

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND AND WATER MANAGEMENT

DAM SAFETY

(By authority conferred on the department of natural resources by section 57 of Act No. 300 of the Public Acts of 1989, being S281.1357 of the Michigan Compiled Laws)

R 281.1301 Definitions.

Rule 1. (1) As used in these rules, "Act" means Act No. 300 of the Public Acts of 1989, being S281.1301 et seq. of the Michigan Compiled Laws.

(2) Terms defined in the act have the same meanings when used in these rules.

History: 1993 AACCS.

R 281.1302 Permit applications and procedures.

Rule 2. (1) An application for a permit for a proposed project shall be made on a form that is prescribed and provided by the department. The application form shall be the same form that is used for other department-administered statutes that require permits at the land-water interface. Application forms may be obtained from the land and water management division or from any district or regional office of the department.

(2) An application fee for a permit to repair, alter, remove, or abandon a dam shall be submitted with the application form. Submission of an application fee for a permit to construct, reconstruct, or enlarge a dam may be deferred until plans and specifications are submitted. The fee for enlargement of a dam that is part of a mine tailings basin system shall be based on the height of the new embankment section as measured by the vertical distance from the lowest point of the embankment crest to the lowest tailings foundation elevation. The fee shall be paid by check, money order, or draft made payable to: "State of Michigan".

(3) When the proposed project includes related multiple impoundments, an applicant may apply for a single permit, but an appropriate fee shall be required for each impoundment.

(4) An application for a permit to construct a new dam, enlarge an existing dam, or reconstruct a failed dam shall be reviewed by the department in a 2-step process. The first step shall be a review of the conceptual plans to determine if the proposed project may have a significant adverse effect on public health, safety, welfare, property, or natural resources or the public trust in those natural resources. The second step shall be the review of plans and specifications to determine if the engineering design is acceptable.

(5) An application for a permit to construct a new dam, enlarge an existing dam, or reconstruct a failed dam shall include all of the following:

(a) A description and evaluation of the loss of natural resources that are associated with the project.

(b) A description of the natural resources that are associated with or created by the impoundment and how they offset the natural resources lost by the creation of the impoundment.

(c) The project assessment required pursuant to the provisions of R 281.1304. However, an assessment is not required for a permit to enlarge an existing dam when the purpose of the impoundment will remain the same as the original impoundment and the surface area of the impoundment will be increased by 10% or less.

(d) Conceptual plans that are adequate to evaluate the project's impacts on public health, safety, welfare, property, or natural resources or the public trust in those natural resources. Conceptual plans shall include, at a minimum, all of the following:

(i) A site plan that shows all of the following:

(A) The location of the dam.

(B) The existing stream channel.

(C) The normal shoreline of the proposed impoundment.

