

Draft  
Michigan Department of Environmental Quality  
Certification under Section 401(a) of the Federal Clean Water Act

In the matter of:      Navigational Maintenance Dredging of Ontonagon Harbor Federal  
   Navigational Channel, Dredging Project  
   Ontonagon County, Michigan  
   Department of the Army  
   Detroit District, Corps of Engineers

The Michigan Department of Environmental Quality (MDEQ) certifies that the proposed dredging by the United States Army Corps of Engineers (USACE) in the Ontonagon River navigational channel at Ontonagon Harbor and the beach application of dredge materials on the shoreline beginning at a point 100 feet west of the west pier and extending 3,000 feet will comply with Section 401(a) of the federal Clean Water Act and the Michigan Water Quality Standards provided that the conditions set forth in this Section 401 Water Quality Certification (Certification) are met. This is based on the USACE August 1, 2007, request for a Certification and subsequent submittals.

Certification conditions:

1. The Upper Peninsula District Supervisor, Water Bureau (WB), MDEQ, shall be notified 48 hours prior to the commencement of dredging operations in Ontonagon Harbor.
2. The dredging operation and the dredged material disposal location shall be restricted to the areas described above and in Figure 1. Only hydraulic dredging or dredging with an environmental bucket shall be used.
3. During dredging, the re-suspension of silt and other fine particles or materials and oils and films shall be minimized by careful equipment operation, and, if necessary, floating booms, silt curtains, or screens and other suitable means.

4. The application of dredged materials on the shoreline shall not have any unnatural physical properties (turbidity, color, oil film, floating solids, foams, settleable solids, suspended solids, or deposits) in quantities which are or may become injurious to any designated uses. Any unusual characteristics of the discharge shall be reported immediately to the Upper Peninsula District Supervisor of the WB, MDEQ, followed by a written report within ten days detailing the findings of the investigation and steps taken to correct the condition(s).
  
5. It is the duty of the USACE to comply with all the terms and conditions of this Certification. Any noncompliance with the conditions or terms of this Certification constitutes a violation of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and/or the federal Clean Water Act and constitutes grounds for enforcement action; Certification termination; revocation and re-issuance, or modification; or denial of a future application.

6. Civil and Criminal Liability

Nothing in this Certification shall be construed to relieve the USACE from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond the USACE control, such as accidents, equipment breakdowns, labor disputes, or contractor performance.

7. Oil and Hazardous Substance Liability

Nothing in this Certification shall be construed to preclude the institution of any legal action or relieve the USACE from any responsibilities, liabilities, or penalties to which the USACE may be subject under Section 311 of the Federal Water Pollution Control Act except as are exempted by federal regulations.

8. State Laws

Nothing in this Certification shall be construed to preclude the institution of any legal action or relieve the USACE from any responsibilities, liabilities, or penalties established pursuant to any applicable state or federal law.

9. Natural Resources Damages and Penalties

The state reserves the right to seek civil and/or criminal penalties and liabilities under applicable law for natural resource damages that may occur.

10. Certifications and Approvals

Nothing herein shall relieve the USACE from the requirement to obtain any other necessary state, federal or local permits, including other permits from the MDEQ, certifications, licenses, or approvals for the beach application of dredge materials and navigational dredging operations.

Issued this 10<sup>th</sup> day of April 2008, and shall expire on April 10, 2013.

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Diana Klemans, Chief  
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Michigan Department of Environmental Quality

