

**SUBSTITUTE FOR
SENATE BILL NO. 840**

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

1 unreasonably interfere with the use of the water by others entitled
2 to use the water or interfere with water flow.

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

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

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

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

12 (e) A ~~MAINTENANCE AND OPERATION OF A~~ waste collection or
13 treatment facility ~~that is~~ **EITHER** ordered to be constructed or ~~is~~
14 approved for ~~construction~~ **OPERATION** under **A** state or **A** federal
15 water pollution control law ~~, if constructed in upland.~~ **AND THIS**
16 **PART. FOR PURPOSES OF THIS SUBDIVISION, "OPERATION" INCLUDES**
17 **DREDGING, FILLING, OR CONSTRUCTION AND PLACEMENT OF STRUCTURES IN**
18 **THE WASTE COLLECTION OR TREATMENT FACILITY IN COMPLIANCE WITH THIS**
19 **ACT.**

20 (f) Construction and maintenance of minor drainage structures
21 and facilities ~~which~~ **THAT** are identified by rule promulgated by the
22 department ~~pursuant to~~ **UNDER** section 30110. Before ~~such~~ a rule is
23 promulgated **PURSUANT TO THIS SUBSECTION**, the rule ~~shall~~ **MUST** be
24 approved by the majority of a committee consisting of the director
25 of the department, the director of the department of agriculture
26 and rural development, and the director of the state transportation
27 department or their designated representatives. The rules shall be

1 reviewed at least annually.

2 (g) Maintenance of a drain that either was legally established
3 and constructed before January 1, 1973, pursuant to the drain code
4 of 1956, 1956 PA 40, MCL 280.1 to 280.630, except those legally
5 established drains constituting mainstream portions of certain
6 natural watercourses identified in rules promulgated by the
7 department under section 30110, or was constructed or modified
8 under a permit issued pursuant to this part. As used in this
9 subdivision, "maintenance of a drain" means the physical
10 preservation of the location, depth, and bottom width of a drain
11 and appurtenant structures to restore the function and approximate
12 capacity of the drain as constructed or modified at any time before
13 July 1, 2014, and includes, but is not limited to, the following
14 activities if performed with best management practices:

15 (i) Excavation of accumulated sediments back to original
16 contours.

17 (ii) Reshaping of the side slopes.

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

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

24 (v) Replacement of existing control structures, if the
25 original function of the drain is not changed and the original
26 approximate capacity of the drain is not increased.

27 (vi) Repair of stabilization structures.

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

3 (viii) Emergency reconstruction of recently damaged parts of
4 the drain. Emergency reconstruction must occur within a reasonable
5 period of time after damage occurs in order to qualify for this
6 exemption.

7 (h) Projects constructed under the watershed protection and
8 flood prevention act, ~~chapter 656, 68 Stat. 666,~~ 16 USC 1001 to
9 ~~1008, 1010, and 1011.~~**1012.**

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

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

17 (k) A water withdrawal.

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

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

26 (n) Temporary drawdowns of impoundments at hydroelectric
27 projects licensed by the federal energy regulatory commission

1 (FERC) and subject to FERC's authority if both of the following
2 apply:

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

6 (ii) Adverse environmental impacts, including stream flow,
7 aquatic resources, and timing, have been avoided and minimized to
8 the extent practical.

9 (o) Removal, by the riparian owner or a person authorized by
10 the riparian owner, of plants that are an aquatic nuisance as
11 defined in section 3301, if the removal is accomplished by hand-
12 pulling without using a powered or mechanized tool and all plant
13 fragments are removed from the water and properly disposed of on
14 land above the ordinary high-water mark as defined in section
15 30101.

16 (p) Raking of lake bottomlands by the riparian owner or a
17 person authorized by the riparian owner. To minimize effects on the
18 lake bottomlands, the areas raked shall be unvegetated before
19 raking and predominantly composed of sand or pebbles, and the
20 raking shall be performed without using a powered or mechanized
21 tool. For the purposes of this subdivision, the pulling of a
22 nonpowered, nonmechanized tool with a boat is not the use of a
23 powered or mechanized tool.

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

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

1 requirements:

2 (a) Does not have continuous flow.

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

6 (c) Serves agricultural production.

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

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.