

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

***** 324.30321 THIS SECTION IS REPEALED BY ACT 98 OF 2013 EFFECTIVE 160 DAYS AFTER THE EFFECTIVE DATE, AS PUBLISHED IN THE FEDERAL REGISTER, OF AN ORDER BY THE ADMINISTRATOR OF THE UNITED STATES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.) *****

324.30321 Basis and filing of preliminary inventory of wetland; assessment of property; report; determination; agricultural drain; culvert, ditch, or channel; assessment; fee; providing copy of delineation forms.

Sec. 30321. (1) The department shall make or cause to be made a preliminary inventory of all wetland in this state on a county by county basis and file the inventory with the agricultural extension office, register of deeds, and county clerk.

(2) A person who owns or leases a parcel of property may request that the department of environmental quality assess whether the parcel of property or a portion of the parcel is wetland. The request shall satisfy all of the following requirements:

- (a) Be made on a form provided by the department.
- (b) Be signed by the person who owns or leases the property.
- (c) Contain a legal description of the parcel and, if only a portion of the parcel is to be assessed, a description of the portion to be assessed.
- (d) Include a map showing the location of the parcel.
- (e) Grant the department or its agent permission to enter on the parcel for the purpose of conducting the assessment.

(3) The department shall assess the parcel within a reasonable time after the request is made. The department may enter upon the parcel to conduct the assessment. Upon completion of the assessment, the department shall provide the person with a written assessment report. The assessment report shall do all of the following:

- (a) Identify in detail the location of any wetland in the area assessed.
- (b) If wetland is present in the area assessed, describe the types of activities that require a permit under this part.
- (c) If the assessment report determines that the area assessed or part of the area assessed is not wetland, state that the department lacks jurisdiction under this part as to the area that the report determines is not wetland and that this determination is binding on the department for 3 years from the date of the assessment.
- (d) Contain the date of the assessment.
- (e) Advise that the person may request the department to reassess the parcel or any part of the parcel that the person believes was erroneously determined to be wetland if the request is accompanied by evidence pertaining to wetland vegetation, soils, or hydrology that is different from or in addition to the information relied upon by the department.

(f) Advise that the assessment report does not constitute a determination of wetland that may be regulated under local ordinance or wetland areas that may be regulated under federal law and advise how a determination of wetland areas regulated under federal law may be obtained.

(g) List regulatory programs that may limit land use activities on the parcel, advise that the list is not exhaustive, and advise that the assessment report does not constitute a determination of jurisdiction under those programs. The regulatory programs listed shall be those under the following parts:

- (i) Part 31, with respect to floodplains and floodways.
- (ii) Part 91.
- (iii) Part 301.
- (iv) Part 323.
- (v) Part 325.
- (vi) Part 353.

(4) A wetland is not contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream if the department determines that there is no direct physical contact and no surface water or interflowing groundwater connection to such a body of water.

(5) A person may request that, as part of an assessment, the department make a determination whether a wetland is contiguous to the Great Lakes, Lake St. Clair, an inland lake or pond, or a stream. The department shall make the determination in writing within 30 days after an on-site evaluation. As used in this subsection,

"pond" does not include a farm or stock pond constructed consistent with the exemption under section 30305(2)(g).

(6) The department shall not consider an agricultural drain, as defined in section 30305, in determining whether a wetland is contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.

(7) A drainage structure such as a culvert, ditch, or channel, in and of itself, is not a wetland. A temporary obstruction of drainage, in and of itself, is not a wetland until the presence of water is of sufficient frequency and duration to be identified as wetland pursuant to section 30301(4).

(8) A person may request the department to reassess any area assessed under subsections (2) and (3) that the person believes the department erroneously determined to be wetland. The requirements of subsections (2) and (3) apply to the request, assessment, and assessment report. However, the request shall be accompanied by evidence pertaining to wetland vegetation, soils, or hydrology that is different from or in addition to the information relied upon by the department. The assessment report shall not contain the information required by subsection (3)(e).

(9) If an assessment report determines that the area assessed or part of the area assessed is not a wetland regulated by the department under this part, then the area determined by the assessment report not to be a wetland is not a wetland regulated by the department under this part for a period of 3 years after the date of the assessment.

(10) The department may charge a fee for an assessment requested under subsection (2) based upon the cost to the department of conducting an assessment.

(11) There shall be no fee for an assessment under the blueberry production assistance program.

(12) The department shall, upon request of the applicant and without charge, provide to the applicant a copy of any delineation forms completed by the department associated with a permit application.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1996, Act 530, Imd. Eff. Jan. 13, 1997;—Am. 2013, Act 98, Imd. Eff. July 2, 2013;—Am. 2018, Act 631, Eff. Mar. 29, 2019.

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