



Wetland Conservation Act Fact Sheet

WETLAND REGULATIONS

The filling, excavation, and draining of wetlands are regulated by the Minnesota Wetland Conservation Act of 1991, which is administered by a local government unit (LGU). In addition to the Wetland Conservation Act, the Valley Branch Watershed District (VBWD) has additional stormwater and wetland regulations over activities occurring within its boundaries. The VBWD is the LGU responsible for administering the Wetland Conservation Act in the areas of all cities and townships within the legal boundaries of the VBWD, including all of Pine Springs and areas of White Bear Lake, Maplewood, North St. Paul, Lake Elmo, Woodbury, Grant, Mahtomedi, Oak Park Heights, Oakdale, Afton, Lake St. Croix Beach, West Lakeland Township, and Baytown Township. The cities of Mahtomedi and Oak Park Heights have local wetland ordinances that also apply and should also be contacted prior to starting a project. If your project may involve filling, excavation, or draining of wetlands, contact the VBWD to discuss the rules and regulations of the Wetland Conservation Act

WHAT IS A WETLAND?

Wetlands are defined by the *U.S. Army Corps of Engineers Wetland Delineation Manual* (1987 Edition). Wetlands vary widely and can be difficult for the untrained to identify, some wetlands rarely have standing water on the ground surface. Many wetlands are farmed and may not be recognizable as wetlands. Wetlands may include the following: temporarily flooded basins, shallow and deep marshes, shrub swamps, wet meadows, and certain forested areas. If you are uncertain whether or not an area is a wetland, contact the VBWD Engineer's wetland specialist:

Karen Wold
Barr Engineering Company
4300 MarketPointe Drive
Minneapolis, MN 55435
Phone: 952-832-2707
Fax: 952-832-2601
Email: kwold@barr.com

APPROVAL PROCESS

The Wetland Conservation Act requires project proponents complete a sequencing analysis before proposing to drain, fill, or excavate wetlands by completing the following steps:

1. Attempt to avoid direct and indirect impacts to wetlands;
2. Minimize impacts to wetlands by limiting the degree or magnitude of wetland activity;
3. Rectifying temporary impacts by repairing, rehabilitating, or restoring the affected wetland,
4. Reducing or eliminating impacts to wetlands over time by preserving the wetlands through proper maintenance, management, and operation of the project to avoid further draining or filling of wetlands, and
5. Replace unavoidable wetland impacts by replacing with wetland areas of equal or greater public value.

WETLAND JURISDICTION

Certain wetland activities are exempt from the Wetland Conservation Act, allowing projects with minimal impact or projects located on land where certain pre-established land uses are present to proceed without regulation. A landowner believing that a proposed wetland alteration activity is exempt ([8420.0420 - MN Rules Part](#)) or that the activity may qualify for a no loss determination ([8420.0415 - MN Rules Part](#)) must submit a VBWD Permit Application and associated fees along with a *Joint Application Form for Activities Affecting Water Resources in Minnesota (Joint Application Form)* with Attachment B to the VBWD Engineer's wetland specialist for a determination. The proposed activity must also meet no-loss and exemption conditions ([8420.0410 - MN Rules Part](#)). A landowner who does not request a determination may be subject to enforcement provisions under [8420.0900 - MN Rules Part](#) and Minnesota Statutes [Sec. 103G.2372 MN Statutes](#). Certain activities might be exempt from the Wetland Conservation, but not from other VBWD rules and regulations, and a VBWD permit might still be required. An applicant intending to drain, excavate, or fill a wetland who does not qualify for an exemption or no-loss determination shall obtain approval of a replacement plan from the LGU before beginning excavation, draining or filling. A person who does not do so is subject to enforcement. The Wetland Conservation Act Rules can be accessed at: [8420 - MN Rules Chapter](#).

PERMIT REVIEW/DECISION OVERVIEW

The VBWD Board of Managers meets on the second and fourth Thursday of each month to consider project approvals. Decisions are typically made based on recommendations by the VBWD Engineer and if the project includes wetland issues, the Technical Evaluation Panel (TEP) typically provides comments and/or a recommendation. The TEP is typically comprised of representatives from the LGU, the Soil and Water Conservation District, the Board of Water and Soil Resources (BWSR), and sometimes the Minnesota Department of Natural Resources. Once a Wetland Replacement Plan Application is complete, and assuming there are no significant issues, a recommendation can be made to the VBWD Board of Managers within 1-2 months of the receipt of the application (Table 1). If the application does not comply with the Wetland Conservation Act rules or the VBWD rules and those issues are not quickly resolved by the applicant, it may take more than 2 months to make a decision. While the regulatory guidelines indicate that a decision should be made within 60-days of receiving a complete application, there are circumstances involved with certain projects that result in extended review periods. Table 1 provides an approximate time frame for the various steps often involved in the Wetland Conservation Act approval process.

