

WETLAND, LAKE, STREAM, OR FLOODPLAIN PERMITS

Chapter 8: Activities at or Near the Land/Water Interface
Michigan Manufacturers Guidebook (MMG)



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www.michigan.gov/deqwatermanagement

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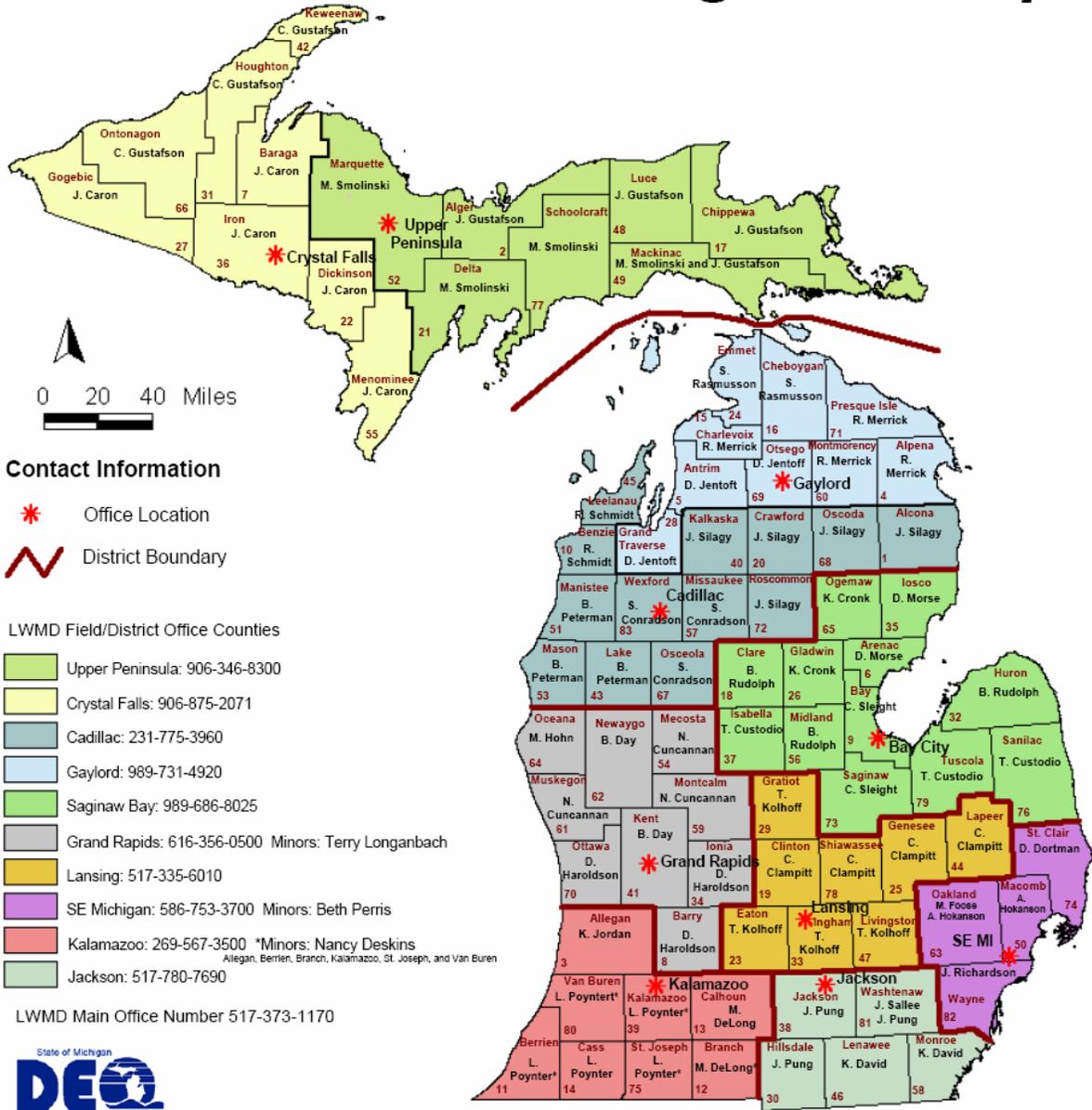
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Land/Water Interface Permitting Staff Map



