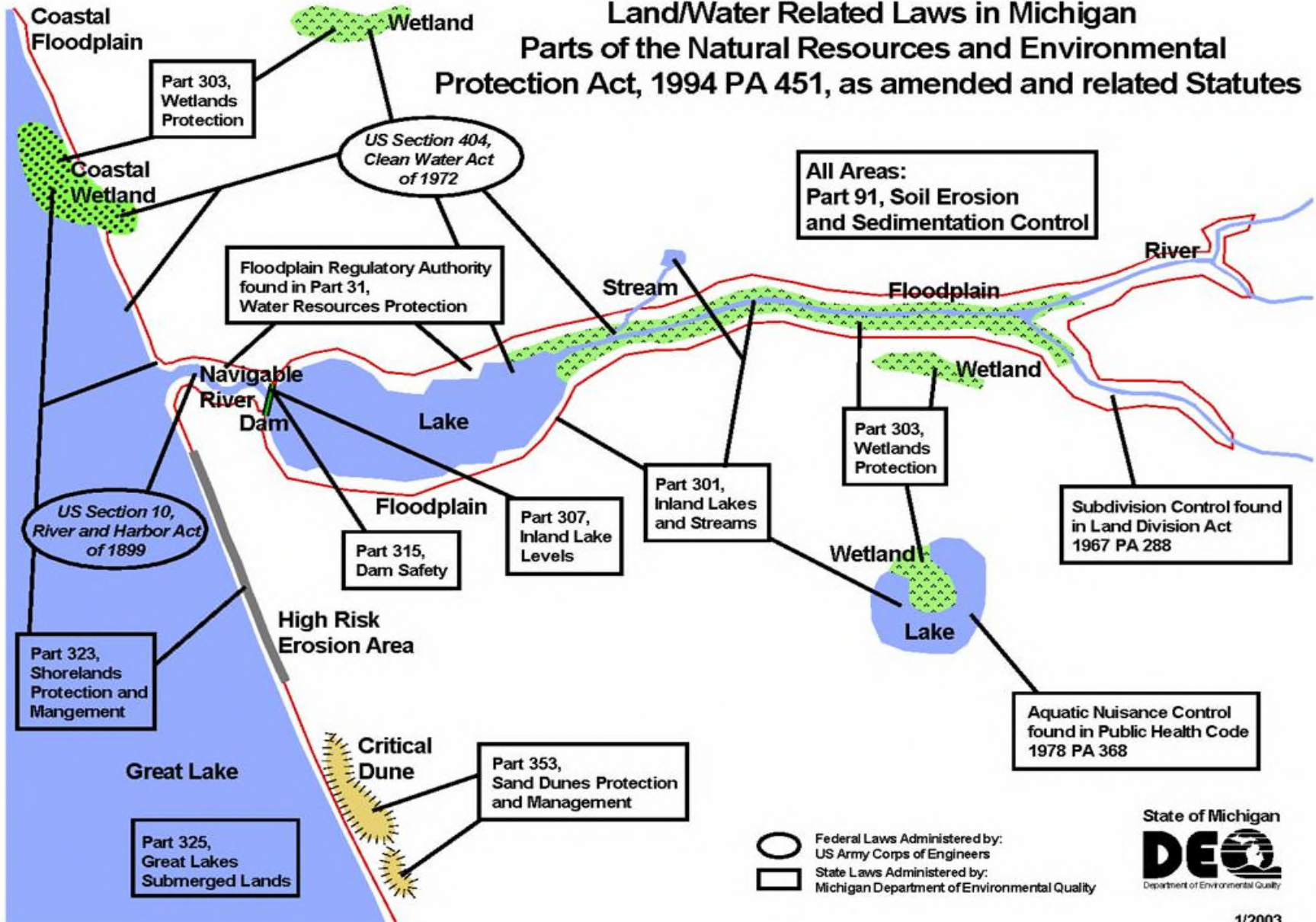


Land/Water Related Laws in Michigan

Parts of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and related Statutes



Inland Lakes and Streams 101



Part 301, Inland Lakes and Streams

Regulates any of the following activities;

- Dredge or fill bottomland
- Construct, enlarge, extend, remove, or place a structure on bottomland (& seasonal commercial)
- 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.

