9/23/2014
Submitted by Ken Vermeulen

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 301
INLAND LAKES AND STREAMS

324.30101 Definitions.

Sec. 30101. As used in this part:

(a) "Bottomland" means the land area of an inland lake or stream that lies below the ordinary high-water mark and that may or may not be covered by water.

(b) "Bulkhead line" means a line that is established pursuant to this part beyond which dredging, filling, or construction of any kind is not allowed without a permit.

(c) "Dam" means an artificial barrier, including dikes, embankments, and appurtenant works, that impounds, diverts, or is designed to impound or divert water.

(d) "Department" means the department of environmental quality.

(e) "Expand" means to occupy a larger area of an inland lake or stream than authorized by a permit issued under this part for marina mooring structures and watercraft moored at the marina.

(f) "Fund" means the land and water management permit fee fund created in section 30113.

(g) "Height of the dam" means the difference in elevation measured vertically between the natural bed of an inland lake or stream at the downstream toe of the dam, or, if it is not across a stream channel or watercourse, from the lowest elevation of the downstream toe of the dam, to the design flood elevation or to the lowest point of the top of the dam, whichever is less.

(h) "Impoundment" means water held back by a dam, dike, floodgate, or other barrier.

(i) "Inland lake or stream" means a natural or artificial lake, pond, or impoundment; 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. Inland lake or stream does not include the Great Lakes, Lake St. Clair, or a lake or pond that has a surface area of less than 5 acres.

(j) "Marina" means a facility that is owned or operated by a person, extends into or over an inland lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.

(k) "Minor offense" means either of the following violations of this part if the project involved in the offense is a minor project as listed in R 281.816 of the Michigan administrative code or the department determines that restoration of the affected property is not required:

(*i*) The failure to obtain a permit under this part.

(*ii*) A violation of a permit issued under this part.

(*l*) "Mooring structures" means structures used to moor watercraft, including, but not limited to, docks, piers, pilings, mooring anchors, lines and buoys, and boat hoists.

(m) "Ordinary high-water mark" means the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

(n) "Project" means an activity that requires a permit pursuant to section 30102.

(o) "Property owners' association" means any group of organized property owners publishing a directory of their membership, the majority of which are riparian owners and are located on the inland lake or stream that is affected by the proposed project.

(p) "Reconfigure" means to, without expanding the marina, do either of the following:

(*i*) Change the location of the dock or docks and other mooring structures at the marina to occupy an area of the inland lake or stream that was not previously authorized by a permit issued under this part.

(*ii*) Decrease the distance available for ingress and egress to an outside slip as described in section 30106a.

(q) "Riparian interest area" means that portion of an inland lake or stream over which a riparian owner has an ownership interest.

(r) "Riparian owner" means a person who has riparian rights.

(s) "Riparian rights" means those rights which are associated with the ownership of the bank or shore of an inland lake or stream.

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(t) "Seasonal structure" includes any type of dock, boat hoist, ramp, raft, or other recreational structure that is placed into an inland lake or stream and removed at the end of the boating season.

(u) "Structure" includes a wharf, dock, pier, dam, weir, stream deflector, breakwater, groin, jetty, sewer, pipeline, cable, and bridge.

(v) "Upland" means the land area that lies above the ordinary high-water mark.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1999, Act 106, Imd. Eff. July 7, 1999;—Am. 2006, Act 275, Imd. Eff. July 7, 2006;—Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

324.30101a Applicability of powers and duties of department to "navigable waters" and "waters of the United States" as defined in federal law.

Sec. 30101a. For the purposes of this part, the powers, duties, functions, and responsibilities exercised by the department because of federal approval of Michigan's permit program under section 404(g) and (h) of the federal water pollution control act, 33 USC 1344, apply only to "navigable waters" and "waters of the United States" as defined under section 502(7) of the federal water pollution control act, 33 USC 1362, and further refined by federally promulgated rules and court decisions that have the full effect and force of federal law. Determining whether additional regulation is necessary to protect Michigan waters beyond the scope of federal law is the responsibility of the Michigan legislature based on its determination of what is in the best interest of the citizens of this state.

