

**SUBSTITUTE FOR
HOUSE BILL NO. 5958**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8313, 8314, 8327, 8329, 8333, and 30113 (MCL 324.8313, 324.8314, 324.8327, 324.8329, 324.8333, and 324.30113), section 30113 as amended by 1995 PA 171, and by adding part 33 and section 8316a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 33 AQUATIC NUISANCE CONTROL

2 SEC. 3301. AS USED IN THIS PART:

3 (A) "APPLICATOR" MEANS A PERSON WHO PERFORMS OR PROPOSES TO
4 PERFORM CONTROL WORK.

5 (B) "AQUATIC NUISANCE" MEANS ANY ORGANISM, INCLUDING, BUT
6 NOT LIMITED TO, AQUATIC VEGETATION, THAT LIVES OR PROPAGATES, OR
7 BOTH, WITHIN THE AQUATIC ENVIRONMENT AND THAT IMPAIRS THE USE OR

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1 ENJOYMENT OF THE WATERS OF THE STATE, INCLUDING THE INTERMEDIATE
2 AQUATIC HOSTS FOR SCHISTOSOMES THAT CAUSE SWIMMER'S ITCH.

3 (C) "AQUATIC VEGETATION" MEANS ALGAE AND HIGHER AQUATIC
4 PLANTS.

5 (D) "BOARD" MEANS THE AQUATIC PESTICIDE ENFORCEMENT REVIEW
6 BOARD CREATED UNDER SECTION 3331.

7 (E) "CLASS A CONTROL WORK" MEANS CONTROL WORK THAT MEETS
8 EITHER OR BOTH OF THE FOLLOWING CRITERIA:

9 (i) THE WATERBODY WHERE THE CONTROL WORK WILL TAKE PLACE HAS
10 A SURFACE AREA OF LESS THAN 10 ACRES, HAS NO OUTLET, AND HAS BOT-
11 TOMLANDS UNDER A SINGLE OWNERSHIP.

12 (ii) THE TREATMENT AREA HAS A SURFACE AREA OF LESS THAN 1/2
13 ACRE, IS IN THE SHORE AREA, AND HAS ASSOCIATED BOTTOMLANDS UNDER
14 A SINGLE OWNERSHIP.

15 (F) "CLASS B CONTROL WORK" MEANS CONTROL WORK THAT IS NOT
16 CLASS A CONTROL WORK AND THAT MEETS 1 OR MORE OF THE FOLLOWING
17 CRITERIA:

18 (i) THE WATERBODY WHERE THE CONTROL WORK WILL TAKE PLACE HAS
19 A SURFACE AREA OF LESS THAN 10 ACRES AND DOES NOT HAVE AN OUTLET
20 WITH CONTINUOUS FLOW AND THE CONTROL WORK DOES NOT INCLUDE CON-
21 TROL OF AN INVASIVE, NONINDIGENOUS SPECIES IN THE OFFSHORE AREA.

22 (ii) THE TREATMENT AREA IS IN THE SHORE AREA, AND REPRESENTS
23 LESS THAN 10% OF THE TOTAL SHORELINE LENGTH.

24 (iii) THE TREATMENT AREA IS A MARINA THAT WAS CONSTRUCTED IN
25 AN AREA ABOVE THE ORDINARY HIGH WATER MARK OF AND THAT IS
26 DIRECTLY CONNECTED TO AN INLAND LAKE, A GREAT LAKE, LAKE
27 ST. CLAIR, OR THE ST. MARYS, ST. CLAIR, OR DETROIT RIVERS.

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1 (iv) THE TREATMENT AREA IS A CANAL THAT IS DIRECTLY
2 CONNECTED TO AN INLAND LAKE, THAT WAS CONSTRUCTED IN AN AREA
3 ABOVE THE ORDINARY HIGH WATER MARK OF THAT INLAND LAKE, AND THAT
4 DOES NOT CONNECT 2 OR MORE WATERBODIES.

5 (G) "CLASS C CONTROL WORK" MEANS CONTROL WORK THAT IS NOT
6 CLASS A OR CLASS B CONTROL WORK.

7 (H) "CONTROL WORK" MEANS THE APPLICATION OF A PESTICIDE TO A
8 WATERBODY.

9 (I) "DECLARATION OF INTENT" MEANS A NOTICE TO THE DEPARTMENT
10 THAT CONTROL WORK WILL BE PERFORMED.

11 (J) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
12 QUALITY.

13 (K) "DESIGNATED USE" MEANS A PUBLIC USE TO WHICH A WATERBODY
14 IS OR MAY BE PUT AS ESTABLISHED BY RULES PROMULGATED UNDER SEC-
15 TION 3106.

16 (L) "EMERGENCY NOTIFICATION PROCEDURE" MEANS A
17 DEPARTMENT-APPROVED PROCEDURE SUBMITTED ANNUALLY BY A COMMERCIAL
18 APPLICATOR THAT PROVIDES A DESCRIPTION OF ALL AVAILABLE MEANS OF
19 CONTACT, SUCH AS HOME TELEPHONE NUMBER, BUSINESS TELEPHONE
20 NUMBER, MOBILE TELEPHONE NUMBER, OR PAGER NUMBER.

21 (M) "ENDANGERED OR THREATENED SPECIES" MEANS A SPECIES
22 APPEARING ON A LIST DESCRIBED IN SECTION 36505.

23 (N) "FIFRA" MEANS THE FEDERAL INSECTICIDE, FUNGICIDE, AND
24 RODENTICIDE ACT, CHAPTER 125, 86 STAT. 973, 7 U.S.C. 136 TO 136i,
25 136j TO 136r, AND 136s TO 136y.

26 (O) "HIGHER AQUATIC PLANT" MEANS A PLANT THAT LIVES IN WATER
27 AND THAT BELONGS TO THE PHYLUM BRYOPHYTA, WHICH INCLUDES THE

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1 MOSSES, OR TO THE PHYLUM TRACHAEOPHYTA, WHICH INCLUDES THE FERNS,
2 HORSETAILS, AND FLOWERING PLANTS.

3 (P) "LABEL" MEANS THAT TERM AS DEFINED IN PART 83.

4 (Q) "LABELING" MEANS THAT TERM AS DEFINED IN PART 83.

5 (R) "LAKE ASSOCIATION" MEANS A LOCAL, INCORPORATED, NON-
6 PROFIT ORGANIZATION, THE MEMBERSHIP OF WHICH IS OPEN ON A NONDIS-
7 CRIMINATORY BASIS TO ALL RESIDENTS WITH RIPARIAN RIGHTS TO A
8 WATERBODY.

9 (S) "LAKE BOARD" MEANS A LAKE BOARD AS ESTABLISHED UNDER
10 SECTION 30902.

11 (T) "LAKE MANAGEMENT PLAN" MEANS A PLAN FOR THE MANAGEMENT
12 OF AN INLAND LAKE THAT INCLUDES GOALS FOR PREPARING ALL OF THE
13 FOLLOWING PLANS OR GATHERING ALL OF THE FOLLOWING INFORMATION, AS
14 APPLICABLE, ALL OF THE FOLLOWING INFORMATION:

15 (i) ALL OF THE INFORMATION REQUIRED FOR A DECLARATION OF
16 INTENT FOR CLASS C CONTROL WORK UNDER SECTION 3309(3).

17 (ii) A MAP OR MAPS TO SCALE SHOWING ALL WETLANDS, PUBLIC
18 LAND, ACCESS SITES, AND WATER CONTROL STRUCTURES IN OR BORDERING
19 THE WATERBODY.

20 (iii) THE SIZE OF THE LITTORAL ZONE.

21 (iv) SHORELINE LENGTH.

22 (v) A DESCRIPTION OF THE AQUATIC VEGETATION COMMUNITIES
23 BASED ON THE DEPARTMENT'S FIELD AND DATA ANALYSIS METHODS.

24 (vi) EXISTING INFORMATION ON AND A PLAN TO DEVELOP AND MAIN-
25 TAIN FISH COMMUNITIES.

26 (vii) EXISTING INFORMATION ON AND A PLAN TO DEVELOP AND
27 MAINTAIN WILDLIFE COMMUNITIES.

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1 (viii) AN ACTION PLAN AND TIMELINE, INCLUDING VEGETATION
2 GOALS AND GOAL MAPS AND VEGETATION MANAGEMENT ACTIVITIES, FOR
3 EACH OF 5 YEARS AFTER THE LAKE MANAGEMENT PLAN IS SUBMITTED.

