

Act No. 300  
Public Acts of 1989  
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**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Senators Ehlers, Arthurs, Gast, Cherry and Binsfeld

# ENROLLED SENATE BILL No. 242

AN ACT to regulate the construction, reconstruction, repair, alteration, removal, abandonment, and operation of dams; to provide for the inspection of dams; to provide for protection of natural resources and the public trust; to provide the powers and duties of certain state agencies; to prescribe remedies and penalties; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 1. This act shall be known and may be cited as the "dam safety act".

Sec. 3. For purposes of this act, the words and phrases defined in sections 5 to 11 have the meanings ascribed to them in those sections.

Sec. 5. (1) "Abandonment" means an affirmative act on the part of an owner to discontinue maintenance or operation of a dam.

(2) "Administrative procedures act of 1969" means Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) "Alteration" means a change in the design of an existing dam that directly affects or may directly affect the structural integrity of a dam.

(4) "Appurtenant works" means the structure or machinery incident to or annexed to a dam that is built to operate and maintain a dam, including spillways, either in a dam or separate from the dam; low level outlet works; and water conduits such as tunnels, pipelines, or penstocks, located either through the dam or through the abutments of the dam.

(5) "Auxiliary spillway" means a secondary spillway which is operational at all times and does not require stoplog removal or gate manipulation.

(6) "Dam" means an artificial barrier, including dikes, embankments, and appurtenant works, that impounds, diverts, or is designed to impound or divert water, or water and any other liquid or material in the water, and that is or will, when complete, be 6 feet or more in height and that has or will have an impounding capacity at design flood elevation of 5 surface acres or more. Dam does not include a storage or processing tank or standpipe constructed of steel or concrete, a roadway embankment not designed to impound water, or a dug pond where there is no impoundment of water or waste materials containing water at levels above adjacent natural grade levels.

(7) "Days" means calendar days, including Sundays and holidays.

(8) "Department" means the department of natural resources.

(9) "Design flood" means the design flowrate for spillway capacity and dam height design.

(10) "Design flood elevation" means the maximum flood elevation that is considered in the design of the spillway capacity and freeboard for a dam.

(11) "Director" means the director of the department of natural resources.

(12) "Downstream toe elevation" means the elevation of the lowest point of intersection between the downstream slope of an earthen embankment and the natural ground.

Sec. 7. (1) "Emergency action plan" means a plan developed by the owner that establishes procedures for notification of the department, public off-site authorities, and other agencies of the emergency actions to be taken prior to and following an impending or actual failure of a dam.

(2) "Enlargement" means any change in or addition to an existing dam which raises or may raise the design flood elevation of the water impounded by the dam.

(3) "Failed dam" means a dam not capable of impounding water at its intended level due to a structural deficiency.

(4) "Failure" means an incident resulting in an unplanned or uncontrolled release of water from a dam.

(5) "Flood of record" means the greatest flow rate determined by the department to have occurred at a particular location.

(6) "Freeboard" means the vertical distance between the design flood elevation and the lowest point of the top of the dam.

(7) "Half probable maximum flood" means the largest flood which may reasonably occur over a watershed which is derived from the combination of hydrologic runoff parameters and the half probable maximum storm which produces the maximum runoff.

(8) "Half probable maximum storm" means the spatial and temporal distribution of the probable maximum precipitation, divided by 2, which produces the maximum volume of precipitation over a watershed.

(9) "Hazard potential classification" means a reference to the potential for loss of life, property damage, and environmental damage in the area downstream of a dam in the event of failure of the dam or appurtenant works.

(10) "Height" means the difference in elevation measured vertically between the natural bed of a stream or watercourse at the downstream toe of the dam, or, if it is not across a stream channel or watercourse, from the lowest elevation of the downstream toe of the dam to the design flood elevation or to the lowest point of the top of the dam, whichever is less.

(11) "High hazard potential dam" means a dam located in an area where a failure may cause serious damage to inhabited homes, agricultural buildings, campgrounds, recreational facilities, industrial or commercial buildings, public utilities, main highways or class I carrier railroads, or where environmental degradation would be significant, or where danger to individuals exists with the potential for loss of life.

Sec. 9. (1) "Impoundment" means the water held back by a dam.

(2) "Local unit of government" means a city, village, township, or county.