History: Add. 2013, Act 98, Imd. Eff. July 2, 2013.

Popular name: Act 451

Popular name: NREPA

324.30102 Operations prohibited without permit; exception.

Sec. 30102. (1) Except as provided in this part, a person without a permit from the department shall not do any of the following:

(a) Dredge or fill bottomland.

(b) Construct, enlarge, extend, remove, or place a structure on bottomland.

(c) Construct, reconfigure, or expand a marina.

(d) Create, enlarge, or diminish an inland lake or stream.

(e) Structurally interfere with the natural flow of an inland lake or stream.

(f) Construct, dredge, commence, extend, or enlarge an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection with an existing inland lake or stream, or where any part of the artificial waterway is located within 500 feet of the ordinary high-water mark of an existing inland lake or stream.

(g) Connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or similar water with an existing inland lake or stream for navigation or any other purpose.

(2) A person shall not remove submerged logs from rivers or streams for the purpose of submerged log recovery. This subsection does not prohibit the department from issuing a permit under this part for other purposes, including removing logjams or removing logs that interfere with navigation of the river or stream.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009;—Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

Popular name: Act 451

Popular name: NREPA

324.30103 Exceptions; "water withdrawal" and "agricultural drain" defined.

Sec. 30103. (1) A permit is not required under this part for any of the following:

(a) Any fill or structure existing before April 1, 1966, in waters covered by former 1965 PA 291, and any fill or structures existing before January 9, 1973, in waters covered for the first time by former 1972 PA 346.

(b) A seasonal structure placed on bottomland to facilitate private noncommercial recreational use of the

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water if it does not unreasonably interfere with the use of the water by others entitled to use the water or interfere with water flow.

(c) Reasonable sanding of beaches to the existing water's edge by the riparian owner or a person authorized by the riparian owner.

(d) Maintenance of an agricultural drain, regardless of outlet, if all of the following requirements are met:

(*i*) The maintenance includes only activities that maintain the location, depth, and bottom width of the drain as constructed or modified at any time before July 1, 2014.

(*ii*) The maintenance is performed by the landowner or pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(e) A waste collection or treatment facility that is ordered to be constructed or is approved for construction under state or federal water pollution control law, if constructed in upland.

(f) Construction and maintenance of minor drainage structures and facilities which are identified by rule promulgated by the department pursuant to section 30110. Before such a rule is promulgated, the rule shall be approved by the majority of a committee consisting of the director of the department, the director of the department of agriculture and rural development, and the director of the state transportation department or their designated representatives. The rules shall be reviewed at least annually.

(g) Maintenance of a drain that either was legally established and constructed before January 1, 1973, pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, except those legally established drains constituting mainstream portions of certain natural watercourses identified in rules promulgated by the department under section 30110, or was constructed or modified under a permit issued pursuant to this part. As used in this subdivision, "maintenance of a drain" means the physical preservation of the location, depth, and bottom width of a drain and appurtenant structures to restore the function and approximate capacity of the drain as constructed or modified at any time before July 1, 2014, and includes, but is not limited to, the following activities if performed with best management practices:

(*i*) Excavation of accumulated sediments back to original contours.

(*ii*) Reshaping of the side slopes.

(*iii*) Bank stabilization where reasonably necessary to prevent erosion. Materials used for stabilization must be compatible with existing bank or bed materials.

(*iv*) Armoring, lining, or piping if a previously armored, lined, or piped section is being repaired and all work occurs within the footprint of the previous work.

(*v*) Replacement of existing control structures, if the original function of the drain is not changed and the original approximate capacity of the drain is not increased.

(*vi*) Repair of stabilization structures.

(*vii*) Culvert replacement, including culvert extensions of not more than 24 additional feet per culvert.

