

8420.0330 REPLACEMENT PLAN APPLICATIONS.

Subpart 1. **Requirement.** A landowner proposing a wetland impact that requires replacement under this chapter must apply to the local government unit and receive approval of a replacement plan before impacting the wetland.

Subp. 2. **Preapplication conference and site visit.** Before preparation of a replacement plan, it is recommended that the landowner meet with the local government unit for a preapplication conference and site visit. The local government unit is encouraged to inform the landowner of all sequencing requirements and the criteria used to evaluate replacement plans.

Subp. 3. **Application contents.** On an application form approved by the board in consultation with the commissioner, provided through the local government unit, and with required attachments supplied by the applicant, the following documentation must be provided in addition to the information required in part 8420.0305:

A. for the impacted wetland:

(1) the amount, in square feet or acres, of wetland proposed to be impacted by type;

(2) the minor watershed, major watershed, county, and bank service area;

(3) a soil survey map of the site showing soil type and identifying hydric soils, where available;

(4) a map showing the locations of any surface inlets or outlets, natural or otherwise, draining into or out of the wetland and, if the wetland is within the shoreland wetland protection zone or floodplain, the distance and direction to the nearest watercourse;

(5) information known to the applicant or readily available concerning the special considerations criteria in part 8420.0515;

(6) a list of all other known local, state, and federal permits and approvals required for the activity; and

(7) written documentation to demonstrate compliance with the sequencing standards in part 8420.0520, including identification of the project purpose and a detailed description of the project and alternatives considered;

B. for the replacement wetland when replacement is project-specific:

(1) the proposed action eligible for credit from part 8420.0526;

(2) the minor watershed, major watershed, county, and bank service area;

(3) evidence of ownership or property rights to the replacement areas;

(4) information known to the applicant or readily available concerning the special considerations criteria in part 8420.0515;

(5) a description of how the proposed replacement meets the ecological suitability and sustainability criteria under part 8420.0522, subpart 5;

(6) a map showing the locations of any existing surface inlets or outlets, natural or otherwise, draining into or out of the replacement wetland and, if the replacement wetland is within the shoreland wetland protection zone or floodplain, the distance and direction to the nearest watercourse;

(7) scale drawings showing plan and profile views of the replacement wetland areas;

(8) a description of how the replacement area will be constructed, for example, excavation or restoration by blocking an existing tile; the type, size, and specifications of outlet structures; elevations, relative to mean sea level, of key features, for example, sill, emergency overflow, and structure height; and best management practices that will be implemented to prevent erosion or site degradation;

(9) a soil survey map of the site showing soil type and identifying hydric soils, where available, and site-specific soils information sufficient to determine the capability of the site to produce and sustain wetland characteristics and achieve replacement goals;

(10) a timetable that clearly states how and when implementation of the replacement plan will proceed and when construction of the replacement area will be completed;

(11) statements signed by the applicant confirming that:

(a) the wetland will be replaced in advance of or concurrent with the actual impact;

(b) the replacement area was not previously restored or created under a prior approved replacement plan;

(c) the replacement area was not impacted under an exemption during the previous ten years;

(d) the replacement area was not, and will not be, restored or created with financial assistance from public conservation programs or restored or created for other unrelated regulatory purposes;

(e) the replacement area was not, and will not be, restored or created using private funds other than those of the landowner unless the funds are paid back with interest to the individual or organization that funded the restoration or creation and the

individual or organization notifies the local government unit in writing that the restored wetland may be considered for replacement; and

(f) monitoring will occur according to parts 8420.0800 to 8420.0820 unless the local government unit will be conducting the monitoring of the wetland replacement area;

(12) evidence that a person proposing to create or restore a wetland within the easement of a pipeline, as defined in Minnesota Statutes, section 299J.02, subdivision 11, has first notified the easement holder and the director of the Office of Pipeline Safety in writing. The person may not create or restore the wetland if, within 90 days after receiving the required notice, the easement holder or the director of the Office of Pipeline Safety provides to the person a written notice of objection that includes the reasons for the objection;

(13) a list of all other known local, state, and federal permits and approvals required for the activity;

(14) evidence that any drainage or property rights potentially detrimental to the replacement area have been acquired, subordinated, or otherwise eliminated;

(15) a vegetation establishment and management plan according to part 8420.0528, subpart 2, item D; and

(16) the size, type, and credits expected to result from the proposed replacement actions;

C. for the replacement wetland when the replacement consists of wetland bank credits:

(1) the wetland bank account number;

(2) the minor watershed, major watershed, county, and bank service area;

(3) the amount of credits to be withdrawn in square feet; and

(4) a completed application for withdrawal of wetland credits from the wetland bank in a form provided by the board or a purchase agreement signed by the applicant and bank account holder; and

D. a description of the required replacement as determined according to the proposed replacement actions and the replacement standards in part 8420.0522.

Subp. 4. **Approval conditions.** A landowner must not impact a wetland under an approved replacement plan until submittal of the following, to the satisfaction of the local government unit:

A. for project-specific replacement that is not in advance according to part 8420.0522, subpart 8, item B, a financial assurance according to part 8420.0522, subpart 9, unless waived by the local government unit;

B. for project-specific replacement, evidence that a notice in a form prescribed by the board has been attached to and recorded with the deed for lands containing a replacement wetland, specifying the following:

(1) the location of the replacement area;

(2) that the replacement area is subject to the act;

(3) that the fee title owner is responsible for the costs of repairs or reconstruction and management, if necessary, or for replacement costs;

(4) that reasonable access to the replacement area shall be granted to the proper authorities for inspection, monitoring, and enforcement purposes;

(5) that costs of title review and document recording is the responsibility of the fee title owner; and

(6) that the local government unit or board may require necessary repairs or reconstruction and revegetation work to return the wetland to the specifications of the approved replacement plan and require reimbursement of reasonable costs from the wetland owner or may require replacement of the wetland according to this chapter; and

C. for replacement consisting of wetland bank credits, confirmation that the board has withdrawn the credits from the state wetland bank as specified in the approved replacement plan.

Statutory Authority: *MS s 103G.2242*

History: *34 SR 145*

Published Electronically: *August 26, 2009*