

APPENDIX C - LIST OF APPLICABLE LAWS IN MICHIGAN

Part 17, Michigan Environmental Protection Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

This Act provides for the protection of air, water, and other natural resources, and the public trust associated with those resources. It provides the right to any person to bring an action against another person, agency, corporation, and political subdivision for conduct that may pollute, impair or destroy air, water, or other natural resources.

Part 31, (Section 3108) Water Resource Protection (Floodplain Regulatory Authority), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

A Part 31 permit (Section 3108) is required for any occupation, construction, filling, or grade change within the 100-year floodplain of a river, stream, drain, or lake. Bridges and culverts are considered an occupation of the floodplain, as are activities that involve storage of materials in the floodplain. A 100-year flood has a 1% chance of occurring or being exceeded in any given year. These activities are regulated by a permit system with the purpose of ensuring that the channels and floodways are kept clear and uninhabited and that structures placed outside the floodway are properly protected from flood damage. The floodway includes the stream channel and that portion of the floodplain that is required to convey the flow of floodwater. Structures that are placed outside of the floodway portion of the floodplain must be properly protected from flood damage. This can be accomplished by elevating structures above the 100-year floodplain elevation or by designing the structures to be water tight without human intervention.

Part 31, (Section 3109) Water Resource Protection (Discharge into state waters), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

Section 3109 of Part 31 is the statute used in the State of Michigan to address direct or indirect discharges of a substance that is or may become injurious to any of the follow: a) public health, safety, or welfare, b) waters used for domestic, commercial, industrial, recreational or other uses, c) value and utility of riparian lands, d) livestock, wild animals, birds, fish aquatic life, or plants or to their growth and propagation, and the value of fish or game. Pursuant to the Part 31 statute specific rules have been promulgated to address pollutants or substances such as excess sediment that can become injurious to waters of the state and aquatic life and its productivity.

Part 91, Soil Erosion and Sedimentation Control (SESC), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

The purpose of Part 91 is to prevent soil erosion and to protect the waters of the State from sedimentation. A permit is required for any earth change that disturbs one or more acres of land OR that is within 500 feet of a lake or stream. Plowing and tilling for crop production and integral activities associated with logging and mining do not require permits. Access roads leading to or from a logging area, and ancillary and support activities associated with logging and mining, are subject to permits. A SESC permit is obtained by contacting your local county or municipal enforcing agency, CEA or MEA. For more information on the SESC program, please visit www.michigan.gov/deq/wb and select "Soil Erosion and Sedimentation Control."

Whether a permit is required or not, the landowner is responsible for preventing off-site sedimentation. Activities that result in sedimentation to the waters of the State are a violation of Part 91 and are subject to enforcement actions by either the County Enforcing Agency or the State of Michigan. The counties are primarily responsible for issuing Part 91 permits. Prior to

obtaining a permit, the landowner, or his/her designated agent, must submit an application and comprehensive soil erosion and sedimentation control plan to the appropriate county agency.

Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

The intent of the Inland Lake and Stream Protection Program is to protect the integrity of the land/water interface, the correlative rights of other riparian owners, and public trust in the inland waters of the State. Crossing a permanent or intermittent stream while skidding forest products or transporting them to the mill requires a Part 301 permit.

Road and pedestrian crossings, as well as utility crossings, that disturb land below the ordinary high water mark are examples of common projects that require a Part 301 permit. A storm water outfall, with or without stream bank or streambed protection (riprap), stream relocations and enclosures are also examples of projects requiring a permit.

Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

Part 303 defines a wetland as "land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation, or aquatic life, and is commonly referred to as a bog, swamp, or marsh."

The following construction activities are prohibited in wetlands, unless a Part 303 permit has been obtained from the DEQ:

- 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 from a wetland.
- Drain surface water from a wetland.

Regulated wetlands are defined in Part 303 and associated administrative rules. However, silvicultural and timber harvesting activities, such as the building of roads for wood transport, are exempt from obtaining a Part 303 permit, as long as adverse effects on the wetland are minimized and the roads are built solely for logging or forestry purposes.

Part 305, Natural Rivers Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

This statute regulates all development and land uses, including timber harvesting and stream crossings, on both public and private lands, that are within 400 feet of a designated stream. Part 305 requires DNR approval of plans for the location and construction of any utility or publicly provided facility, including roads, bridges and culverts, within a designated Natural River Area. Each designated river system is managed according to a long-range management plan. This plan outlines the specific manner in which lands and water are to be managed to protect the unique river values of a designated Natural River system. Both mainstream and tributaries are regulated under Part 305.

Part 323, Shorelands Protection and Management, of Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

This program provides for the designation and proper management of environmental areas, high-risk erosion areas and flood risk areas along the Great Lakes shoreline. These areas include coastal wetlands and the adjacent uplands that provide habitat and nursery for fish and wildlife. A Part 323 permit is required for certain activities in a designated environmental area.

Part 353, Sand Dunes Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

The designated critical dune areas along the Great Lakes shoreline are areas where the most unique and fragile sand dunes are found. This program minimizes the impact of development on these critical dune areas. 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 DEQ.

Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

This statute protects threatened and endangered species from being taken or harmed during project development activities unless a permit is issued by the Michigan Department of Natural Resources. Where threatened and endangered species are thought to exist, the landowner or responsible party is required to request an environmental review by the DNR to determine whether or not threatened or endangered species may be impacted by planned activities.

Part 515, Forest Protection and Forest Fires Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

This establishes the machinery to protect the forest from fires. It applies to all forest land; timbered, potential timber producing, cutover or burned timber land or grasslands, not including farmland. It requires a permit for burning on or adjacent to forestland, except for domestic purposes, and when the ground is snow covered.

NPDES – Michigan Environmental Protection Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

National Pollutant Discharge Elimination System, or NPDES, permits are required for fixed forestry activities such as permanent log storage areas maintained by paper mills or saw mills. Discharge to a storm sewer does not go to a municipal treatment facility, and is considered a direct discharge. Discharge to a municipal treatment facility may require a permit from the municipality under the Industrial Pretreatment Program.

Act 676 of 2002, Right to Forest Act.

An Act to provide for circumstances under which certain forestry operations shall not be found to be a public or private nuisance; to provide for certain forestry management practices; to provide for certain powers and duties for certain state agencies and departments; and to provide remedies.