- (D) Property lines.
- (E) Dimensions or proper scale.
- (ii) Transverse and longitudinal cross-sections through the dam that show all of the following:
 - (A) The spillway or spillways.
 - (B) Upstream and downstream water levels.
 - (C) The stream channel bottom.
- (iii) The location of all occupied dwellings within 1/4 of a mile of the proposed impoundment if the dam is new or if the impoundment elevation is changed. Projects that do not propose an impoundment elevation change are excluded from this requirement.
- (iv) Ingress and egress routes for construction activities.
- (6) The first step of the review shall commence once the department has received all of the following:
 - (a) The application form with all necessary information filled in.
 - (b) All additional information requested by the department that is required to evaluate the proposed activity's effects on the public health, safety, welfare, property, or natural resources or the public trust in those natural resources. Requests by the department for additional information shall be made in writing.
 - (c) All appropriate application fees, except as noted in subrule (2) of this rule.
 - (d) The assessment described in R 281.1304 when required pursuant to the provisions of subrules (5) and (7) of this rule.
 - (e) Conceptual plans for the project as described in this subrule and subrules (5), (7), and (8) of this rule. Engineering plans and specifications are not required for the department to complete the first step of the review.
- (7) An application for a permit to abandon or remove a dam shall include all of the following:
 - (a) A site plan that shows all of the following:
 - (i) The location of the dam.
 - (ii) The impoundment.
 - (iii) The existing stream channel.
 - (iv) The proposed location of the stream channel.
 - (b) A description of the method to be employed in removing or abandoning the dam.
 - (c) An evaluation of the capacity of the remaining structure to pass flood flows after the proposed work is completed, including hydraulic computations to support the evaluation.
 - (d) An evaluation of the quantity and quality characteristics of the sediments that have accumulated in the dam impoundment.
 - (e) A description of the methods to be employed to control sediments during and after removing or abandoning the dam.
- (f) The project assessment required pursuant to the provisions of R 281.1304.
- (8) An application for a permit to repair or alter a dam shall include both of the following:
 - (a) A description of the proposed work, including the volumes of materials to be dredged or filled.
 - (b) Engineering plans and specifications for the proposed work.
- (9) After receipt of an application, the department may request, in writing, from the applicant, such additional information, assessment, design calculations, records, or documents as are determined to be necessary to evaluate the proposed project.
- (10) Based in part on the information provided by the applicant and in part on comments received by the department during the 20-day comment period as provided by section 23 of the act, the department shall conduct the first step of the review to determine the effects of the proposed project on public health, safety, welfare, property, or natural resources or the public trust in those natural resources and riparian rights. The department shall make 1 of the following determinations:
 - (a) The proposed activity is permissible as submitted.
 - (b) The proposed activity is permissible if certain described modifications are made.
 - (c) The proposed activity is not permissible and cannot be modified to result in the granting of a permit.
- (11) An application for a permit shall not be considered complete until the assessment required in R 281.1304 has been completed and the department has received all of the following:
 - (a) All information that is requested on the application form.
 - (b) Any other information that is required by written notice from the department.
 - (c) The application fee, unless the fee is deferrable pursuant to the provisions of subrule (2) of this rule.

(d) Acceptable conceptual plans and specifications. The department shall grant or deny a permit within 60 days after the submission of a complete application or within 120 days after the submission of a complete application if a public hearing is held.

(12) An application shall be considered to be withdrawn and the file for the application shall be closed if an applicant fails to respond to any written inquiry or request from the department within 30 days of the request. If the applicant cannot provide the specific information that the department requests within the 30-day period, the applicant may keep the application open by advising the department, in writing, within the 30-day period, of when the information can be submitted. The applicant's proposed deadline shall be reasonable. If the information is not provided by the applicant's deadline, the application shall then be closed.

(13) The department shall advise an applicant of its determination. If an activity is permissible as submitted or is permissible if modified, the department shall then review engineering plans and specifications. If the department has not yet received required application fees or engineering plans and specifications, the department shall request the fees or plans and specifications at the time an applicant is advised of the department's determination.

(14) When the department determines that engineering plans and specifications are acceptable, a permit shall be issued or, if a permit has already been issued, the applicant shall be notified, in writing, that plans and specifications are acceptable and the project may commence. If the engineering plans and specifications are determined to be unacceptable, the department shall advise the applicant of why the plans and specifications are unacceptable and provide a concise written statement explaining how the plans and specifications may be corrected.

History: 1993 AACCS.

R 281.1303 Permit conditions.

Rule 3. (1) A permit shall provide that the work authorized by the permit shall be completed within a specified time period, which shall not be more than 2 years after the date that the permit is issued. Extensions of time of up to 2 years each may be granted by the department for good cause shown by the applicant. An administrative fee shall not be required for an application for extensions of time.

(2) A permit does not obviate the necessity of receiving approval from the United States army corps of engineers, when applicable, the state department of public health, or a local unit of government, when applicable, including a local unit of government that is responsible for administering the provisions of Act No. 245 of the Public Acts of 1970, as amended, being S281.631 et seq. of the Michigan Compiled Laws, and Act No.347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.

