

PROTECTING WATER RESOURCES WHEN GROWING AND PROCESSING MARIJUANA

Guidance

INTRODUCTION

To protect the state’s water resources, marijuana growing and processing operations may be subject to Michigan Department of Environment, Great Lakes, and Energy (EGLE) reporting and permitting requirements. The following provides guidance on those requirements as may be applicable to marijuana cultivation and processing operations. Please note, while this list covers most state programs designed to protect water quality, other federal, state, and local regulations or programs may apply.

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WATER USE ASSOCIATED WITH MARIJUANA PRODUCTION AND PROCESSING

Large-scale marijuana cultivation operations may require significant water usage or water withdrawal.

DO WE NEED TO REPORT OUR PROPOSED WATER WITHDRAWAL?

Yes. Prior to beginning any new or increased large quantity water withdrawal (more than 100,000 gallons per day (gpd)) from groundwater or surface water, the State of Michigan requires the use of the [Water Withdrawal Assessment Tool \(WWAT\)](#). This tool will help determine if the proposed withdrawal needs further review. If the withdrawal cannot be authorized by the WWAT, the property owner or authorized agent then must request a site-specific review (SSR) from EGLE. There is a link to request an SSR on the WWAT's results page. A new or increased large quantity withdrawal must be authorized by either the WWAT or an SSR before it can start.

ARE THERE REPORTING REQUIREMENTS FOR WATER WITHDRAWAL?

Yes. All withdrawals above 100,000 gpd must report their annual water use to either Michigan Department of Agriculture and Rural Development (MDARD) (for farms) or EGLE (all other withdrawals including municipal water supplies).

CAN WE USE WATER FROM OUR MUNICIPALITY?

Maybe. If a grower wishes to use municipal water rather than their own withdrawal, they should contact the local municipality.

LAND USE ASSOCIATED WITH MARIJUANA PRODUCTION AND PROCESSING

Marijuana cultivation and processing operations may have land uses that require a permit. Property owners/users should utilize due diligence to determine if the property contains any federal, state, and local regulated features such as streams/rivers/ditches/drains/channels/canals, inland lakes, wetlands/ponds, and/or Great Lakes.

WHEN DO WE NEED A PERMIT TO CLEAR LAND, GRADE/CHANGE THE ELEVATION OF A PROPERTY, BUILD A BUILDING, PARKING LOT, ETC.?

- You are disturbing one or more acres of land or land within 500 feet of a lake or stream - [Part 91](#) permit
- You are discharging storm water to a streams, rivers, lakes, and wetlands - [National Pollutant Discharge Elimination System \(NPDES\) permit for Construction Storm Water Activities](#).
- You are filling, grading, altering of topography, and/or constructing within a floodplain - Floodplain [permit](#).

A [Part 91](#) permit is generally required for any earth change activity which disturbs one or more acres of land or which is within 500 feet of a lake or stream. Part 91 is administered and enforced by various state, county, and local governmental agencies with oversight from the Water Resource Division (WRD).

Construction activities that disturb one or more acres of land and have a discharge of storm water to a stream, river, lake, or wetland are required to obtain a [National Pollutant Discharge Elimination System \(NPDES\) permit for Construction Storm Water Activities](#) from the WRD.

For sites disturbing one to five acres, the applicant/permittee receives automatic storm water coverage upon the applicant obtaining a Part 91 permit or undertaking the project as an Authorized Public Agency (APA).

For sites disturbing five or more acres, the applicant/permittee must obtain a Part 91 permit (or undertake the project as an APA) and apply for a Notice of Coverage (NOC) to the WRD. Along with the NOC application, the applicant/permittee must submit a copy of the Soil Erosion and Sediment Control (SESC) permit, approved SESC plan, site location map, and the permit fee.

Any filling, grading, altering of topography, and/or occupation (including construction) within the 100-year floodplain of a river, stream or drain requires a [permit](#). Normal tilling of land within the 100-year floodplain does not require a

permit. Construction and fill may be permitted in portions of the floodplain that are not floodways. Work activity in the floodway will normally require an engineering analysis to verify that the proposal does not increase the floodplain elevation on upstream properties. Some floodplains are mapped, and their approximate boundaries may be viewed online at [FEMA's Map Service Center](#). Not all regulated floodplains are mapped. Counties and townships may also have copies of the floodplain maps. Local floodplain regulations may also apply.

DO WE NEED A PERMIT TO WORK IN WETLANDS, LAKES AND STREAMS AND OTHER NATURAL FEATURES?

- EGLE administers several laws that require a permit to conduct activities on, within, or that involves any of the following natural features as regulated under Parts 301, 303, or 325:
- A stream, river, ditch, drain, channel, or canal
- An inland lake
- Land change activities that result in the creation or alteration of a canal, ditch, lagoon, pond, or lake within 500 feet of an existing inland lake or stream, or that connects to these features
- A wetland or pond that is ANY of the following:
 - 5 acres or more in size
 - Connected to OR within 500 feet of an inland lake, pond or stream
 - Connected to OR within 1000 feet of a Great Lake
 - Contains documented Threatened or Endangered Species or Rare and Imperiled Wetland Habitat
 - Is a Water of the United States under federal law
 - A Great Lake

HOW DO WE KNOW IF THERE ARE WETLANDS ON A PROPERTY?