4 (ix) SHORELINE LENGTH.

5 (x) CRITICAL HABITAT AREAS.

6 (xi) DESCRIPTION OF WATER QUALITY.

7 (xii) AVAILABLE INFORMATION ON WATER QUALITY PROBLEMS AND
8 CAUSES.

9 (xiii) WATER QUALITY GOALS AND OPTIONS TO ACHIEVE THOSE
10 GOALS.

11 (xiv) LAND USES SURROUNDING THE WATERBODY.

12 (xv) MONITORING AND EVALUATION.

13 (U) "LITTORAL ZONE" MEANS THE PORTION OF A WATERBODY FROM
14 THE WATER'S EDGE TO THE LIMIT OF THE DEPTH OF LIGHT PENETRATION
15 WHERE ROOTED AQUATIC VEGETATION TYPICALLY GROWS.

16 (V) "OFFSHORE AREA" MEANS THE AREA OF A WATERBODY THAT IS
17 NOT THE SHORE AREA.

18 (W) "ORDINARY HIGH WATER MARK" MEANS THAT TERM AS DEFINED IN
19 SECTION 30101 OR, FOR A GREAT LAKE, THE ORDINARY HIGH WATER MARK
20 AS DESIGNATED IN SECTION 32502.

21 (X) "OUTLET" MEANS ANY NATURAL OR ARTIFICIALLY CREATED
22 WATERCOURSE OR STRUCTURE THAT ALLOWS PASSAGE OF WATER OUT OF A
23 WATERBODY INTO OTHER SURFACE WATERS OF THE STATE, IN AN INTERMIT-
24 TENT OR CONTINUOUS FLOW.

25 (Y) "PESTICIDE" MEANS A SUBSTANCE OR MIXTURE OF SUBSTANCES
26 INTENDED FOR PREVENTING, DESTROYING, REPELLING, OR MITIGATING
27 AQUATIC NUISANCES.

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1 (Z) "SHORE AREA" MEANS THE AREA OF A WATERBODY WHERE THE
2 DEPTH IS NOT GREATER THAN 5 FEET AND THAT IS NOT MORE THAN 300
3 FEET FROM THE ORDINARY HIGH WATER MARK.

4 (AA) "STANDARD INFORMATION" MEANS ALL OF THE FOLLOWING:

5 (i) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
6 APPLICATOR.

7 (ii) THE PART 83 LICENSE AND CERTIFICATION NUMBER OF THE
8 APPLICATOR, IF APPLICABLE.

9 (iii) THE NAME AND SIZE OF THE WATERBODY.

10 (iv) THE LOCATION OF THE WATERBODY, INCLUDING A MAP SHOWING
11 THE LOCATION. THE MAP SHALL CLEARLY DELINEATE THE TREATMENT AREA
12 FOR EACH PESTICIDE.

13 (v) THE ACTIVE INGREDIENT, TRADE NAME, AND APPLICATION RATE
14 FOR EACH PESTICIDE THAT WILL BE USED.

15 (vi) SUBJECT TO SECTION 3311, THE DATE OF THE CONTROL WORK,
16 IF KNOWN, EXCEPT FOR ALGAECIDE APPLICATION.

17 (vii) INFORMATION WHETHER DRINKING WATER FOR ADJACENT RIPAR-
18 IAN PROPERTY TO THE TREATMENT AREA IS FROM A MUNICIPAL SYSTEM OR
19 PRIVATE WELLS.

20 (viii) THE NAME AND DAYTIME AND EVENING TELEPHONE NUMBERS OF
21 THE APPLICATOR, AND, IF DIFFERENT, THE PERSON ON WHOSE BEHALF THE
22 CONTROL WORK IS BEING PERFORMED.

23 (BB) "SWIMMER'S ITCH" MEANS THE INFLAMMATION OF A SWIMMER'S
24 SKIN RESULTING FROM AN ALLERGIC REACTION TO THE PENETRATION OF
25 THE SKIN BY THE IMMATURE STAGES OF BLOOD FLUKE PARASITES THAT
26 LIVE A PART OF THEIR LIFE CYCLE IN CERTAIN AQUATIC SNAILS.

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1 (CC) "TREATMENT AREA" MEANS THE AREA OF PESTICIDE
2 APPLICATION AND ANY BUFFER ZONE OR OTHER AREA SPECIFIED ON THE
3 PESTICIDE LABEL.

4 (DD) "VEGETATION MANAGEMENT PLAN" MEANS A PLAN FOR THE MAN-
5 AGEMENT OF VEGETATION IN A WATERBODY THAT INCLUDES ALL OF THE
6 FOLLOWING:

7 (i) ALL OF THE INFORMATION REQUIRED FOR A DECLARATION OF
8 INTENT FOR CLASS C CONTROL WORK UNDER SECTION 3309(3).

9 (ii) A MAP OR MAPS TO SCALE SHOWING ALL WETLANDS, PUBLIC
10 LAND, ACCESS SITES, AND WATER CONTROL STRUCTURES IN OR BORDERING
11 THE WATERBODY.

12 (iii) A DESCRIPTION OF THE AQUATIC VEGETATION COMMUNITY
13 BASED ON THE DEPARTMENT'S FIELD AND DATA ANALYSIS METHODS.

14 (iv) VEGETATION GOALS AND GOAL MAPS AND VEGETATION MANAGE-
15 MENT ACTIVITIES FOR EACH OF 3 YEARS AFTER THE VEGETATION PLAN IS
16 SUBMITTED.

17 (EE) "WATERS OF THE STATE" OR "WATERBODY" MEANS ANY OF THE
18 FOLLOWING:

19 (i) A LAKE, POND, RIVER, STREAM, OR OTHER SURFACE WATER
20 UNDER THE JURISDICTION OF THIS STATE INCLUDING THE GREAT LAKES
21 BORDERING THIS STATE.

22 (ii) A WETLAND, AS DEFINED IN SECTION 30301.

23 SEC. 3303. (1) THE APPLICATION OF PESTICIDES TO THE WATERS
24 OF THE STATE FOR THE CONTROL OF AQUATIC NUISANCES IS LAWFUL AND
25 NOT IN CONTRAVENTION OF THE PRIVATE OR PUBLIC RIGHTS TO THE USE
26 AND ENJOYMENT OF ABUTTING PROPERTY BY THE OWNERS OR OCCUPANTS OF

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1 THAT PROPERTY IF THE APPLICATION IS MADE IN COMPLIANCE WITH THIS
2 PART, PART 83, AND RULES PROMULGATED UNDER PART 83.

3 (2) SUBJECT TO THIS PART, CONTROL WORK MAY BE PERFORMED ON
4 BEHALF OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE,
5 INCLUDING, BUT NOT LIMITED TO, A DRAINAGE BOARD, BY A LAKE BOARD
6 OR LAKE ASSOCIATION, OR BY A PERSON WITH RIPARIAN RIGHTS TO THE
7 AFFECTED WATERBODY.

8 SEC. 3305. (1) CLASS A CONTROL WORK SHALL BE PERFORMED BY
9 AN APPLICATOR LICENSED UNDER PART 83 OR BY THE OWNER OF THE BOT-
10 TOMLANDS ASSOCIATED WITH THE TREATMENT AREA.

11 (2) NOT LESS THAN 5 DAYS BEFORE PERFORMING CLASS A CONTROL
12 WORK, THE APPLICATOR SHALL SUBMIT A SIGNED DECLARATION OF INTENT
13 TO THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT.

14 (3) THE DECLARATION OF INTENT SHALL INCLUDE ALL OF THE FOL-
15 LOWING INFORMATION:

16 (A) THE STANDARD INFORMATION.

17 (B) THE TARGET SPECIES, IF KNOWN.

18 (C) AN EXPLANATION OF THE NEED FOR THE CONTROL WORK.

19 SEC. 3307. (1) CLASS B CONTROL WORK SHALL BE PERFORMED BY
20 AN APPLICATOR LICENSED UNDER PART 83. HOWEVER, CLASS B CONTROL
21 WORK DESCRIBED IN SUBPARAGRAPH (i) OF THE DEFINITION OF CLASS B
22 CONTROL WORK MAY BE PERFORMED BY THE OWNER OR OWNERS OF THE BOT-
23 TOMLANDS ASSOCIATED WITH THE TREATMENT AREA.

