

Environmental Permitting in the Elk River Chain of Lakes

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

Act 98: changes to NREPA

July 2, 2013

Agency Staff for Antrim County

- Matt Kleitch: Inland Lakes & Streams and wetlands: Gaylord kleitchm@michigan.gov
- Robyn Schmidt: Critical Dunes and high risk erosion areas: Cadillac schmidtr1@michigan.gov
- Susan Conradson: Flood plain: Cadillac conradson2@michiga.gov
- Audrie Kirk: NPDES (National Pollution Discharge Elimination System): Gaylord kirkA3@michigan.gov
- Heidi Shaffer: Soil Erosion Control heidishafer3@yahoo.com

Agency Staff for Grand Traverse and Kalkaska County

- Ryan Blazik: NPDES (National Pollution Discharge Elimination System) blazicr@michigan.gov
- Matt Kleitch: Kalkaska wetland protection, Gaylord Field Office, kleitchm@michigan.gov
- Robyn Schmidt: Grand Traverse wetland protection and Critical Dunes/High Risk Erosion, Cadillac District Office, schmidtr1@michigan.gov
- Susan Conradson: Flood plain: Cadillac conradson2@michiga.gov
- Karen VanHorn: Kalkaska Soil Erosion Control kvanhorn@kalkaskacounty.org
- Pete Bruski: Grand Traverse Soil Erosion Control pbruski@grantraverse.org

Part 301



Inland Lakes and Streams



Requirements of Inland Lakes and Streams Act

- MDEQ permit required for any work done at or below the high water mark (HWM: where the persistent vegetation stops – grass or tree line)
 - Installation, removal or maintenance of: marinas, permanent docks, beach (in water), fish habitat structures, shoreline stabilization, dredging, boat house, culverts, bridges, mooring buoy, woody debris (list not complete - common listed)

Changes to 301

- Standardized general (\$50) and minor permit (\$100) categories and fee structure
- Shoreline stabilization: rocks < 24" and sloped or natural shoreline stabilization; minor category. Above 24" and/or vertical considered more detrimental and \$500 fee
- Major permit categories: determined by size/impact of project \$2,000 fee

Part 303



Wetlands



Requirements of the Wetland Protection Act

- MDEQ permits are required to “Construct, operate, or maintain any use or development in a wetland.” Examples of when a permit would be needed include:
 - Drain a wetland
 - Fill a wetland
 - Dredge a wetland
 - Boardwalks over wetlands
 - Point discharge into a wetland

Changes to 303

Changes to Part 303 include:

- Standardized general (\$50) and minor permit (\$100) categories and fee structure. This was comprehensive and included changes to exemptions, authorized new exemptions, and created new minor and general permit categories. The intent was to identify activities that could be permitted in a more efficient manner.

Changes to 303 ctd.

Please note: Unfortunately, and very important, is the fact that some of the changes made under PA 98 are quite complicated. Because of this, it is imperative applicants check with MDEQ or EPA to ensure activities proposed in wetlands are legal.

(Changes are currently under review by the EPA).

Part 353 and Part 325

Sand Dune Protection and Great Lakes Submerged Lands



Requirements of the Sand Dune Protection Act

- Critical dune areas are identified by the State.
- In Antrim County, Critical Dunes are located only in Torch Lake Township.
- Disturbing/building on slopes steeper than 3H:1V is not allowed.
- Construction, vegetation removal, grade changes (filling or excavation) require a permit from the MDEQ.

Requirements of the Great Lakes Bottom Land Protection Act

- Any work at or below the ordinary high water mark on the Great Lakes requires a permit from the Michigan Department of Environmental Quality **AND** the US Army Corps of Engineers.

Changes to 353 and 325

Permits are not required from the MDEQ but are **STILL REQUIRED BY THE USACE** for:

- Leveling of sand, removal of vegetation, grooming of soil, or removal of debris, in an area of unconsolidated material predominantly composed of sand, rock or pebbles, located between the ordinary high-water mark and the water's edge.

Neither agency requires a permit for mowing vegetation between the ordinary high-water mark and the water's edge.

Part 323 High Risk Erosion

- Specific areas identified by the State where the rate of recession (erosion) is greater than 1'/year.
- Areas are identified by property tax id contained on a list maintained by the MDEQ.

Part 91



Soil Erosion Control



Requirements of the Soil Erosion Control Act

- Keep dirt out of the water: sedimentation covers spawning beds and carries pollutants into water bodies.
- Soil erosion permit required before building or zoning/township permit can be issued.
- Anyone doing an earth change within 500' of a river, lake, or stream (Part 91).
- Anyone disturbing an acre or more of soil (Part 91)
- Antrim County has a Soil Erosion and Sedimentation Control Ordinance that regulates Storm Water as it relates to soil erosion: www.antrimsoil.com
- A proposed development that has a build-out which will disturb more than an acre of soil. (Ordinance)

Law/ordinance: violations

Section 13 – 201: Stormwater & Sedimentation Ordinance states: All effort will be made to correct a violation before fines are levied.

Part 91: 324.9117 – 324.9118

State law requires a registered letter and a five day response time to fix the problem before a fine can be levied.

Wetlands & Part 91

Unless otherwise required in the County or Municipal Ordinance, Part 91 permits are not triggered by proximity to wetlands. Part 91 permits are only triggered by proximity to lakes or streams or earth change size.

Regardless of whether or not a permit is required, Part 91 requires that a landowner implement practices to effectively reduce erosion or sedimentation from their property to waters of the state. Waters of the state includes wetlands regulated by Part 303.

What if the Project Intends to Impact Wetlands?

Ask the permittee if they have obtained a permit from MDEQ for wetlands.

(aka Part 303)

If they haven't, refer the permittee to MDEQ and email MDEQ wetland staff with a copy of the permittee's application and a brief description of how they might be impacting ***Wetlands.***

Suggested Language

“This Part 91 permit involves an earth change activity that may also be regulated by Part 303, Wetlands Protection, of 1994 PA 451, as amended. This enforcing agency is not authorized to implement Part 303 or make wetland determinations, and this permit does not authorize work in regulated wetlands. It is the responsibility of the applicant to ensure that regulated wetlands are not impacted or to acquire a permit authorizing wetland impacts from the Michigan Department of Environmental Quality (MDEQ) to the initiation of the earth change referenced in this permit.”

Suggested Language

“A copy of this permit is being provided to [name & phone number] of the MDEQ. Work in regulated wetlands without all of the relevant permits may be a violation of both Part 91 and Part 303.”

DEQ

- Close working relationship: Gaylord and Cadillac
- Work together on potential violations
- Work together on education
- 2012 – New agent; Matt Kleitch; 8th
- 2012 – New Regional Soil Erosion Program Director; Audrie Kirk