

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

***** 324.30301 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER 40 CFR 233.53(c)(8)(vi) WITHDRAWING APPROVAL OF THE STATE PROGRAM UNDER 33 USC 1344(g) AND (h). (See enacting section 2 of Act 98 of 2013.) *****

324.30301 Definitions; technical wetland delineation standards.

Sec. 30301.

- (1) As used in this part:
 - (a) "Department" means the department of environmental quality.
 - (b) "Director" means the director of the department.
 - (c) "Exceptional wetland" means wetland that provides physical or biological functions essential to the natural resources of this state and that may be lost or degraded if not preserved through an approved site protection and management plan for the purposes of providing compensatory wetland mitigation.
 - (d) "Fill material" means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.
 - (e) "Hydric soil" means a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.
 - (f) "Landscape level wetland assessment" means the use of aerial photographs, maps, and other remotely sensed information to predict and evaluate wetland characteristics and functions in the context of all of the following:
 - (i) The wetland's landscape position and hydrologic characteristics.
 - (ii) The surrounding landscape.
 - (iii) The historic extent and condition of the wetland.
 - (g) "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 in established use for agriculture, horticulture, silviculture, or lumbering.
 - (h) "Nationwide permit" means a nationwide permit issued by the United States Army Corps of Engineers under 72 FR 11091 to 11198 (March 12, 2007), including all general conditions, regional conditions, and conditions imposed by this state pursuant to a water quality certification under section 401 of title IV of the federal water pollution control act, 33 USC 1341, or a coastal zone management consistency determination under section 307 of the coastal zone management act of 1972, 16 USC 1456.
 - (i) "Ordinary high-water mark" means the ordinary high-water mark as specified in section 32502.
 - (j) "Person" means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, an instrumentality or agency of the federal government, or other legal entity.
 - (k) "Rapid wetland assessment" means a method for generally assessing the functions, values, and condition of individual wetlands based on existing data and field indicators.
 - (l) "Rare and imperiled wetland" means any of the following:
 - (i) Great Lakes marsh.
 - (ii) Southern wet meadow.
 - (iii) Inland salt marsh.
 - (iv) Coastal plain marsh.
 - (v) Interdunal wetland.
 - (vi) Lakeplain wet prairie.
 - (vii) Lakeplain wet-mesic prairie.
 - (viii) Coastal fen.
 - (ix) Wet-mesic prairie.
 - (x) Wet prairie.
 - (xi) Prairie fen.
 - (xii) Northern fen.
 - (xiii) Patterned fen.
 - (xiv) Poor fen.
 - (xv) Muskeg.
 - (xvi) Relict conifer swamp.
 - (xvii) Southern floodplain forest.

(m) "Water dependent" means requiring access or proximity to or siting within an aquatic site to fulfill its basic purpose.

(n) "Wetland" means a land or water feature, commonly referred to as a bog, swamp, or marsh, inundated or saturated by water at a frequency and duration sufficient to support, and that under normal circumstances does support, hydric soils and a predominance of wetland vegetation or aquatic life. A land or water feature is not a wetland unless it meets any of the following:

(i) Is a water of the United States as that term is used in section 502(7) of the federal water pollution control act, 33 USC 1362.

(ii) Is contiguous to the Great Lakes, Lake St. Clair, an inland lake or pond, or a stream. As used in this subparagraph, "pond" does not include a farm or stock pond constructed consistent with the exemption under section 30305(2)(g).

(iii) Is more than 5 acres in size.

(iv) Has the documented presence of an endangered or threatened species under part 365 or the endangered species act of 1973, Public Law 93-205.

(v) Is a rare and imperiled wetland.

(2) In 2019 and every 5 years thereafter, the department of natural resources may make recommendations to the legislature for changes in the list of rare and imperiled wetlands to reflect the status of each type of wetland to be included on the list as rare and imperiled throughout this state.

(3) As used in section 30312f:

(a) "Altered or degraded wetland" means wetland that meets any of the following criteria:

(i) Has been partially or fully drained, such as by ditching, tiling, or pumping.

(ii) Has been partially or fully filled by direct placement of material in the wetland or significant sedimentation.

(iii) Invasive plant species dominate in a majority of the vegetated surface area of the wetland.

(iv) Has undergone land use conversion or alteration to vegetation, soil, or hydrology that currently affects the wetland functions and services.

(b) "Former wetland" means land that was wetland but that has been modified to the point that it no longer has the hydrologic characteristics of wetland.

(c) "Net increase in wetland functions and services" means an increase in 1 or more wetland functions and services with not more than a minimal decrease in other wetland functions and services.

(d) "Voluntary wetland restoration project", subject to subdivision (e), means any of the following:

(i) Activities that are voluntarily undertaken to restore, reestablish, rehabilitate, or enhance altered or degraded wetland or former wetland and that result in a net increase in wetland functions and services.

(ii) Activities to maintain or manage sites where activities described in subparagraph (i) have taken place, including sites restored before October 1, 1980, the effective date of former 1979 PA 203.

(e) Voluntary wetland restoration project does not include an activity undertaken to fulfill, currently or in the future, a federal, state, or local wetland permit mitigation requirement.

(f) "Wetland functions and services" means any of the following:

(i) Wetland hydrology that approximates the predisturbance condition or that emulates the natural condition of the wetland.

(ii) Fish and wildlife habitat quality or quantity.

(iii) Plant community quality, characterized by native vegetation types and diversity.

(iv) Water- and soil-related functions of the wetland, such as nutrient removal, sediment retention, flood control, or groundwater recharge.

(v) Recreational use of the wetland, including, but not limited to, fishing, hunting, trapping, and birdwatching.

(4) The department and local units of government shall apply the technical wetland delineation standards set forth in the United States Army Corps of Engineers January, 1987, Wetland Delineation Manual, technical report Y-87-1, and appropriate regional United States Army Corps of Engineers supplements, in identifying wetland boundaries under this part, including, but not limited to, section 30307.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 14, Imd. Eff. June 5, 2003 ;-- Am. 2009, Act 120, Eff. Nov. 6, 2009 ;-- Am. 2012, Act 247, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 562, Eff. Mar. 28, 2019 ;-- Am. 2018, Act 631, Eff. Mar. 29, 2019

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibilities of the Land and Water Management Division, with the exception of the farmland and open space preservation program, natural rivers program, and Michigan information resource inventory system, to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws. Enacting section 1 of Act 120 of 2009 provides: "Enacting section 1. This amendatory act does not take effect unless both of the following requirements are met: (a) \$4,000,000.00 from the cleanup and redevelopment trust fund created in section 3e of 1976 IL 1, MCL 445.573e, and \$4,000,000.00 from the community pollution prevention fund created in section 3f of 1976 IL 1, MCL 445.573f, is appropriated by the legislature to the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a." (b) \$2,000,000.00 is appropriated by the legislature from the environmental protection fund to support the program under part 303 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30301 to 324.30329."

Popular Name: Act 451

Popular Name: NREPA

Popular Name: Wetland Protection Act