

## APPENDIX D

### State Authority, Federal Authority, Privacy Act Statement, State and Federal Penalties

#### STATE AUTHORITY

This application can be used for the following Parts of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

**1. Part 301, Inland Lakes and Streams, of the NREPA**

A permit is required to:

- Dredge or fill bottomlands.
- Construct, enlarge, extend, remove, or place a *structure* on bottomland.
- Erect, maintain, or operate a marina.
- Create, enlarge, or diminish an inland lake or stream.
- Structurally interfere with the natural flow of an inland lake or stream.
- Construct, dredge, commence, extend, or enlarge an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where 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.
- Connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or wetland with an existing inland lake or stream for navigation or any other purpose.

**2. Part 303, Wetlands Protection, of the NREPA**

The following activities are prohibited in wetlands unless a permit has been obtained from the MDEQ:

- Deposit or permit the placing of fill material in a wetland.
- Dredge, remove, or permit the removal of soil or minerals from a wetland.
- Construct, operate, or maintain any use or development in a wetland.
- Drain surface water from a wetland.

Regulated wetlands are defined in Part 303 and the associated administrative rules.

**3. Part 325, Great Lakes Submerged Lands, of the NREPA**

A permit is required for all filling, dredging, and placement of permanent structures (i.e., groins, docks, piers, pilings, etc.) below the "ordinary high water mark" and on all upland channels extending landward of the "ordinary high water mark" of the Great Lakes.

**4. Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the NREPA**

A permit is required for any occupation, construction, filling, or grade change within the 100-year floodplain of a river, stream, drain, or inland lake. Bridges and culverts are considered an occupation of the floodplain, as are activities that involve storage of materials in the floodplain.

**5. Part 353, Sand Dune Protection and Management, of the NREPA**

A permit is required for all proposed new uses in designated critical dune areas mapped in the "Atlas of Critical Dune Areas" prepared by the MDEQ. The following counties have designated critical dune areas:

Alger	Berrien	Emmet	Luce	Mason	Ottawa
Allegan	Charlevoix	Keweenaw	Mackinac	Muskegon	Schoolcraft
Antrim	Chippewa	Leelanau	Manistee	Oceana	Van Buren
Benzie					

Islands that have designated critical dune areas include Beaver Island, North Fox Island, South Fox Island, High Island, North Manitou Island, and South Manitou Island.

**6. Part 323, Shorelands Protection and Management, of the NREPA**

Designated Environmental Areas - A permit is required for any of the following activities in a 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.
- Alteration of vegetation utilized for the preservation and maintenance of fish or wildlife, including identified colonial bird nesting areas.
- Placement of permanent structures.
- Farming of land is allowed without a permit if the person is engaged in the business of farming and the land is used for the production and harvesting of agricultural products using normal farming implements and generally accepted agricultural practices and if artificial draining, diking, dredging, or filling are not used and the natural contour of the land is not altered.

The following counties have designated environmental areas:

Alcona	Arenac	Charlevoix	Delta	Huron	Monroe
Alger	Baraga	Cheboygan	Emmet	Mackinac	Tuscola
Alpena	Bay	Chippewa	Houghton	Marquette	Wayne

Designated High Risk Erosion Areas - A permit is required for the erection, installation, or moving of a permanent structure on a parcel of land where any portion is a designated high risk erosion area. Examples include homes, porches, septic systems, additions, substantial improvements of existing structures, and out buildings. The current counties with high risk erosion areas include:

Alger	Benzie	Gogebic	Leelanau	Menominee	Sanilac
Allegan	Berrien	Grand Traverse	Luce	Muskegon	Schoolcraft
Antrim	Cheboygan	Houghton	Mackinac	Oceana	Van Buren
Arenac	Chippewa	Huron	Manistee	Ontonagon	
Baraga	Delta	Iosco	Marquette	Ottawa	
Bay	Emmet	Keweenaw	Mason	St. Clair	

NOTE: These brief summaries are only intended to provide assistance in determining whether this application is appropriate for your proposed project. They should not be construed as a complete description of the statutes or as a limitation of the state or federal government's regulatory authority.

## STATE AUTHORITY (con't)

### 7. Part 315, Dam Safety, of the NREPA

Permits are required for dams with a dam "height" of six feet or more and that have a surface area of five acres or more at the design flood elevation. A permit is required for new dam construction, enlargement of an existing dam or impoundment, dam repair, dam alteration, dam removal, dam abandonment, or reconstruction of a failed dam. A licensed professional engineer must prepare, sign, and seal the construction plans, except for minor projects as defined in Part 315, or for projects by non-profit organizations under certain circumstances, as specified in Part 315. A Part 315 permit is not required for dam "maintenance"; however other permits may be required.

A permit application for **Part 91, Soil Erosion and Sedimentation Control, of the NREPA** is available from local units of government for all earth change activities which disturb one or more acres of land, or if the earth change is within 500 feet of a lake or stream. Generally, permits are issued locally unless multiple counties are involved. State permits seldom apply.

## FEDERAL AUTHORITY

The U.S. Army Corps of Engineers (USACE) has been regulating activities in the nation's waters since 1890. Until the 1960's, the primary purpose of the regulatory program was to protect navigation. Since then, as a result of laws and court decisions, the program has been broadened so that it now considers the full public interest for both the protection and utilization of water resources.

The regulatory authorities and responsibilities of the USACE are based on the following federal laws:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) prohibits the obstruction or alteration of navigable waters of the United States without a permit from the USACE.
- Section 404 of the Clean Water Act (33 U.S.C. 1344) prohibits the discharge of dredged or fill material into all waters of the United States, including wetlands, both adjacent and isolated, without a permit. The state of Michigan has assumed from the U.S. Environmental Protection Agency (USEPA), the authority to regulate the placement of fill material in waterways and wetlands under provisions of Section 404 g (1) of the Clean Water Act of 1977 (33 U.S.C. 1251 et seq.). However, since Section 10 of the Rivers and Harbors Act does not provide for similar transfer to states, the USACE retains Section 404 jurisdiction within those waters that are navigable waters of the U.S. and their adjacent wetlands. The discharge of any fill materials must comply with state water quality standards consistent with Sections 301, 307, and 401 of the Clean Water Act.

## PRIVACY ACT STATEMENT

Title of Form: "Joint Permit Application" (EQP 2731) from the Water Resources Division (WRD), Michigan Department of Environmental Quality (MDEQ), and the USACE.

1. **AUTHORITY:** Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act of 1977.
2. **PRINCIPAL PURPOSE(S):** These laws require permits authorizing activities in or affecting navigable waters of the United States and the discharge of dredged or fill materials into waters of the United States.
3. **ROUTINE USES:** Information provided on this form will be used in evaluating the permit application.
4. **DISCLOSURE:** Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

If a completed application is made to the Detroit District Office of the USACE, a copy will be furnished to the MDEQ's WRD. Conversely, if a completed application that is within the USACE's jurisdiction is submitted to the MDEQ's WRD, a copy will be furnished to the Detroit District Office of the USACE, and subsequently the content is made a matter of public record through issuance of a public notice.

## STATE AND FEDERAL PENALTIES

Section 3011.2 (5) of Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, provides: "A person who knowingly makes a false statement, representation, or certification in an application for a permit or in a notice or report required by a permit, or a person who knowingly renders inaccurate any monitoring device or method required to be maintained by a permit, is guilty of a misdemeanor, punishable by a fine of not more than \$10,000 per day for each day of violation."

18 U.S.C. Section 1001 provides that: "Whoever, in any manner within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both."

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