(*viii*) Emergency reconstruction of recently damaged parts of the drain. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

(h) Projects constructed under the watershed protection and flood prevention act, chapter 656, 68 Stat. 666, 16 USC 1001 to 1008, 1010, and 1011.

(i) Construction and maintenance of privately owned cooling or storage ponds used in connection with a public utility except at the interface with public waters.

(j) Maintenance of a structure constructed under a permit issued pursuant to this part and identified by rule promulgated under section 30110, if the maintenance is in place and in kind with no design or materials modification.

(k) A water withdrawal.

(*l*) Annual installation of a seasonal dock or docks, pilings, mooring buoys, or other mooring structures previously authorized by and in accordance with a permit issued under this part.

(m) Controlled access of livestock to streams for watering or crossing if constructed in accordance with applicable practice standards set by the United States department of agriculture, natural resources conservation service.

(n) Temporary drawdowns of impoundments at hydroelectric projects licensed by the federal energy regulatory commission (FERC) and subject to FERC's authority if both of the following apply:

(*i*) The FERC licensee has consulted this state during the drawdown plan development and this state's concerns have been addressed in the drawdown plan as FERC considers appropriate.

(*ii*) Adverse environmental impacts, including stream flow, aquatic resources, and timing, have been avoided and minimized to the extent practical.

(o) Removal, by the riparian owner or a person authorized by the riparian owner, of plants that are an aquatic nuisance as defined in section 3301, if the removal is accomplished by hand-pulling without using a powered or mechanized tool and all plant fragments are removed from the water and properly disposed of on

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land above the ordinary high-water mark as defined in section 30101.

(p) Raking of lake bottomlands by the riparian owner or a person authorized by the riparian owner. To minimize effects on the lake bottomlands, the areas raked shall be unvegetated before raking and predominantly composed of sand or pebbles, and the raking shall be performed without using a powered or mechanized tool. For the purposes of this subdivision, the pulling of a nonpowered, nonmechanized tool with a boat is not the use of a powered or mechanized tool.

(2) As used in this section, "water withdrawal" means the removal of water from its source for any purpose.

(3) As used in this part, "agricultural drain" means a human-made conveyance of water that meets all of the following requirements:

(a) Does not have continuous flow.

(b) Flows primarily as a result of precipitation-induced surface runoff or groundwater drained through subsurface drainage systems.

(c) Serves agricultural production.

(d) Was constructed before January 1, 1973, or was constructed in compliance with this part or former 1979 PA 203.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 33, Imd. Eff. Feb. 28, 2006;—Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009;—Am. 2013, Act 98, Imd. Eff. July 2, 2013;—Am. 2014, Act 253, Imd. Eff. June 30, 2014.

Popular name: Act 451

Administrative rules: R 281.811 et seq. of the Michigan Administrative Code.

Popular name: NREPA

324.30104 Application for permit; fees; refund.

Sec. 30104. (1) A person shall not undertake a project subject to this part except as authorized by a permit issued by the department pursuant to part 13. An application for a permit shall include any information that may be required by the department. If a project includes activities at multiple locations, 1 application may be filed for the combined activities.

(2) Except as provided in subsections (3) and (4), until October 1, 2015, an application for a permit shall be accompanied by an application fee based on an administrative cost in accordance with the following schedule:

(a) For a permit for a seasonal drawdown or associated reflooding, or both, of a dam or impoundment for the purpose of weed control that is issued for the first time after October 9, 1995, an initial fee of $500.00 with subsequent permits for the same purpose being assessed a $50.00 fee.

(b) For activities included in a minor project category established under section 30105(7), a fee of $100.00.

(c) For activities included in a general permit category established under section 30105(8), a fee of $50.00.

(d) For construction or expansion of a marina, a fee as follows:

(*i*) $50.00 for an expansion of 1-10 slips to an existing permitted marina.

(*ii*) $100.00 for a new marina with 1-10 proposed marina slips.

(*iii*) $250.00 for an expansion of 11-50 slips to an existing permitted marina, plus $10.00 for each slip over 50.