24 (2) NOT LESS THAN 10 DAYS BEFORE PERFORMING CLASS B CONTROL
25 WORK, THE APPLICATOR SHALL SUBMIT A SIGNED DECLARATION OF INTENT
26 TO THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT.

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1 (3) UNLESS THE CLASS B CONTROL WORK IS BEING PERFORMED
2 PURSUANT TO A VEGETATION MANAGEMENT PLAN OR LAKE MANAGEMENT PLAN,
3 THE DECLARATION OF INTENT SHALL BE ACCOMPANIED BY A FEE AS PRO-
4 VIDED UNDER SECTION 3315 AND SHALL INCLUDE ALL OF THE FOLLOWING
5 INFORMATION:

6 (A) THE STANDARD INFORMATION.

7 (B) THE TARGET SPECIES.

8 (C) AN EXPLANATION OF THE NEED FOR THE CONTROL WORK.

9 (D) A MAP OF THE TREATMENT AREA, THE SIZE OF THE TREATMENT
10 AREA, AND, FOR CONTROL WORK IN THE SHORE AREA, THE SHORELINE
11 DIMENSIONS OF THE TREATMENT AREA.

12 (E) FOR CLASS B CONTROL WORK DESCRIBED IN SECTION
13 3301(F)(ii), THE TOTAL SHORELINE LENGTH.

14 (4) IF THE CLASS B CONTROL WORK IS BEING PERFORMED PURSUANT
15 TO A VEGETATION MANAGEMENT PLAN OR LAKE MANAGEMENT PLAN, THE DEC-
16 LARATION OF INTENT SHALL INCLUDE ALL OF THE FOLLOWING
17 INFORMATION:

18 (A) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
19 APPLICATOR.

20 (B) THE PART 83 CERTIFICATION AND, IF APPLICABLE, LICENSE
21 NUMBER OF THE APPLICATOR.

22 (C) THE NAME OF THE WATERBODY.

23 (D) THE LOCATION OF THE WATERBODY.

24 (E) THE ACTIVE INGREDIENT, TRADE NAME, AND APPLICATION RATE
25 FOR EACH PESTICIDE THAT WILL BE USED.

26 (F) SUBJECT TO SECTION 3311, THE DATE OF CONTROL WORK,
27 EXCEPT FOR ALGAECIDE APPLICATION.

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1 (G) THE NAME AND DAYTIME AND EVENING TELEPHONE NUMBERS OF
2 THE APPLICATOR, AND THE PERSON ON WHOSE BEHALF THE CONTROL WORK
3 IS BEING PERFORMED IF THAT PERSON IS NOT THE APPLICATOR.

4 SEC. 3309. (1) CLASS C CONTROL WORK SHALL BE PERFORMED BY
5 AN APPLICATOR LICENSED OR CERTIFIED UNDER PART 83.

6 (2) NOT LESS THAN 14 DAYS BEFORE PERFORMING CLASS C CONTROL
7 WORK, THE APPLICATOR SHALL SUBMIT A SIGNED DECLARATION OF INTENT
8 TO THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT.

9 (3) UNLESS THE CLASS C CONTROL WORK IS BEING PERFORMED PUR-
10 SUANT TO A VEGETATION MANAGEMENT PLAN OR A LAKE MANAGEMENT PLAN,
11 THE DECLARATION OF INTENT SHALL BE ACCOMPANIED BY A FEE AS PRO-
12 VIDED UNDER SECTION 3315 AND SHALL INCLUDE ALL OF THE FOLLOWING
13 INFORMATION:

14 (A) THE STANDARD INFORMATION.

15 (B) THE TARGET SPECIES.

16 (C) AN EXPLANATION OF HOW EACH TARGET SPECIES INTERFERES
17 WITH DESIGNATED USES.

18 (D) FOR EACH PESTICIDE, A MAP OF THE TREATMENT AREA, THE
19 SIZE OF THE TREATMENT AREA, AND, FOR CONTROL WORK IN THE SHORE
20 AREA, THE SHORELINE DIMENSIONS OF THE TREATMENT AREA. THE MAP
21 SHALL SHOW THE DEPTH CONTOURS OF THE TREATMENT AREA, AND INLETS,
22 OUTLETS, AND WETLANDS WITHIN OR ADJACENT TO THE TREATMENT AREA.

23 (E) THE SIZE OF THE LITTORAL ZONE.

24 (F) INFORMATION IDENTIFYING SPECIES APPEARING ON A LIST
25 DESCRIBED IN SECTION 36505 THAT USE THE WATERBODY.

26 (4) IF THE CLASS C CONTROL WORK IS BEING PERFORMED PURSUANT
27 TO A VEGETATION MANAGEMENT PLAN OR LAKE MANAGEMENT PLAN, THE

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1 DECLARATION OF INTENT SHALL INCLUDE ALL OF THE INFORMATION
2 REQUIRED UNDER SECTION 3307 FOR A DECLARATION OF INTENT FOR CLASS
3 B CONTROL WORK BEING PERFORMED UNDER A VEGETATION MANAGEMENT PLAN
4 OR LAKE MANAGEMENT PLAN.

5 SEC. 3311. (1) IF, AFTER A PERSON SUBMITS A DECLARATION OF
6 INTENT, THE APPLICATION RATE OR CLASS OF THE PESTICIDE TO BE USED
7 FOR CONTROL WORK CHANGES OR IF THE DATE ON WHICH THE CONTROL WORK
8 IS TO BE PERFORMED CHANGES OR WAS NOT KNOWN AT THE TIME THE DEC-
9 LARATION OF INTENT WAS SUBMITTED, THE PERSON SHALL AMEND THE DEC-
10 LARATION OF INTENT TO UPDATE THAT INFORMATION. THE AMENDMENT
11 SHALL BE SUBMITTED IN WRITING OR BY ELECTRONIC MAIL.

12 (2) IF, AFTER A PERSON SUBMITS A DECLARATION OF INTENT, ANY
13 INFORMATION IN THE DECLARATION OF INTENT OTHER THAN THAT SPECI-
14 FIED IN SUBSECTION (1) CHANGES, A NEW DECLARATION OF INTENT SHALL
15 BE SUBMITTED.

16 (3) BEGINNING 5, 10, OR 14 DAYS AFTER A PERSON SUBMITS A
17 DECLARATION OF INTENT FOR CLASS A CONTROL WORK, CLASS B CONTROL
18 WORK, OR CLASS C CONTROL WORK, RESPECTIVELY, OR 24 HOURS AFTER
19 THE DEPARTMENT RECEIVES AN AMENDMENT TO A DECLARATION OF INTENT,
20 WHICHEVER PERIOD EXPIRES LATER, A PERSON MAY PROCEED WITH THE
21 CONTROL WORK AS DESCRIBED IN THE DECLARATION OF INTENT UNLESS THE
22 DIRECTOR OF THE DEPARTMENT ISSUES AN ORDER PROHIBITING THE CON-
23 TROL WORK. THE DIRECTOR OF THE DEPARTMENT MAY ISSUE SUCH AN
24 ORDER FOR EITHER OF THE FOLLOWING CAUSES:

25 (A) THE USE OF A PESTICIDE, ALTHOUGH OTHERWISE IN ACCORDANCE
26 WITH THE LABELING IS LIKELY, BY ITSELF OR IN COMBINATION WITH

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1 OTHER AQUATIC MANAGEMENT ACTIVITIES, TO RESULT IN EITHER OR BOTH
2 OF THE FOLLOWING:

3 (i) A PUBLIC HEALTH HAZARD.

4 (ii) SPECIFIC AND IDENTIFIABLE POLLUTION, IMPAIRMENT OF A
5 DESIGNATED USE, OR UNACCEPTABLE NEGATIVE IMPACTS TO THE NATURAL
6 RESOURCES OR THE PUBLIC TRUST THEREIN OF A TYPE OR MAGNITUDE NOT
7 CONSIDERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
8 OR THE DEPARTMENT OF AGRICULTURE IN THE DECISION TO REGISTER THE
9 PESTICIDE UNDER FIFRA OR PART 83, RESPECTIVELY.

10 (B) THE DECLARATION OF INTENT IS INCOMPLETE OR CONTAINS
11 FALSE INFORMATION.

12 (C) THE DECLARATION OF INTENT WAS NOT ACCOMPANIED BY THE
13 REQUIRED FEE, IF ANY.