(3) "Low hazard potential dam" means a dam located in an area where failure may cause damage limited to agriculture, uninhabited buildings, structures, or township or county roads, where environmental degradation would be minimal and danger to individuals is slight or nonexistent.

(4) "Maintenance" means the upkeep of a dam and its appurtenant works but does not include alterations or repairs.

(5) "One-hundred year flood" means a flood which has a 1% chance of being equaled or exceeded in any given year.

(6) "Owner" means a person who owns, leases, controls, operates, maintains, manages, or proposes to construct a dam.

(7) "Person" means an individual, partnership, corporation, association, political subdivision of the state, the department or other instrumentality or agency of the state, or other legal entity.

(8) "Probable maximum precipitation" means the theoretically greatest depth of precipitation for a given duration that is physically possible over a given size storm area at a particular geographic location at a certain time of year.

Sec. 11. (1) "Removal" means the physical elimination of a dam or impoundment.

(2) "Repair" means to substantially restore a dam to its original condition and includes only such restoration as may directly affect the structural integrity of the dam.

(3) "Riparian owner" means a person who has riparian rights.

(4) "Riparian rights" means rights which accrue by operation of law to a landowner on the banks of an inland lake or stream.

(5) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969.

(6) "Significant hazard potential dam" means a dam located in an area where its failure may cause damage limited to isolated inhabited homes, agricultural buildings, structures, secondary highways, short line railroads, or public utilities, where environmental degradation may be significant, or where danger to individuals exists.

(7) "Spillway" means a waterway in or about a dam designed for the discharge of water.

(8) "Spillway capacity" means the maximum rate of discharge which will pass through a spillway at design flood elevation.

(9) "Two-hundred year flood" means a flood which has a 0.5% chance of being equaled or exceeded in any given year.

Sec. 13. (1) Except as otherwise provided in subsections (2) and (3), dams and impoundments in the state are under the jurisdiction of the department.

(2) The following are exempt from this act:

(a) Projects licensed, projects that have preliminary permits, or projects for which an application for licensure has been filed under the federal power act, chapter 285, 41 Stat. 1063, 16 U.S.C. 791a to 793, 796 to 797, 798 to 818, 820 to 824a, and 824b to 825r, if federal dam safety inspection provisions apply during the license period and the inspection reports are provided to the department.

(b) Projects located on boundary waters under the jurisdiction and supervision of the United States army corps of engineers.

(c) Impoundments licensed pursuant to the solid waste management act, Act No. 641 of the Public Acts of 1978, being sections 299.401 to 299.437 of the Michigan Compiled Laws, that contain or are designed to contain type III wastes as defined in rules promulgated under that act.

(3) For 3 years commencing December 28, 1988, a permit shall not be required under this act for the repair, reconstruction, or improvement of a dam located in Everett township, Newaygo county, and/or a dam located in the village of Luther, Lake county, which is 75 years old if the dam was damaged or destroyed by an act of God in 1986. However, a person who is performing a project for the repair, reconstruction, or improvement of a dam that is exempt from obtaining a permit under this subsection shall submit to the department and the joint capital outlay committee plans and specifications for the project. These plans and specifications shall be prepared by a licensed professional engineer and shall meet acceptable standards in the industry and must be approved by the joint capital outlay committee in order for a dam to be repaired, reconstructed, or improved. In reviewing for approval plans and specifications for the project, the joint capital outlay committee may require environmental considerations to protect water quality such as underspill devices, minimum flow releases and removal of contaminated sediments that may be resuspended in the water column upon impoundment. Such contaminated sediments shall be disposed of in accordance with state law.

Sec. 15. (1) A person shall not construct, enlarge, repair, reconstruct, alter, remove, or abandon any dam except in a manner provided for in this act.

(2) This section does not apply to maintenance performed on a dam that does not affect the structural integrity of the dam.

Sec. 17. (1) Except as otherwise provided in subsection (2), a licensed professional engineer shall prepare all plans and specifications, except for minor projects undertaken pursuant to section 27.

(2) A person who is not a licensed professional engineer may prepare plans and specifications only for repairs or alterations to a dam where the application is made by a nonprofit organization under the following circumstances:

(a) The nonprofit organization has assets of less than \$30,000.00 and is exempt from taxation under section 501(c)(3) of the internal revenue code and is not comprised primarily of the owners of property adjacent to or contiguous to an impoundment.

