

HOUSE BILL No. 4891

June 7, 1989, Introduced by Reps. Scott, Bartnik, Kosteva, Middaugh, Sikkema, Hart and Niederstadt and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 1, 2, 2a, 3, 4, 5, 5a, 5b, 6, 6a, 6b, 7, 8, 9, 10, 12, and 12a of Act No. 245 of the Public Acts of 1929, entitled as amended

"An act to create a water resources commission to protect and conserve the water resources of the state, to have control over the pollution of any waters of the state and the Great Lakes, to have control over the alteration of the watercourses and the flood plains of all rivers and streams, with powers to make rules governing the same, and to prescribe the powers and duties of such commission; to require the registration of manufacturing products, production materials and waste products where certain wastes are discharged; to provide for surveillance fees upon discharges to the waters of the state in order to provide for investigation, monitoring and surveillance necessary to prevent and abate water pollution; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the commission as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties for the violation of this act,"

1 Section 1. The title and sections 1, 2, 2a, 3, 4, 5, 5a,
2 5b, 6, 6a, 6b, 7, 8, 9, 10, 12, and 12a of Act No. 245 of the
3 Public Acts of 1929, section 6a as amended by Act No. 92 of the
4 Public Acts of 1987, being sections 323.1, 323.2, 323.2a, 323.3,
5 323.4, 323.5, 323.5a, 323.5b, 323.6, 323.6a, 323.6b, 323.7,
6 323.8, 323.9, 323.10, 323.12, and 323.12a of the Michigan
7 Compiled Laws, are amended and sections 1a and 14 are added to
8 read as follows:

10 An act to ~~create a water resources commission to~~ REGULATE,
11 protect, and conserve the water resources of the state, to ~~have~~
12 PROVIDE FOR THE control over the pollution of any waters of the
13 state and the Great Lakes, to ~~have~~ PROVIDE FOR THE control over
14 the alteration of the watercourses and the ~~flood plains~~
15 FLOODPLAINS of all rivers and streams; ~~, with powers to make~~ TO
16 PROVIDE FOR THE PROMULGATION OF rules; ~~governing the same, and~~
17 to prescribe the powers and duties of ~~such commission~~ CERTAIN
18 STATE AGENCIES AND OFFICIALS; to require the registration of man-
19 ufacturing products, production materials and waste products
20 where certain wastes are discharged; ~~to provide for surveillance~~
21 ~~fees upon discharges to the waters of the state in order to~~

1 ~~provide for investigation, monitoring and surveillance necessary~~
2 ~~to prevent and abate water pollution;~~ to require permits to reg-
3 ulate the discharge or storage of any substance which may affect
4 the quality of the waters of the state and to establish restric-
5 tions to assure compliance with applicable state standards and to
6 authorize the establishment of permit restrictions and programs
7 to assure compliance with applicable federal law and regulations;
8 to prohibit the pollution of any waters of the state and the
9 Great Lakes; to prohibit the obstruction of the floodways of the
10 rivers and streams of the state; to designate the ~~commission as~~
11 ~~the state agency~~ DIRECTOR to cooperate and negotiate with other
12 governments and agencies in matters concerning the water
13 resources of the state; and to provide penalties AND REMEDIES for
14 the violation of this act.

15 Sec. 1. ~~For the purpose of carrying out this~~ THIS act ~~a-~~
16 SHALL BE KNOWN AND MAY BE CITED AS THE "water QUALITY ACT".
17 ~~resources commission, hereinafter referred to as the commission,~~
18 ~~is created which shall consist of the director of the department~~
19 ~~of natural resources, the director of the department of public~~
20 ~~health, the director of the department of state highways, the~~
21 ~~director of the department of agriculture, and 3 citizens of the~~
22 ~~state to be appointed by the governor, by and with the advice and~~
23 ~~consent of the senate, 1 from groups representative of industrial~~
24 ~~management, 1 from groups representative of municipalities, and 1~~
25 ~~from groups representative of conservation associations or inter-~~
26 ~~ests, for terms of 3 years each. Vacancies shall be filled for~~
27 ~~the unexpired term in the same manner as original appointments.~~

~~1 Members of the commission shall be entitled to actual and
2 necessary expenses incurred in the performance of official
3 duties. The department of administration shall provide suitable
4 office facilities for the use of the commission.~~

~~5 Each of the state officers may designate a representative
6 from his department to serve in his stead as a member of the com-
7 mission for 1 or more meetings.~~

8 SEC. 1A. AS USED IN THIS ACT:

9 (A) "COMMISSION" MEANS THE COMMISSION OF NATURAL RESOURCES.