14 (4) AN ORDER UNDER SUBSECTION (3) SHALL INCLUDE FINDINGS OF
15 FACT. FINDINGS OF FACT, IF SET FORTH IN THE LANGUAGE OF SUBSEC-
16 TION (3), SHALL BE ACCOMPANIED BY A CONCISE AND EXPLICIT STATE-
17 MENT OF THE UNDERLYING FACTS SUPPORTING THE FINDINGS.

18 SEC. 3313. (1) A POLITICAL SUBDIVISION OF THIS STATE, OR A
19 LAKE BOARD OR LAKE ASSOCIATION OR OTHER GROUP HAVING DEMONSTRATED
20 SUPPORT FROM LAKE RIPARIAN OWNERS MAY SUBMIT A VEGETATION MANAGE-
21 MENT PLAN OR LAKE MANAGEMENT PLAN TO THE DEPARTMENT ON A FORM
22 PROVIDED BY THE DEPARTMENT. A VEGETATION MANAGEMENT PLAN OR LAKE
23 MANAGEMENT PLAN SHALL BE SIGNED AND ACCOMPANIED BY A FEE AS PRO-
24 VIDED IN SECTION 3315.

25 (2) A VEGETATION MANAGEMENT PLAN OR LAKE MANAGEMENT PLAN
26 TAKES EFFECT AS SUBMITTED BEGINNING 60 DAYS AFTER IT IS SUBMITTED
27 UNLESS, BEFORE THAT TIME, THE DEPARTMENT, BY CERTIFIED MAIL,

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1 NOTIFIES THE PERSON WHO SUBMITTED THE PLAN THAT THE PLAN IS
2 INCOMPLETE OR NOT ACCEPTABLE TO THE DEPARTMENT AND IDENTIFIES THE
3 SPECIFIC REASONS FOR THE DEPARTMENT'S DETERMINATION.

4 (3) WITHIN 60 DAYS AFTER THE DEPARTMENT MAILS A NOTIFICATION
5 UNDER SUBSECTION (2), THE PERSON MAY SUBMIT A REVISED PLAN TO THE
6 DEPARTMENT. SUBSECTIONS (1) AND (2) APPLY TO THE REVISED PLAN,
7 EXCEPT THAT AN ADDITIONAL FEE NEED NOT BE PAID. IF THE DEPART-
8 MENT SENDS A NOTIFICATION UNDER SUBSECTION (2) THAT THE REVISED
9 PLAN IS INCOMPLETE OR NOT ACCEPTABLE TO THE DEPARTMENT, THE
10 DEPARTMENT SHALL RETURN THE FEE THAT ACCOMPANIED THE SUBMITTAL OF
11 THE ORIGINAL PLAN AND THE PLAN SHALL NOT RECEIVE FURTHER CONSID-
12 ERATION FROM THE DEPARTMENT. HOWEVER, THE PERSON MAY SUBSE-
13 QUENTLY SUBMIT A NEW PLAN UNDER SUBSECTION (1) ACCOMPANIED BY THE
14 FEE REQUIRED UNDER SUBSECTION (1).

15 (4) BEFORE MARCH 1 OF EACH YEAR IN WHICH A VEGETATION MAN-
16 AGEMENT PLAN OR LAKE MANAGEMENT PLAN IS IN EFFECT, EXCEPT THE
17 FIRST YEAR, THE PERSON WHO SUBMITTED THE PLAN SHALL SUBMIT A
18 SIGNED PLAN UPDATE TO THE DEPARTMENT. A LAKE MANAGEMENT PLAN
19 UPDATE SHALL ALSO SPECIFY PROGRESS MADE IN ACHIEVING GOALS FOR
20 PREPARING PLANS OR GATHERING INFORMATION, AS SET FORTH IN THE
21 LAKE MANAGEMENT PLAN. A LAKE MANAGEMENT PLAN OR VEGETATION MAN-
22 AGEMENT PLAN UPDATE SHALL NOT PROPOSE MAJOR MODIFICATIONS TO THE
23 PLAN.

24 (5) AN UPDATE TO A VEGETATION MANAGEMENT PLAN OR LAKE MAN-
25 AGEMENT PLAN IS SUBJECT TO REJECTION OR MODIFICATIONS AS PROVIDED
26 UNDER SUBSECTIONS (2) AND (3).

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1 SEC. 3315. (1) A DECLARATION OF INTENT FOR CLASS B CONTROL
2 WORK SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$75.00,
3 UNLESS THE CONTROL WORK IS BEING PERFORMED PURSUANT TO A VEGETA-
4 TION MANAGEMENT PLAN OR LAKE MANAGEMENT PLAN.

5 (2) A DECLARATION OF INTENT FOR CLASS C CONTROL WORK SHALL
6 BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$150.00 UNLESS THE CON-
7 TROL WORK IS BEING PERFORMED PURSUANT TO A VEGETATION MANAGEMENT
8 PLAN OR LAKE MANAGEMENT PLAN.

9 (3) A VEGETATION MANAGEMENT PLAN OR LAKE MANAGEMENT PLAN
10 SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF \$300.00.

11 (4) THE DEPARTMENT SHALL FORWARD FEES COLLECTED UNDER THIS
12 SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE LAND AND WATER
13 MANAGEMENT PERMIT FEE FUND CREATED IN SECTION 30113.

14 SEC. 3317. (1) CONTROL WORK FOR AQUATIC VEGETATION ALONE OR
15 IN COMBINATION WITH OTHER AQUATIC VEGETATION MANAGEMENT ACTIVI-
16 TIES IS AUTHORIZED ONLY FOR CONTROL OF AQUATIC VEGETATION THAT
17 INTERFERES WITH A DESIGNATED USE.

18 (2) CONTROL WORK ALONE OR IN COMBINATION WITH OTHER AQUATIC
19 VEGETATION MANAGEMENT ACTIVITIES SHALL NOT RESULT IN THE NONAT-
20 TAINMENT OF ANY DESIGNATED USE.

21 (3) CONTROL WORK ALONE OR IN COMBINATION WITH OTHER MANAGE-
22 MENT ACTIVITIES SHALL NOT RESULT IN LESS THAN 20% COVER WITH
23 NATIVE SUBMERGENT AQUATIC VEGETATION IN THE LITTORAL ZONE OF THE
24 LAKE, INCLUDING A MINIMUM OF 5 SPECIES OF NATIVE SUBMERGENT MAC-
25 ROPHYTES CONSISTING OF AT LEAST 1 SPECIES FROM EACH OF
26 3 ARCHITECTURAL GROUPS, AS DETERMINED BY THE DEPARTMENT, EXCEPT
27 FOR MANAGEMENT ACTIVITIES IN EITHER OF THE FOLLOWING:

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1 (A) PONDS INCLUDED ON THE DEPARTMENT'S REDUCED REVIEW LIST,
2 IF CONTROL WORK IS CONDUCTED WHEN THERE IS NO OUTFLOW.

3 (B) MARINAS CONSTRUCTED IN AN AREA ABOVE THE ORDINARY HIGH
4 WATER MARK OF AN INLAND LAKE, GREAT LAKE, LAKE ST. CLAIR, OR A
5 CONNECTING CHANNEL.

6 (4) A MAXIMUM AREA OF 40 FEET BY 40 FEET OF SUBMERGENT VEGE-
7 TATION MAY BE REMOVED FROM EACH DEVELOPED RIPARIAN PROPERTY USING
8 PESTICIDES ALONE OR IN COMBINATION WITH OTHER AQUATIC VEGETATION
9 MANAGEMENT ACTIVITIES FOR WATERBODIES THAT, BEFORE ANY CONTROL
10 WORK OR OTHER AQUATIC VEGETATION MANAGEMENT ACTIVITIES, HAVE LESS
11 THAN 1 OR MORE OF THE FOLLOWING:

12 (A) TWENTY PERCENT COVER WITH NATIVE SUBMERGENT AQUATIC VEG-
13 ETATION IN THE LITTORAL ZONE.

14 (B) FIVE SPECIES OF NATIVE SUBMERGENT VEGETATION.

15 (C) ONE SPECIES FROM EACH ARCHITECTURAL GROUP.