(b) The proposed repairs or alterations have a projected total cost of less than \$25,000.00.

(c) The impoundment is open to the public and a notice of public access is posted.

Sec. 19. (1) Except as otherwise provided in this act, a person shall not commence any of the following activities unless that person has a valid permit issued by the department under this act:

(a) Construction of a new dam.

- (b) Enlargement of a dam or an impoundment.
- (c) Repair of a dam.
- (d) Alteration of a dam.
- (e) Removal of a dam.
- (f) Abandonment of a dam.
- (g) Reconstruction of a failed dam.

(2) A person desiring to perform any of the activities listed in subsection (1) shall apply to the department on a form prescribed by the department and shall provide information that the department determines is necessary for the administration of this act. If a project includes activities at multiple locations, 1 application may be filed for the combined activities.

(3) An application for a permit for construction of a new dam, reconstruction of a failed dam, or enlargement of a dam shall be accompanied by the following fees:

- (a) For a dam with a height of 6 feet or more but less than 10 feet, \$500.00.
- (b) For a dam with a height of 10 feet or more but less than 20 feet, \$1,000.00.
- (c) For a dam with a height of 20 feet or more, \$3,000.00.

(4) A fee for a permit shall be deposited in the state treasury to the credit of the general fund and shall be available for appropriation to the department to be used to defray the cost of reviewing plans and specifications and field inspections to determine compliance with permits issued under this act.

(5) An application for a permit for the repair, alteration, removal, or abandonment of a dam shall be accompanied by a fee of \$200.00 which shall be deposited in the state treasury and credited to the general fund, and an application for a permit for a minor project pursuant to section 27(1) shall be accompanied by a fee of \$100.00 which shall be deposited in the state treasury and credited to the general fund. Fees collected under this subsection shall be available for appropriation to the department to be used to defray the costs of reviewing plans and specifications and field inspections to determine compliance with permits issued under this act.

(6) The department shall waive the fees under this section for applications from state agencies, department sponsored projects located on public lands, and organizations of the type described in section 17(2)(a) through (c).

Sec. 21. (1) A person who wants to be notified of pending applications for permits issued under this act may make a written request to the department, accompanied by an annual fee of \$25.00. The fee shall be deposited in the state treasury and credited to the general fund.

(2) The department shall prepare a biweekly list of the applications made during the previous biweekly period and shall promptly mail copies of the list for the remainder of the calendar year to the persons who have requested notice and paid the fee under this section.

(3) The biweekly list shall state the name and address of each applicant, the legal description of the lands included in the applicant's project, and a summary statement of the purpose of the project.

Sec. 23. (1) Upon receipt of an application for a permit under this act, the department shall submit copies of the application accompanied by a statement indicating that the department may act upon the application without a public hearing unless a written request is filed with the department within 20 days after the submission for review. The department shall submit copies of the application to all of the following:

- (a) The local unit of government where the project is to be located.
- (b) The adjacent riparian owners.
- (c) Any person considered appropriate by the department.
- (d) Any person who requests copies.

(e) A watershed council, organized pursuant to the local river management act, Act No. 253 of the Public Acts of 1964, being sections 323.301 to 323.320 of the Michigan Compiled Laws, of the watershed within which the project is located or to be located.

(2) The department may hold a public hearing upon the written request of any of the following:

- (a) An applicant.
- (b) A riparian owner.

(c) A person or local unit of government that is entitled to receive a copy of the application pursuant to subsection (1).

(3) A public hearing held pursuant to this section shall be held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the hearing shall be given in the manner provided by that act. Additionally, the

department shall mail copies of the public notice to the persons who have requested the biweekly list pursuant to section 21, the person requesting the hearing, and the persons and local units of government which are entitled to receive a copy of the application pursuant to subsection (1).

Sec. 25. (1) The department shall grant or deny a permit within 60 days after the submission of a complete application, or within 120 days after the submission of a complete application if a public hearing is held. If a permit is denied, the department shall provide to the applicant a concise written statement of the reasons for the denial of the permit. If it appears that a minor modification of the application would result in the granting of the permit, the nature of the modification shall be included in the written statement.