Floodplains 101



What is a floodplain?

100-year Floodplain

That area of land adjoining a river or stream that will be inundated by a 100-year flood

100-year flood

A flood with a magnitude which has a 1 % chance of occurring or being exceeded in a given year

The ultimate determination of whether or not a site is within the 100-year floodplain is **Elevation**



**If it is not completely obvious,
get a survey!**



Floodplain Regulations



State:

Part 31 of Public Act 451

Local:

Michigan Building and Residential Codes, Other Floodplain Ordinances

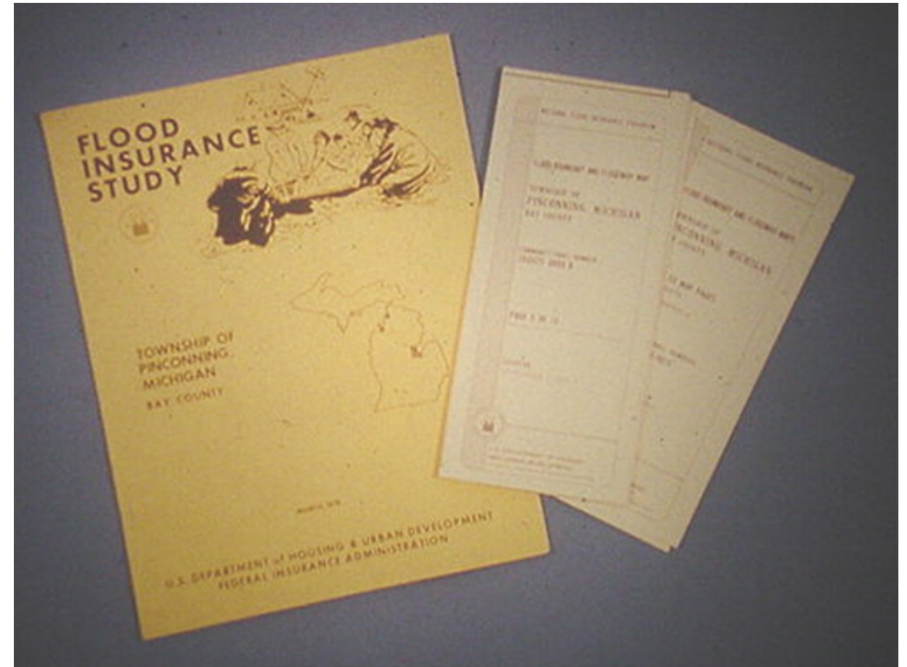
Federal:

National Flood Insurance Program



Identifying Floodplains in Mapped Areas

Many flood-prone communities belong to the National Flood Insurance Program, and have floodplains mapped on Flood Insurance Rate Maps (FIRM's).



These maps are available at the community's offices, and can be viewed online.

- Flood Insurance Rate Maps are available online at:

msc.fema.gov

or

fema.maps.arcgis.com

Floodplain Questions?

- Contact John Bayha, EGLE Floodplain Engineer
 - Email: BayhaJ@michigan.gov
 - Phone: 269-568-2680

Wetlands 101



What is a wetland?

Land or water feature inundated or saturated by water at a frequency and duration sufficient to support hydric soils and a predominance of wetland vegetation or aquatic life

Criteria:

1. Hydrology
2. Predominance of wetland vegetation
3. Hydric soils

Part 303, Wetlands Protection

Regulates any of the following activities:

- Dredge (disturb soil) in wetland
- Place fill in wetland
- Construct, operate, or maintain any use or development in wetland
- Drain surface water from a wetland



How do I find out if there's wetland on a property?