(3) The department shall not issue a permit, except for a permit pursuant to the provisions of section 25(2) of the act or a permit under a minor project category, until 20 days after the mailing of the list to each eligible subscriber as provided for in sections 21(1) to (3) and 23(1) of the act.

(4) Upon request, the department shall provide any person with a copy of a permit application and supporting documents pursuant to the provisions of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws.

(5) If the mitigation proposed in a mitigation plan that is submitted by an applicant is approved by the department, the department may incorporate the mitigation actions as permit conditions for the improvement of the existing resources or the creation of a new resource to offset resource losses that result from the proposed project.

(6) A temporary emergency action plan may be required by permit condition which would be effective during, and applicable to, the construction period.

History: 1993 AACCS.

R 281.1304 Project assessment.

Rule 4. (1) In each application for a permit as required pursuant to the provisions of R 281.1302, (5) and (7), an assessment of all known existing and potential adverse effects within the scope of the project shall be provided by the applicant and reviewed by the department to determine whether the project will

have a significant adverse effect on public health, safety, welfare, property, or natural resources or the public trust in those resources. This assessment shall include evaluations of both positive and negative impacts of the project commensurate with the scope of the project and mitigating measures to minimize impacts on all of the following:

- (a) Wetlands.
- (b) Fisheries.
- (c) Wildlife.
- (d) Threatened and endangered species.
- (e) Water quality.
- (f) Streamflows.
- (g) Sediment transport.
- (h) Turbidity.
- (i) Water chemistry.
- (j) Water temperature.
- (k) Riparian rights. The assessment shall include impacts of the impoundment on the stream below the impoundment and shall address impacts both during construction and after completion of the project.

(2) If the department determines that more detailed study is needed, it may require the applicant to provide the additional information or cause such a study to be made. The department shall state, with specificity, in writing, the requirements or criteria for such additional information or study. All available data shall be evaluated by the department in its review of an application for a permit.

History: 1993 AACS.

R 281.1305 Engineering plans and specifications.

Rule 5. (1) Engineering plans and specifications for the construction of new dams, the reconstruction of failed dams, or the enlargement of dams shall be prepared by a licensed professional engineer, be submitted to the department, be approved by the department before the commencement of construction, and include, at a minimum, all of the following:

(a) A map that shows the location of the project and a topographic map of the dam site and impoundment area. Mapping shall show all of the following:

- (i) Maximum flood storage elevations of the impoundment.
- (ii) Property boundaries of the site, including flowage easements.
- (iii) Borrow area or areas.
- (iv) Ingress and egress routes.
- (v) Work limits.

(b) Detailed design plans that show all of the following:

- (i) A profile along the centerline of the embankment and the spillway or spillways.
- (ii) Cross-sections of the dam at representative locations that show suitable detail of the upstream and downstream slopes and crest.
- (iii) The findings of investigations and analyses of embankment and foundation materials, including the locations of soil borings, soil boring logs, and proposed foundation treatment.
- (iv) Other drawings that are necessary to fully depict the project as determined by the department upon consultation with the applicant.
- (v) Other analyses that are necessary to document the adequacy of the design of the structure and protection of natural resources, public safety, and public trust as determined by the department upon consultation with the applicant.

(c) An operation plan that describes how the streamflows will be maintained under various conditions.

(d) Technical specifications related to the scope of work for the dam and appurtenant structures. Specifications shall reference nationally recognized and acceptable engineering specifications.

(2) Engineering plans and specifications for the repair, alteration, removal, or abandonment of a dam, with the exception of minor alteration or repair projects, shall be prepared by a licensed professional engineer, be submitted to the department, and be approved by the department before commencement of construction. Plans and specifications for repair and alteration shall include sufficient detail and analyses for the department to determine whether the proposed activity adequately protects the structural integrity of the dam. Plans and specifications for removal and abandonment of a dam shall

include sufficient detail and analyses for the department to determine whether the proposed activity adequately protects natural resources, public safety, and the public trust.