Land and Water Management Division

www.michigan.gov/deqlwmd

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Water and Land Related Regulations

Department of Environmental Quality
Land and Water Management Division

This summary was intended to only acquaint the reader with the general concepts and/or requirements of the various laws. Land and Water Management Division staff (Lansing or District Offices), of the Department of Environmental Quality, should be contacted for more specific information regarding these laws. The following laws are parts of the Natural Resource and Environmental Protection Act, Article III, Natural Resource Management, Act 451 of 1994, unless noted.

Part 31, Water Resources Protection, Act 451 of 1994 (Floodplain Regulation)

Purpose: To restrict residential occupation of high risk flood hazard areas and ensure that other construction activities do not obstruct flood flows.

Requirements: Any occupation, construction, filling or grade change within the floodplain of a river, stream or drain requires a permit under state floodplain regulations.

Permitting Authorities: DEQ, Land and Water Management Division
Local building/zoning regulations

Land Division Act, PA 288 of 1967

Purpose: To require that each lot in an approved subdivision has suitable access during times of flooding, and ensure that the building site is not prone to flooding up to the 100-year flood levels.

Approvals required: DEQ, Land and Water Management Division
Departments of Labor and Economic Growth, Transportation, and local agencies

Part 301, Inland Lakes and Streams, PA 451 of 1994

Purpose: To regulate all construction, excavation, and marina operation on the State's inland waters. In reviewing an application, the Department shall consider the possible effect of the proposed action upon the inland lake or stream and connecting waters, and the uses of all such waters, including recreation, fish and wildlife, aesthetics, local government, agriculture, commerce and industry.

Requirements: A permit is necessary to:

- a) dredge or fill bottomland
- b) construct, enlarge, extend, remove or place a structure on bottomland
- c) erect, maintain or operate a marina
- d) create, enlarge or diminish an inland lake or stream
- e) structurally interfere with the natural flow of an inland lake or stream
- f) construct, dredge, commence, extend or enlarge an artificial canal, ditch, lagoon, pond, lake or similar waterway which the purpose is ultimate connection with an existing inland lake or stream, or where any part of the artificial waterway is located within 500 feet of the Ordinary High Water Mark of an existing inland lake or stream
- g) connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake

or similar water with an existing inland lake or stream for navigation or any other purpose.

Permitting Authority: DEQ, Land and Water Management Division

Part 303, Wetland Protection, Act 451 of 1994

Purpose: To provide for the preservation, management, protection, and use of wetlands.

Requirements: A permit is necessary to:

- a) deposit or permit the placing of fill in wetland
- b) dredge, remove, or permit the removal of soil or minerals from a wetland
- c) construct, operate or maintain any use or development in wetland
- d) drain surface water from a wetland

Note: Land and Water Management Division shall determine whether or not a parcel of land contains wetland under the jurisdiction of Part 303, of Act 451 of 1994.

Permitting Authorities: DEQ, Land and Water Management Division
US Army Corps of Engineers
Some local regulations

Part 315, Dam Safety, Act 451 or 1994

Purpose: To ensure that dams are built and maintained with necessary engineering and inspections for safety of the public and environment.

Requirements: A permit is required for construction of dams with a height of 6 feet or more and that impound 5 acres or more.

A licensed professional engineer must prepare the construction plans.

Permitting Authority: DEQ, Land and Water Management Division

Part 323, Shoreland Protection and Management, Act 451 of 1994

Purpose: To protect designated environmental areas, flood risk areas and high risk erosion areas that may be damaged by various land use activities along the Great Lakes Shoreline.

