

Legislative Analysis



SOIL EROSION AND SEDIMENTATION CONTROL

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4444 (Substitute H-1)
Sponsor: Rep. Phil Pavlov

Senate Bill 282 (Substitute H-2)
Sponsor: Sen. Jud Gilbert, II

House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Senate Committee: Natural Resources and Environmental Affairs

Complete to 5-18-05

A SUMMARY OF HOUSE BILL 4444 (SUBSTITUTE H-1) AND SENATE BILL 282 (SUBSTITUTE H-2)

Under Part 91 (Soil Erosion and Sedimentation Control) of the Natural Resources and Environmental Protection Act a permit is required for, generally speaking, any "earth change" that disturbs one or more acres or is within 500 feet of a lake or stream. Permits must be obtained from the appropriate enforcing agency – primarily counties, although certain municipalities are charged with enforcing and administering Part 91.

Senate Bill 282 (H-2) would amend Part 91 of NREPA so that a permit would not be required for certain specified earth change activities on residential property undertaken by the property owner and occupant. House Bill 4444 (H-1) is tie-barred to Senate Bill 282 and would amend NREPA to add definitions of "gardening" and "seawall maintenance" (as used in Senate Bill 282) and make other technical amendments. The bills are described in more detail below.

Senate Bill 282

Senate Bill 282 (Substitute H-2) would amend Part 91 of NREPA so that a permit would not be required for certain earth change activities on residential property and undertaken by the property owner or occupant. Specifically, the bill would not require a permit for the following activities, if the activity does not result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site:

- An earth change of a minor nature that is stabilized within 24 hours of the initial disturbance.
- Gardening if the natural elevation of the area is not raised.
- Post holes for fencing, decks, utility posts, mailboxes, or similar applications if no additional grading or earth change occurs for use of the post holes.

-- Seawall maintenance.

-- The following activities, if the earth change stabilizes within 24 hours, soil erosion and sedimentation control measures are used, and soil erosion and sedimentation will not reasonably occur: the planting of trees; the seeding or reseeded of lawns if the lawn is of a certain size and distance from state waters; and the temporary stockpiling of soil, sand, or gravel of less than 10 cubic yards if the stockpiling is at least 100 feet from state waters.

In addition, the bill would specify that the earth change activities listed above would have to conform to the state standards as if they were subject to a permit, and that an exemption from the permit requirement would not exempt the activity from applicable enforcement procedures under Part 91 or related administrative rules if the activity causes or results in a violation of the part or administrative rules.

MCL 324.9115a

House Bill 4444

House Bill 4444 (Substitute H-1) would amend Part 91 of NREPA to add definitions of "gardening" and "seawall maintenance" (as used in Senate Bill 282) and make other technical amendments. "Gardening" would be defined to mean any activity necessary to the growing of plants for personal use, consumption, or enjoyment. "Seawall maintenance" would be any activity that does not increase the width or length of the seawall or increase the intrusion of the seawall into the water body.

The bill is tie-barred to Senate Bill 282

MCL 324.9101 et al.

FISCAL IMPACT:

The current permit fee generates \$110,000 each year. The proposed changes made by this legislation would not have a fiscal impact on the Department of Environmental Quality or on local governmental units.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Kirk Lindquist

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