



## DRAIN GENERAL PERMIT AND EXEMPTION FAQs

### County Drain General Permit Category

***How do you determine if a drain is regulated as a “stream” under Part 301.*** “Stream” is defined in Part 301 as “...a river, stream, or creek which may or may not be serving as a drain as defined by the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630; or any other body of water that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water, including the St. Marys, St. Clair, and Detroit rivers...” If you are unsure whether a drain will be regulated as a stream, contact MDEQ District staff or retain a consultant to assist you.

### ***Do I need a separate general permit authorization for each project?***

Yes. A separate application and fee for each project must be submitted to the MDEQ for review and approval. Applications may be submitted throughout the year (the January 20<sup>th</sup> deadline does not apply). Authorizations issued under the County Drain General Permit Category will be valid until December 31st of the year following the year in which the authorization is granted. For example, if a permit were issued in November of 2014, then it would be valid until December 31, 2015.

### ***Do I need to determine threatened and endangered species issues prior to submitting an application?***

No. The MDEQ will review the proposed project area and activity to determine whether there are potential issues with threatened and endangered (T&E) species, and will notify the applicant of any special requirements/investigation (if any) . A T&E review does not need to be performed prior to applying for the permit. However, if it is determined that a T&E species may be impacted by the project, the project would not qualify for the General Permit Category and will be public noticed.

### ***How will I know if I need to provide sediment testing?***

The MDEQ will review the proposed project area and activity to determine whether sediment testing is necessary, and will notify the applicant of sediment testing requirements (if any). No sediment testing needs to be performed prior to applying for the permit. However, if it is determined that sediment testing is required, the project would not qualify for the General Permit Category and will be public noticed.

### ***What is the cost of the permit?***

The general permit application fee is \$50.00 for each project. The fee should be submitted with the application form.

### ***What is considered a “project”?***

A “project” includes all work for each drain that will be constructed during the same time. There may be multiple activities in one “project” that fall under the general permit category and can be included in the same application. Exempt activities do not need to be included as part of the “project.” It is allowable to submit more than one project for the same drain in one year if the work will not be constructed at the same time (e.g., bid separately for different time periods). If other “project” activities do not fit the County Drain general permit category (e.g., fit

## **FAQs *continued***

under a different category or require a public notice), then you will need to fill out the Joint Permit Application (JPA) and no end of the year reporting is required.

### ***Do I need to submit a Request for Coordination?***

No. A Request for Coordination form is a voluntary form that may be submitted to allow MDEQ staff to begin the screening process for a project, including review for threatened and endangered species and sediment testing requirements, during the winter months to speed up turnaround time once an application is submitted. By January 20 of any given year, you may submit a Request for Coordination Form to the MDEQ with your known project locations planned for the year, so that the screening information is provided to you as early in the process as possible. This will allow you to prepare for items that might need additional up-front work prior to submitting an application to the MDEQ. It also allows MDEQ staff to gain a level of knowledge regarding the potential number of projects that may be reviewed during that year, and may help in meeting the MDEQ's 30 day review timeframe for the GP category and for prioritizing end-of-year report reviews.

There is no fee associated with a Request for Coordination. A permit application must be submitted for each project even if a Request for Coordination form was also submitted. A MDEQ file number will be assigned for each Request for Coordination Form. When a permit application is submitted for a project, it will be assigned a different file number.

### ***What is the difference between a Request for Coordination and a Pre-application Meeting?***

A Request for Coordination provides known, in-office screening information and does not include feedback on specific proposed activities or plans. For complex projects, the MDEQ encourages you to take advantage of the pre-application process. A pre-application meeting is a voluntary process for meeting with DEQ staff prior to submitting a permit application for the purpose of obtaining feedback about a proposed project early in the planning process in order to minimize planning costs and delays (e.g., suggest ways to minimize impacts, go over draft permit applications, answer questions, etc).

### ***Who do I submit the permit application to?***

Applications and Requests for Coordination should be submitted to the MDEQ District field office in your area.

### ***What is the MDEQ's turnaround time for responding to the application?***

MDEQ has committed to responding to a complete application form within 30 days of receipt. If a Request for Coordination form is submitted, MDEQ staff may be able to respond to the application in a more expedited timeline. Engineering may begin for the project activity during the MDEQ review of the application. If there is a time sensitive project, please let MDEQ staff know and they will do their best to meet your time deadline.

### ***Can I begin immediately upon submittal of a permit application?***

No. Do not commence work on the project activity until the MDEQ has issued a permit for the activity.

### ***Can property owners perform work under this general permit category?***

No. All projects under this general permit category must be administered under the Drain Code. In other words, any work under this category must be completed by or under an agreement with the Drain/Water Resources Commissioner's Office.

## **FAQs *continued***

### ***Do I need a separate permit for Part 31 Floodplains?***

No. Work conducted under the drain code is exempt from Part 31 floodplain permit requirements.

### ***What are my reporting requirements?***

A report with the required information for each project performed in a calendar year must be submitted to the MDEQ by December 31<sup>st</sup> of each year. A report checklist and template is available. Plans submitted in the reports are required to be accompanied by a PE affidavit stating the completed activities meet the category requirements. Reporting is required only for general permit activities. Do not report work performed for exempt activities or under any other General Permit or Minor Project Category, or Individual permit.

### ***What if there are wetlands impacted by the project?***

The general permit category is for Part 301 (inland lakes and streams) only and does not apply if regulated wetlands are impacted.

### ***What if I have problems during the permitting process?***

Remember that this process is new to everyone—Drain/Water Resources Commissioners, consultants, and MDEQ staff. Extra effort should be given when communicating about potential issues, and if you are in doubt as to whether an activity is covered under the general permit, you should contact MDEQ District staff to discuss it. If there is a problem during the permit process, please contact MDEQ staff in Lansing (Amy Berry or Amy Lounds) and/or the MACDC Chair of the MDEQ Liaison Committee (Bob Mantey) to assist in the communication process.

## **County Drain Exemptions**

### ***What are the maintenance exemptions for County Drains?***

Maintenance is specifically limited to activities that maintain the as-constructed location, depth, and bottom width of the drain. Under Part 301 the following specific maintenance activities are listed:

- Sediment removal to original contours
- Reshaping side slopes
- Bank stabilization to address erosion
- Culvert replacement w/extensions of 24 ft max
- Armoring, lining, piping in previous footprint
- Replacement of existing control structures
- Repair of stabilization structures
- Emergency reconstruction of recently damaged parts of drains

Improvements, including straightening, widening, or deepening are not exempt, and drain maintenance cannot result in additional wetland drainage or conversion of a wetland to another use.

### ***Can property owners perform work under the exemptions?***

No. All projects under the exemptions must be administered under the Drain Code. In other words, any work under the exemption must be completed by or under an agreement with the Drain/Water Resources Commissioner's Office.