(3) The hazard potential classification and spillway design flood determination of a dam site shall be determined by the department. The department may require the applicant to provide additional information for the department's use in these determinations. Spillway capacity requirements are fulfilled if the specified design flood is stored in the impoundment, attenuated in the impoundment system, or passed through the spillway.

(4) When mitigation for the loss of natural resources is required for a proposed activity, plans and specifications for the mitigation may be required.

History: 1993 AACCS.

R 281.1306 Minor project categories.

Rule 6. (1) The department shall grant or deny an application for a minor project after all of the following steps have been completed:

- (a) Submission of a complete application.
- (b) An on-site inspection by a department representative.
- (c) A review of all appropriate information by the department.

(2) A review of a minor project does not require any of the following:

(a) Submission of the application materials by the department to any of the individuals or agencies listed in section 23(1) of the act.

(b) A 20-day comment period as provided for in section 23 of the act.

(c) A public hearing.

(3) Required plans and specifications for a minor project do not need to be prepared by a licensed professional engineer.

(4) The following alterations and repairs shall be considered minor projects pursuant to section 27 of the act if the activity involves a temporary drawdown of 2 feet or less or involves a temporary drawdown where the dam owner is the sole riparian to the lands surrounding the impoundment:

(a) Dredging or filling of more than 25 cubic yards, but less than 300 cubic yards, as a single and complete project. For dredging projects, the project will not be considered minor unless evidence is provided with the application that the materials to be dredged are not contaminated pursuant to the provisions of Act No. 64 of the Public Acts of 1979, as amended, being S299.501 et seq. of the Michigan Compiled Laws.

(b) Erosion protection measures that fulfill an identifiable need for erosion protection, bank stabilization, or the protection or improvement of the dam and its inlet and outlet channels. The fill material that is associated with erosion protection measures shall be in compliance with any of the following provisions:

(i) It shall have a volume of more than 25 cubic yards, but shall not have a volume of more than 300 cubic yards.

(ii) It shall not have a surface area of more than 10,000 square feet.

(iii) There shall not be more than 2 cubic yards per lineal foot.

(c) Other repairs and alterations that have a minimal effect on the structural integrity of the dam.

(5) Dredging or filling in volumes of less than 25 cubic yards shall be considered maintenance and does not require a permit pursuant to the provisions of the act.

History: 1993 AACCS.

R 281.1307 Performance bonds.

Rule 7. (1) As authorized by the provisions of section 31(5) of the act, a permit to construct a new dam or reconstruct a failed dam may require a performance bond. A performance bond may be in the form of any of the following:

(a) A surety bond.

(b) A secured trust fund.

(c) A letter of credit.

- (d) Insurance.
- (e) A financial test.
- (f) A corporate guarantee.
- (g) Another suitable instrument or mechanism.
- (h) A combination of the items listed in subdivisions (a) to (g) of this subrule as approved by the department. The department shall consider an applicant's past performance in determining if a performance bond shall be required.

(2) The performance bond shall be secured and documentation shall be submitted to the department before the commencement of construction. The bond, instrument, mechanism, or fund or combination of these methods of assurance shall be in the amount equal to a reasonable estimate of the cost, adjusted for inflation, that is required to adequately complete a project or remove a completed or partially completed dam and to provide for complete or partial restoration of a project site. Performance bonds may be required in the following instances if there is a reasonable possibility that the permittee may not complete the project:

- (a) Where total project completion is essential for the protection of public health, welfare, or safety or to protect natural resources and the public trust in those natural resources.
- (b) For temporary dams or dams that are constructed or reconstructed for a specific purpose and period of time after which removal is planned.
- (c) For phased construction projects where dam construction or reconstruction is an integral and necessary part of the total project and is to be phased in over a number of years.
- (d) Projects to be constructed in the future to mitigate the loss of natural resources or environmental degradation.

History: 1993 AACS.

R 281.1308 Project completion explained.