10 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

11 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS
12 OR HER DESIGNEE.

13 (D) "MUNICIPALITY" MEANS THE STATE, A COUNTY, CITY, VILLAGE,
14 OR TOWNSHIP, OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, A
15 COUNTY, CITY, VILLAGE, OR TOWNSHIP.

16 (E) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
17 MUNICIPALITY, ASSOCIATION, OR OTHER LEGAL ENTITY.

18 (F) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
19 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
20 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
21 LAWS.

22 (G) "WATERS OF THE STATE" MEANS GROUNDWATERS, LAKES, RIVERS,
23 STREAMS, AND ALL OTHER WATERCOURSES AND BODIES OF WATER WITHIN
24 THE CONFINES OF THE STATE AND ALSO INCLUDES THE GREAT LAKES BOR-
25 DERING THE STATE.

26 Sec. 2. ~~(1) The commission shall organize and make its own
27 rules and procedure and shall meet not less than once each month~~

1 ~~and shall keep a record of its proceedings. The commission~~
2 DIRECTOR shall protect and conserve the water resources of the
3 state and shall have control of the pollution of surface or
4 underground waters of the state and the Great Lakes, which are or
5 may be affected by waste disposal of ~~municipalities, industries,~~
6 ~~public or private corporations, individuals, partnership associa-~~
7 ~~tions, or any other entity~~ ANY PERSON. The ~~commission~~
8 DIRECTOR may make or cause to be made surveys, studies, and
9 investigations of the uses of waters of the state, both surface
10 and underground, and cooperate with other governments, and gov-
11 ernmental units and agencies in making the surveys, studies, and
12 investigations. The ~~commission~~ DIRECTOR shall assist in an
13 advisory capacity a flood control district ~~which~~ THAT may be
14 authorized by the legislature. The ~~commission~~ DIRECTOR in the
15 public interest shall appear and present evidence, reports, and
16 other testimony during the hearings involving the creation and
17 organization of flood control districts. The ~~commission~~
18 DIRECTOR shall advise and consult with the legislature on the
19 obligation of the state to participate in the costs of construc-
20 tion and maintenance as provided for in the official plans of a
21 flood control district or intercounty drainage district. The
22 ~~commission~~ DIRECTOR shall enforce this act. ~~and shall promul-~~
23 ~~gate rules as considered necessary to carry out this act pursuant~~
24 ~~to Act No. 306 of the Public Acts of 1969, as amended, being sec-~~
25 ~~tions 24.201 to 24.315 of the Michigan Compiled Laws.~~
26 ~~(2) The business which the board may perform shall be~~
27 ~~conducted at a public meeting of the board held in compliance~~

1 ~~with Act No. 267 of the Public Acts of 1976, being sections~~
2 ~~+5.261 to +5.275 of the Michigan Compiled Laws. Public notice of~~
3 ~~the time, date, and place of the meeting shall be given in the~~
4 ~~manner required by Act No. 267 of the Public Acts of 1976.~~

5 ~~(3) A writing prepared, owned, used, in the possession of,~~
6 ~~or retained by the board in the performance of an official func-~~
7 ~~tion shall be made available to the public in compliance with Act~~
8 ~~No. 442 of the Public Acts of 1976, being sections +5.231 to~~
9 ~~+5.246 of the Michigan Compiled Laws.~~

10 Sec. 2a. (1) The ~~water resources commission is designated~~
11 ~~the state agency to~~ DIRECTOR SHALL cooperate and negotiate with
12 other governments, governmental units, and GOVERNMENTAL agencies
13 ~~thereof~~ in matters concerning the water resources of the state,
14 including but not limited to flood control, beach erosion
15 control, and water quality control planning, development, and
16 management. The ~~commission~~ DIRECTOR shall have control over
17 the alterations of natural or present watercourses of all rivers
18 and streams in the state to assure that the channels and the por-
19 tions of the ~~flood plains~~ FLOODPLAINS that are the floodways
20 are not inhabited and are kept free and clear of interference or
21 obstruction ~~which~~ THAT will cause any undue restriction of the
22 capacity of the floodway. The ~~commission~~ DIRECTOR may take
23 such steps as may be necessary to take advantage of any act of
24 congress ~~heretofore or hereafter enacted which~~ THAT may be of
25 assistance in carrying out the purposes of this act including the
26 water resources planning act, ~~P.L.~~ PUBLIC LAW 89-80, as
27 amended, 42 U.S.C. 1962 TO 1962-1 AND 1962a TO 1962d-3, and the