16 (5) FLOATING LEAF AND EMERGENT VEGETATION SHALL NOT BE DAM-
17 AGED EXCEPT UNDER 1 OR MORE OF THE FOLLOWING CONDITIONS:

18 (A) A MAXIMUM OF A 40-FOOT BY 40-FOOT AREA MAY BE CLEARED BY
19 CONTROL WORK ALONE OR IN COMBINATION WITH OTHER AQUATIC VEGETA-
20 TION MANAGEMENT ACTIVITIES ALONG EACH DEVELOPED RIPARIAN PROPER-
21 TY, REGARDLESS OF THE SHORELINE LENGTH OF THE RIPARIAN PROPERTY.

22 (B) A 15-FOOT WIDE CHANNEL MAY BE CLEARED BY CONTROL WORK
23 ALONE OR IN COMBINATION WITH OTHER AQUATIC VEGETATION MANAGEMENT
24 ACTIVITIES TO ALLOW ACCESS TO OPEN WATER. HOWEVER, IF AN AREA IS
25 CLEARED PURSUANT TO SUBDIVISION (A), THE CHANNEL MUST BE ADDED TO
26 THE LAKEWARD SIDE OF THE 40-FOOT BY 40-FOOT AREA SUCH THAT THE

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1 TOTAL WIDTH OF THE AREA OF PLANT REMOVAL DOES NOT EXCEED
2 40 FEET.

3 (C) THE TARGET AREA IS IN A POND INCLUDED ON THE
4 DEPARTMENT'S REDUCED REVIEW LIST AND CONTROL WORK IS CONDUCTED
5 WHEN THERE IS NO OUTFLOW.

6 (D) THE TARGET AREA IS IN A MARINA CONSTRUCTED IN AN AREA
7 ABOVE THE ORDINARY HIGH WATER MARK OF AN INLAND LAKE, GREAT LAKE,
8 LAKE ST. CLAIR, OR A CONNECTING CHANNEL.

9 (6) CONTROL WORK ALONE OR IN COMBINATION WITH OTHER AQUATIC
10 VEGETATION MANAGEMENT ACTIVITIES SHALL NOT DAMAGE AQUATIC VEGETA-
11 TION IN THE OFFSHORE AREA EXCEPT FOR SELECTIVE CHEMICAL CONTROL
12 OF INVASIVE NONINDIGENOUS AQUATIC VEGETATION.

13 (7) CONTROL WORK IS AUTHORIZED ONLY IN AREAS WHERE THE
14 RIPARIAN PROPERTY IS DEVELOPED EXCEPT THAT SELECTIVE CONTROL OF
15 INVASIVE NONINDIGENOUS AQUATIC VEGETATION AND CONTROL OF NUISANCE
16 VEGETATION IN AN AREA NOT TO EXCEED 40 FEET BY 40 FEET ADJACENT
17 TO PRIVATELY OWNED UNDEVELOPED RIPARIAN PROPERTY IS AUTHORIZED.

18 (8) CONTROL WORK SHALL NOT RESULT IN DAMAGE TO AQUATIC VEGE-
19 TATION OR IN WATER USE RESTRICTIONS IN AREAS NOT DESCRIBED AS A
20 TARGET AREA IN THE DECLARATION OF INTENT.

21 (9) COPPER SULFATE MAY NOT BE USED IN ANY PORTION OF A TROUT
22 STREAM OR LAKE, OR WITHIN 1,000 FEET OF A TROUT STREAM OR LAKE AS
23 DESIGNATED UNDER SECTION 48701.

24 (10) CONTROL WORK HAVING THE POTENTIAL TO AFFECT ENDANGERED
25 OR THREATENED SPECIES OR THEIR HABITATS IS NOT AUTHORIZED EXCEPT
26 WHEN THE DEPARTMENT OF NATURAL RESOURCES HAS AUTHORIZED THE

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1 CONTROL WORK IN WRITING. THE AUTHORIZATION SHALL BE MADE
2 IMMEDIATELY AVAILABLE TO THE DEPARTMENT UPON REQUEST.

3 (11) CONTROL WORK SHALL NOT DAMAGE CRITICAL FISH SPAWNING
4 HABITAT.

5 SEC. 3319. (1) BEFORE PERFORMING CONTROL WORK WITH
6 GRANULAR 2,4-D OR ENDOTHALL PRODUCTS, THE PERSON PERFORMING THE
7 CONTROL WORK SHALL OBTAIN THE LOCATION AND DEPTH OF ALL PRIVATE
8 DRINKING WATER WELLS WITHIN 250 FEET OF THE TREATMENT AREA.

9 (2) RECORDS OF THE LOCATIONS AND DEPTHS OF THE WELLS MUST BE
10 RETAINED FOR 1 YEAR FROM THE DATE OF EACH CONTROL WORK WITH
11 GRANULAR 2,4-D OR ENDOTHALL PRODUCTS.

12 (3) THE RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT
13 IMMEDIATELY UPON REQUEST.

14 SEC. 3321. A PERSON SHALL NOT PERFORM CONTROL WORK USING
15 THE LIQUID FORMULATION OF FLURIDONE
16 {1-METHYL-3-PHENYL-5-[3-(TRIFLUROMETHYL)PHENYL]-4(1H)-
17 PYRIDINONE} IN A MANNER INCONSISTENT WITH EITHER OF THE
18 FOLLOWING:

19 (A) THE PESTICIDE'S LABELING.

20 (B) THE RECOMMENDATIONS AS TO APPLICATION FREQUENCY, TIMES,
21 AND RATES IN "INTERIM STRATEGY: SPRING FLURIDONE USE IN MICHIGAN
22 IN 2002" (NOVEMBER 2001) BY THE LAND AND WATER MANAGEMENT DIVI-
23 SION OF THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY.

24 SEC. 3323. (1) A PERSON WHO SELLS PESTICIDES AT RETAIL
25 SHALL PROVIDE WITH THE PESTICIDES A DECLARATION OF INTENT FORM
26 FOR CLASS A CONTROL WORK AND CLASS B CONTROL WORK.

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1 (2) THE DEPARTMENT SHALL PROVIDE ANY DECLARATION OF INTENT
2 FORMS REQUIRED UNDER THIS PART TO A PERSON UPON REQUEST AND AT NO
3 CHARGE. THE DEPARTMENT SHALL POST EACH DECLARATION OF INTENT
4 FORM REQUIRED UNDER THIS PART IN DOWNLOADABLE FORM ON THE
5 DEPARTMENT'S INTERNET SITE.

6 (3) THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF
7 AGRICULTURE, SHALL UNDERTAKE AN EDUCATION CAMPAIGN TO INFORM MEM-
8 BERS OF THE PUBLIC AND PESTICIDE APPLICATION INDUSTRY ABOUT THE
9 REQUIREMENTS OF THIS PART. THE DEPARTMENT, IN CONJUNCTION WITH
10 THE DEPARTMENT OF AGRICULTURE, SHALL SEEK THE VOLUNTARY COOPERA-
11 TION OF LAKE BOARDS AND LAKE ASSOCIATIONS, LOCAL UNITS OF GOVERN-
12 MENT, BUSINESSES THAT SELL PESTICIDES, LICENSED AND CERTIFIED
13 APPLICATORS, AND ENVIRONMENTAL AND CONSERVATION ORGANIZATIONS IN
14 THE EDUCATION CAMPAIGN.

15 SEC. 3325. A PERSON SHALL NOT KNOWINGLY GIVE FALSE INFORMA-
16 TION TO THE DEPARTMENT OR THE DEPARTMENT OF AGRICULTURE IN A
17 MATTER PERTAINING TO THIS PART, OR KNOWINGLY RESIST, IMPEDE, OR
18 HINDER THE REPRESENTATIVE OF THE DEPARTMENT IN THE DISCHARGE OF
19 HIS OR HER DUTIES UNDER THIS PART.

20 SEC. 3327. A PERSON WHO VIOLATES THIS PART IS SUBJECT TO
21 APPLICABLE SANCTIONS UNDER PART 83.

22 SEC. 3329. THE COMMISSION OF AGRICULTURE AND THE DIRECTOR
23 OF THE DEPARTMENT OF AGRICULTURE SHALL ENTER INTO A MEMORANDUM OF
24 UNDERSTANDING WITH THE DIRECTOR OF THE DEPARTMENT. THE INVESTI-
25 GATION AND RESOLUTION OF VIOLATIONS OF THIS PART SHALL BE CON-
26 DUCTED IN ACCORDANCE WITH THE MEMORANDUM OF UNDERSTANDING. THE

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1 MEMORANDUM OF UNDERSTANDING SHALL PROVIDE FOR BOTH OF THE
2 FOLLOWING:

3 (A) THAT THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE
4 SHALL PROVIDE NOTICE TO EACH OTHER OF SUSPECTED VIOLATIONS OF
5 THIS PART.

