

DEQ Analysis

Senator Casperson's Draft 7 Wetland Bill

11/26/18

Wetlands provide important benefits to society and are critical to the health and existence of the other natural resources of the state, such as inland lakes, streams, ground water, fisheries, wildlife, and the Great Lakes. Benefits provided by wetlands include flood and storm control through water storage, wildlife and waterfowl habitat (e.g., breeding, nesting, and feeding habitat), protection and recharging of groundwater, pollution and sedimentation treatment, and nursery grounds for fish.

The draft bill removes protection of the following types of wetlands, lakes, and streams. These wetlands, lakes, and streams will be able to be filled, dredged, constructed on, etc. without any type of permitting process.

- Wetlands between 5 to 10 acres. This is approximately 70,000 wetlands totaling about a ½ million acres. In most counties, it is about 50% of the wetlands. (Non-contiguous wetlands less than 5 acres are already not regulated under current state law.)
- Wetlands that are connected to waterbodies through a non-continuous connection.
- Wetlands contiguous to ponds.
- Artificially flooded wetlands (e.g., managed wetlands like Maple River flooding).
- Wetlands that are essential to the preservation of the state (e.g., small non-contiguous wetlands with threatened and endangered species).
- Uses within wetlands (e.g., maintained utility corridors or golf course fairways in wetlands, the storing and treating stormwater from parking lots and roadways in wetlands).
- Lakes between 5 to 10 acres and the wetlands contiguous to them. This is approximately 3,771 of the 11,000 lakes in Michigan, which is more than a 1/3 of Michigan's lakes. (Lakes less than 5 acres are already not regulated under current state law.)
- Artificially irrigated and flooded lakes and streams and the wetlands contiguous to them, including approximately 2,610 impoundment lakes (e.g. Maple Lake, Wixom Lake, Belleville Lake, Ford Lake).
- Artificial lakes and ponds and non-permanent artificial streams, and the wetlands contiguous to them (e.g., Millennium Park lakes).
- Any stream that does not meet the definition of a "Water of the United States" and the wetlands contiguous to them.
- Ephemeral features that have a bank, bed and evidence of flow, and the wetlands contiguous to them.

Deregulation of these areas is not consistent with Section 404 of the Clean Water Act. Michigan's Section 404 program must be as stringent Section 404 of the Clean Water Act or Michigan's program will be withdrawn. Furthermore, any amendments that are found inconsistent with Section 404 the federal Clean Water Act by the EPA will still be regulated under federal law.