(2) When immediate action is necessary to protect the structural integrity of a dam, the department may issue a permit before the expiration of the 20-day period referred to in section 23(1). This subsection does not prohibit an owner from taking action necessary to mitigate emergency conditions if imminent danger of failure exists.

(3) A person applying for a permit to reconstruct a failed dam shall file a complete application not less than 1 year after the date of the failure. If such an application is filed more than 1 year after the date of the failure, the department shall consider the application to be an application to construct a new dam.

Sec. 27. (1) The department shall promulgate rules to establish minor project categories for alterations and repairs that have minimal effect on the structural integrity of a dam. The department may act upon an application and grant a permit for an activity or project within a minor project category after an on-site inspection of the dam without providing public notice.

(2) All other provisions of this act shall be applicable to minor projects except that a final inspection by the department or certification of the project by a licensed professional engineer shall not be required for a project completed under a permit granted pursuant to subsection (1).

Sec. 29. The department shall not issue a permit to construct a new dam, reconstruct a failed dam for which a complete application to reconstruct has been submitted more than 1 year after the date of the failure, or enlarge the surface area of an impoundment by more than 10% unless it determines, after a review of the application submitted, that the proposed activity for which a permit is requested will not have a significant adverse effect on public health, safety, welfare, property, or natural resources or the public trust in those natural resources.

Sec. 31. (1) Except as otherwise provided in this section, a permit issued by the department under this act shall require that plans and specifications be approved by the department before construction begins. The department shall approve or reject complete plans and specifications within 60 days after their receipt. The permitted activity shall be completed within a specified time not to exceed 2 years after the date of issuance of the permit. Upon the written application of the permittee, and for good cause shown, the department may extend the time for completing construction. The permittee shall notify the department at least 10 days before beginning construction and shall otherwise notify the department as the department may require.

(2) A change in approved plans and specifications shall not be implemented unless the department gives its prior approval. The department shall approve or reject changes in plans and specifications within 30 days after the request for the changes.

(3) A permit is effective for the length of time specified in the permit unless it is revoked pursuant to this act. The department may renew a permit.

(4) A permit to alter, repair, or construct a new dam, reconstruct a failed dam, or enlarge the surface area of an impoundment by more than 10% may specify the terms and conditions including, but not limited to, requirements for minimum flows, cold water release, impoundment fluctuations, portage, contingency plans, and conditions under which the work is to be performed. The terms and conditions of a permit shall be effective for the life of the project. The department may consider, in issuing a permit, any mitigating measures in conjunction with the permitted activities and may make recommendations as to fish passage that may be required by Act No. 123 of the Public Acts of 1929.

(5) A permit to construct a new dam or reconstruct a failed dam may require a performance bond to assure completion of the project or to provide for complete or partial restoration of the project site, as determined by the department in rules promulgated by the department.

(6) A permit may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended after a hearing for a violation of any of its provisions, a violation of this act, a violation of a rule promulgated under this act, or any misrepresentation contained in the application. Hearings shall be conducted by the department in accordance with the provisions for contested cases in the administrative procedures act of 1969.

Sec. 33. (1) Spillway capacity shall meet the following minimum criteria:

(a) Low hazard potential dams shall be capable of passing the 100-year flood, or the flood of record, whichever is greater.

(b) Significant hazard potential dams shall be capable of passing the 200-year flood, or the flood of record, whichever is greater.

(c) High hazard potential dams, less than 40 feet in height, as measured from the 200-year design flood elevation to the lowest downstream toe elevation, shall be capable of passing the 200-year flood, or the flood of record, whichever is greater.

(d) High hazard potential dams, 40 feet or greater in height, as measured from the 200-year design flood elevation to the lowest downstream toe elevation, shall be capable of passing the half probable maximum flood. The half probable maximum flood criterion may be reduced to not less than the 200-year flood, with proper documentation evidencing a failure of a dam under half probable maximum flood conditions will not cause additional flood damage or loss of life.

(e) Spillway design capacity shall not be less than the flood of record.

(2) Freeboard shall be considered when determining spillway capacity.

(3) If a dam cannot pass the design flood, an auxiliary spillway must be provided. The owner must document, to the satisfaction of the department, that the dam has sufficient spillway capacity, and that proper means are available to operate the spillway or spillways during the design flood.