6 (B) ANY OTHER MATTERS RELEVANT TO THE INVESTIGATION AND RES-
7 OLUTION OF VIOLATIONS OF THIS PART THAT THE PARTIES TO THE MEMO-
8 RANDUM OF UNDERSTANDING CONSIDER ADVISABLE.

9 SEC. 3331. (1) THE AQUATIC PESTICIDE ENFORCEMENT REVIEW
10 BOARD IS CREATED WITHIN THE DEPARTMENT.

11 (2) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

12 (A) TWO EMPLOYEES OF THE DEPARTMENT APPOINTED BY THE DIREC-
13 TOR OF THE DEPARTMENT.

14 (B) TWO EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE APPOINTED
15 BY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE.

16 (C) ONE MEMBER REPRESENTING LICENSED PESTICIDE APPLICATORS
17 APPOINTED BY THE GOVERNOR.

18 (3) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE
19 APPOINTED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS
20 SECTION.

21 (4) A MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (2)(A)
22 OR (B) SHALL SERVE AT THE PLEASURE OF THE DIRECTOR OF THE DEPART-
23 MENT OR THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE,
24 RESPECTIVELY.

25 (5) A MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (2)(C)
26 SHALL SERVE FOR TERMS OF 2 YEARS OR UNTIL A SUCCESSOR IS
27 APPOINTED, WHICHEVER IS LATER. THE GOVERNOR MAY REMOVE SUCH A

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1 MEMBER OF THE BOARD FOR INCOMPETENCY, DERELICTION OF DUTY,
2 MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER
3 GOOD CAUSE.

4 (6) IF A VACANCY OCCURS ON THE BOARD, AN APPOINTMENT SHALL
5 BE MADE TO FILL THE VACANCY IN THE SAME MANNER AS THE ORIGINAL
6 APPOINTMENT. IF A VACANCY IS CREATED FOR A MEMBER DESCRIBED IN
7 SUBSECTION (2)(C), A MEMBER SHALL BE APPOINTED TO FILL THE
8 VACANCY FOR THE UNEXPIRED TERM.

9 (7) THE FIRST MEETING OF THE BOARD SHALL BE CALLED BY THE
10 DIRECTOR OF THE DEPARTMENT. AT THE FIRST MEETING, THE BOARD
11 SHALL ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFI-
12 CERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST
13 MEETING, THE BOARD SHALL MEET AT LEAST QUARTERLY, OR MORE FRE-
14 QUENTLY AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY 2 OR
15 MORE MEMBERS.

16 (8) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A
17 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
18 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
19 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

20 (9) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE CON-
21 DUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE WITH
22 THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

23 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,
24 OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNC-
25 TION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
26 MCL 15.231 TO 15.246.

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1 (11) A MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (2)(A)
2 OR (B) SHALL SERVE WITHOUT COMPENSATION OTHER THAN HIS OR HER
3 SALARY AS AN EMPLOYEE OF THE DEPARTMENT OR THE DEPARTMENT OF
4 AGRICULTURE, RESPECTIVELY. A MEMBER OF THE BOARD APPOINTED UNDER
5 SUBSECTION (2)(C) SHALL SERVE WITHOUT COMPENSATION. HOWEVER,
6 MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL AND NEC-
7 ESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL
8 DUTIES AS MEMBERS OF THE BOARD.

9 (12) THE BOARD SHALL MAKE RECOMMENDATIONS TO THE DIRECTOR OF
10 THE DEPARTMENT OF AGRICULTURE FOR ENFORCEMENT ACTIONS FOR VIOLA-
11 TIONS OF THIS PART.

12 SEC. 3333. A PERSON AGGRIEVED BY AN ORDER ISSUED PURSUANT
13 TO SECTION 3307, OR PURSUANT TO SECTION 8329 AS IT RELATES TO
14 THIS PART, MAY REQUEST A CONTESTED CASE HEARING PURSUANT TO THE
15 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
16 24.328.

17 Sec. 8313. (1) A commercial applicator who advertises in
18 any form or who holds himself or herself out to the public as
19 being in the business of applying either general use or
20 restricted use pesticides shall obtain a commercial applicator
21 license for each place of business and shall comply with the
22 requirements of this section before engaging in business.

23 (2) A commercial applicator required to be licensed by sub-
24 section (1) shall be certified under section 8312 and shall have
25 at least 1 of the following in order to qualify for a license
26 under this section:

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1 (a) Service for not less than 2 years as an employee of 1 or
2 more commercial applicators, or ~~a person with~~ comparable
3 experience as determined by the director, during which period the
4 employee receives training and obtains experience in the applica-
5 tion of pesticides under the supervision of a commercial
6 applicator.

7 (b) A baccalaureate degree from a recognized college or uni-
8 versity in a discipline that provides education regarding pests
9 and the control of pests and 1 year of service as an employee of
10 1 or more commercial applicators, or ~~a person with~~ comparable
11 experience as determined by the director, during which period the
12 employee receives training and obtains experience in the applica-
13 tion of pesticides under the supervision of a commercial
14 applicator.

15 (c) A commercial applicator license issued under former ~~Act~~
16 ~~No. 171 of the Public Acts of 1976~~ 1976 PA 171 before
17 December 27, 1988.

18 (3) An application for a commercial applicator license shall
19 be on a form provided by the director and shall contain informa-
20 tion regarding the applicant's qualifications and proposed opera-
21 tions, the type of equipment to be used by the applicant, and
22 other information considered pertinent by the director.

23 (4) An application for a commercial applicator license shall
24 be accompanied by the appropriate fee as provided in section
25 8317(2).

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1 (5) An application for a commercial applicator license shall
2 be accompanied by proof of sufficient financial responsibility as
3 prescribed by rule.

4 (6) A commercial applicator license may restrict the appli-
5 cant to use a certain type of equipment or pesticide if the
6 director finds that the applicant is qualified to use only that
7 type.

8 (7) The director may refuse to issue or renew a commercial
9 applicator license if the applicant demonstrates an insufficient
10 knowledge of an item called for in the application, or has unsat-
11 isfied judgments against him or her, or if the equipment to be
12 used by the applicant is unsafe or inadequate to accomplish the
13 proper application of the pesticides to be used.

14 (8) If an applicant is not issued a commercial applicator
15 license under this section, the director shall inform the appli-
16 cant in writing of the reasons why the license was not issued.

17 (9) The director may at any time deny, revoke, or suspend a
18 commercial applicator license for a violation of this part, ~~or~~
19 a violation of an order issued under this part, OR A VIOLATION OF
20 PART 33 or upon conviction under this part, PART 33, FIFRA, or a
21 state pesticide law of a reciprocating state in accordance with
22 section 8320.

23 Sec. 8314. (1) ~~Commencing 3 months after promulgation of~~
24 ~~the rules required under former section 19 of Act No. 171 of the~~
25 ~~Public Acts of 1976, currently section 8325, it~~ IT is a viola-
26 tion of this part for a person to apply any pesticide for a
27 commercial purpose or to apply any pesticide in the course of his

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1 or her employment for any purpose other than a private
2 agricultural purpose unless that person is either a certified
3 applicator or a registered applicator.

4 (2) A person who is not subject to the licensing requirement
5 in section 8313 may apply a general use ready-to-use pesticide
6 without being a certified applicator or a registered applicator.

7 (3) To be eligible to be a registered applicator, an appli-
8 cant shall do all of the following:

9 (a) Complete a training program that has been approved by
10 the director and is conducted by a trainer who has the minimum
11 qualifications established by rule. Registration requirements
12 for applicators who apply pesticides only for private agricul-
13 tural purposes may provide optional methods of training and test-
14 ing as provided in section 8311(1). The training program shall
15 be designed to facilitate and encourage persons who apply pesti-
16 cides for private agricultural purposes to become registered
17 applicators.

18 (b) Pass a test that is approved by the director and is
19 administered by the director's designee.

20 (c) Possess either a valid temporary registration certifi-
21 cate issued by the director's designee under subsection ~~-(3)-~~ (4)
22 or a valid registration card issued by the director.