1 federal water pollution control act, as amended, CHAPTER 758, 86
2 STAT. 816, 33 U.S.C. 1251 TO 1252, 1253 TO 1257, 1258 TO 1263,
3 1265 TO 1268, 1281, 1281b, 1282 TO 1293, 1294 TO 1299, 1311 TO
4 1313, 1314 TO 1326, 1328 TO 1330, 1341 TO 1345, 1361 TO 1377, AND
5 1381 TO 1387.

6 (2) The ~~commission~~ DIRECTOR shall report to the governor
7 and to the legislature at least once in each year any plans or
8 projects being carried on or considered and shall include in
9 ~~such~~ THE report requests for any legislation needed to carry
10 out any proposed projects or agreements made necessary thereby,
11 together with any requests for appropriations. The ~~commission~~
12 DIRECTOR may make recommendations to the governor on the designa-
13 tion of areawide water quality planning regions and organizations
14 relative to the governor's responsibilities under the federal
15 water pollution control act.

16 (3) IN ADMINISTERING THIS ACT, THE DIRECTOR SHALL ACTIVELY
17 SEEK THE ADVICE OF, AND SHALL CONSULT WITH, THE DEPARTMENTS OF
18 PUBLIC HEALTH, TRANSPORTATION, AND AGRICULTURE ON APPROPRIATE
19 ISSUES. THE DIRECTOR MAY ENTER INTO A MEMORANDUM OF UNDERSTAND-
20 ING WITH THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH, TRANS-
21 PORTATION, OR AGRICULTURE THAT FURTHER DEFINES THE NATURE AND
22 PROCEDURES FOR IMPLEMENTING THIS COOPERATIVE RELATIONSHIP.

23 Sec. 3. The ~~commission shall be authorized to~~ DIRECTOR
24 MAY bring any appropriate action in the name of the people of the
25 state of Michigan, either at law or in chancery as may be neces-
26 sary to carry out the provisions of this act, and to enforce any
27 and all laws relating to the pollution of the waters and the

1 obstruction of the floodways of the rivers and streams of this
2 state. Whenever the attorney general ~~deems~~ CONSIDERS it neces-
3 sary, he OR SHE shall take charge of and prosecute all criminal
4 cases arising under ~~the provisions of~~ this act.

5 Sec. 4. The ~~commission~~ DIRECTOR or any agent ~~duly~~
6 appointed by ~~it~~ THE DIRECTOR shall have the right to enter at
7 all reasonable times in or upon any private or public property
8 for the purpose of inspecting and investigating conditions relat-
9 ing to the pollution of any waters and the obstruction of the
10 floodways of the rivers and streams of this state. The
11 ~~commission~~ DIRECTOR shall have the right to call upon any offi-
12 cer, board, department, school, university, or other state insti-
13 tution and the officers or employees thereof for any assistance
14 ~~deemed~~ CONSIDERED necessary to the carrying out of this act.

15 Sec. 5. (1) The commission shall PROMULGATE RULES THAT
16 establish ~~such~~ pollution standards for ~~lakes, rivers, streams~~
17 ~~and other~~ THE waters of the state in relation to the public use
18 to which they are or may be put, as it ~~shall deem~~ CONSIDERS
19 necessary. ~~It~~

20 (2) THE DIRECTOR shall issue permits ~~which~~ THAT will
21 assure compliance with state standards to regulate municipal,
22 industrial, and commercial discharges or storage of any substance
23 ~~which~~ THAT may affect the quality of the waters of the state.
24 ~~It~~ THE DIRECTOR may set permit restrictions which will assure
25 compliance with applicable federal law and regulations. ~~It~~ THE
26 DIRECTOR may ascertain and determine for record and in ~~making~~
27 ~~its~~ ISSUING A PERMIT OR order what volume of water actually

1 flows in all streams, and the high and low water marks of lakes
2 and other waters of the state, affected by the waste disposal or
3 pollution of ~~municipalities, industries, public and private cor-~~
4 ~~porations, individuals, partnership associations or any other~~
5 ~~entity~~ ALL PERSONS.