- You can search for the property on the Wetlands Map Viewer at <https://www.mcgi.state.mi.us/wetlands/mcgiMap.html>. The viewer will automatically display a set of layers called “Part 303 Final Wetlands Inventory.” This is based on interpretations of aerial photos, and soil survey maps **It does not represent an on-site delineation** – but it will give you some idea as to where wetlands may be on the property.
- You can have a wetland delineation done by the state or private consultant.



[This Photo](#)

[CC BY-NC-ND](#)

Preapplication Meetings

- Can request preapplication meeting with EGLE for specific project to determine if permit is required.
- Preapplications are not the same as wetland delineations.
- EGLE cannot tell applicants if the project will be permitted during a preapplication meeting.

Wetland Info Links

Wetland Map Viewer:

<http://www.mcgi.state.mi.us/wetlands/>

- Delineation information:

https://www.michigan.gov/egle/0,9429,7-135-3313_3687-10193--,00.html



2020 5 21 11 35

Permitting Process

Permitting & Compliance

What can I do here?

For registered users, MiWaters is the portal to several types of actions:

- Apply for permits
- Manage your permits (pay fees, apply for renewals)
- Submit reports (required by your permit or certification)

Public Information and Services

These services are provided to be freely used by the public; no account is necessary to make use of them.

Public Notice Search

Find public notices, hearings, and other events. Access documents made available to >

The Three Permit Tiers

MP/GP documents are available at:
www.mi.gov/wetlands

1) **General Permit (GP):**

No more than minimal individual and cumulative impacts, may not require a site inspect (i.e., possible desktop review),
https://www.michigan.gov/documents/deq/wrd-general-permit-categories_555828_7.pdf no wetland compensatory mitigation, no public notice. Fee-\$50

2) **Minor Project (MP):** Minor individual and cumulative impacts, typically site inspection, may require compensatory mitigation, no public notice. Fee-\$100 https://www.michigan.gov/documents/deq/wrd-minor-project-categories_555829_7.pdf

3) **Individual Permit:** Typically larger scale, potentially more and/or greater resource impacts, typically compensatory mitigation, public notice required. (aka Major Project or Public Notice Projects) Fee-\$500 or \$2000

Decision on Application

There are three decisions that may be made on an application:

1. Issue a permit as proposed for the project with conditions and limitations.
2. Develop a modified permit for proposed project.
3. Deny the application.

Part 301 (Inland Lakes & Streams) Permit Review

- By statute, EGLE cannot issue a permit unless it determines both of the following:
 - Adverse impacts to the public trust, riparian rights, and the environment will be minimal.
 - A feasible and prudent alternative is not available.
- Project will not unlawfully impair or destroy any of the waters or other natural resources of the state.
- Project will not cause unlawful pollution as defined by Part 31.

- **Public Trust:**

- The paramount right of the public to navigate and fish in all inland lakes and streams that are navigable.
- The perpetual duty of the state to preserve and protect the public's right to navigate and fish in all inland lakes and streams that are navigable.
- The paramount concern of the public and the protection of the air, water, and other natural resources of this state against pollution, impairment, and destruction.
- The duty of the state to protect the air, water, and other natural resources of this state against pollution, impairment, or destruction.

- **Riparian Rights:**

- Access to the navigable waters.
- Dockage to boatable waters, known as wharfage.
- Use of water for general purposes, such as bathing and domestic use.
- Title to natural accretions

Part 303 Permit Review

- By statute, the EGLE cannot issue a permit unless it determines the following:
 - Issuance of the permit is in the public interest.
 - A feasible and prudent alternative is not available.
 - A permit is necessary to realize the benefits from the activity.
 - The activity is otherwise lawful.

Part 303 Permit Review, cont'd.

- Applicant must show project will not result in an unacceptable disruption to aquatic resources:
 - Proposed activity is dependent on being located in wetland (Houses do not need to be built in wetland!) OR
 - A feasible and prudent alternative does not exist.

*Wetland impacts greater than 1/3rd acre in size requires mitigation

FAQs to EGLE & Suggestions

1. “Is the parcel buildable?”
2. Counties handle Soil Erosion and Sediment Control permits; not the same as wetland/stream permits.
3. If you or your client are unsure, contact us