(*iv*) $500.00 for a new marina with 11-50 proposed marina slips, plus $10.00 for each slip over 50.

(*v*) $1,500.00 if an existing permitted marina proposes maintenance dredging of 10,000 cubic yards or more, unless the dredge material has been determined through testing to be 90% or more sand, or the addition of seawalls, bulkheads, or revetments of 500 feet or more.

(e) For major projects other than a project described in subdivision (d)(*v*), involving any of the following, a fee of $2,000.00:

(*i*) Dredging of 10,000 cubic yards or more, unless the dredge material has been determined through testing to be 90% or more sand.

(*ii*) Filling of 10,000 cubic yards or more.

(*iii*) Seawalls, bulkheads, or revetments of 500 feet or more.

(*iv*) Filling or draining of 1 acre or more of wetland contiguous to a lake or stream.

(*v*) New dredging or upland boat basin excavation in areas of suspected contamination.

(*vi*) Shore projections, such as groins and underwater stabilizers, that extend 150 feet or more into a lake or stream.

(*vii*) New commercial docks or wharves of 300 feet or more in length.

(*viii*) Stream enclosures 100 feet or more in length.

(*ix*) Stream relocations 500 feet or more in length.

(*x*) New golf courses.

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(*xi*) Subdivisions.

(*xii*) Condominiums.

(f) For the removal of submerged logs from bottomland of an inland lake, a $500.00 fee.

(g) For all other projects not listed in subdivisions (a) through (f), a fee of $500.00.

(3) A project that requires review and approval under this part and 1 or more of the following acts or parts of acts is subject to only the single highest fee required under this part or the following acts or parts of acts:

(a) Section 3104.

(b) Part 303.

(c) Part 323.

(d) Part 325.

(e) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(4) If work has been done in violation of a permit requirement under this part and restoration is not ordered by the department, the department may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit fee required under this section.

(5) If the department denies an application for a permit under this part, the department shall promptly refund the application fee paid under this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995;—Am. 1996, Act 97, Imd. Eff. Feb. 28, 1996;—Am. 1999, Act 106, Imd. Eff. July 7, 1999;—Am. 2003, Act 163, Imd. Eff. Aug. 12, 2003;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2006, Act 275, Imd. Eff. July 7, 2006;—Am. 2006, Act 531, Imd. Eff. Dec. 29, 2006;—Am. 2008, Act 276, Imd. Eff. Sept. 29, 2008;—Am. 2009, Act 139, Imd. Eff. Nov. 4, 2009;—Am. 2011, Act 90, Imd. Eff. July 15, 2011;—Am. 2011, Act 218, Imd. Eff. Nov. 10, 2011;—Am. 2013, Act 13, Imd. Eff. Mar. 27, 2013;—Am. 2013, Act 98, Imd. Eff. July 2, 2013.

Popular name: Act 451

Popular name: NREPA

***** *324.30104b THIS SECTION IS REPEALED BY ACT 179 OF 2010 EFFECTIVE OCTOBER 1, 2015* *****

324.30104b Applicability of MCL 324.30306b to proposed project or permit application; repeal of section effective October 1, 2015.

Sec. 30104b. (1) Section 30306b applies to a proposed project or a permit application under this part.

(2) This section is repealed effective October 1, 2015.

History: Add. 2006, Act 592, Imd. Eff. Jan. 3, 2007;—Am. 2010, Act 179, Imd. Eff. Sept. 30, 2010.

Popular name: Act 451

Popular name: NREPA

324.30105 Pending applications; posting on website; public hearing; review of application; statement; final inspection and certification; notice of hearing; conditional permit in emergency; provisions applicable to minor project; issuance of general permits; minor project category; general permit for activities in drains; "qualifying small dam" defined.

Sec. 30105. (1) The department shall post on its website all of the following under this part:

(a) A list of pending applications.

(b) Public notices.

(c) Public hearing schedules.

(2) The department may hold a public hearing on pending applications.