Sec. 35. (1) Except for minor projects authorized pursuant to section 27, the owner shall do both of the following:

(a) Within 10 days after the completion of a new, reconstructed, enlarged, repaired, or altered dam, notify the department of its completion.

(b) Within 20 days after submitting the notice of completion, file with the department as-built plans and a statement signed by a licensed professional engineer certifying that the project was constructed in conformance with plans and specifications approved by the department.

(2) The department shall inspect the project and shall provide the owner with written notice of final approval if the project is determined to have been completed in accordance with approved plans, specifications, and permit conditions.

(3) If the project is determined not to be completed in accordance with plans and specifications approved by the department and permit conditions, the department shall provide notice to the permittee as to the specific reasons the department determines the project not to be completed in accordance with those plans, specifications, or conditions. The department may then take enforcement action as provided in this act.

Sec. 37. (1) An owner shall submit to the department inspection reports that are prepared by a licensed professional engineer which evaluate the condition of the dam. The inspection report shall be submitted as follows:

(a) Not less than once every 3 years for high hazard potential dams.

(b) Not less than once every 4 years for significant hazard potential dams.

(c) Not less than once every 5 years for low hazard potential dams.

(2) The department shall determine the hazard potential classification of all dams and shall establish an inspection schedule. The inspection schedule shall require annual submission of inspection reports for approximately 1/3 of all high hazard potential dams, 1/4 of all significant hazard potential dams, and 1/5 of all low hazard potential dams. The department shall notify owners in writing when inspection reports are due. The department may order additional inspection reports following an event or change in condition that could threaten a dam.

(3) An inspection report required by this section shall include, at a minimum, all of the following:

(a) An evaluation of the dam's condition, spillway capacity, operational adequacy, and structural integrity.

(b) A determination of whether deficiencies exist that could lead to the failure of the dam.

(c) Recommendations for maintenance, repair, and alterations of a dam as are necessary to eliminate any deficiencies.

(4) Instead of engaging a licensed professional engineer to prepare an inspection report, local units of government or an organization of the type described in section 17(2)(a) through (c) may request the department to conduct a visual inspection of a dam owned by that local unit of government and prepare a report on the condition of the dam in accordance with subsection (3). The department shall notify a requesting local unit of government as to when the inspection is to occur.

(5) If an inspection report discloses the need for a more detailed investigation or evaluation of certain dam features for the purpose of determining the condition of the dam, the department may order the completion and submission of such a detailed investigation or evaluation at the expense of the owner. An investigation or evaluation required under this subsection shall be conducted under the supervision of a licensed professional engineer.

(6) If an owner does not submit an inspection report as required by subsection (1) or additional investigations if required by subsection (5), the department or any person who would have life or property threatened by a breach of the dam may cause such a report to be prepared and recover the costs of preparing the report in a civil action commenced in a court of competent jurisdiction. This subsection shall not be interpreted to limit the right of any person to bring a cause of action in a court of proper jurisdiction to compel an owner to comply with the requirements of this act.

(7) If, based on the findings and recommendations of the inspection report and an inspection by the department, the department finds that a condition exists which endangers a dam, it shall order the owner to take actions that the department considers necessary to alleviate the danger.

Sec. 39. (1) Where significant damage to the public health, safety, welfare, property, and natural resources or the public trust in those natural resources or damage to persons or property occurs or is anticipated to occur due to the operation of a dam, the department may order the owner to limit dam operations. These orders may include, but are not limited to, cold water release, minimum flow releases from dams, impoundment fluctuation restrictions, or requirements for run-of-the-river operation. In issuing these orders, the department shall take into account social, economic, and public trust values.

(2) Where significant damage to persons, property, or natural resources or the public trust in those natural resources occurs as a result of the condition or existence of a dam, the department may order the removal of the dam following a determination by the department that, due to the continued condition or existence of the dam, the dam is likely to continue to cause significant damage. In issuing a removal order, the department shall take into account social and economic values and the natural resources and the public trust in those natural resources and shall not issue a removal order when those factors exceed adverse impacts on natural resources or danger to persons or property. The department shall not issue a removal order involving a dam subject to the regulatory authority of the Michigan public service commission or the federal energy regulatory commission unless that commission has concurred in writing with the order.