6 (3) ~~It~~ THE COMMISSION may ~~make~~ PROMULGATE rules and THE
7 DIRECTOR MAY ISSUE PERMITS OR orders restricting the polluting
8 content of any waste material or polluting substance discharged
9 or sought to be discharged into ~~any lake, river, stream or~~
10 ~~other~~ THE waters of the state. ~~It~~

11 (4) THE DIRECTOR MAY HOLD A PUBLIC HEARING PRIOR TO MAKING A
12 DECISION ON AN APPLICATION FOR A PERMIT UNDER THIS ACT. THE
13 DIRECTOR SHALL HOLD A PUBLIC HEARING UPON THE REQUEST OF 1 OR
14 MORE PERSONS.

15 (5) ALL PERMIT DECISIONS MADE BY THE DIRECTOR UNDER THIS ACT
16 SHALL BE IN WRITING AND SHALL CONTAIN A RATIONALE FOR THE
17 DECISION.

18 (6) THE DIRECTOR shall take all appropriate steps to prevent
19 any pollution which ~~is deemed by the commission~~ HE OR SHE
20 CONSIDERS to be unreasonable and against public interest in view
21 of the existing conditions in any ~~lake, river, stream or other~~
22 OF THE waters of the state.

23 Sec. 5a. (1) The commission ~~shall have the authority to~~
24 ~~make regulations and orders~~ MAY PROMULGATE RULES for the preven-
25 tion of harmful interference with the discharge and stage charac-
26 teristics of streams. ~~It shall have the authority to~~

1 (2) THE DIRECTOR MAY ascertain and determine for record and
2 in ~~making its~~ ISSUING A PERMIT OR order the location and extent
3 of ~~flood plains~~ FLOODPLAINS, stream beds and channels and the
4 discharge and stage characteristics of streams at various times
5 and circumstances.

6 Sec. 5b. A person shall not occupy or permit the occupation
7 for residential, commercial, or industrial purposes of lands or
8 to fill or grade or permit the filling or grading for any pur-
9 poses other than agricultural, of lands in the ~~flood plains~~
10 FLOODPLAINS, stream bed, or channel of any stream, as ascertained
11 and determined for record by the ~~commission~~ DIRECTOR, or to
12 undertake or engage in any activity on or with respect to ~~the~~
13 ~~lands~~ LAND which is determined by the ~~commission~~ DIRECTOR to
14 harmfully interfere with the discharge or stage characteristics
15 of a stream, unless the occupation, filling, grading or other
16 activity is permitted by an order or rule of the FORMER WATER
17 RESOURCES commission or ~~by~~ a valid permit issued ~~therefor~~ by
18 the ~~department of natural resources~~ DIRECTOR under the provi-
19 sions of law.

20 Sec. 6. (a) It shall be unlawful for ~~any persons~~ A PERSON
21 directly or indirectly to discharge into the waters of the state
22 any substance which is or may become injurious to the public
23 health, safety, or welfare; or which is or may become injurious
24 to domestic, commercial, industrial, agricultural, recreational,
25 or other uses ~~which~~ THAT are being or may be made of such
26 waters; or which is or may become injurious to the value or
27 utility of riparian lands; or which is or may become injurious to

1 livestock, wild animals, birds, fish, aquatic life, or plants or
2 the growth or propagation thereof be prevented or injuriously
3 affected; or whereby the value of fish and game is or may be
4 destroyed or impaired.

5 (b) The discharge of any raw sewage of human origin,
6 directly or indirectly into any of the waters of the state shall
7 be considered prima facie evidence of a violation of this section
8 by the municipality in which the discharge originated unless the
9 discharge shall have been permitted by an order, ~~or~~ rule, ~~of~~
10 ~~the commission~~ OR PERMIT UNDER THIS ACT. If the discharge is
11 not the subject of a valid permit issued by the ~~commission~~
12 DIRECTOR, a municipality responsible for the discharge shall be
13 subject only to the remedies provided in section 7. If the dis-
14 charge is the subject of a valid permit issued by the
15 ~~commission~~ DIRECTOR pursuant to section 7, and is in violation
16 ~~thereof~~ OF THAT PERMIT, a municipality responsible for the dis-
17 charge shall be subject to the penalties prescribed in section
18 10.