23 (4) If an applicant successfully completes an approved
24 training program and passes a test that is administered by the
25 director's designee as a requirement of that training program, a
26 trainer shall issue a temporary registration to an applicant. A
27 temporary registration is only valid from the time it is issued

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1 until the applicant receives a registration card from the
2 director. An applicant may receive a valid registration card
3 upon payment of the fee provided for in section 8317(3) and when
4 the director's designee submits to the director a program comple-
5 tion form that is signed and dated by the trainer and by the
6 applicant stating that the required training program has been
7 provided and received and indicating that the applicant has
8 passed the required test. The program completion form shall be
9 promptly submitted as soon as the director's designee issues a
10 temporary registration.

11 (5) A registered applicator may apply a pesticide that is
12 not a restricted use pesticide under the supervision of a certi-
13 fied applicator and may apply a restricted use pesticide when
14 under the direct supervision of a certified applicator. In addi-
15 tion, during a registered applicator's initial 3-year registra-
16 tion, a registered applicator may apply categories of restricted
17 use pesticides while not directly supervised after the registered
18 applicator has applied that category of restricted use pesticide
19 under direct supervision for the number of hours required by the
20 director unless prohibited by a label.

21 (6) A registered applicator who applies general use pesti-
22 cides only for a private agricultural purpose or is not employed
23 by a commercial applicator and who applies general use pesticides
24 as a scheduled and required work assignment in the course of his
25 or her employment is exempt from the provisions of this part
26 requiring supervision by a certified applicator when that
27 registered applicator applies general use pesticides.

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1 (7) The employer of a registered applicator shall maintain a
2 record of the hours and location of directly supervised ~~hours~~
3 ~~of~~ application of a restricted use pesticide by each registered
4 applicator for the duration of the restricted applicator's
5 employment and for 3 years following the termination of that
6 person's employment. In addition, ~~when~~ IF a registered appli-
7 cator has applied a category of restricted use pesticides while
8 directly supervised for the length of time required by the direc-
9 tor, the employer of the applicator may notify the director.
10 Upon notification, the director shall forward a sticker or symbol
11 to the employer that shall be attached to the registered
12 applicator's registration card.

13 (8) A registered applicator who is applying any pesticide
14 shall display his or her registration card upon the request of an
15 employee of the department.

16 (9) A registered applicator shall complete a refresher
17 training program every 3 years to be eligible to renew his or her
18 registration.

19 (10) The director may at any time deny, revoke, or suspend a
20 certification or registration for a violation of this part, ~~or~~
21 a violation of an order issued under this part, OR A VIOLATION OF
22 PART 33 or upon conviction under this part, PART 33, FIFRA, or a
23 state pesticide law of a reciprocating state in accordance with
24 section 8320.

25 (11) The director shall develop and provide the documents
26 and forms necessary to implement this section.

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1 SEC. 8316A. (1) NOT LESS THAN 3 DAYS BEFORE PERFORMING
2 CONTROL WORK, AN APPLICATOR SHALL PROVIDE NOTICE OF THE PESTICIDE
3 TO BE USED, THE TREATMENT AREA, AND RESTRICTIONS ON THE USE OF
4 TREATED WATER BY 1 OF THE FOLLOWING:

5 (A) PUBLICATION OF A NOTICE IN A NEWSPAPER OF GENERAL CIRCU-
6 LATION IN THE AREA WHERE THE WATERBODY IS LOCATED.

7 (B) BROADCASTING AN ANNOUNCEMENT ON A RADIO STATION THAT
8 SERVES THE AREA WHERE THE WATERBODY IS LOCATED.

9 (C) FIRST-CLASS MAIL ADDRESSED TO RESIDENTS WITH RIPARIAN
10 RIGHTS TO THE WATERBODY.

11 (2) BEFORE PERFORMING CONTROL WORK, AN APPLICATOR SHALL POST
12 THE TREATMENT AREA WITH SIGNS AS FOLLOWS:

13 (A) FOR A TREATMENT AREA THAT IS LESS THAN 2 ACRES IN SIZE,
14 SIGNS SHALL BE POSTED ALONG THE SHORELINE OF THE TREATMENT AREA
15 NOT MORE THAN 100 FEET APART. TO ALLOW FOR DRIFT OF PESTICIDE
16 FROM THE TREATMENT AREA, RIPARIAN LANDS ADJACENT TO THE TREATMENT
17 AREA SHALL ALSO BE POSTED, IF PERMITTED BY THE RIPARIAN OWNERS.

18 (B) FOR A TREATMENT AREA THAT IS 2 OR MORE ACRES IN SIZE,
19 SIGNS SHALL BE POSTED AS IN SUBDIVISION (A). IN ADDITION, ALL
20 ACCESS SITES, BOAT LAUNCHING AREAS, AND PRIVATE AND PUBLIC PARKS
21 LOCATED ON THE WATERBODY SHALL BE POSTED CONSPICUOUSLY, FOR EXAM-
22 PLE AT THE ENTRANCES, BOAT RAMPS, AND BULLETIN BOARDS, IF PERMIT-
23 TED BY THEIR MANAGERS OR OWNERS. IF THESE SITES, LAUNCHING
24 AREAS, AND PARKS ARE NOT TO BE TREATED OR ARE NOT ADJACENT TO THE
25 TREATMENT AREA, THE SIGNS SHALL CLEARLY INDICATE THE LOCATION OF
26 THE TREATMENT AREA AND SHALL OUTLINE THE RESTRICTIONS ON THE USE
27 OF THE WATER IN THE TREATMENT AREA.

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1 (C) POSTING OF SIGNS SHALL BE ACCOMPLISHED WITH A PRINTED
2 SIGN APPROVED BY THE DEPARTMENT, WHICH SHALL INCLUDE ALL OF THE
3 FOLLOWING:

4 (i) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
5 APPLICATOR.

6 (ii) THE NAME OF THE PESTICIDES AND THE RESTRICTIONS ON THE
7 USE OF TREATED WATER PURSUANT TO THE LABELING.

8 (3) AN APPLICATOR IS NOT LIABLE IF SIGNS POSTED UNDER SUB-
9 SECTION (2) ARE REMOVED WITHOUT THAT PERSON'S CONSENT.

10 (4) THE APPLICATOR SHALL ALLOW REPRESENTATIVES OF THE
11 DEPARTMENT OF ENVIRONMENTAL QUALITY TO COLLECT A SAMPLE OF THE
12 PESTICIDE USED, BEFORE OR DURING THE CONTROL WORK, AS DETERMINED
13 BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY. THE SAMPLE SHALL NOT
14 BE A LARGER QUANTITY THAN IS REQUIRED FOR ANALYSIS.

15 (5) THE DEPARTMENT MAY CONDUCT SPOT CHECKS TO MONITOR COM-
16 PLIANCE WITH THIS PART.

17 (6) AS USED IN THIS SECTION, "CONTROL WORK", "PESTICIDE",
18 "TREATMENT AREA", AND "WATERBODY" MEAN THOSE TERMS AS DEFINED IN
19 PART 33.

20 Sec. 8327. (1) ~~When~~ IF the director believes that an
21 applicator is using or intending to use a pesticide in an unsafe
22 or inadequate manner, ~~or~~ in a manner inconsistent with its
23 labeling, OR IN VIOLATION OF PART 33 OR A RULE PROMULGATED UNDER
24 PART 33, the director shall order the applicator to cease the use
25 of or refrain from the intended use of the pesticide. The order
26 may be either oral or written and shall inform the applicator of
27 the reason for the order.

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1 (2) Upon receipt of the order, the applicator shall
2 immediately comply with the order. Failure to comply constitutes
3 cause for revocation of the applicator's license or certification
4 and subjects the applicator to the penalty imposed under section
5 ~~8332~~ 8333.

6 (3) The director shall rescind the order immediately upon
7 being satisfied after inspection that the order has been complied
8 with. The inspection shall be conducted as soon as possible at
9 the oral or written request of the applicator. The rescinding
10 order of the director may be oral, and the applicator may rely on
11 that oral rescinding order. However, an oral order shall be fol-
12 lowed by a written rescinding order.

13 (4) If sampling or examination of a pesticide or device dis-
14 closes that it fails to comply with this part or the rules
15 promulgated under this part, then the pesticide or device is in
16 violation of this part.