(3) Prior to finalizing such an order under this section, the department shall provide an owner an opportunity for a hearing pursuant to the administrative procedures act of 1969.

Sec. 41. (1) The owner, or his or her agent, shall advise the department and the affected off-site public authorities and safety agencies of any sudden or unprecedented flood or unusual or alarming circumstance or occurrence existing or anticipated that may affect the safety of the dam within 24 hours of the flood, circumstance, or occurrence.

(2) The owner shall notify the department as soon as possible of any necessary emergency drawdowns, repairs, breaching, or other action being taken in response to an emergency condition.

Sec. 43. (1) The director may issue emergency orders as provided in this section. The director may, by written notice, order an owner to immediately repair, draw down, breach, or cease operation of a dam where a dam is in imminent danger of failure and is causing or threatening to cause harm to public health, safety, welfare, property, or the natural resources or the public trust in those natural resources. If an owner fails to comply with an order, or is unavailable or unable to be contacted, then the department may undertake immediate repair, drawdown, breaching, or cessation of operation, as may be necessary to alleviate the danger, and may recover the costs incurred from the owner in a civil action commenced in a court of competent jurisdiction. The director may terminate an emergency order upon a determination in writing that all necessary emergency actions have been complied with by the owner and that an emergency no longer exists.

(2) When ordering emergency actions under subsection (1), the department may specify maximum drawdown level and discharge rates and require sediment surveys, water quality sampling, monitoring, or any other action determined necessary by the department to insure adequate protection of the public health, safety, welfare, property, or natural resources or the public trust in those natural resources. The department may modify the requirements of an emergency order if, during the conduct of ordered actions, it determines that the modification is necessary to protect the public health, safety, welfare, property, or natural resources or the public trust in those natural resources.

(3) Upon the issuance of an emergency order, the department shall provide the owner with an opportunity for a hearing pursuant to the administrative procedures act of 1969 within 15 days of the date of its issuance. At the hearing, the department shall determine, based on information and fact, if the emergency order shall be continued, modified, or suspended as necessary to protect public health, safety, welfare, property, or natural resources or the public trust in those natural resources.

Sec. 45. The department may make, or cause to be made, hydrologic or other investigations and studies as may be required to facilitate its decisions regarding the structural integrity and operation of a dam.

Sec. 47. (1) An owner shall prepare, and keep current, emergency action plans for all high and significant hazard potential dams owned by that person.

(2) Emergency action plans shall be submitted to the department.

(3) The applicable county or local emergency management coordinators shall review for consistency emergency action plans with the county or local emergency operations plan prior to submission of those plans to the department.

(4) An emergency action plan shall be consistent with the applicable provisions of the affected county or local emergency operations plans and the Michigan emergency preparedness plan as developed pursuant to the emergency preparedness act, Act No. 390 of the Public Acts of 1976, being sections 30.401 to 30.420 of the Michigan Compiled Laws.

(5) Emergency action plans shall include, but not be limited to, the name, address, and telephone number of the person, and an alternate person, responsible for operation of the dam; the name and telephone number of local emergency management coordinators, and a listing of occupied facilities, buildings, and residences which may be threatened with flooding due to a failure of the dam.

Sec. 49. (1) If the department determines that a person is in violation of this act, a rule promulgated under this act, or a condition set forth in a permit issued under this act, the department may issue an order requiring the person to comply with the conditions or to restore the site affected by the violation as nearly as practicable to its original condition. Restoration may include, but is not limited to, removing fill material deposited, or replacement of soil, sand, or minerals.

(2) An order shall state the nature of the violation, the required remedial action, and shall specify a time for compliance which the department determines is reasonable, taking into account the seriousness of the violation and the nature of any threat to public health, safety, welfare, property, or natural resources, or the public trust in those natural resources that may be involved.

(3) If the department determines that a person is in violation of this act, a rule promulgated under this act, an order issued by the director, or a permit, the department, after notice and opportunity for hearing pursuant to the administrative procedures act of 1969, may suspend, modify, or revoke a permit. The remedies under this section and section 51 are cumulative and do not prevent the department from imposing other penalties available under this act, a rule promulgated under this act, or an order of the director.

(4) If the department determines that a person is in violation of this act, a rule promulgated under this act, an order issued by the director pursuant to this act, or a permit issued pursuant to this act, the department may bring a civil action in the circuit court.