19 (c) A violation of ~~a provision of~~ this section shall be
20 prima facie evidence of the existence of a public nuisance and in
21 addition to the remedies provided for in this act may be abated
22 according to law in an action brought by the attorney general in
23 a court of competent jurisdiction.

24 Sec. 6a. (1) Every industrial or commercial entity ~~which~~
25 THAT discharges liquid wastes into any surface WATERS or ~~ground~~
26 ~~waters~~ GROUNDWATERS or underground or on the ground other than
27 through a public sanitary sewer shall have waste treatment or

1 control facilities under the specific supervision and control of
2 persons who have been certified by the ~~commission~~ DIRECTOR as
3 properly qualified to operate the facilities. The ~~commission~~
4 DIRECTOR shall examine all supervisory personnel having supervi-
5 sion and control of the facilities and certify the persons prop-
6 erly qualified to operate or supervise the facilities.

7 (2) The ~~department of natural resources~~ DIRECTOR may con-
8 duct a program for training persons seeking to be certified as
9 operators or supervisors under subsection (1) or seeking to be
10 certified as operators or supervisors of municipal wastewater
11 treatment facilities UNDER ACT NO. 98 OF THE PUBLIC ACTS OF 1913,
12 BEING SECTIONS 325.1 TO 325.14 OF THE MICHIGAN COMPILED LAWS. The
13 ~~department~~ DIRECTOR, with the annual approval of the commis-
14 sion, may charge a fee based on the costs to the department of
15 operating the training program. The fees shall be DEPOSITED IN
16 THE STATE TREASURY AND SHALL BE credited to a separate fund. ~~of~~
17 ~~the department and used to conduct the training program. Any~~
18 ~~unexpended fees~~ FEES collected pursuant to this subsection,
19 along with any excess collections from prior fiscal years, shall
20 be carried over into subsequent fiscal years and shall be avail-
21 able for appropriation for the purposes of conducting the program
22 described in this subsection.

23 (3) A person certified as required by subsection (1) shall
24 file monthly, or at such longer intervals as the ~~commission~~
25 DIRECTOR may designate, on forms provided by the ~~commission~~
26 DIRECTOR, reports showing the effectiveness of the treatment or
27 control facility operation and the quantity and quality of liquid

1 wastes so discharged. A person who knowingly makes a false
2 statement in a report may have his or her certificate as an
3 approved treatment facility operator revoked.

4 (4) This section shall not apply to water, gas, or other
5 material which is injected into a well to facilitate production
6 of oil or gas, or water derived in association with oil or gas
7 production and disposed of in a well, if the well is used either
8 to facilitate production or for disposal purposes and is under
9 permit by the state supervisor of wells.

10 Sec. 6b. Every person, doing business within this state
11 discharging waste water to the waters of the state or to any
12 sewer system, which contains wastes in addition to sanitary
13 sewage shall file annually reports on forms provided by the
14 ~~commission setting~~ DIRECTOR. THESE REPORTS SHALL SET forth the
15 nature of the enterprise, indicating the quantities of materials
16 used in and incidental to its manufacturing processes and includ-
17 ing by-products and waste products, which appear on a register of
18 critical materials as compiled by the ~~commission~~ DIRECTOR with
19 the advice of an advisory committee of environmental specialists
20 designated by the ~~commission~~ DIRECTOR and the estimated annual
21 total number of gallons of waste water including but not limited
22 to process and cooling water to be discharged to the waters of
23 the state or to any sewer system. The information shall be used
24 by the ~~commission~~ DIRECTOR only for purposes of water pollution
25 control. The ~~commission~~ DIRECTOR shall provide proper and ade-
26 quate facilities and procedures to safeguard the confidentiality
27 of manufacturing proprietary processes except that

1 confidentiality shall not extend to waste products discharged to
2 the waters of the state. Operations of a business or industry
3 which violate this section may be enjoined on petition of the
4 ~~water resources commission~~ DIRECTOR to a court of proper
5 jurisdiction. The commission shall promulgate rules ~~as~~ it
6 ~~deems~~ CONSIDERS necessary to effectuate the administration of
7 this section, including where necessary to meet special circum-
8 stances, reporting more frequently than annually.

