



## APPENDIX F

### Joint Permit Application Withdrawal Guidance

Effective June 1, 2001, the Geological and Land Management Division (GLMD) implemented a change in the way staff process applications that cannot be permitted under the Floodplain Regulatory Authority found in Part 31, Water Resources Protection; Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; Part 315, Dam Safety; Part 323, Shorelands Protection and Management; Part 325, Great Lakes Submerged Lands; and Part 353, Sand Dunes Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Section 30307(2) of Part 303 requires the GLMD to approve a permit application, request modifications in the application, or deny the application within 90 days of receipt of a complete permit application; or, if a public hearing is held, within 90 days of the hearing. This time limitation can, at times, interfere with the ability of GLMD's staff and an applicant to complete discussions on a mutually agreeable modified project for which a permit can be issued. This time limitation can also make it difficult for applicants who are working concurrently with a local unit of government. When either the local government or the GLMD requires project modifications, the applicant frequently does not have enough time to modify the plans and submit the modification to the other agency insuring that both regulating agencies can approve the project.

A permit application denial, under the above circumstances, may not be in the best interests of the GLMD or the applicant. Therefore, an operating procedure was established to provide two options: 1) withdrawal of the application by the applicant, or 2) denial of the application. Because most permit applications submitted to the GLMD fall under the jurisdiction of more than one part of NREPA, and to maintain consistency within GLMD programs, the GLMD implemented this procedure for applications under the jurisdiction of Part 31, Part 301, Part 303, Part 315, Part 323, Part 325, and Part 353.

An applicant can withdraw a permit application at any time during the review process prior to the GLMD making a decision on the application. To withdraw an application the applicant must submit a written request to the GLMD office processing the application requesting that the GLMD stop processing the application. When it is determined that a project is unlikely to be permitted as proposed in an application, staff will contact the applicant and/or the applicant's consultant prior to the 90-day time limit to explain the reasons why the project cannot be permitted and possible project alternatives or modifications. The applicant can choose to withdraw the application in order to consider project modifications. If the applicant does not withdraw the application, the GLMD will continue to process the application and make a decision within the 90-day time limit.

An applicant who has withdrawn an application may request that the GLMD resume processing the withdrawn application by submitting a written request **within six months** from the date of the withdrawal to the GLMD office that was processing the application. The GLMD shall acknowledge the request in writing and shall make a final decision on the application within 90 days from the receipt of the request. No additional application fee shall be required for the GLMD to reactivate the application.

If the United States Environmental Protection Agency (EPA) has filed objections to the application, the objections must be resolved and the EPA must withdraw the objections within 90 days from the date of their objection letter. If the objections are not resolved and withdrawn by the EPA within 90 days, the application cannot be re-opened for additional processing following the withdrawal. In this case, a new application must be submitted in order for the EPA and the GLMD to consider a modified project.

A withdrawn application may be modified by the applicant prior to requesting that the GLMD resume processing of the application. A withdrawn application that has been modified shall meet all of the following criteria:

- 1) The basic project and project purpose shall remain the same as that provided within the original application.
- 2) The modified application is complete and contains all of the information necessary to make the decision on the permit application.
- 3) The resource impacts (i.e., wetlands, lakes, streams, floodplains, and sand dunes) proposed in the modified application do not exceed those proposed in the original application.
- 4) The resources proposed to be impacted by a modified application are the same as those proposed to be impacted in the original application.
- 5) The locations of the impacts in the modified application are in the immediate vicinity of the impacts in the original application.

A permit application that does not meet the criteria for permit issuance established in the appropriate statute and the administrative rules, and is not withdrawn by the applicant, will be denied. The denial letter is the final decision of the GLMD. An applicant who desires further review of a denied application, must submit a new application with the appropriate application fee. The application will be processed and reviewed as a new application. An applicant may appeal a GLMD permit denial by petitioning the Office of Administrative Hearings (OAH) for a contested case hearing.

A petition for a contested case hearing must be submitted no later than 60 days from the date of the application denial. During the contested case hearing process, the OAH generally provides the parties to a contested case an opportunity to meet informally to attempt to resolve the matter before a formal hearing is held. If the parties reach a mutually agreeable resolution to the contested case, the resolution must be filed with the OAH for approval. If a resolution is not reached in informal discussions, a contested case hearing will be held. The OAH holds the hearing and submits a Proposal for Decision to the Director of the Department of Environmental Quality (DEQ). The Director's finding is the final decision of the Department of Environmental Quality regarding the application.

This procedure was implemented on June 1, 2001. If you have any questions regarding this procedure, please contact the GLMD district/field office processing your application. A list of the phone numbers and addresses for the GLMD district/field offices is available on our web site at [www.michigan.gov/deq](http://www.michigan.gov/deq) click on "Permits" then on "Joint Permit Application."