Rule 8. Pursuant to the provisions of section 35(1)(a) of the act, completion of a new, reconstructed, enlarged, repaired, or altered dam occurs when all the work depicted on all approved drawings and all specification requirements have been accomplished and all permit conditions have been implemented before the expiration of a permit.

History: 1993 AACS.

R 281.1309 Inspection schedule.

Rule 9. Inspection reports that are prepared pursuant to the provisions of R 281.1310 are due on a calendar year basis. The department shall notify the dam owner of the due date, by certified mail, not later than January 31 of the year in which the inspection report is due. In establishing an inspection schedule, as authorized pursuant to the provisions of section 37(2) of the act, the department shall compile an alphabetical listing of dams in each hazard potential classification of high, significant, and low. The inspection schedule shall be established based on the following provisions:

(a) For high hazard potential dams, every third dam in the alphabetical listing of these dams shall be inspected each year as follows:

- (i) The first, fourth, seventh, tenth, and so on dam in the alphabetical listing will be due for inspection the first year.
- (ii) The second, fifth, eighth, eleventh, and so on dam in the alphabetical listing will be due for inspection the second year.
- (iii) The third, sixth, ninth, twelfth, and so on dam in the alphabetical listing will be due for inspection the third year.
- (iv) The cycle shall be repeated every 3 years.

(b) For significant hazard potential dams, every fourth dam in the alphabetical listing of these dams shall be inspected each year as follows:

- (i) The first, fifth, ninth, thirteenth, and so on dam in the alphabetical listing shall be due for inspection the first year.

(ii) The second, sixth, tenth, fourteenth, and so on dam in the alphabetical listing shall be due for inspection the second year.

(iii) The third, seventh, eleventh, fifteenth, and so on dam in the alphabetical listing shall be due for inspection the third year.

(iv) The fourth, eighth, twelfth, sixteenth, and so on dam in the alphabetical listing shall be due for inspection the fourth year.

(v) The cycle shall be repeated every 4 years.

(c) For low hazard potential dams, every fifth dam in the alphabetical listing of these dams shall be inspected each year as follows:

(i) The first, sixth, eleventh, sixteenth, and so on dam in the alphabetical listing shall be due for inspection the first year.

(ii) The second, seventh, twelfth, seventeenth, and so on dam in the alphabetical listing shall be due for inspection the second year.

(iii) The third, eighth, thirteenth, eighteenth, and so on dam in the alphabetical listing shall be due for inspection the third year.

(iv) The fourth, ninth, fourteenth, nineteenth, and so on dam in the alphabetical listing shall be due for inspection the fourth year.

(v) The fifth, tenth, fifteenth, twentieth, and so on dam in the alphabetical listing shall be due for inspection the fifth year.

(vi) The cycle shall be repeated every 5 years.

(d) Depending on its hazard potential classification, a new, reconstructed, or enlarged dam shall be scheduled for inspection 3, 4, or 5 years after the date of written notice of final project approval as required pursuant to the provisions of section 35(2) of the act or 3, 4, or 5 years after the expiration date of the permit if final approval cannot be granted. The cycle shall be repeated every 3, 4, or 5 years according to the dam's hazard potential classification.

(e) If the hazard potential classification of a dam changes, its next inspection shall be scheduled based on the date of its previous inspection and the cycle of inspections required for the new hazard potential rating.

(f) If an existing dam is discovered that falls under the authority of the act, it shall be added to the end of the appropriate alphabetical listing, and its first inspection shall be scheduled based on the system described in subdivisions (a) to (c) of this rule. If the department determines that a condition may exist that endangers the dam, an inspection shall be required immediately.

(g) The department may alter the inspection schedule in consideration of the dates of recent inspections and department-permitted and approved repairs and alterations.

(h) Owners of more than 1 dam may request that the department schedule their inspection reports to be due the same year if the dams have the same hazard potential classification.

History: 1993 AACCS.

R 281.1310 Inspection reports.

Rule 10. (1) Inspection reports shall include all of the information required in section 37(3) of the act.