9 Sec. 7. (1) After April 15, 1973, a person shall not dis-
10 charge any waste or waste effluent into the waters of this state
11 unless he OR SHE is in possession of a valid permit ~~therefor~~
12 from the FORMER WATER RESOURCES commission OR THE DIRECTOR.
13 Compliance with the terms of an outstanding PERMIT, order of
14 determination, ~~or~~ final order of determination, or stipulation
15 with the FORMER WATER RESOURCES commission that is in effect on
16 April 15, 1973, shall be ~~deemed~~ CONSIDERED to meet the require-
17 ments of this section until the ~~commission~~ DIRECTOR issues
18 ~~its~~ A permit. The ~~commission~~ DIRECTOR shall condition the
19 continued validity of a permit upon the permittee's accomplish-
20 ment of such effluent requirements as the ~~commission deems~~
21 DIRECTOR CONSIDERS necessary to prevent unlawful pollution by
22 such dates as the ~~commission deems~~ DIRECTOR CONSIDERS to be
23 reasonable and necessary and to assure compliance with applicable
24 federal law and regulations. ~~If the commission finds that the~~
25 ~~terms of a permit have been, are being, or may be violated, it~~
26 ~~may revoke the permit or grant the permittee a reasonable period~~
27 ~~of time in which to comply with the permit. The commission shall~~

1 ~~reissue a revoked permit upon a showing satisfactory to the~~
2 ~~commission that the permittee has corrected the violation by pro-~~
3 ~~viding the necessary collection or treatment facilities and has~~
4 ~~adequately arranged for their operation.~~

5 (2) Whenever in the opinion of the ~~commission~~ DIRECTOR a
6 person is causing or is about to cause unlawful pollution of the
7 waters of ~~this~~ THE state, the ~~commission~~ DIRECTOR may notify
8 the alleged offender of ~~its~~ HIS OR HER determination. The
9 notice shall contain, in addition to a statement of the specific
10 violation which the ~~commission~~ DIRECTOR believes to exist, a
11 proposed permit, CONSENT ORDER, or other action which ~~it deems~~
12 THE DIRECTOR CONSIDERS appropriate to assure timely correction of
13 the problem. ~~and shall set a date for a hearing on the facts~~
14 ~~and proposed action involved, the hearing to be scheduled not~~
15 ~~less than 4 weeks nor more than 8 weeks from the date of the~~
16 ~~notice of determination. Extensions of the date of hearing may~~
17 ~~be granted by the commission or on request. At the hearing, any~~
18 ~~interested party may appear, present witnesses, and submit~~
19 ~~evidence. A person who has been served with a notice of determi-~~
20 ~~nation may file a written answer thereto before the date set for~~
21 ~~hearing or at the hearing may appear and present oral or written~~
22 ~~testimony and evidence on the charges and proposed requirements~~
23 ~~for abatement of pollution contained therein.~~

24 (3) If a person served with the notice of determination
25 agrees with the terms of ~~the~~ A proposed ~~permit and period of~~
26 ~~time for abatement of pollution which the commission deems~~
27 ~~necessary~~ CONSENT ORDER and notifies the ~~commission thereof~~

1 ~~before the date set for hearing~~ DIRECTOR, disposition of the
2 case may be made BY CONSENT ORDER. ~~with the approval of the com-~~
3 ~~mission by issuance of a permit without further hearing. The~~
4 ~~permit approved and issued by the commission following the hear-~~
5 ~~ing as authorized by this section shall be conclusive, unless~~
6 ~~reviewed in accordance with Act No. 306 of the Public Acts of~~
7 ~~1969, as amended, in the circuit court for the county of Ingham,~~
8 ~~for the county in which the person resides or for the county in~~
9 ~~which the violation occurred, upon petition therefor filed within~~
10 ~~15 days after issuance of the permit to the person.~~

