

**Utilities Exemptions under Part 303, Wetlands Protection
NREPA PA451 of 1994, as amended**

Utility corridors often cross multiple wetland areas that are regulated by the State of Michigan. However, some activities have been exempted from requiring a permit under Part 303, Wetlands Protection law. These include certain activities associated with the installation, maintenance or repair of utility lines and associated structures if they are done in a manner that minimizes any adverse effect on wetland.

For the purposes of the exemptions, "utility line" means any pipe or pipeline used for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone or telegraph messages, or radio or television communication.

The following are the exemptions in Part 303 related to utility activities:

- (l) Maintenance or repair of utility lines and associated support structures that meets all of the following requirements:
 - (i) Is done in a manner that minimizes any adverse effect on the wetland.
 - (ii) Does not include any modification to the character, scope, or size of the originally constructed design.
 - (iii) Does not convert a wetland area to a use to which it was not previously subject.

- (m) Installation of utility lines having a diameter of 6 inches or less using directional drilling or boring, or knifing-in, and the placement of poles with minimal (less than 1 cubic yard) structure support, if the utility lines and poles are installed in a manner that minimizes any adverse effect on the wetland. Directional drilling or boring under this subdivision shall meet all of the following requirements:
 - (i) The top of the utility line is at least 4 feet below the soil surface of the wetland. However, if the presence of rock prevents the placement of the utility line at the depth otherwise required by this subparagraph, the bottom of the utility line is not placed higher than the top of the rock.
 - (ii) The entry and exit holes are located a sufficient distance from the wetland to ensure that disturbance of the wetland does not occur.
 - (iii) The operation does not result in the eruption or release of any drilling fluids up through the ground and into the wetland and there is an adequate plan to respond to any release of drilling mud or other fill material.

Both exemptions require that the work be conducted in a manner that minimizes and adverse effect on the wetland. Information on suggested ways to meet this criterion can be found in the document *Suggested Best Management Practices for Utility Corridor Projects that Cross Wetlands* ([link to PDF](#)).

The following are examples of activities that **would not** require a wetland permit if they are done in a manner that avoids and minimizes wetland impacts:

- The use of temporary construction mats that are placed for a short duration (during active construction) and does not significantly disturb the soil (i.e, does not include dredge or fill). This does not include grubbing of vegetation or other earth moving activities for placement or access.
- Open trenching to access utility lines for maintenance and repair. If utility lines are being replaced, they must be replaced with the same size and type. Minor deviations are allowed where necessary to conform to modern construction practices, materials, construction codes, or safety standards if they remain of the same scope and do not result in a change of wetland use.

- Repair of existing access roads, pads, and other support structures are included in the maintenance exemption if they do not convert wetland to a new use. Removal, replacement, or modification of the existing footprint of such structures would require a permit.
- Installation of utility lines that are 6 inches in diameter or less that are installed by directional drilling/boring greater than 4 feet below the ground surface of the wetland with entry and exit holes outside of wetland. Exceptions to the depth of installation are allowed where rock prevents such placement.
- Installation of utility lines that are 6 inches in diameter or less that are installed by knifing-in.
- The placement of utility poles with less than 1 cubic yard per pole structural support.
- Small isolated temporary impacts that are required to transfer or connect new lines or services to existing lines or services if the disturbed area is restored to previous conditions following BMPs.

The following are examples of activities that would require a wetland permit because they do not meet the utilities exemptions:

- Open trenching to install a new utility line of any size.
- Replacing a utility line or support structure that is different from those being replaced in size and type (excluding support structures with less than 1 cubic yard fill). For example, a change from a single pole structure to a lattice tower requiring concrete foundations would require a permit, but the replacement of wood poles with the same size steel poles would not. Another example would be replacing an existing utility line with a larger diameter pipe.
- Construction of new access roads, adding lanes to existing access roads, or increasing the overall footprint of access roads even if it is part of a maintenance project.
- Installing utility line less than 4 feet below the ground surface unless impeded by rock.
- The unexpected discharge of drilling fluids. When this happens an After-the-Fact permit must be obtained, and the area must be restored to pre-spill conditions with follow-up monitoring to ensure proper restoration.
- When there is no adequate plan to respond to the release of drilling fluids or mud available in the field where directional drilling or boring is being implemented.
- Installation via directional drilling or boring where the entry or exit holes are within wetland, or that drains existing wetland as a result of the installation.
- Mechanical land clearing even if for an otherwise exempt knifing in installation.

The above examples do not comprise a comprehensive list since there may be many scenarios when maintaining or installing utility corridors. For additional information on wetland regulations go to www.michigan.gov/wetlands.