

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**LAND AND WATER MANAGEMENT DIVISION**

(By authority conferred on the department of environmental quality by Part 31 of 1994 PA 451, as amended, MCL 324.3103.)

**PART 13. FLOODPLAINS AND FLOODWAYS**

**R 323.1311 Definitions.**

Rule 311. As used in this part:

(a) "A 100-year flood" means a flood with a magnitude which has a 1% chance of occurring or being exceeded in any given year.

(b) "Department" means the Michigan department of environmental quality.

(c) "Encroachment" means any structure, filling, grading, or deposition of materials in, upon, across, or projecting into, a floodplain, channel, or floodway.

(d) "Flood" means a temporary increase in the stage of a river or stream resulting in the inundation of lands not normally covered by water.

(e) "Floodplain" means that area of land adjoining a river or stream that will be inundated by a 100-year flood.

(f) "Floodway" means the channel of a river or stream and the portions of the floodplain adjoining the channel that are reasonably required to carry and discharge a 100-year flood.

(g) "Harmful interference" means causing an increased stage or change in direction of flow of a river or stream that causes, or is likely to cause, any of the following:

(i) Damage to property.

(ii) A threat to life.

(iii) A threat of personal injury.

(iv) Pollution, impairment, or destruction of water or other natural resources.

History: 1984 AACCS; 1996 AACCS.

**R 323.1312 Applicability of rules.**

Rule 312. These rules do not apply to any of the following:

(a) A watershed that has a drainage area of less than 2 square miles when measured at the downstream limits of the proposed project.

(b) An improvement proposed under Act No. 40 of the Public Acts of 1956, as amended, being §280.1 et seq. of the Michigan Compiled Laws.

(c) A flood control project designed by the United States army corps of engineers.

(d) A flood control project designed by the United States soil conservation service.

(e) Bridge or culvert replacements, upon certification, by the owner or by the owner's engineering consultant, that the replacement is designed with an equal or

greater hydraulic capacity, that the existing bridge or culvert and its approaches do not cause harmful interference, and that deletion of existing auxiliary openings and road overflow areas is not planned.

(f) New bridges or culverts, upon certification, by the owner or by the owner's engineering consultant, that the bridge or culvert is designed to pass the 100-year flood without causing harmful interference. Preliminary bridge or culvert plans, hydraulic waterway design calculations and construction methods, and procedures covering protection of natural resources shall be furnished with the certification to the department.

(g) The extension of an existing bridge or culvert where the total extended length is not more than 24 feet.

(h) A deck replacement of an existing bridge or resurfacing over an existing culvert.

(i) A roadway resurfacing project where the road grade or shoulders will be increased only by the addition of a new wearing course.

(j) Utility crossings of a floodplain where the floodplain will be restored essentially to existing elevations.

(k) Noncommercial piers, docks, spring piles, pile clusters, and streambank restorations, including seawalls, bulkheads, and other permanent revetment structures, that are classified as minor projects under R 281.816 (1) (a), (b), and (c).

(l) Excavating or dredging activities where dredged materials are placed in an upland area that is out of the floodplain.

(m) Boat ramps that conform to existing streambank contours.

History: 1984 AACCS; 1996 AACCS.

### **R 323.1313 Permit application; information.**

Rule 313. (1) An application to the department for a permit to occupy, fill, or grade lands in a floodplain, streambed, or channel of a stream shall be on an application form obtained from the department.

(2) An application for a permit to place an encroachment not excluded under R 323.1312 in a floodplain, channel, or floodway shall include a site location and a property map showing limits of the proposed encroachment as it relates to the drainage course. A copy of a filed application shall be sent to the local unit of government prior to the department's final action on the application.

(3) The department may ask for the following additional information in order to analyze the effects that a proposed encroachment, acting alone or in combination with existing or future similar works, has on stage or discharge characteristics of the stream:

(a) A site development plan showing both existing and proposed conditions on a topographic map and containing the following information:

(i) Location map.

(ii) Property lines.

(iii) Road right-of-way, drainage, and utility easements.

(iv) Existing and proposed contours at sufficient intervals to adequately describe the existing features and the proposed alterations.

(v) Proposed bridges, culverts, and stormwater outfalls. Plans or sketches shall be included to provide sufficient information for evaluation.

(vi) Proposed channel relocations and the limits of improvements and alterations.

(vii) Delineation of proposed cut and fill limits.

(viii) Approximate volume of cut and fill.

(ix) Proposed elevations of roads and buildings, including elevations of first floor and basement openings into buildings.