17 Sec. 8329. (1) When the director has reasonable cause to
18 believe a pesticide or device is being distributed, stored,
19 transported, offered for sale, or used in violation of this part
20 or the rules promulgated under this part OR PART 33 OR A RULE
21 PROMULGATED UNDER PART 33, the director may issue a written order
22 to the owner or custodian of the pesticide or device to stop the
23 prohibited conduct. After receipt of such an order, a person
24 shall not sell, use, or remove the pesticide or device described
25 in the order except in accordance with the order.

26 (2) A pesticide or device that is being transported, was
27 transported and remains unsold or is in original unbroken

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1 packages, is sold or offered for sale in this state, or is
2 imported from a foreign country, in violation of this part or the
3 rules promulgated under this part, is liable to be proceeded
4 against in any district court in the district where it is found
5 and seized for confiscation by a process in rem for condemnation
6 if:

7 (a) In the case of a pesticide, any of the following circum-
8 stances exist:

9 (i) It is adulterated or misbranded.

10 (ii) It is not registered pursuant to this part.

11 (iii) Its labeling fails to bear the information required by
12 FIFRA or by regulations promulgated under FIFRA.

13 (iv) It is not colored or discolored and coloring or discol-
14 oring is required under FIFRA.

15 (v) Any of the claims made for it or any of the directions
16 for its use differ in substance from the representations made in
17 connection with its registration.

18 (b) In the case of a device, it is misbranded.

19 (c) In the case of a pesticide or device, when used in
20 accordance with the requirements imposed under this part and as
21 directed by the labeling, it nevertheless causes unreasonable
22 adverse effects on the environment. However, when a plant regu-
23 lator, defoliant, or desiccant is used in accordance with the
24 label claims and recommendations, physical or physiological
25 effects on plants or parts of plants are not considered to be
26 injurious if those effects are the purpose for which the plant
27 regulator, defoliant, or desiccant was applied.

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1 (3) If the pesticide or device is condemned it shall, after
2 entry of the decree, be disposed of by destruction or sale as the
3 court directs, and, if the pesticide or device is sold, the pro-
4 ceeds less the court costs shall be credited to the general
5 fund. However, the pesticide or device shall not be sold con-
6 trary to this part or the laws of the jurisdiction in which it is
7 sold. However, upon payment of the costs of the condemnation
8 proceedings and the execution and delivery of a good and suffi-
9 cient bond conditioned that the pesticide or device shall not be
10 sold or otherwise disposed of contrary to this part or the laws
11 of the jurisdiction in which it is sold, the court may direct
12 that the pesticide or device be delivered to the owner. The pro-
13 ceedings of condemnation cases shall conform as nearly as possi-
14 ble to proceedings in admiralty, except that either party may
15 demand trial by jury of an issue of fact joined in a case, and
16 the proceedings shall be brought by and in the name of the people
17 of the state.

18 (4) If a decree of condemnation is entered against a pesti-
19 cide or device, court costs and fees, storage, and other proper
20 expenses shall be awarded against the person, if any, intervening
21 as claimant of the pesticide or device.

22 Sec. 8333. (1) The director, upon finding after notice and
23 an opportunity for a hearing that a person has violated any pro-
24 vision of PART 33 OR this part, except sections 8311(2) and 8312,
25 may impose an administrative fine of not more than \$1,000.00 for
26 each violation.

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1 (2) If the director finds that a violation occurred despite
2 the exercise of due care or did not result in significant harm to
3 human health or the environment, the director may issue a warning
4 instead of imposing an administrative fine.

5 (3) The director shall advise the attorney general of the
6 failure of a person to pay an administrative fine imposed under
7 this section. The attorney general shall bring an action in a
8 court of competent jurisdiction to recover the fine.

9 (4) A registrant, commercial applicator, registered applica-
10 tor, restricted use pesticide dealer, or distributor who know-
11 ingly violates PART 33 OR this part or a rule promulgated under
12 this part is guilty of a misdemeanor and shall be fined not more
13 than \$5,000.00 for each offense. A registrant, commercial appli-
14 cator, registered applicator, restricted use pesticide dealer, or
15 distributor who knowingly and with malicious intent violates this
16 part or a rule promulgated under this part OR PART 33 OR A RULE
17 PROMULGATED UNDER PART 33 is guilty of a misdemeanor, and shall
18 be fined not more than \$25,000.00 for each offense. A private
19 agricultural applicator or any other person who knowingly vio-
20 lates PART 33 OR this part or a rule promulgated under this part
21 is guilty of a misdemeanor and shall be fined not more than
22 \$1,000.00 for each offense. The court may allow the department
23 to recover reasonable costs and attorney fees incurred in a pros-
24 ecution resulting in a conviction for a violation committed know-
25 ingly and with malicious intent under this subsection.

26 (5) The director may bring an action to enjoin the violation
27 or threatened violation of PART 33 OR this part or a rule

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1 promulgated under this part in a court of competent jurisdiction
2 of the county in which the violation occurs or is about to
3 occur.

4 (6) The attorney general may file a civil action in which
5 the court may impose on any person who violates PART 33 OR this
6 part or a rule promulgated under this part a civil fine of not
7 more than \$5,000.00 for each violation.

8 (7) In defense of an action filed under this section, in
9 addition to any other lawful defense, a person may present evi-
10 dence as an affirmative defense that, at the time of the alleged
11 violation, he or she was in compliance with label directions and
12 with PART 33 AND this part and rules promulgated under this
13 part.

14 (8) A civil cause of action does not arise for injuries to
15 any person or property if a private agricultural applicator, or a
16 registered applicator who stores, handles, or applies pesticides
17 only for a private agricultural purpose, was not grossly negli-
18 gent and stored, handled, or applied pesticides in compliance
19 with this part, rules promulgated under this part, and the pesti-
20 cide labeling.

21 (9) Applicable provisions of the revised judicature act of
22 1961, ~~Act No. 236 of the Public Acts of 1961, being sections~~
23 ~~600.101 to 600.9947 of the Michigan Compiled Laws~~ 1961 PA 236,
24 MCL 600.101 TO 600.9948, apply to civil actions filed ~~pursuant~~
25 ~~to~~ UNDER this part.

26 Sec. 30113. (1) The land and water management permit fee
27 fund is created within the state treasury.

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1 (2) The state treasurer may receive money or other assets
2 from any source for deposit into the fund. The state treasurer
3 shall direct the investment of the fund. The state treasurer
4 shall credit to the fund interest and earnings from fund
5 investments. The state treasurer shall annually present to the
6 department an accounting of the amount of money in the fund.

7 (3) Money in the fund at the close of the fiscal year shall
8 remain in the fund and shall not lapse to the general fund.

9 (4) The department shall expend money from the fund, upon
10 appropriation, only to implement this part and the following:

11 (a) Sections 3104, 3107, and 3108.

12 ~~(b) Part 325.~~

13 ~~(c) Part 303.~~

14 ~~(d) Section 12562 of the public health code, Act No. 368 of~~
15 ~~the Public Acts of 1978, being section 333.12562 of the Michigan~~
16 ~~Compiled Laws.~~

17 (B) PART 33.

18 (C) PART 303.

19 (D) PART 315.

20 (e) Part 323.

21 (F) PART 325.

22 (G) PART 353.

23 (H) ~~(f) Section 117 of the subdivision control act of~~
24 ~~1967, Act No. 288 of the Public Acts of 1967, being~~
25 ~~section 560.117 of the Michigan Compiled Laws~~ LAND DIVISION ACT,
26 1967 PA 288, MCL 560.117.

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1 ~~-(g) Part 315.~~

2 ~~-(h) Part 353.~~

3 (5) The department shall process permit applications for
4 ~~the~~ THOSE acts and parts of acts cited in subsection (4) UNDER
5 WHICH PERMITS ARE ISSUED within 60 days after receiving a com-
6 pleted permit application unless the act or part specifically
7 provides for permit application processing time limits.

8 (6) The department shall annually report to the legislature
9 on both of the following:

10 (a) How money in the fund was expended during the previous
11 fiscal year.

12 (b) For permit programs funded with money in the fund, the
13 average length of time for department action on permit applica-
14 tions for each class of permits reviewed.

15 Enacting section 1. Sections 12561, 12562, and 12563 of the
16 public health code, 1978 PA 368, MCL 333.12561, 333.12562, and
17 333.12563, are repealed.

18 Enacting section 2. This amendatory act takes effect
19 January 1, 2003.