Requirements: A permit is required for the following activities:

Designated Environmental Area:

- dredging, filling, grading, or other alterations of the soil
- alteration of natural drainage, but not including the reasonable care and maintenance of established drainage improvement works or maintenance or established drainage
- alteration of vegetation utilized by fish or wildlife, or involves an identified colonial bird nesting area
- placement of permanent structures
- farming of land is allowed without a permit if artificial draining, pumping, diking, dredging or filling are not used

Designated Flood Risk Area:

- any new permanent structure on a parcel of land of which any portion is a Designated Flood Risk Area

Designated High Risk Erosion Area:

- the erection, installation or moving of a permanent structure or an addition onto an existing structure on a parcel of land of which any portion is a Designated High Risk Erosion Area

Permitting Authority: DEQ, Land and Water Management Division
Possible local administration of state statute

Part 325, Great Lakes Submerged Lands, Act 451 of 1994

Purpose: To regulate all construction, excavation, and commercial facilities on the bottomlands of the Great Lakes.

Requirements: Permits required for all filling, dredging and permanent structures (docks, piers, pilings, etc.) lying below the Ordinary High Water Mark, and all upland channels extending landward of the OHWM of the Great Lakes. Leases may be required for commercial facilities on Great Lakes bottomlands.

Permitting Authority: DEQ, Land and Water Management Division
US Army Corps of Engineers

Part 353, Sand Dune Protection and Management, Act 451 of 1994

Purpose: To protect critical dune areas from damage and destruction as a result of developmental, recreational and silvicultural activities.

Requirements: All proposed uses in designated critical dune areas, including activities which involve vegetation removal and earth moving activities, as well as recreation, construction and silvicultural activities.

Permitting Authority: DEQ, Land and Water Management Division
Possibly local administration of state statute

Related Regulations by Federal Agencies**Section 10 of the River And Harbors Act of 1899**

Purpose: Section 10 of the Rivers and Harbors Act of 1899 regulates virtually all work in, over, and under waters listed as "Navigable waters of the United States".

Requirements: Permits required from the U.S. Army Corp of Engineers (USACE) for any dredging, filling, construction, draining or use of navigable waters of the U.S.

Permitting Authority: USACE.

Section 404 of the Clean Water Act

Purpose: Intended to minimize the adverse impacts of development activities or construction by preventing the unnecessary loss of wetlands and other sensitive aquatic areas.

Requirements: Authorization is required for filling, grading, dredging, land clearing, ditching, draining, and construction of structures in "waters of the United States", which includes streams, lakes, and wetlands.

Permitting Authority: DEQ, Land and Water Management Division
U.S. EPA, USACE; Major projects only.



Department of Environmental Quality
Land and Water Management Division

Index of Land and Water Management Division Internet Addresses

Department of Environmental Quality
Home Page: <http://www.michigan.gov/deq>

Information can be obtained on the following topics from the internet address listed, or by going to the Topic page, and following the links listed.

| <u>TOPIC:</u> | <u>Internet Address:</u> |
|--|--|
| Floodplains | http://www.michigan.gov/deqfloodplainmanagement |
| Floodplain elevations | Select Link: <i>Online Request for Floodplain Elevations</i> |
| Floodplain maps | Select Link: <i>Floodplain Mapping</i> |
| Flood Insurance | Select Link: <i>National Flood Insurance Program</i> |
| Hydraulic Analyses | Select Link: <i>Hydraulic Programs and Report Guidelines</i> |
| Flow Data | http://www.michigan.gov/deqwatermanagement |
| Inland Lakes and Streams | http://www.michigan.gov/deqinlandlakes |
| Dredging Projects | Select Link: <i>Dredging Projects</i> |
| Docks, Seawalls, and Beach Sanding Projects | Select Link: <i>Inland Lakes and Streams Permits</i> |
| Marina Projects | http://www.michigan.gov/deqmarinas |
| Lake levels | http://www.michigan.gov/deqdamsafety Select Link: <i>Part 307 – Inland Lake Levels</i> |
| Wetlands | http://www.michigan.gov/deqwetlands |
| Pond Projects | Select Link: <i>Wetland Permits</i> ; Note: See also Brochure <i>Building a Pond in Michigan</i> included in your packet. |
| Driveway/Boardwalk Projects | Select Link: <i>Wetland Permits</i> |
| Wetland Mitigation | Select Link: <i>Wetland Mitigation</i> |
| Mitigation Banking | Select Link: <i>Wetland Mitigation Banking</i> |
| Wetland Inventory Maps | Select Link: <i>Wetland Inventory Maps</i> |
| Wetland Identification Program | Select Link: <i>Wetland Identification Program</i> |
| Methods for Identifying Wetlands | Select Link: <i>Wetland Identification Program</i> ; then select: <i>Wetland Identification Hydrology, Vegetation, and Soils</i> ; then select: <i>MDEQ Wetland Identification Manual: A Technical Manual for Identifying Wetlands in Michigan</i> |
| Restoring Wetlands | Select Link: <i>Wetland Restoration</i> |