(2) An inspection report shall include all of the following parts:

(a) A title sheet that includes all of the following information:

(i) The name of the dam.

(ii) The inventory identification number.

(iii) The county and river or stream where the dam is located.

(iv) The owner's and operator's names, addresses, and telephone numbers.

(v) The hazard potential classification.

(vi) The names of inspectors.

(vii) The date of inspection.

(viii) The name, address, registration number, and signature of the licensed professional engineer who is in charge of the inspection report.

(b) A conclusions and recommendations section that includes all of the following information:

(i) An evaluation of the dam's overall condition and a summary of the findings of the field inspection and analyses contained in the report.

- (ii) Identification of any deficiencies that, if left uncorrected, could lead to the failure of the dam.
- (iii) Prioritization of recommendations to correct observed deficiencies or operation and maintenance items for the dam.
- (iv) Recommendations for further detailed studies or investigations, including an assessment of the adequacy of the current hazard potential classification if appropriate.
- (c) A project information section that includes all of the following information:
 - (i) A description of the dam, outlet, spillway, and other principal features, together with pertinent data.
 - (ii) The purpose of the dam.
 - (iii) A summary of available design, geotechnical, maintenance, construction, repair, and alteration information and operating history.
 - (iv) A reference to past inspection reports.
 - (v) The date of construction, if known.
- (d) A field inspection section that briefly describes the physical condition of the principal features of the dam and appurtenant structures, including the impoundment level, as they were observed during the field inspection.
- (e) A structural stability section that includes a visual assessment of the stability of the dam on the basis of available data, together with the observations of the field inspection and the results of any calculations performed.
- (f) A hydrologic and hydraulic section that includes an evaluation of spillway adequacy, including a description of pertinent available information, such as any of the following:
 - (i) Hydrologic design data provided by the department.
 - (ii) Drainage area.
 - (iii) Floods of record.
 - (iv) Previous evaluations.
- (g) An operation and maintenance section that includes all of the following:
 - (i) An assessment of operating equipment and procedures.
 - (ii) Evaluation of the current maintenance plan.
- (h) Appendices that include all of the following:
 - (i) A map that shows the location of the dam.
 - (ii) Engineering plans of the dam, if available, or sketches of the dam and its principal parts, including a plan view and cross sectional views of pertinent features. If there have been changes to the dam since the submittal of previous plans or sketches, supplemental plans or sketches that depict the changes shall be submitted. If engineering plans or sketches have been submitted in a previous inspection report and if there have been no changes to the dam, it is not necessary to submit duplicate plans or sketches in subsequent reports.
 - (iii) Photographs of the dam, downstream channel, and deficiencies cited in the report.

History: 1993 AACCS.

R 281.1311 Emergency action plans.

Rule 11. (1) An emergency action plan for a high or significant hazard potential dam shall be submitted to the county or local emergency management coordinator for review for consistency with county or local emergency operations plans and the Michigan emergency preparedness plan. An emergency action plan for an existing dam shall be submitted to the department with documentation that the plan has been submitted to the county or local emergency management coordinator not later than the time that the first inspection report for the dam is due or at another time agreed to by the department. An emergency action plan for a newly constructed dam shall be submitted to the department with documentation that the plan has been submitted to the county or local emergency management coordinator not later than the date of expiration of the permit for construction of the dam, including any extensions of time for completion.

(2) At the time subsequent inspection reports are due, the owner shall determine if the plan is up to date. The owner shall advise the department of the findings of this review and shall submit any revisions to the department and to the county or local emergency management coordinator.

(3) The emergency action plan shall include a description of the circumstances under which it shall be activated, what actions shall be taken, and who shall be responsible to take those actions when the plan is activated.

(4) The emergency action plan shall include the name, address, and telephone number of all of the following entities:

(a) The person who is responsible for the operation of the dam.

(b) The alternate person who is responsible for the operation of the dam.

(c) The local emergency management coordinator or coordinators.