(3) Except as otherwise provided in this section, upon receiving an application, the department shall submit copies for review to the director of the department of community health or the local health department designated by the director of the department of community health, to the city, village, or township and the county where the project is to be located, to the local conservation district, to the watershed council established under part 311, if any, to the local port commission, if any, and to the persons required to be included in the application pursuant to section 30104(1). Each copy of the application shall be accompanied by a statement that unless a written request is filed with the department within 20 days after the submission for review, the department may grant the application without a public hearing where the project is located. The department may hold a public hearing upon the written request of the applicant or a riparian owner or a governmental unit or other person that is entitled to receive a copy of the application pursuant to this subsection.

(4) After completion of a project for which an application is approved, the department may cause a final inspection to be made and certify to the applicant that the applicant has complied with the department's permit requirements.

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(5) At least 10 days' notice of a hearing to be held under this section shall be given by publication in a newspaper circulated in the county where the project is to be located, to the person requesting the hearing, and to the governmental units and other persons that are entitled to receive a copy of the application pursuant to subsection (3).

(6) In an emergency, the department may issue a conditional permit before the expiration of the 20-day period referred to in subsection (3).

(7) After providing notice and an opportunity for a public hearing, the department shall establish minor project categories of activities and projects that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. The department may act upon an application received pursuant to section 30104 for an activity or project within a minor project category without providing notices pursuant to subsection (3). All other provisions of this part, except provisions applicable only to general permits, are applicable to a minor project.

(8) The department, after notice and an opportunity for a public hearing, shall issue general permits on a statewide basis or within a local unit of government for projects that are similar in nature, that will cause only minimal adverse environmental effects when performed separately, and that will only have minimal cumulative adverse effects on the environment. Before authorizing a specific project to proceed under a general permit, the department may provide notice pursuant to subsection (3) but shall not hold a public hearing and shall not typically require a site inspection. A general permit issued under this subsection shall not be valid for more than 5 years. Among the activities the department may consider for general permit eligibility under this subsection are the following:

(a) The removal of qualifying small dams.

(b) The maintenance or repair of an existing pipeline, if the pipeline is maintained or repaired in a manner to ensure that any adverse effects on the inland lake or stream will be minimized.

(9) The department may issue, deny, or impose conditions on project activities authorized under a minor project category or a general permit if the conditions are designed to remove an impairment to the inland lake or stream, to mitigate the effects of the project, or to otherwise improve water quality. The department may also establish a reasonable time when the proposed project is to be completed or terminated.

(10) If the department determines that activity in a proposed project, although within a minor project category or a general permit, is likely to cause more than minimal adverse environmental effects, the department may require that the application be processed according to subsection (3) and reviewed for compliance with section 30106.

(11) The department shall develop by December 31, 2013 and maintain a general permit for activities in drains legally established pursuant to the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630. The general permit is subject to all of the following:

(a) The general permit shall cover installation and replacement of culverts, clear span bridges, and end sections; culvert extensions; drain realignments; installation of bank stabilization structures and grade stabilization structures; spoil placement; and other common drain activities that use best management practices.

(b) A drain commissioner or drainage board may submit an application for an authorization under the general permit on a countywide basis. The department of agriculture and rural development may submit an application for an authorization under the general permit on behalf of an intercounty drainage board on a drainage-district-wide basis.

(c) The department shall grant or deny an authorization under the general permit by March 1 if the drain commissioner or drainage board applies for the authorization by the preceding January 20. An authorization under the general permit is valid until March 30 of the year after the year in which the authorization is granted.

(d) By December 31 of each year, the drain commissioner or drainage board shall submit a report to the department that includes the names of the drains on which activities were performed under the general permit during that calendar year, the locations and nature of the activities, and plans and other documentation demonstrating that those activities met the general permit requirements.

(e) A drain commissioner or drainage board is not eligible to be granted a new authorization under the general permit if significant violations of the general permit under a previous authorization granted to that drain commissioner or drainage board have not been corrected.

(12) As used in this section, "qualifying small dam" means a dam that meets all of the following conditions:

(a) The height of the dam is less than 2 feet.

