

17:10 INLAND LAKES AND STREAMS Part 301 of the NREPA MCL 324.30101 *et seq.***17:10.1 Definitions**

Inland Lake or Stream: 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, 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 St. Mary's, 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 five acres.

Enlarge or Diminish an Inland Lake or Stream: the dredging or filling of bottomlands, or the dredging of adjacent shorelands, to increase or decrease a body of water's surface area or storage capacity, or the placement of fill or structures, or the manipulation, operation, or removal of fill or structures, to increase or decrease water levels in a lake, stream, or impoundment.

17:10.2 Activities Requiring a Permit

A permit is required for the following activities unless specifically exempted:

- Dredge or fill bottomland
- Construct, enlarge, extend, remove, or place a structure in bottomland
- Erect, maintain, or operate a marina
- Create, enlarge, or diminish an inland lake or stream
- Structurally interfere with the natural flow of an inland lake or stream
- 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
- Connect any natural or artificially constructed waterway, channel, canal, ditch, lagoon, pond, lake, or similar water with an existing lake or stream for navigation or any other purpose

17:10.3 Exemptions from the Permit Requirements

A permit is not required for any of the following relative to drainage projects:

- Construction and maintenance of minor drainage structures and facilities, which are identified by rule.
- Maintenance and improvement of all drains legally established under the Drain Code before January 1, 1973, except the drains listed in Rule 8.

17:10.4 Grant or Denial of a Permit

The Department shall grant or deny the permit within 60 days or within 90 days if a public hearing is held, after the filing of an application. If a permit is denied, the Department shall provide to the applicant a concise written statement of its reasons for denial of the permit and, if it appears that a minor modification of the application would result in the granting of a permit, the nature of the modification shall be stated.

17:10.5 Permit Conditions

A permit shall provide that the work authorized in the permit shall be completed within a specified term, normally not more than one year from the date of issuance, or as otherwise determined by the Department. For long term projects, the Department may authorize a permit for up to five years. The Department may grant an extension of time. The Department shall not require an administrative fee for the processing requests for an extension of time.

The Department may reissue a permit for an expired permit without an additional fee if a written request is made within one year of the expiration date of the expired permit. The Department must find that the basis for issuing the original permit is still valid before reissuing an expired permit.

17:10.6 Minor Drainage Structures and Facilities

The following structures are minor drainage structures and facilities, which do not require a permit pursuant to Section 4(f) of the Act:

- Cross road culverts which serve only to equalize the existing water surfaces at the ends of the culvert
- Cross road culverts constructed to continue the existence of drainage courses other than inland lakes and streams
- Road side ditches which serve to convey stormwater runoff from the highway right-of-way without materially changing the drainage pattern which existed prior to the construction of the ditches
- Standard apparatuses for stormwater runoff facilities, such as manholes, catchbasins, and headwalls
- Cross road culverts constructed for the continuation of a drainage course where the drainage area above the culvert is less than two square miles

QUESTIONS AND ANSWERS

- 1: Does the extension of a County Drain established prior to January 1, 1973 require a permit?**
- A:** Yes. In the *Kiesel* case published in 1997, the Michigan Court of Appeals determined that an extension of a County Drain does not constitute an exemption under Part 301.
- 2: If the activity is not exempt under both Part 301 (Inland Lakes and Streams) and Part 303 (Wetland Protection), do I need two different permits?**
- A:** No. The DEQ issues one permit that covers both Parts of the NREPA.
- 3: When is a hearing required under the permit process?**
- A:** When the DEQ receives a permit application, the Department sends copies for review to the director of public health, to the local governmental unit, to the soil conservation district, and other applicable entities. Each copy of the application shall be accompanied by a statement that unless a written request is filed with the DEQ within 20 days after the submission for review, the DEQ may grant the application without a public hearing. The DEQ may hold a public hearing upon the written request of the applicant or a riparian owner or a person or governmental unit that is entitled to receive a copy of the application pursuant to Section 30105(2). However, in an emergency situation, a conditional permit may be issued absent a public hearing before the expiration of the 20-day period.