11 Sec. 8. (1) ~~(a)~~ Whenever any person ~~shall feel himself~~
12 IS aggrieved by the restriction of polluting content, waste, or
13 pollution, or ~~any other order or permit of the commission, or~~
14 ~~any stipulation~~ A NOTICE OF DETERMINATION, PERMIT, or consent
15 order executed pursuant to section 7, he OR SHE may file a sworn
16 petition FOR A HEARING with the commission, setting forth the
17 grounds and reasons for ~~his~~ THE complaint. ~~and asking for a~~
18 ~~hearing of the matter involved.~~ The commission shall ~~thereupon~~
19 ~~fix the time and place for the hearing and notify the petitioner~~
20 ~~thereof. At the hearing the petitioner and any other interested~~
21 ~~party may appear, present witnesses and submit evidence~~ CONDUCT
22 A HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
23 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
24 24.328 OF THE MICHIGAN COMPILED LAWS. Following the hearing, the
25 ~~final~~ order of ~~determination or permit of~~ the commission
26 ~~upon such matter~~ shall be ~~conclusive~~ FINAL unless reviewed in
27 accordance with Act No. 306 of the Public Acts of 1969, as

1 amended, in the circuit court for the county of Ingham, for the
2 county in which the person resides, FOR THE COUNTY WHERE THE PRO-
3 POSED PERMIT IS LOCATED, or for the county in which the alleged
4 violation occurred.

5 (2) ~~(b)~~ A person who is using the waters of the state for
6 sewage or other waste disposal purposes or who requires a new or
7 substantial increase over and above the present use now made of
8 the waters of the state for sewage or other waste disposal pur-
9 poses shall file with the ~~commission~~ DIRECTOR a written state-
10 ment setting forth the nature of the enterprise or development
11 contemplated, the amount of water required to be used, its
12 source, the proposed point of discharge of the wastes into the
13 waters of the state, the estimated amount ~~so~~ to be discharged
14 and a fair statement setting forth the expected bacterial, physi-
15 cal, chemical, and other known characteristics of the wastes.
16 Within 60 days of receipt of the statement, the ~~commission~~
17 DIRECTOR shall issue a permit stating ~~such~~ restrictions as in
18 the judgment of the ~~commission~~ DIRECTOR may be necessary to
19 guard adequately against such unlawful uses of the waters of the
20 state as are set forth in section 6. The ~~commission~~ DIRECTOR
21 may deny a proposed new use in lieu of issuing a permit upon
22 determining that unlawful pollution cannot be guarded adequately
23 against by available waste treatment or control measures. If the
24 permit or denial is not acceptable to the user, he OR SHE may
25 request a hearing on the matter involved BEFORE THE COMMISSION
26 PURSUANT TO SUBSECTION (1). ~~, following which the commission's~~
27 ~~final order of determination, permit or denial in this connection~~

1 ~~shall be conclusive unless reviewed in accordance with Act No.~~
2 ~~306 of the Public Acts of 1969, as amended, in the circuit court~~
3 ~~for the county of Ingham, for the county in which the user~~
4 ~~resides or for the county in which the use is contemplated, upon~~
5 ~~petition therefor filed within 15 days after service upon the~~
6 ~~user of the final order of determination, permit or the denial~~
7 ~~thereof.~~

8 Sec. 9. ~~Any duly appointed~~ AN agent of the ~~commission~~
9 ~~shall have authority to~~ DIRECTOR MAY enforce ~~the provisions of~~
10 this act and may make A criminal complaint against any person
11 violating ~~the same~~ THIS ACT. After service of a written notice
12 of determination, setting forth specifically any violation of
13 this act, ~~any~~ A person who ~~shall fail~~ FAILS to comply with
14 the order of the ~~commission~~ DIRECTOR shall be subject to the
15 penalties of this act.

16 Sec. 10. (1) The ~~commission~~ DIRECTOR may request the
17 attorney general to commence a civil action for appropriate
18 relief, including a permanent or temporary injunction, for a vio-
19 lation of this act or rules promulgated ~~hereunder~~ BY THE COM-
20 MISSION UNDER THIS ACT. An action under this subsection may be
21 brought in the circuit court for the county of Ingham or for the
22 county in which the defendant is located, resides, or is doing
23 business. The court has jurisdiction to restrain the violation
24 and to require compliance. In addition to any other relief
25 granted under this subsection, the court may impose a civil pen-
26 alty of not more than \$10,000.00 per day of violation.

