

## APPLICABLE STATE AND FEDERAL REGULATIONS

The following section briefly describes the federal, state, and local laws currently in effect, which have some impact on the management of nonpoint source pollution. The purpose of this section is not to give a detailed analysis of each law, but to provide a brief description of the laws that affect land and water construction activities in Michigan. Figure 10 at the end of this section graphically illustrates these laws.

### Federal Clean Water Act.

Section 405 of the Water Quality Act of 1987 amended Section 402 of the Clean Water Act of 1972 by requiring EPA to develop regulations requiring permit applications for storm water discharges associated with industrial activity, and storm sewers from municipalities with populations of 100,000 people or more (medium and large size municipalities). The requirements would eventually include small municipalities, those with populations of less than 100,000 people. These regulations were published on November 16, 1990.

There are a large number of industries that will be required to apply for permits under the regulation. One notable industry is the construction industry, for activities that will disturb more than five acres of land. A notable exemption to the Act is agriculture.

As a result of the amendments to the Water Quality Act, there will be an increased effort to eliminate non-storm water discharges into storm sewers. Requiring permits for discharges of storm water runoff from municipalities and industries is an attempt to reduce the discharge of pollutants through management, controls, education and engineering methods. Permits must require medium and large size municipalities to control pollutants in their storm water runoff to the Maximum Extent Practicable (MEP).

### Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act, 1994 P.A. 451 (formerly Water Resources Act, Act 245).

Part 31 of Act 451 empowers the Director of the DEQ to protect and conserve the water resources of the state. This includes the prohibition of pollution of the state's waters, and to prohibit the obstruction and occupation of floodways, and prohibit activity that would harmfully interfere with the stage discharge characteristics of the rivers and streams of the state.

### Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 P.A. 451 (formerly Soil Erosion and Sedimentation Control Act, Act 347).

Part 91 of Act 451 provides for the control of soil erosion, and protects the waters of the state from sedimentation. Part 91 is applicable to all earth changes of one acre or greater to any earth change within 500 feet of a lake or stream.

Part 91 is enforced at three different levels of government: local (city, village, or charter township), county, or state. Counties are given the primary responsibility for administration of Part 91. In some instances, public agencies, such as road commissions and drain commissions are self-enforcing.

The methods for minimizing erosion have a significant impact on the amount of runoff as well as controlling sediments. Since sedimentation is estimated to be a pollutant in about 95% of the watersheds in Michigan, Part 91 is very important in controlling a high percentage of the nonpoint source pollution problems.

### Part 301, Inland Lakes and Streams, of the Natural Resources Environmental Protection Act, 1994 P.A. 451 (formerly Inland Lakes and Streams Act, Act 346).

Part 301, as amended was enacted to regulate activities occurring within inland lakes and streams; and to protect riparian rights and the public trust in inland lakes and streams.

One of the environmental concerns that are addressed by Part 301 includes regulating dredge or fill projects (within the banks of a watercourse). In one way, the Inland Lakes and Streams Act could be thought of as a "bottomland" version of the Soil Erosion and Sedimentation Act. Whenever bottomlands are dredged or filled, a permit must be obtained, and adequate soil erosion control measures are a condition of the permit. As noted above, the control or erosion and sedimentation are essential to begin to solve nonpoint source pollution.

Part 303, Wetland Protection, of the Natural Resources Environmental Protection Act, 1994 P.A. 451 (formerly Goemaere-Anderson Wetland Protection Act, Act 203).

Part 303 provides for the preservation, management, protection, and use of wetlands. A permit is required for the alteration or use of a wetland. This Part applies to wetlands that are contiguous (a ground or surface water connection) to a lake, pond, river, or stream; to many isolated wetlands that are greater than five acres in size; in counties having a population in excess of 100,000 or to any wetland determined to be essential to the preservation of the natural resources of the state from pollution, impairment, or destruction.

Part 303, in part, indicates that some or all of the following benefits are derived from a wetland:

1. Flood and storm control by the hydrologic absorption and storage capacity.
2. Pollution treatment by serving as a biological and chemical oxidation basin.
3. Erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.

It is imperative that wetlands not be exploited as the solution to all storm water treatment problems. Wetlands must be recognized and protected against excessive point and nonpoint storm water pollution loads just as any other surface water (lake or stream) would be protected. This can be accomplished by maintaining the pre-development hydrologic characteristics of the wetland. If use of a wetland area is considered as part of a storm water management project, the District Office of the Land and Water Management Division, Michigan Department of Environmental Quality, should be contacted for advice and guidance on permit requirements.

Part 17, Michigan Environmental Protection Act, of the Natural Resources and Environmental Protection Act, 1994 P.A. 451 (formerly Michigan Environmental Protection Act (MEPA), Act 127).

The Michigan Environmental Protection Act is an extremely important piece of legislation, as it provides protection of the air, water, and other natural resources, and the public trust associated with these resources. The Act provides the right to any person in the State to bring action against another person, agency, corporation, or political subdivision for conduct that may pollute, impair, or destroy the air, water, or natural resources.

Part 31, Water Resources Protection, of the Natural Resources Environmental Protection Act, 1994 P.A. 451 (formerly Flood Plain Control Act (1929 P.A. 245 as amended by Act 167 of P.A. 1968)).

The purpose of this Act is to control encroachments in floodways for flows including a one percent probability. This would be a requirement for all occupations or alterations including bridges and culvert construction, fills, and stream modifications.

Part 315, Dam Safety, of the Natural Resources Protection Act, 1994 P.A. 451 (formerly Michigan Dam Safety Act, Act 300, P.A. of 1989).

This Part requires a Dam construction permit for the construction of a structure that will be six feet more in height and will impound five surface acres or more at the design flood elevation. Depending on size, some detention ponds may fall under the authority of this Part.

This Part (or Part 315) requires dams to have a specified spillway capacity, based on the hazard rating of the dam. As an example, low hazard potential dams must have a spillway capacity that is capable of passing the 100-year flood, or the flood of record whichever is greater. (Low hazard potential dams are located in areas where failure would pose little to no danger to individuals, and damage would be limited to agriculture, uninhabited buildings, structures, or township or county roads). Other dam classifications with a height of less than 40 feet of height would require a spillway that is capable of passing the 200-year flood, or the flood of record whichever is greater.

Subdivision Control Act, Act 288, P.A. of 1967.

This Act was passed to regulate the subdivision of land; and to promote the public health, safety, and general welfare. Among the provisions of the Act (Section 192) is the review of the county drain commissioner, or the governing municipality for adequate storm water facilities within the proposed subdivision. At this time, there is no statewide standard that is being used in regard to quality and quantity issues. As a result, a standard—if one exists—will vary between communities and counties.

Part 305, Natural Rivers, of the Natural Resources Environmental Protection Act, 1994 P.A. 451 (formerly Natural River Act, Act 231, P.A. of 1970).

The purpose is to establish a system of outstanding rivers in Michigan, and to preserve, protect, and enhance the wildlife, fisheries, scenic, historical, recreational, and other values associated with those river environments. A list of designated rivers is included in the Appendices.

Most activities within an established Natural River District (usually all land within 400 feet of the river's edge of both sides of the river) require state or local zoning permits. These include:

1. Building construction
2. Platting of lots
3. Cutting of vegetation within an established natural vegetation strip
4. Land alteration
5. Bridge construction

Michigan Drain Code (1956 PA 40, as amended)

**LAND/WATER RELATED LAWS IN MICHIGAN  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT  
ACT 461 OF THE PUBLIC ACTS OF 1994 & RELATED STATUTES**

