



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

EGLE and the Great Lakes

Zach Chamberlin

Water Resources Division

269-716-4894 | chamberlinz@michigan.gov

Outline

- Overview of the 3 Great Lakes programs administered by the Water Resources Division (WRD)
 - Great Lakes Submerged Lands
 - Sand Dunes Protection & Management
 - Shorelands Management
- MiWaters and Permits

Note about “Part”

- All the programs administered by WRD and a majority of EGLE are called “Part”
- Prior to 1994 the environmental laws of the state were separate statutes
- In 1994, the legislature consolidated all environmental laws into the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the separate statutes became a “Part” within the NREPA

Part 325, Great Lakes Submerged Lands

- Requires that permits be obtained for construction activities on Great Lakes bottomlands below and lakeward of the Ordinary High-Water Mark (OHWM)
 - On Lake Michigan the OHWM is defined at 580.5' IGLD85
 - Contact local WRD staff for information on projects in the water but above OHWM
- Common activities requiring a permit:
 - Seawalls and Revetments
 - Dredging
 - Placement of Structures such as piers, jetties, and breakwaters
 - Recovery of Submerged Artifacts and Logs
- Rooted in the Public Trust Doctrine

Part 325-Why the State Cares: The Public Trust

- The waters, aquatic life, and bottomlands of the Great Lakes are protected by the Public Trust Doctrine.
- Rule 1 (R 322.1001) of Part 325 defines the Public Trust as:
 - “the perpetual duty of the state to secure to its people the prevention of pollution, impairment or destruction of its natural resources, and rights of navigation, fishing, hunting, and use of its lands and waters for other public purposes”
- EGLE reviews Part 325 applications to ensure that public trust rights will not be adversely impacted

EGLE's Review of Part 325 Applications

If the project is proposed under Part 325:	
8. Is the activity listed by EGLE as a category for a minor project?	
9. Would the project adversely affect riparian rights?	
10. Would the project adversely affect the public trust?	
11. Would the project adversely affect other criteria listed in Section 32515 of Part 325 as appropriate?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
12. Would the project involve work on state-owned bottomlands of the Great Lakes?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
13. Would the project require work on state-owned bottomlands of the Great Lakes? If yes, would the project comply with Fish and Game, Sanitation and Health, and other laws?	
14. Would the project adversely affect fish and wildlife?	
15. Would the project adversely affect recreation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
16. Would the project adversely affect navigation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
17. Would the project adversely affect historic or archeological sites?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
18. Would the project comply with state Water Quality Standards?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
19. Would the project comply with Part 323 (Shorelands Protection and Management)? Such as Environmental Areas	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
20. Would the project comply with the Michigan Coastal Zone Management Program?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

How will the project impact neighbor rights to access water, boat, swim, etc..

Fish and Game, Conform to Sanitation Laws

How will the project impact the public's rights to navigate (including beach walking), fish, etc..

EGLE's Review Cont.

- Threatened and Endangered Species
- Rule 15 (R 322.1015):

R 322.1015 Environmental assessment.

Rule 15. In each application for a permit, lease, deed, or agreement for bottomland, existing and potential adverse environmental effects shall be determined. Approval shall not be granted unless the department has determined both of the following:

(a) That the adverse effects to the environment, public trust, and riparian interests of adjacent owners are minimal and will be mitigated to the extent possible.

(b) That there is no feasible and prudent alternative to the applicant's proposed activity which is consistent with the reasonable requirements of the public health, safety, and welfare.

Joint Permit Application: USACE and EGLE

- The United States Army Corps of Engineers (USACE) takes jurisdiction over all navigable waters (under Section 10, Rivers and Harbors Act) including the Great Lakes and its tributaries.
- If a project requires a Part 325 permit, it also requires a USACE permit
- Permit applications in Section 10 areas are automatically sent to the USACE (no need for additional application)
- For more information on USACE visit:
<https://www.lre.usace.army.mil/Missions/Regulatory-Program-and-Permits/>

Finding More Information

- Part 325 Webpage:
 - https://www.michigan.gov/egle/0,9429,7-135-3313_3677_3702---,00.html
- Contact WRD District Staff person for your County:
 - Staff maps available at:
https://www.michigan.gov/egle/0,9429,7-135-3306_28610---,00.html
 - Select “Sand Dune (HREA and CDA) Staff”

Part 353, Sand Dunes Management and Protection

- Part 353 prohibits the initiation of a “Use” without first obtaining a permit from EGLE (or in certain cases the Local Government)
- Functions much like local zoning ordinance
- Common uses include, homes and related structures, tree removal, septic systems, utility lines, fill, retaining walls, seawalls/revetments and other contour changes

Common Activities not Requiring a Permit

- Elevated stairways built with handheld tools that are 5 feet wide or less and allow sand movement
- Removal of trees threatening a structure, roots/stump left in place
- Installation of a pole (flagpole, mailbox, etc..)
- Replacement of decks in-place and in-kind
- Temporary Sandbags
- For complete list:
https://www.michigan.gov/documents/deq/wrd-policy-008-part-353-activities-not-constituting-a-use_483758_7.pdf

Why are Dunes Regulated?