1 (2) A person who discharges a substance into the waters of
2 the state contrary to the provisions of this act, or contrary to
3 the provisions of a permit, order, rule, or stipulation ~~of the~~
4 ~~commission~~ UNDER THIS ACT, or who makes a false statement, rep-
5 resentation, or certification in an application for, or form per-
6 taining to a permit, or in a notice or report required by the
7 terms and conditions of an issued permit, or who renders inaccu-
8 rate a monitoring device or record required to be maintained by
9 the ~~commission~~ DIRECTOR, is guilty of a misdemeanor and shall
10 be fined not less than \$2,500.00 nor more than \$25,000.00 for
11 each violation. The court may impose an additional fine of not
12 more than \$25,000.00 for each day during which the unlawful dis-
13 charge occurred. If the conviction is for a violation committed
14 after a first conviction of the person under this subsection, the
15 court may impose a fine of not more than \$50,000.00 per day of
16 violation. The circuit court for the county in which the viola-
17 tion occurred has exclusive jurisdiction. However, the person
18 shall not be subject to the penalties of this subsection if the
19 discharge of the effluent is in conformance with and obedient to
20 a rule, order, or permit ~~of the commission~~ UNDER THIS ACT. In
21 addition to a fine, the attorney general may file a suit in a
22 court of competent jurisdiction to recover the full value of the
23 injuries done to the natural resources of the state and the costs
24 of surveillance and enforcement by the state resulting from the
25 violation. In addition to a fine, the court in its discretion
26 may impose probation upon a person for a violation of this act.

1 Sec. 12. This act shall not be construed as repealing any
2 of the provisions of the law governing the pollution of lakes and
3 streams, but shall be held and construed as ancillary to and sup-
4 plementing ~~the same~~ THESE LAWS and in addition to the laws now
5 in force, except as the same may be in direct conflict ~~herewith~~
6 WITH THIS ACT. This act shall not be construed as applying to
7 copper or iron mining operations, whereby such operations result
8 in the placement, removal, use or processing of copper or iron
9 mineral tailings or copper or iron mineral deposits from such
10 operations being placed in inland waters on bottom lands owned by
11 or under the control of the mining company and only water which
12 may contain a minimal amount of residue as determined by the
13 ~~water resources commission~~ DIRECTOR resulting from such place-
14 ment, removal, use, or processing being allowed or permitted to
15 escape into public waters; or applying to the discharge of water
16 from underground iron or copper mining operations subject to a
17 determination by the ~~water resources commission~~ DIRECTOR.

18 Sec. 12a. ~~The provisions of this~~ THIS act shall be con-
19 strued as supplemental to and in addition to the provisions of
20 ~~Act No. 316 of the Public Acts of 1923, as amended, being sec-~~
21 ~~tions 261.1 to 277.10, inclusive~~ THE DRAIN CODE OF 1956, ACT
22 NO. 40 OF THE PUBLIC ACTS OF 1956, BEING SECTIONS 280.1 TO
23 280.630 of the MICHIGAN Compiled Laws; ~~of 1948,~~ and nothing in
24 this act shall be construed to amend or repeal any law of the
25 state of Michigan relating to the public service commission, the
26 department ~~of conservation~~ and the department of PUBLIC health

1 relating to waters and water structures, or any act or parts of
2 acts not inconsistent with ~~the provisions of~~ this act.

3 SEC. 14. (1) THE AMENDATORY ACT THAT ADDED THIS SECTION
4 SHALL NOT BE CONSTRUED TO ALTER THE PROVISIONS OF ANY PERMIT,
5 ORDER, RULE, OR STIPULATION IN EFFECT ON THE EFFECTIVE DATE OF
6 THIS SECTION.

7 (2) ALL RULES PROMULGATED UNDER THIS ACT AND IN EFFECT ON
8 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION
9 SHALL CONTINUE IN FULL FORCE AND EFFECT UNTIL RESCINDED OR SUPER-
10 SEDED BY RULES PROMULGATED BY THE COMMISSION UNDER THIS ACT.

11 Section 2. Sections 11 and 13 of Act No. 245 of the Public
12 Acts of 1929, being sections 323.11 and 323.13 of the Michigan
13 Compiled Laws, are repealed.

14 Section 3. This amendatory act shall take effect April 15,
15 1989.

16 Section 4. This amendatory act shall not take effect unless
17 Senate Bill No. _____ or House Bill No. 4893 (request
18 no. 01427'89) of the 85th Legislature is enacted into law.