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|---|---|
| Great Lakes | http://www.michigan.gov/deqgreatlakes |
| Great Lakes Bottomland Conveyances | Select Link: <i>Submerged Lands</i> ; then Select: <i>Great Lakes Bottomland Conveyances</i> |
| Marina Leases | Select Link: <i>Submerged Lands</i> ; then Select: <i>Deeds, Marina Leases, Agreements & Certificates (Conveyances)</i> |
| Dredging Projects | Select Link: <i>Dredging Projects</i> |
| Great Lakes Water Levels | Select Link: <i>Water Use, Levels, & Diversion</i> |
| Environmental Areas | Select Link: <i>Shoreland Management</i> ; then select: <i>Environmental Areas</i> |
| High Risk Erosion Areas | Select Link: <i>Shoreland Management</i> ; then select: <i>High Risk Erosion Areas</i> |
| Sand Dunes | http://www.michigan.gov/deqsanddunes ; Select Link: <i>Sand Dune Protection</i> |
| | |
| Dam Construction and Safety | http://www.michigan.gov/deqdamsafety |
| | |
| Permit Applications | http://www.michigan.gov/jointpermit |
| Permit Application Instructions | Select Link: <i>Simplified Application Instructions</i> |
| Sample Drawings | Select Link: <i>Application EZ Guides</i> |
| Fees | Select Link: <i>Fees</i> |
| Permit Staff Maps | Select Link: <i>Who To Contact</i> |
| Permit Categories | http://www.deq.state.mi.us/documents/deq-lwm-jpa-appendix-c-fees.pdf |
| Pre-application Meetings | http://www.michigan.gov/deqwetlands ; Select Link: <i>Pre-application Meetings</i> |
| Permit Database | http://www.deq.state.mi.us/ciwpis |



Other Internet Resources

Department of Environmental Quality
Land and Water Management Division

US Army Corp of Engineers (USACE)

Home Page: <http://www.usace.army.mil>

The U.S. Army Corp. of Engineers is responsible for Administering Sec. 404 of the Federal Clean Water Act, and Sec. 10 of the Rivers and Harbors Act of 1899. These statutes regulated construction and development activities that occur within lakes, streams, wetlands, and the Great Lakes at the federal level. The USACE, USEPA, and DEQ have signed a Memorandum of Agreement that the DEQ will review and issue permits for these activities at the federal level, with several exceptions. Permits are required from the USACE projects occurring within navigable waterways, harbors, and Great Lakes, regulated under Sec. 10, and very large projects. A description of the USACE regulatory programs can be found at:

<http://www.usace.army.mil/cw/cecwo/reg>.

Section 10 Waters. To determine which waterways, harbors, and Great Lakes require a permit from the USACE, contact your local USACE staff. Contact information for the USACE staff that cover your area and the regional USACE offices can be obtained at:

<http://www.lre.usace.army.mil/functions/rf/html/jdmap.pdf>.

Nationwide Permits. Information regarding the USACE Nationwide Permits can be obtained at: http://www.usace.army.mil/cw/cecwo/reg/nationwide_permits.htm.

Federal Wetlands Regulations. Information on the federal wetlands regulation programs can be obtained at: <http://www.wetlands.com>.

USACE Wetland Delineation Manual. For federal wetland permitting requirements, wetlands are delineated in accordance with the USACE manual:

<http://www.wetlands.com/regs/tlpge02e.htm>.