- Section 35302 of Part 353:
 - “The critical dune areas of this state are a unique, irreplaceable, and fragile resource that provide significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this state...”
 - “The purpose of this part is to balance for present and future generations the benefits of protecting, preserving, restoring, and enhancing the diversity, quality, functions, and values of the state’s critical dune areas with the benefits of multiple human uses...”

How to determine if a property is in a Critical Dune Area

- Visit:

<https://miwaters.deq.state.mi.us/nsite/map/help> and zoom to the property in question

The screenshot shows the left-hand navigation panel of the EGLE MIWaters web application. At the top, there is a search bar labeled "Search By Keyword" with a search icon and a menu icon. Below the search bar, a blue bar indicates "SEARCH RESULTS (22)". The "Base Layer" section shows "Satellite" selected. The "Map Layers" section is highlighted with a yellow box and contains a list of layers: "COASTAL" (with a blue circle containing the number 1), "Critical Dune Area" (highlighted with a blue background and a yellow box), "High Risk Erosion Zones", "Environmental Areas", and "Coastal Zone Management Boundary". A "CLEAR" button is located below the "Map Layers" section. The main map area on the right shows a satellite view with a large red overlay area and several pink circular markers numbered 1 through 5.

Select the layers (map icon)

Select "Coastal" under "Map Layers"

Select "Critical Dune Area"

The map may contain overlay errors. If a property is on the border of the area or you are unsure of if you need a Part 353 permit, contact your local WRD staff member

EGLE's Review Part 353 Permit Applications

- Section 35304:

(g) Subject to section 35316, a permit shall be approved unless the local unit of government or the department determines that the use will significantly damage the public interest on the privately owned land, or, if the land is publicly owned, the public interest in the publicly owned land, by significant and unreasonable depletion or degradation of any of the following:

- (i) The diversity of the critical dune areas within the local unit of government.
- (ii) The quality of the critical dune areas within the local unit of government.
- (iii) The functions of the critical dune areas within the local unit of government.

Vegetation Assurance

- All Part 353 permit applications require a vegetation assurance that details:
 - The existing vegetation on site
 - Vegetation that will be impacted by the use
 - How the site will be restored upon completion (with native vegetation)
 - Control of invasive species
- Vegetation changes must be done according to the 2010 Forestry Management Guidelines for Michigan

Special Exceptions

- Part 353 prohibits uses that will impact the following without a special exception (i.e. variance):
 - A Structure or access to structure on a slope steeper than 25% (1-on-4) unless the plans are sealed by a registered architect or professional engineer
 - A Use on slopes steeper than 33% (1-on-3)
 - New Structure lakeward of the crest or on the first lakeward facing slope
 - A Use involving a contour change that is more likely than not to increase erosion
 - Silvicultural practices or vegetation changes that are more likely than not to increase erosion

Special Exception Cont..

- Requires additional fee (\$2000) and information
- The applicant must state how a practical difficulty will occur if the special exception is not granted by identifying the conditions of the land that make conforming to the model zoning plan difficult
- Must provide information on the impact to human health and safety if the special exception is not granted
- If within an existing use a special exception may not be required

Finding More Information

- EGLE Dune Program Webpage:
https://www.michigan.gov/egle/0,9429,7-135-3311_4114---,00.html
- Contact WRD District Staff person for your County:
 - Staff maps available at:
https://www.michigan.gov/egle/0,9429,7-135-3306_28610---,00.html
 - Select “Sand Dune (HREA and CDA) Staff”
- Pre-Application Meetings

Part 323, Shorelands Management

- Part 323 regulates activities within High-Risk Erosion Areas (HREA), Environmental Areas (EA), and Flood Risk Area (FRA)
- Hazard Mitigation Program
- On Lake Michigan (in Southwest Michigan), only HREA exists and will be the focus of this section.
- If you require information on EA or FRA contact the WRD staff person for your county

High-Risk Erosion Areas

- Requires that certain structures be built landward of a required setback distance (either the 30-year or the 60-year depending on how the structure is built).
- Common structures requiring a permit include new single-family homes, condo and apartment buildings, additions to existing structures, and septic systems.

Projected Recession Distance and Required Setback Distance

- Projected Recession Distance (PRD) is calculated by EGLE staff based on shoreline recession studies.
- Required Setback Distances (RSD) can either be the PRD or in certain situations is the product of the PRD and a multiplier.
 - On Low Bluffs (<50 ft) the $PRD = RSD$
 - On High Bluffs (>50 ft) the PRD is multiplied by a multiplier that is calculated from the angle of the bluff. Multiplier has a maximum value of 2.0
- Measured from the Erosion Hazard Line (EHL) or 583.7 IGLD85, whichever is further landward.