Wetlands can be found in forests, shorelines, or open fields. Wetlands are often difficult to identify and do not necessarily contain visible water. Wetlands are identified according to site-specific conditions (soils, hydrology, and vegetation) and an on-site inspection is necessary to determine if wetlands are present. Information sources that provide indications of where wetlands might exist may not include all wetlands and may identify areas that once were, but no longer are, wetlands. As a result, the actual conditions on a property will always take precedence over any information source. Although some wetlands may be difficult to readily identify by the untrained eye, here are a few clues you can look for:

- The ground is soggy or has standing water, even for just part of the year.
- The soils are black or peaty.
- The property is lower than surrounding land.
- The land is flat without any grade changes.
- The trees are tipped over due to shallow roots.
- The property is near a pond, lake or stream.
- The property failed a perc-test or an engineered septic system is required.
- The property is tax reverted.
- Information from your local Health Department Environmental Services on whether a perc-test been done.
- Information from owners or neighbors about standing water, flooding, drainage, muddy spots, etc.

Information may already exist about whether wetlands are present on the property. You can look for:

- Wetland reports or delineations, EGLE letters, permits, or denials for this property. A search of Site Map Explorer in the EGLE database, [MiWaters](#), may help.
- Information from your local Health Department Environmental Services on whether a perc-test been done.
- Information from owners or neighbors about standing water, flooding, drainage, muddy spots, etc.

WHAT RESOURCES DOES EGLE OFFER THE PUBLIC TO GATHER MORE INFORMATION ON WETLANDS?

- Existing wetland reports or delineations, EGLE letters, permits, or denials for this property may be available on the MiWaters online permitting database. A search of Site Map Explorer in [MiWaters](#) may provide a clues to the site history.
- Maps of potential wetland areas on the EGLE [Wetlands Map Viewer](#). This is a good place to start to get an idea what *might* be on the property. This map does not identify actual (or designated) wetland, boundaries, or the need for a permit, so an on-site visit by a wetland professional is needed.
- A list of [Private Consultants](#) that you may hire to identify presence of wetlands and if they are regulated.
- [EGLE Staff Contacts](#) - Look for the Land/Water Permitting Staff Map. Staff for your County may have knowledge of the property and/or area but cannot tell you for sure if wetland is present without a site visit.
- [Pre-Application Meeting](#) is an official request to meet with EGLE staff to discuss a project and determine if a permit will be necessary along with discussing impact avoidance and minimization alternatives.
- [Wetland Identification Program](#) offers wetland delineation services that includes a site visit to identify wetland boundaries and regulatory status.

WASTEWATER ASSOCIATED WITH MARIJUANA PRODUCTION AND PROCESSING

The discharge of water containing pollutants, often called wastewater, to the ground, groundwater or surface water (e.g. wetlands, streams, lakes) requires a permit from EGLE. Discharging pollutants to a wastewater treatment plant requires notification to the owner (typically the local municipality).

Pollutants are described as chemicals or matter that contaminate air, soil, water, plants and animals, and have the potential to cause harm to human health or the environment. Pollutants specific to the marijuana industry can include plant material (pieces of leaves, stems, seeds, etc.), nutrients (fertilizer), pesticides, solvents, and soil or water containing any of the above materials.

CAN WE PUT ANY WASTEWATER INTO OUR SEPTIC SYSTEM?

No. [Septic systems](#) are designed to treat household sewage, not chemicals and fertilizers. Septic systems utilize the soil for treatment. Wastewater containing pollutants other than household sewage may not be treated appropriately and can contaminate drinking water wells and groundwater. In addition, pollutants associated with marijuana growing (pesticides and nutrients) can harm your septic causing it to fail requiring a new system.

CAN WE PUT WASTEWATER DOWN OUR SINK/TOILET IF IT GOES TO A WASTEWATER TREATMENT PLANT?

No. You need to notify your municipality of the waste sent to their facility, so they can determine if they have the [capacity to accept and treat the wastewater](#).

CAN WE DISPOSE OF ANY WASTEWATER DOWN THE STORM SEWER?

No. Storm sewer systems discharge directly to rivers and streams.

CAN WE POUR WASTEWATER ON THE GROUND OR USE IT TO FERTILIZE OUR YARD, OR AGRICULTURAL CROPS?

No. This would require a [permit](#), and you could contaminate drinking water wells and groundwater. In addition, runoff could make it into wetlands, ponds, lakes, and streams causing impact to these waters.

CAN WE PUT WASTEWATER IN A POND OR WETLAND ON OUR PROPERTY?

No. This would require a permit, and you could contaminate drinking water wells and groundwater.

CAN WE DIRECT WASTEWATER TO A WETLAND, LAKE OR STREAM, IF WE HAVE ACCESS TO ONE?

No. This would require a permit.

DO WE NEED A PERMIT TO DISCHARGE STORM WATER FROM A MARIJUANA PRODUCTION OR PROCESSING FACILITY?

Yes. Growing and processing marijuana are regulated activities under the [NPDES Industrial Storm Water Program](#). If all industrial activities and materials at a facility are contained within storm-resistant structures, the facility may obtain a [No Exposure Certification](#) as a conditional exclusion from the permit requirements.

ADDITIONAL INFORMATION

- [Water Withdrawal](#)
- [Soil Erosion and Construction Storm Water](#)
- [Floodplains](#)
- [Wetlands](#)
- [Wastewater](#)

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