

6106.0160 LAND ALTERATION AND STORM WATER MANAGEMENT STANDARDS.

Subpart 1. **Purpose.** The purpose of this part is to establish standards that:

- A. protect water quality from pollutant loadings of sediment, nutrients, bacteria, and other contaminants; and
- B. maintain stability of bluffs, shorelines, and other areas prone to erosion.

Subp. 2. **Definitions.** For the purpose of this part:

- A. "fully reconstructs" means the reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed;
- B. "storm water management facilities" means facilities for the collection, conveyance, treatment, or disposal of storm water; and
- C. "water quality impact zone" means land within the shore impact zone or within 50 feet of the boundary of a public water, wetland, or natural drainage way, whichever is greater.

Subp. 3. **Land alteration.**

A. Within the bluff impact zone, land alteration is prohibited, except for the following which are allowed by local government permit:

- (1) erosion control consistent with subpart 6 and a plan approved by the local government or resource agency;
- (2) the minimum necessary for development that is allowed as an exception under part 6106.0180; and
- (3) repair and maintenance of existing buildings and facilities.

B. Within the water quality impact zone, land alteration that involves a volume of more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit from the local government, meeting the standards in subparts 5 and 6.

Subp. 4. **Rock riprap, retaining walls, and other erosion control structures.**

A. Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the ordinary high water level must comply with parts 6115.0215, subpart 4, item E, and 6115.0216, subpart 2. The work must not proceed unless approved by the commissioner as meeting all requirements for work in public waters.

B. Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed by local government permit provided that:

(1) if the project includes work at or below the ordinary high water level, the local permit is not approved until the commissioner has approved or permitted the project according to item A;

(2) the structures are used only to correct an established erosion problem as determined by the local government or resource agency;

(3) the size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, except as specified under subitem (4):

(a) retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and

(b) riprap must not exceed the height of the regulatory flood protection elevation; and

(4) structures may exceed the height limits in subitem (3) only if a professional engineer determines that a larger structure is needed to correct erosion problems.

C. Repair of existing rock riprap retaining walls and other erosion control structures above the ordinary high water level does not require a local government permit, provided it does not involve any land alteration.

D. Nothing in this subpart shall be construed to waive any other permit requirements that are required by law.

Subp. 5. **Permit process.** Local governments must regulate activities identified in subparts 3 and 4 through a permit process consistent with subpart 6 and part 6106.0150, subpart 4.

Subp. 6. **Permit conditions.** In reviewing and approving land alteration permit applications, the local government must ensure that:

A. temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual, incorporated by reference under part 6106.0090;

B. natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;

C. construction activity is phased when possible;

D. all erosion and sediment controls are installed before starting any land disturbance activity;

E. erosion and sediment controls are maintained to ensure effective operation;

F. the proposed work is consistent with the vegetation standards in part 6106.0150; and

G. best management practices for protecting and enhancing ecological and water resources identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-001, incorporated by reference under part 6106.0090, are implemented where applicable, regardless of project type.

Subp. 7. Storm water management.

A. In the bluff impact zone, storm water management facilities are prohibited, except by local government permit if:

(1) there are no alternatives for storm water treatment outside the bluff impact zone on the site in question;

(2) the site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;

(3) the construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and

(4) mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

B. In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in part 6106.0180, or fully reconstructs existing impervious surface of more than 10,000 square feet requires a postconstruction storm water management permit from the local government consistent with the following:

(1) if a local government is covered by a municipal separate storm sewer system (MS4) general or individual permit from the Minnesota Pollution Control Agency, then the treatment requirements of the MS4 permit for postconstruction storm water management for new development and redevelopment projects apply;

(2) if a local government is not covered by an MS4 permit, then runoff from the new or fully reconstructed impervious surface must comply with the treatment requirements in the current national pollution discharge and elimination system program permit for construction storm water;

(3) local governments may adopt other treatment requirements approved by the Minnesota Pollution Control Agency instead of those specified in subitems (1) and (2); and

(4) multipurpose trails and sidewalks are exempt from subitems (1) and (2) if there is down gradient vegetation or a filter strip that is at least five feet wide.

C. In all other areas of the Mississippi River Critical Corridor Area, storm water runoff must be directed away from the bluff impact zone or unstable areas.

Subp. 8. **Development on steep slopes.** A local government may allow structures, impervious surfaces, land alteration, vegetation removal, or construction activities on steep slopes if:

A. the applicant can demonstrate that the development can be accomplished without increasing erosion or storm water runoff;

B. the soil types and geology are suitable for the proposed development; and

C. vegetation is managed according to the requirements of this part.

Subp. 9. **Compliance with other plans and programs.** All development must:

A. be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under chapter 8410;

B. meet or exceed the wetland protection standards under chapter 8420; and

C. meet or exceed the floodplain management standards under chapter 6120.

Statutory Authority: *MS s 116G.15*

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