Federal Emergency Management Agency, National Flood Insurance Program (NFIP)

Home Page: <http://www.fema.gov/nfip>.

Floodplain information can be obtained from several sources. The township or city where you live has information for most areas. Flood Insurance Rate Maps can be obtained by calling 1-800-358-9616 or on-line at:

<http://www.msc.fema.gov>.

If your area is unmapped, and floodplain information cannot be obtained by these sources contact the DEQ district floodplain engineer. Contact information for your local floodplain engineer is available on the "DEQ on the Internet" handout in your workshop materials.

Natural Resources Conservation Service (NRCS).

Home Page: <http://www.nrcs.usda.gov>.

Soil Surveys. Soil surveys are a collection of maps of the soils found in a county, including hydric or wetland soils. NRCS provides access to soil surveys for each county. Soil surveys are available for most counties in Michigan and those unavailable will be completed soon. To check for soil survey map availability try:

<http://www.mi.nrcs.usda.gov/soils.html>.

Copies of soil surveys that are not available on-line, can be obtained from your local NRCS Service Center. Addresses and phone numbers for the NRCS Service Center in your area can be obtained at: <http://offices.sc.egov.usda.gov/locator/app>.

Michigan Department of Natural Resources (DNR).

Home Page: <http://www.michigan.gov/dnr>.

State Threatened and Endangered (T&E) Species. State listed threatened and endangered species are protected under Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. This program is administered by the DNR Wildlife Division. A list of (T&E) species in Michigan can be viewed at: <http://web4.msue.msu.edu/mnfi/data/index.cfm>. For more information, contact Ms. Lori Sargent at 517-373-9418.

Natural Rivers. Designated natural rivers and their tributaries in Michigan are protected under Part 305, Natural Rivers, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Regulations associated with natural rivers restrict development and alteration of vegetation along the side of the river. Fourteen Rivers in the Lower Peninsula and two in the Upper Peninsula are designated natural Rivers.

To find out whether your river is a designated Natural River, and find out more about the Natural Rivers program, go to: <http://www.michigan.gov/dnr> and select the "Forest, Land, and Water" link, then the "Water Management" link, and finally the "Natural Rivers" link. Contact: Brian Bury or Dan Pearson at (989) 732-3541 for the Northern Lower or Upper Peninsulas, or Matthew Fry at (517) 373-6868 for the Southern Lower Peninsula.

U.S. Fish and Wildlife Service.

Home Page: <http://www.fws.gov>

National Wetland Inventory (NWI) Maps.

Maps Web Page: <http://www.fws.gov/nwi>

Federal Threatened and Endangered (T&E) Species.

List of Federal T&E species found in Michigan can be found at:
<http://www.fws.gov/endangered>.

Soil Erosion Control Permits. The Soil Erosion and Sedimentation Control (SESC) program is administered by county governments, is audited by Water Bureau, DEQ. A description of the SESC program is available at <http://www.michigan.gov/deq>, select the *Land* link, then the *Soil Erosion and Sedimentation Control* link. The Soil Erosion Training Manual at <http://www.deq.state.mi.us/documents/deq-land-sesc-trainingmanual.pdf> is a guide to soil erosion stabilization techniques and methods.

Soil erosion permits are required for activities that disturb at least one acre of land, or are within 500 feet of lake, stream, or wetland. Each county designates a different agency to handle their program, as such they vary from county to county. To find the SESC County Enforcing Agency (CEA) in your county, go to:
<http://www.deq.state.mi.us/sesca>.

U.S. Geological Survey.

Home Page: <http://www.usgs.gov>

U.S.G.S. Topographic Maps The U.S. Department of the Interior/U.S. Geologic Survey has U.S.G.S. topographic maps available for purchase on the internet and by telephone: <http://mapping.usgs.gov/esic/prices/index.html> or 1-888-ASK-USGS (275-8747).

Hydraulic Information and USGS Gauging Stations.

<http://mi.water.usgs.gov>.

Great Lakes Information Network

Daily water level data can be obtained at: <http://www.great-lakes.net>.