(5) The emergency action plan shall include either of the following:

(a) A listing of occupied facilities, buildings, and residences that may be threatened with flooding due to the failure of the dam.

(b) Mapping that is adequate to clearly delineate the areas of potential inundation resulting from a failure of the dam. The degree of detail for mapping or listings shall be determined through consultations between the dam owner and the appropriate emergency services agencies that are responsible for implementing the emergency action plan.

History: 1993 AACCS.

R 281.1312 Administrative monetary penalties.

Rule 12. (1) As authorized pursuant to the provisions of section 51(8) of the act, an administrative penalty of not more than \$500.00 per day may be assessed to a person as set forth in the schedule in subrule (2) of this rule for any of the following reasons:

(a) Violation of any or all of the conditions of a minor project permit that is issued pursuant to the provisions of section 27 of the act.

(b) Failure to submit an inspection report as required pursuant to the provisions of section 37 of the act.

(c) Failure to provide a more detailed investigation or evaluation of certain dam features as required by section 37(5) of the act.

(d) Failure to comply with a first department order to limit dam operations as authorized pursuant to the provisions of section 39(1) of the act where significant impairment of resources has not resulted.

(e) Failure to notify the department and affected off-site public authorities and safety agencies, pursuant to the provisions of section 41(1) of the act, of any flood or unusual circumstance or occurrence, within 24 hours of the circumstance or occurrence, that endangers the safety of a dam, but where significant damage to property or natural resources does not occur.

(f) Failure to notify the department of actions taken in response to emergency conditions pursuant to the provisions of section 41(2) of the act.

(g) Failure to comply with the provisions of an emergency order that relates to any of the following as authorized pursuant to the provisions of section 43(2) of the act:

(i) Maximum drawdown levels and discharge rates.

(ii) Conducting required sediment surveys, water quality sampling, or monitoring.

(iii) Any other requirement where significant impairment of resources has not resulted.

(h) Failure to prepare, keep current, and submit to the department an emergency action plan as required pursuant to the provisions of section 47 of the act.

(i) Failure to comply with a first order to comply with permit conditions or to restore the site affected to its original condition pursuant to the provisions of section 49(1) of the act.

(j) Violation of any of the following permit conditions:

(i) Failure to supply data or information.

(ii) Failure to provide required minimum flow releases where significant impairment of resources has not resulted.

(iii) Violation of any permit condition where significant impairment of resources has not occurred.

Each violation and act of noncompliance and each day such a violation or act occurs or continues to occur will be considered a separate violation.

(2) The following administrative penalty schedule shall apply for noncompliance or violations as set forth in subrule (1) of this rule:

(a) First through the fifth day the violation occurs - not more than \$100.00 per day.

(b) Sixth through the tenth day the violation occurs - not more than \$200.00 per day.

- (c) Eleventh through the fifteenth day the violation occurs - not more than \$300.00 per day.
- (d) Sixteenth through the twentieth day the violation occurs - not more than \$400.00 per day.
- (e) Twenty-first day until the violation is resolved - not more than \$500.00 per day.
- (3) All administrative penalties will be assessed by written notice from the department. The notice shall state the specific reasons for the penalty, the number of days the department considers the person in violation, and the total amount due based on the schedule in subrule (2) of this rule.
- (4) If so requested, the department shall provide a person, subject to the administrative penalty provisions of section 51(8) of the act, an opportunity for a hearing pursuant to the provisions of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.
- (5) Notice of intent to assess administrative penalties pursuant to section 51(8) of the act shall be given either through written notice by certified mail or personal service on the person by the director, his or her designated representative, or a peace officer.
- (6) Penalties that are administered pursuant to the provisions of section 51(8) of the act may be in addition to any other penalties or remedies authorized by the act or its rules.

History: 1993 AACCS.

R 281.1313 Dams exempt from rules.

Rule 13. A dam is exempt from these rules if it is exempt from the act pursuant to the provisions of section 13(2) and (3) of the act.

History: 1993 AACCS.