

Wetland Mitigation

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Under Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, the MDEQ may impose conditions on a permit for a use or development if the conditions are designed to remove an impairment to the wetland benefits, to mitigate the impact of a discharge of fill material, or to otherwise improve the water quality. The purpose of compensatory wetland mitigation, commonly referred to as wetland mitigation, is the replacement of unavoidably lost wetland resources with created or restored wetlands, with the goal of replacing as fully as possible the functions and public benefits of the lost wetland.

In accordance with the administrative rules for Part 303, the MDEQ can consider wetland mitigation only after all of the following conditions are met:

- The wetland impacts are otherwise permissible under sections 30302 and 30311 of the act.
- No feasible and prudent alternative to avoid wetland impacts exists.
- An applicant has used all practical means to minimize impacts to wetlands. This may include the permanent protection of wetlands on the site not directly impacted by the proposed activity.

[Administrative Rules for Part 303](#)

[Wetland Mitigation Watershed Map](#)

Wetland mitigation must be required as a condition of a wetland permit issued under Part 303 of the act, except as follows:

- The MDEQ may waive the wetland mitigation condition if the permitted wetland impact is less than 1/3 of an acre and no reasonable opportunity for mitigation exists.
- The MDEQ may waive the wetland mitigation condition if the basic purpose of the permitted activity is to create or restore wetlands or to increase wetland habitat.
- If an activity is authorized and permitted under the authority of a general permit, then no wetland mitigation is required. (Public transportation agencies may provide mitigation for projects authorized under a general permit at sites approved by the MDEQ under a memorandum of understanding.)

The restoration of previously existing wetlands is preferred over the creation of new wetlands where none previously existed. Wetland restoration means the reestablishment of wetland characteristics and functions at a site where they have ceased to exist through the replacement of wetland hydrology, vegetation, or soils. Enhancement of existing wetlands can not be considered as wetland mitigation.

Mitigation Ratios

The permittee must provide wetland mitigation to assure that, upon completion, there will be no net loss of wetlands. Wetland mitigation must be of a similar ecological type as the impacted wetland wherever feasible and practical. If the replacement wetland is of a similar ecological type as the impacted wetland, then the following ratio of acres of wetland mitigation for each acre of permitted wetland loss must be provided:

- Restoration or creation of 5.0 acres of wetland mitigation for 1.0 acre of permitted impact on wetland types that are rare or imperiled on a statewide basis.

- Restoration or creation of 2.0 acres of wetland mitigation for 1.0 acre of permitted impact on forested wetland types, coastal wetlands not included under (1), and wetlands that border upon inland lakes.
- Restoration or creation of 1.5 acres of wetland mitigation for 1.0 acre of permitted impact on all other wetland types.
- 10 acres of wetland mitigation for 1.0 acre of impact in situations where the mitigation is in the form of preservation of existing wetland.

The MDEQ may increase the ratio if the replacement wetland is of a different ecological type than the impacted wetland. If the MDEQ determines that an adjustment would be beneficial to the wetland resources, then the MDEQ may increase or decrease the number of acres of wetland mitigation by 20 percent. The MDEQ must double the required ratios if an after-the-fact permit is issued.

Mitigation Plans

When wetland mitigation is required, a permit applicant must submit a mitigation plan to the department.

[Conceptual Wetland Mitigation Plans](#)

[Checklist for Wetland Mitigation Plans](#)

The MDEQ may require financial assurances to ensure that mitigation is accomplished as specified. A permit applicant must complete wetland mitigation activities before initiating other permitted activities, unless a concurrent schedule is agreed upon between the MDEQ and the applicant, and an adequate financial assurance mechanism is provided by the applicant.

[Financial Assurance Model Language](#)

A permit applicant must protect the mitigation area by a permanent conservation easement to provide for the permanent protection of the natural resource functions and values of the mitigation site.

[Conservation Easement Model](#)

[Conservation Easement Checklist](#)

The MDEQ may authorize the use of approved credits from a mitigation bank to satisfy all or a part of the wetland mitigation requirements associated with any permit application in accordance with applicable statutory criteria.

[Wetland Mitigation Banking](#)