(b) The impoundment from the dam covers less than 2 acres.

(c) The dam does not serve as the first dam upstream from the Great Lakes or their connecting waterways.

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(d) The dam is not serving as a sea lamprey barrier.

(e) There are no threatened or endangered species that have been identified in the area that will be affected by the project.

(f) There are no known areas of contaminated sediments in the area that will be affected by the project.

(g) The department has received written permission for the removal of the dam from all riparian property owners adjacent to the dam's impoundment.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995;—Am. 1999, Act 106, Imd. Eff. July 7, 1999;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2006, Act 275, Imd. Eff. July 7, 2006;—Am. 2006, Act 531, Imd. Eff. Dec. 29, 2006;—Am. 2009, Act 120, Eff. Nov. 6, 2009;—Am. 2013, Act 98, Imd. Eff. July 2, 2013.

Compiler's note: Enacting section 1 of Act 120 of 2009 provides:

"Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met:

"(a) $4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and $4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a.

"(b) $2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 281.811 et seq. of the Michigan Administrative Code.

324.30106 Prerequisite to issuance of permit; specification in permit.

Sec. 30106. The department shall issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights. In passing upon an application, the department shall consider the possible effects of the proposed action upon the inland lake or stream and upon waters from which or into which its waters flow and the uses of all such waters, including uses for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry. The department shall not grant a permit if the proposed project or structure will unlawfully impair or destroy any of the waters or other natural resources of the state. This part does not modify the rights and responsibilities of any riparian owner to the use of his or her riparian water. A permit shall specify that a project completed in accordance with this part shall not cause unlawful pollution as defined by part 31.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.30106a Construction, expansion, or reconfiguration of marina; issuance of permit; conditions; definitions.

Sec. 30106a. (1) The department shall issue a permit to construct, expand, or reconfigure a marina if the department determines that the marina meets the conditions of section 30106 and all of the following conditions:

(a) The marina extends from riparian property of the applicant.

(b) The marina does not unreasonably interfere with navigation.

(c) The marina is located and designed to be operated consistently with the correlative rights of other riparians, including the rights of adjacent riparians.

(2) In order to be designed consistently with the correlative rights of other riparians as required under subsection (1), the marina shall be configured so that all boat mooring under any wind condition will occur solely within the marina's riparian interest area. Additionally, boat mooring and ingress and egress for an outside slip shall require a minimum maneuvering distance of 1.5 times the length of the slip. This minimum distance shall be measured from the end of the slip or, for broadside moorage, the outside beam of a watercraft moored at the slip, to the boundary of the marina's riparian interest area.

(3) In order to support the determinations under this section, the department may require the applicant to do either of the following:

(a) Submit a riparian interest area estimate survey, sealed by a licensed surveyor. In making its determination on the need for a riparian interest area estimate survey, the department shall consider factors such as the shape of the water body, the location of the marina on the water body, how much frontage is available to locate the marina, and the dock and mooring configurations.

(b) Obtain an easement from any affected adjacent riparian owner authorizing an incursion and record the easement with the register of deeds for the county in which the marina is located.

(4) The owner or operator of a marina existing on the effective date of the amendatory act that added this

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section that has not been authorized by a permit issued under this part shall obtain a permit under this section before expanding or reconfiguring the marina, or by January 1, 2012, whichever comes first. The owner or operator of a marina existing on the effective date of the amendatory act that added this section that has been authorized by a construction permit under this part does not need to obtain a new construction permit except to expand or reconfigure.

(5) As used in this section:

(a) "Marina's riparian interest area" means the riparian interest area of an applicant for a permit under subsection (1) and any adjacent area for which the applicant has secured written authorization from the riparian owner whose interest is or may be affected.

(b) "Outside slip" means a slip that is accessed from a location between the boundary of the marina's riparian interest area and the mooring structure.

(c) "Slip length" means the longer of either of the following:

(*i*) The total length of all mooring structures, including the docks and pilings.

