

	<b>WATER RESOURCES DIVISION FIELD OPERATIONS SECTION POLICY AND PROCEDURE</b>		DEPARTMENT OF ENVIRONMENTAL QUALITY
Original Effective Date: December 28, 1995  Revised Date: March 22, 2000  Reformatted Date: April 22, 2015	Subject: Part 353 – Special Exception Review Procedure for Critical Dune Area Applicants		Category: <input type="checkbox"/> Internal/Administrative <input type="checkbox"/> External/Non-Interpretive <input checked="" type="checkbox"/> External/Interpretive  Type: <input type="checkbox"/> Policy <input checked="" type="checkbox"/> Procedure <input type="checkbox"/> Policy and Procedure
	Program Name: Water Resources Program		
	Number: WRD-FOS-010	Page: 1 of 3	

*A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory; does not affect the rights of, or procedures and practices available to, the public; and does not have the force and effect of law.*

**NOTE:** This procedure supersedes former Land and Water Management Division Operating Procedure Number 353-95-03.

**PURPOSE:**

To provide instruction regarding the special exception review process under the authority of Part 353, Sand Dunes Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

**AUTHORITY:**

Part 353 of the NREPA.

**DEFINITIONS:**

“Critical Dune Area” means a geographic area designated in the Atlas of Critical Dunes dated February 1989 that was prepared by the DEQ ([http://www.michigan.gov/deq/0,4561,7-135-3311\\_4114\\_4236-70207--,00.html](http://www.michigan.gov/deq/0,4561,7-135-3311_4114_4236-70207--,00.html)).

“Use” means a developmental, silvicultural, or recreational activity done or caused to be done by a person that significantly alters the physical characteristic of a critical dune area or a contour change done or caused to be done by a person but does not include sand dune mining.

“Contour Change” includes any grading, filling, digging, or excavating that significantly alters the physical characteristic of a critical dune area, except that which is involved in sand dune mining.

**FORMS USED:**

Application for Special Exception in Critical Dune Areas (EQP2727).

WATER RESOURCES DIVISION  
FIELD OPERATIONS SECTION  
POLICY AND PROCEDURE

Number: WRD-FOS-010

Subject: Part 353 – Special Exception Review Procedure for  
Critical Dune Area Applicants

Page 2 of 3

**PROCEDURES:**

Step	Who	Does What
1	Staff	<p>Follows critical dune area application review procedures for initial review process.</p> <p>NOTE: Once site inspection has been completed and it has been determined that the application cannot be approved as submitted, send a letter to the applicant describing why the project does not meet the standards. Advise the applicant of the option to request a special exception. Requests for special exceptions must be submitted to staff, in writing, within 30 days of written notification by the DEQ.</p>
2	District Staff	Notifies local unit of government in which the proposed project is located that a request has been made and sends a copy of the request and any relevant information from the file (application, correspondence, proposed plan, etc.) upon receipt of special exception request.
3	District Staff	Denies special exception request if local unit of government recommends denial of the special exception. Go to Step 8.
4	District Staff	Forwards the special exception request file to the review panel for consideration if the local unit of government waives its opportunity to review the application, recommends granting the special exception, or does not respond within 60 days. Members of the panel may include the chief of the Surface Water Assessment Section, chief of the Great Lakes Shorelands Unit, a district supervisor, or experienced critical dune area program staff who is not handling the application. The staff handling the application submits a recommendation to the panel.
5	Review Panel	Determines whether a practical difficulty exists based on information from the local unit of government, staff, and other pertinent information. The determination of practical difficulty must be based on whether compliance would unreasonably prevent use of the property or render conformity unnecessarily burdensome, whether substantial justice will occur, whether the plight is unique to the property, or whether the problem is self-created. Grants or denies special exception review request.

WATER RESOURCES DIVISION  
FIELD OPERATIONS SECTION  
POLICY AND PROCEDURE

Number: WRD-FOS-010

Subject: Part 353 – Special Exception Review Procedure for  
Critical Dune Area Applicants

Page 3 of 3

Step	Who	Does What
6	District Staff	Notifies applicant in writing if special exception is granted, and issues permit according to critical dune area application review procedures.
7	District Staff	Notifies applicant in writing if special exception is denied and advises them of their appeal rights, including contested case hearing and an informal appeal that can be pursued prior to petitioning for a formal contested case hearing according to the operating procedure for appeals.
8	District Staff	Follows critical dune area application review procedures for handling file once a decision has been made.

SECTION CHIEF APPROVAL:

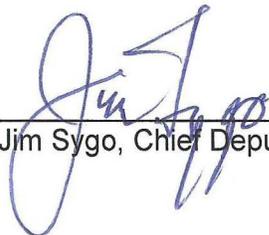


Michael Masterson, Chief  
Field Operations Section – Lakes Michigan and Superior



Peter Ostlund, Chief  
Field Operations Section – Lakes Erie and Huron

CHIEF DEPUTY DIRECTOR APPROVAL:



Jim Sygo, Chief Deputy Director