

**17:9 WETLAND PROTECTION Part 303 of the NREPA MCL 324.30301 *et seq.*****17:9.1 Definitions**

**Minor Drainage:** includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land for agriculture.

**Wetland:** land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog swamp or marsh.

**17:9.2 Purpose**

Wetland conservation is a matter of state concern since wetlands can be affected by acts on rivers, lakes, streams and other wetlands. The legislature has formed laws and rules relative to wetlands because a loss of a wetland may deprive the people of the State of:

- flood and storm control
- wildlife habitat
- protection of subsurface water resources
- pollution treatment
- erosion control
- sources of nutrients in water food cycles
- an agricultural resource for the production of crops that may only be grown on sites developed from wetland

**17:9.3 Activities Requiring a Permit**

The following activities within a wetland require a permit from the Department of Environmental Quality, unless an exemption applies:

- deposit or permit the placing of fill materials in a wetland
- dredge, remove, or permit the removal of soil or minerals from a wetland
- construct, operate or maintain any use or development in a wetland
- drain surface water from a wetland

**17:9.4 Activities within a Wetland that do not Require a Permit**

The following activities within a wetland do not require a permit from the Department of Environmental Quality:

- fishing, trapping or hunting
- swimming or boating

- hiking
- grazing of animals
- plowing, irrigating, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the purpose of production of agricultural products
- maintenance or operation of serviceable structures in existence on October 1, 1980
- construction or maintenance of farm or stock ponds
- maintenance, operation or improvement which includes straightening, widening, or deepening of the following which is necessary for the harvesting of agricultural products:
  - an existing private agricultural drain
  - an established county or intercounty drain
- drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming
- maintenance and improvement of public streets, highways or roads within the right of way
- maintenance, repair or operation of gas or oil pipelines
- maintenance, repair or operation of electric transmission and distribution power lines

## QUESTIONS AND ANSWERS

**1: What are the time restrictions for the DEQ to reply to a permit application?**

**A:** Section 30307 states that the DEQ shall approve or disapprove a permit within 90 days after the completed permit application is filed if there is no hearing, or 90 days after the hearing if a hearing is held. If the DEQ fails to respond within the time period, then the application can be considered approved. However, Rule 281.922 states that an application for a permit shall not be deemed as received until the DEQ has received all information requested, and an application may be considered withdrawn if the applicant fails to respond to any written inquiry or request for information within 30 days of the request.

**2: How does the DEQ determine whether an activity is “minor”?**

**A:** “Minor activities” are defined as activities will cause only minimal adverse environmental effects when performed separately, and that will have only minimal cumulative adverse effects on the environment.

**3: When are Drain Commissioners required to obtain a permit for established County Drains?**

**A:** Permits are required unless exempted. Exemptions under Part 303 relative to Drain Commissioners are as follows:

1. Maintenance, operation or improvement which includes straightening, widening or deepening of the following which is necessary for the production or harvesting of agricultural products of that portion of a drain legally established pursuant to the drain code, which has been constructed for drainage purposes.
2. An activity in a wetland that was effectively drained for farming before October 1, 1980 and that on and after October 1, 1980 has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this part.