(*ii*) The total length of the vessel moored in the slip, including, but not limited to, outboard engines, boat hoists, bowsprits, and swim platforms.

History: Add. 2009, Act 139, Imd. Eff. Nov. 4, 2009.

Popular name: Act 451

Compiler's note: NREPA

324.30106b Dredging or placing dredged spoils on bottomland; permit; conditions.

Sec. 30106b. A permit under this part to dredge or place dredged spoils on bottomland is subject to both of the following:

(a) The permit shall be valid for a period of 5 years.

(b) During the term of the permit, the department shall not require additional environmental studies or surveys unless an act of God results in significant geological or ecological changes to the permitted area.

History: Add. 2013, Act 87, Imd. Eff. June 28, 2013.

Popular name: Act 451

Popular name: NREPA

324.30107 Duration, terms, and revocation of permit; hearing; modification or revocation of general permit.

Sec. 30107. (1) A permit is effective until revoked for cause but not beyond its term and may be subject to renewal. A permit may specify the term and conditions under which the work is to be carried out. A permit may be revoked after a hearing for violation of any of its provisions, any provision of this part, any rule promulgated under this part, or any misrepresentation in application.

(2) A general permit may be modified or revoked if, after opportunity for a public hearing, the department determines that the activities authorized by the general permit have more than a minimal adverse impact on the environment on an individual or cumulative basis, or the activities generally would be more appropriately processed according to section 30105(3) and reviewed for compliance with section 30106.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 531, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.30108 Bulkhead line; establishment; application; jurisdiction; duties.

Sec. 30108. The department may establish by permit a bulkhead line on its own application or on the application of a local unit of government. The application shall be filed as provided in section 30104(1) with public notice and hearings as provided in section 30105. Upon acceptance of the bulkhead line by the affected units of government, the area landward of the bulkhead line shall after that acceptance be under the jurisdiction of those units of government as to the placement of structures and fills in the waters unless jurisdiction is returned to the state. In establishing a bulkhead line, the department shall provide for local requirements and ensure the public trust in the adjacent waters against unreasonable interferences.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.30109 Ordinary high-water mark agreement with riparian owner; agreement as proof of location; fee.

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Sec. 30109. Upon the written request of a riparian owner and upon payment of a service fee, the department may enter into a written agreement with the riparian owner establishing the location of the ordinary high-water mark for his or her property. In the absence of substantially changed conditions, the agreement shall be conclusive proof of the location in all matters between the state and the riparian owner and his or her successors in interest. Until October 1, 2015, the service fee provided for in this section shall be $500.00. The department shall forward all service fees collected under this section to the state treasurer for deposit into the fund.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995;—Am. 1999, Act 106, Imd. Eff. July 7, 1999;—Am. 2003, Act 163, Imd. Eff. Aug. 12, 2003;—Am. 2008, Act 276, Imd. Eff. Sept. 29, 2008;—Am. 2011, Act 90, Imd. Eff. July 15, 2011.

Popular name: Act 451

Popular name: NREPA

324.30110 Rules; promulgation and enforcement; hearing; review; proceeding by riparian owner.

Sec. 30110. (1) The department may promulgate and enforce rules to implement this part.

(2) If a person is aggrieved by any action or inaction of the department, he or she may request a formal hearing on the matter involved. The hearing shall be conducted by the commission in accordance with the provisions for contested cases in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) A determination, action, or inaction by the commission following the hearing is subject to judicial review as provided in Act No. 306 of the Public Acts of 1969.

(4) This section does not limit the right of a riparian owner to institute proceedings in any circuit court of the state against any person when necessary to protect his or her rights.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 281.811 et seq. of the Michigan Administrative Code.

324.30111 Rights of riparian owner as to water frontage and exposed bottomland.

Sec. 30111. This part does not deprive a riparian owner of rights associated with his or her ownership of water frontage. A riparian owner among other rights controls any temporarily or periodically exposed bottomland to the water's edge, wherever it may be at any time, and holds the land secure against trespass in the same manner as his or her upland subject to the public trust to the ordinary high-water mark.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.30111b Public road end; prohibited use; violation as misdemeanor; fine; civil action; definitions.