Sec. 51. (1) The attorney general may commence a civil action for appropriate relief, including injunctive relief, upon request of the department under section 49.

(2) Any civil action under this section may be brought in the circuit court for the county of Ingham or for the county in which the dam is located.

(3) In addition to any other relief granted under this section, the court may impose a civil fine of not more than \$10,000.00 for each day of violation of this act, a rule promulgated under this act, or a permit issued under this act.

(4) A person found guilty of contempt of court for the violation of an order of the court shall be subject to a civil fine not to exceed \$10,000.00 for each day of violation.

(5) A person who willfully or recklessly violates this act, a rule promulgated under this act, an order issued by the director, or a condition in a permit issued under this act that places or may place a person in imminent danger of death or serious bodily injury, or which may cause serious property damage or serious damage to natural resources, or a person who has knowledge of or is responsible for such a violation, is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not less than \$2,500.00 nor more than \$25,000.00 for each day of violation, or both. A person who violates this section a second or subsequent time is guilty of a felony, punishable by imprisonment for not more than 2 years or a fine of not less than \$10,000.00 for each day of violation, or both.

(6) A person required to obtain a permit for activity regulated under this act who does not obtain such a permit shall be fined not less than twice the fee charged for the appropriate permit application.

(7) In addition to the orders of compliance and penalties provided under this act, the court may order a person who violates this act, a rule promulgated under this act, or a permit issued under this act to restore the site affected by the violation as nearly as practicable to its original condition. Restoration may include, but is not limited to, removing fill material deposited or replacing soil, sand, or minerals.



(8) The department may establish, by rule, a schedule of administrative monetary penalties for minor violations of this act, a rule promulgated under this act, a permit issued pursuant to this act, or an order issued by the director pursuant to this act.

Sec. 53. (1) A person aggrieved by any action or inaction of the department under this act or rules promulgated under this act, may request a hearing on the matter involved. The hearing shall be conducted by the department in accordance with the provisions for contested cases in the administrative procedures act of 1969.

(2) A determination of action or inaction by the department following the hearing may be subject to judicial review as provided in the administrative procedures act of 1969.

Sec. 55. The director or his or her authorized representative may enter in or upon any private or public property anytime where the public safety may be in danger and at all reasonable times, after attempting to contact the owner before entering the site and having shown proper identification, for the purpose of inspecting or investigating conditions relating to the construction, operation, or safety of a dam and for the purpose of determining compliance with the terms, conditions, and requirements of permits, orders, or notices of approval issued under this act and rules promulgated under this act.

Sec. 57. The department shall promulgate rules as are necessary to implement and enforce this act pursuant to the administrative procedures act of 1969.

Sec. 59. (1) This act shall not be construed to abrogate requirements of the inland lakes and streams act of 1972, Act No. 346 of the Public Acts of 1972, being sections 281.951 to 281.965 of the Michigan Compiled Laws; the Goemaere-Anderson wetland protection act, Act No. 203 of the Public Acts of 1979, being sections 281.701 to 281.722 of the Michigan Compiled Laws; the inland lake level act of 1961, Act No. 146 of the Public Acts of 1961, being sections 281.61 to 281.86 of the Michigan Compiled Laws; the natural river act of 1970, Act No. 231 of the Public Acts of 1970, being sections 281.761 to 281.776 of the Michigan Compiled Laws; the soil erosion and sedimentation control act of 1972, Act No. 347 of the Public Acts of 1972, being sections 282.101 to 282.125 of the Michigan Compiled Laws; Act No. 123 of the Public Acts of 1929, being sections 307.1 to 307.7 of the Michigan Compiled Laws; Act No. 245 of the Public Acts of 1929, being sections 323.1 to 323.13 of the Michigan Compiled Laws; or other applicable law.

(2) This act shall not be construed to relieve an owner of any legal duty, obligation, or liability incident to the ownership or operation of a dam or impoundment.

(3) This act shall not be construed to deprive an owner of any legal remedy to which he or she may be entitled under the laws of this state.

Sec. 63. This act shall take effect June 1, 1990.

Sec. 65. Act No. 184 of the Public Acts of 1963, being sections 281.131 to 281.135 of the Michigan Compiled Laws, is repealed.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.