(b) River or stream valley cross sections at locations where the proposed alteration or occupation is most significant. The cross section shall show both existing conditions and the proposed occupation or alteration and shall specify cut and fill side slopes. Representative photographs of the natural channel and overbank areas shall be included.

(c) A hydraulic report, based on water surface profile computations, which evaluates the effect of the proposed encroachment on stage and discharge characteristics for a range of discharges up to and including the 100-year flood discharge. The report shall be prepared and sealed by an engineer licensed in Michigan.

History: 1979 AC; 1984 AACS.

### **R 323.1314 Rescinded.**

History: 1979 AC; 1984 AACS; 1998 AACS; 2008 AACS.

### **R 323.1315 Criteria for determining permissibility of encroachments.**

Rule 315. (1) An encroachment in the floodway which, acting alone or in combination with existing or future similar works, may cause harmful interference shall not be approved. In making this determination, an analysis shall be made for a range of discharges up to and including the 100-year flood discharge modified to reflect changes in land use and development reasonably anticipated to occur within the watershed up to twenty years from the date of application.

(2) A bridge or culvert, constructed or reconstructed, shall be capable of passing the 100-year flood without causing harmful interference.

(3) An encroachment in the floodplain, landward of the floodway limits, which, acting alone or in combination with existing or future similar works, does not cause harmful interference may be permitted.

History: 1979 AC; 1984 AACS; 1998 AACS.

### **R 323.1316 Minor project categories.**

Rule 316. Upon receipt of an application for a permit for any of the following minor projects, the department may act upon the application, if accompanied by a fee of \$100.00, as provided for in section 3103 of Act. No.451 of the Public Acts of 1994, as amended, being §324.3103 of the Michigan Compiled Laws:

(a) Construction, filling, or grading that is landward of the floodway limit identified in floodplain delineation studies listed in R 323.1314(1).

(b) Construction, filling, or grading that is landward of the bed and banks of the St. Marys, St. Claire, and Detroit Rivers.

(c) Construction, filling, or grading that is landward of the floodway limits as determined by the department on stream reaches or in areas where floodways have not been defined by R 323.1314(1).

(d) Any construction of filling which is located within the following critical floodwater storage areas and which is done on an individually owned subdivision lot where the construction and fill is confined to less than 5,000 square feet:

(i) Clinton river forks, as follows: Land areas within the 100-year floodplain of the Clinton river and branches within Clinton township and Macomb township, Macomb county.

(ii) Saginaw river storage area, as follows: Land areas within the 100-year floodplain of the Saginaw river and tributaries, including Cheboyganing and Dutch creeks, between the cities of Saginaw and Bay City, Saginaw and Bay counties.

(iii) Shiawassee flats, as follows: Land areas within the 100-year floodplain of the lower reaches of the Shiawassee, Cass, Flint, Tittabawassee, and Bad rivers within Saginaw county.

(iv) Snake creek, as follows: Land areas within the 100-year floodplain of Snake creek in the city of Midland, Midland county.

(v) Rush creek, as follows : Land areas within the 100-year floodplain of Rush creek in Georgetown township and the city of Hudsonville, Ottawa county.

(vi) Frank and Poet drain, as follows: Land areas within the 100-year floodplain of the Frank and Poet drain in the city of Trenton, Wayne county.

(e) A clear span bridge that has the lowest bottom of beam elevation at or above the natural ground elevations on either bank and the approach fill sloping to natural ground elevations within 10 feet on either end of the bridge.

(f) A culvert which has an effective waterway opening that equals or exceeds the cross-sectional area of the channel, which has the fill over the culvert that is not more than 1.5 feet, and which has approach fill that slopes to natural ground elevations within 10 feet on either side of the culvert.

(g) A boardwalk which is of open pile construction and which is landward of or along the existing shoreline.

(h) A pond where excavated materials are placed landward of the floodway, as defined in R 323.1311(g).

(i) A parking lot constructed at grade or resurfacing that is not more than 4 inches above the existing surface.

(j) A deck placed on a residential structure which is of open pile design, which is anchored to prevent flotation, and which does not extend over the bed and bank of a river or stream.

(k) A stormwater outfall which conforms of the side slope of the river, stream, or waterway and which does not project beyond the shoreline.

History: 1996 AACCS.

**R 323.1329 Hearings.**

Rule 329. A person who feels aggrieved by any action taken pursuant to sections 3101 to 3119 of Act No. 451 of the Public Acts of 1994, as amended, being §§324.3101 to 324.3119 of the Michigan Compiled Laws, or these rules may request a hearing in accordance with the provisions of Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.

History: 1984 AACCS; 1996 AACCS.