Sec. 30111b. (1) A public road end shall not be used for any of the following unless a recorded deed, recorded easement, or other recorded dedication expressly provides otherwise:

(a) Construction, installation, maintenance, or use of boat hoists or boat anchorage devices.

(b) Mooring or docking of a vessel between 12 midnight and sunrise.

(c) Any activity that obstructs ingress to or egress from the inland lake or stream.

(2) A public road end shall not be used for the construction, installation, maintenance, or use of a dock or wharf other than a single seasonal public dock or wharf that is authorized by the local unit of government, subject to any permit required under this part. This subsection does not prohibit any use that is expressly authorized by a recorded deed, recorded easement, or other recorded dedication. This subsection does not permit any use that exceeds the uses authorized by a recorded deed, recorded easement, other recorded dedication, or a court order.

(3) A local unit of government may prohibit a use of a public road end if that use violates this section.

(4) A person who violates subsection (1) or (2) is guilty of a misdemeanor punishable by a fine of not more than $500.00. Each 24-hour period in which a violation exists represents a separate violation of this section. A peace officer may issue an appearance ticket as authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who violates subsection (1) or (2).

(5) This section does not prohibit a person or agency from commencing a civil action for conduct that violates this section.

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(6) As used in this section:

(a) "Local unit of government" means a township, city, or village in which the public road end is located.

(b) "Public road end" means the terminus at an inland lake or stream of a road that is lawfully open for use by the public.

History: Add. 2012, Act 56, Imd. Eff. Mar. 22, 2012;—Am. 2014, Act 168, Imd. Eff. June 12, 2014.

Popular name: Act 451

Popular name: NREPA

324.30112 Civil action; commencement by department; fine; violation as misdemeanor; penalty; civil penalty as appropriate to violation.

Sec. 30112. (1) The department may commence a civil action in the circuit court of the county in which a violation occurs to enforce compliance with this part, to restrain violation of this part or any action contrary to an order of the department denying a permit, to enjoin the further performance of, or order the removal of, any project that is undertaken contrary to this part or after denial of a permit by the department, or to order the restoration of the affected area to its prior condition.

(2) In a civil action commenced under this part, the circuit court, in addition to any other relief granted, may assess a civil fine of not more than $5,000.00 per day for each day of violation.

(3) Except as provided in subsection (4), a person who violates this part or a permit issued under this part is guilty of a misdemeanor, punishable by a fine of not more than $10,000.00 per day for each day of violation.

(4) A person who commits a minor offense is guilty of a misdemeanor, punishable by a fine of not more than $500.00 for each violation. A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9a to 9g of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

(5) A person who knowingly makes a false statement, representation, or certification in an application for a permit or in a notice or report required by a permit, or a person who knowingly renders inaccurate any monitoring device or method required to be maintained by a permit, is guilty of a misdemeanor, punishable by a fine of not more than $10,000.00 per day for each day of violation.

(6) Any civil penalty assessed, sought, or agreed to by the department shall be appropriate to the violation.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.30113 Land and water management permit fee fund.

Sec. 30113. (1) The land and water management permit fee fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The state treasurer shall annually present to the department an accounting of the amount of money in the fund. The department shall be the administrator of the fund for auditing purposes.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to implement this part and the following:

(a) Sections 3104, 3107, and 3108.

(b) Part 303.

(c) Part 315.

(d) Part 323.

(e) Part 325.

(f) Part 339.

(g) Part 353.

(h) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(5) The department shall annually report to the legislature how money in the fund was expended during the previous fiscal year.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1995, Act 171, Imd. Eff. Oct. 9, 1995;—Am. 2004, Act 246, Eff. Oct. 1, 2004;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006;—Am. 2014, Act 253, Imd. Eff. June 30, 2014.

Popular name: Act 451

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