

## Great Lakes Submerged Lands - MCL 324.325

### Department of Environmental Quality - Land and Water Management Great Lakes Submerged Lands - Part 10

#### Policy:

To preserve and protect the interests of the general public in the lands and waters described in this section, to provide for the sale, lease, exchange, or other disposition of unpatented lands and the public and private use of waters of the Great Lakes.

#### Regulating Agency:

##### Department of Environmental Quality (DEQ):

Established Great Lakes Bottomland Preserves - see DEQ website [http://www.state.mi.us/ http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Figure&AdminNum=29906001&Dpt=EQ&RngHigh=](http://www.state.mi.us/http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Figure&AdminNum=29906001&Dpt=EQ&RngHigh=)

Issues permits, leases and deeds for bottomlands.

Must notify adjacent riparian landowners of pending application, and provide 20 days for any written objections before approving the application.

May hold a public hearing on pending applications, and if so, must provide at least 10 days notice of hearing in local newspaper and by mailing notice to the appropriate departments and adjacent landowners.

#### Regulated Activity:

Includes all unpatented lake bottomlands in the Great Lakes including those lands that have been artificially filled in, and all waters of the Great Lakes within the boundaries of the state.

A person may not do any of the following:

- Construct an artificial canal, channel, ditch, lagoon, pond, lake or other waterway that connects to the Great Lakes
- Connect any natural or artificially constructed waterway with any of the Great Lakes
- Dredge or place material on bottomland
- Construct a marina

Unless they have a permit or it is a dock for recreational boat use of less than 50 feet.

A riparian land owner must obtain a permit from the department before dredging or placing materials on bottomland.

*Obrecht v National Gypsum Co*, 361 Mich 399; 105 NW2d 143 (1960)

No one, including a riparian proprietor may construct for private use a permanent deep-water dock or pier on the bottomlands of the Great Lakes unless he or she has permission from the appropriate agency.



The DEQ may not lease bottomlands for oil or gas drilling unless the drilling operation originates from a location above and inland of the ordinary high-water mark.

The DEQ may permit the filling in of submerged lands or permit permanent improvements or structures after finding the public trust will not be impaired or substantially injured.

### Permit Requirements:

The DEQ may require permit conditions as it deems reasonable and necessary to protect the public trust and private riparian interests, including any of the following conditions:

- (a) the existence of a surety bond or other guarantee before issuing a permit and ability of applicant to complete project satisfactorily during the period of the permit
- (b) that dredged materials be deposited in a manner which causes the least damage to the public trust, benefit public interests, or mitigate damage done through navigation projects
- (c) that filling, dredging, and placing other materials on bottomlands shall be conducted in a manner which will cause the least damage to the public trust and least disruption to the littoral drift and long shore processes, enhance the public trust or interest, or mitigate damages
- (d) monitoring to assure that injury to the natural resources or to the riparian interests of adjacent property owners does not occur, including specifically monitoring the littoral drift in project areas
- (e) that the project be in compliance with local zoning ordinances
- (f) that the work specified in the permit shall be completed within a specified term, normally not more than 1 year from the date of issuance, or as otherwise determined by the department

Each application for a permit, lease, deed, or agreement for bottomland should include an environmental assessment of existing and potential adverse environmental effects.

Approval shall not be granted unless the DEQ finds both of the following:

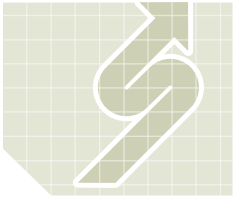
- (1) that the adverse effects to the environment, public trust, and riparian interests are minimal and will be mitigated to the extent possible; and
- (2) that there is no feasible and prudent alternative to the proposed activity subject to certain standards.



Public may comment, submit objections, or request public hearing or meeting regarding an application for a lease, deed, or permit for use of bottomlands during 20 day period after notice of application is provided.

DEQ must send copy of application to the department of public health, clerks of the county, city village and township, and drain/road commissioner of the county in which the project is proposed.





The DEQ may hold a public hearing on pending applications, and if so, must provide at least 10 days notice of hearing in local newspaper and by mailing notice to the appropriate departments and adjacent landowners.



*Superior Public Rights, Inc v State Dept of Natural Resources*, 80 Mich App 72; 263 NW2d 290 (1977)

State may permit private use of public trust bottomlands if the use will improve the public trust or will not substantially impair the trust lands and waters that remain.

#### Enforcement:

The DEQ, local enforcement agency or an appointed agent may enter onto property at any time to investigate possible violations. 324.9113(2).

MEPA allows citizen suits to protect the public trust.