ARTIFICIAL MEANS FAILS TO MAINTAIN THE SURFACE AREA OF**  
25 **THE BODY OF WATER AT LESS THAN 5 ACRES.**

26 (2) As used in this section, "water withdrawal" means the  
27 removal of water from its source for any purpose.

1           (3) As used in this part, "agricultural drain" means a human-  
2 made conveyance of water that meets all of the following  
3 requirements:

4           (a) Does not have continuous flow.

5           (b) Flows primarily as a result of precipitation-induced  
6 surface runoff or groundwater drained through subsurface drainage  
7 systems.

8           (c) Serves agricultural production.

9           (d) Was constructed before January 1, 1973, or was constructed  
10 in compliance with this part or former 1979 PA 203.