Requirements of Part 323

- New homes, developments, and additions that are Readily Moveable Structures (RMS) must be built landward of the 30-year RSD.
- All other permanent structures and septic systems must be located landward of the 60-year RSD.
- Appurtenant Structures do not require permits if:
 - Detached
 - Less than 225 sq ft
 - No permanent foundation
 - For nonresidential purposes
 - Constructed for easy relocation

Readily Moveable Structures

- Sufficient width, grade, and depth to allow for relocation on the property or onto nearby properties
- Exterior siding may be wood, vinyl, brick, whole log, cultured stone, stucco, or fiber cement
- First floor foundation cannot exceed 3500 sq ft including the garage and cantilevers
- Garages cannot exceed 676 sq ft unless in a basement that >50% below grade
- Foundation must be basement (>50% below grade), crawl space, or pilings
- For existing structures, the cost of relocation cannot exceed 25% of the homes replacement value

Recommendation for New Homes

- Given the extreme erosion that has occurred in recent years and knowing that the Great Lakes have an approximately 30–40-year highwater cycle it would be wise to locate all structures landward of the 60-year PRD measured from the top of the bluff.
- This will ensure a faster, easier permitting process, maximize the life of the structure on the property, and prevent the need for costly, beach damaging shore protection in the future.

Determining if a Property is Located in a HREA

- Visit:
[https://miwaters.deq.state.mi.us/nsite/map/h
elp](https://miwaters.deq.state.mi.us/nsite/map/help) and zoom to the property in question

The screenshot shows the left-hand navigation and map layers panel of the MiWaters application. At the top, there is a search bar with the text "Search By Keyword" and a search icon. Below the search bar, a blue bar indicates "SEARCH RESULTS (11)". The main section is titled "Map Layers" and contains several categories of layers. The "COASTAL" layer is selected, indicated by a blue circle with a white 'i' icon. Below it, the "High Risk Erosion Zones" layer is also selected, indicated by a blue circle with a white 'i' icon. Other layers include "Base Layer" (Satellite), "Critical Dune Area", and "Environmental Areas". A "CLEAR" button is visible below the "COASTAL" layer.

Select the Map Icon (Layers)

Select Coastal

Select High Risk Erosion Zones

Search By Keyword ☰

11 sites found

Whirlpool Corporatio-Benton Harbor: 91-12-0117-P
MI

Complaint:07-11-0050-V
MI

Complaint:89-11-0010-V
MI

Complaint:05-11-0060-V
2160 M-63
MI

Complaint:07-11-0048-V
2160 N. M-63
Benton Harbor MI

GUSTAFSON-BENTON H: 87-12-0028-P
MI

Click on "i" and then click on the property in the HREA and the 30- and 60-year PRD's will show

LAYER METADATA ✕

High Risk Erosion Zones	
PRD30	60
PRD60	105
HR_AREA	AREA B1
COUNTY	Berrien
CITY_TOWNS	Benton Township
STUDY_DATE	1192147200000



Finding More Information

- EGLE Shorelands Program Webpage:
https://www.michigan.gov/egle/0,9429,7-135-3313_3677_3700---,00.html
- Contact WRD District Staff person for your County:
 - Staff maps available at:
https://www.michigan.gov/egle/0,9429,7-135-3306_28610---,00.html
 - Select “Sand Dune (HREA and CDA) Staff”

MiWaters

- All Permit applications and pre application requests must be submitted through WRD's online system MiWaters
- More information including trainings and the link to the application are available at:
https://www.michigan.gov/egle/0,9429,7-135-3313_72753---,00.html

What to Submit with a Permit Application

- Detailed Site Plan and Cross Section
 - All dimensions in feet
 - Distance to fixed landmarks (House, Tree, Stairs, etc..)
 - Property Lines
 - PRD or RSD
 - CDA boundary
- Volumes of fill and excavated materials both above and below the Ordinary High-Water Mark
- Any Authorizations for access to the construction site or work on properties not owned by the applicant.
- An assessment of alternatives and the impacts of the proposed project on the environment, adjacent riparian's, and the public trust.

Contact Information

- Allegan County:
 - Wetlands/Inland Lakes & Streams: Jason Combs: combsj8@michigan.gov/269-568-2693
 - Dunes/Lake Michigan/High Risk Erosion: John Bayha: BayhaJ@michigan.gov/269-568-2680
- Berrien County:
 - Wetlands/Inland Lakes & Streams: Jason Combs: combsj8@michigan.gov/269-568-2693
 - Dunes/Lake Michigan/High Risk Erosion: Zach Chamberlin: ChamberlinZ@michigan.gov/269-716-4894
- Cass County: Blake Winstead: WinsteadB@michigan.gov/269-716-6060
- Van Buren County:
 - Wetlands/Inland Lakes & Streams: Derek Haroldson: HAROLDSOND@michigan.gov/269-569-3609
 - Dunes/Lake Michigan/High Risk Erosion: John Bayha: BayhaJ@michigan.gov/269-568-2680
- Floodplain (all four counties):
 - John Bayha: BayhaJ@michigan.gov/269-568-2680

Questions?

Michigan Department of
Environment, Great Lakes, and Energy

800-662-9278

www.Michigan.gov/EGLE



Sign up for email updates



Subscribe to our YouTube Channel



Follow us on Twitter @MichiganEGLE