

6115.0190 FILLING INTO PUBLIC WATERS.

Subpart 1. **Goals.** It is the goal of the department to limit the placement of any fill material into public waters in order to:

- A. minimize encroachment, change, or damage to the environment;
- B. regulate the quantity and quality of fill and the purposes for which filling may be allowed based upon the capabilities of the waters to assimilate the material; and
- C. maintain consistency with floodplain, shoreland, and wild and scenic rivers management standards and ordinances.

Subp. 2. **Scope.** Filling as used in this part involves placement of unconfined or loosely confined materials in public waters.

Subp. 3. **Prohibited placement.** Placement is prohibited in the following cases:

- A. to achieve vegetation control;
- B. to create upland areas, except where expressly provided herein;
- C. to stabilize beds of public waters which cannot support fill materials because of excessive depths of muck, steep bank, bed slope, or other conditions;
- D. to stabilize or impound the site of active springs;
- E. to dispose of rock, sand, gravel, or any other solid material resulting from activities carried out above the ordinary high water level;
- F. to construct a roadway or pathway, or create or improve land accesses from peripheral shorelands to islands, or to facilitate land transportation across the waters; however, when a project is proposed by a federal, state, or local government agency and this provision would prevent or restrict the project, or create a major conflict with other public purposes or interests, the commissioner may waive this provision if:
 - (1) there is no other feasible and practical alternative to the project that would have less environmental impact; and
 - (2) the public need for the project rules out the no-build alternative; or
- G. filling posted fish spawning areas.

Subp. 4. **No permit required.** No permit is required for the following activities unless prohibited under subpart 3:

- A. to install a beach sand blanket if:
 - (1) the sand or gravel layer does not exceed six inches in thickness, 50 feet in width along the shoreline, or one-half the width of the lot, whichever is less, and does not extend more than ten feet waterward of the ordinary high water level;

(2) the beach sand blanket does not cover emergent vegetation, unless authorized by an aquatic plant management permit; and

(3) local watershed district and local zoning officials are given at least seven days notice by the landowner;

B. for one additional installation of a sand or gravel layer subsequent to an initial installation at the same location and not exceeding the same amounts and dimensions allowed under item A; or

C. to place fill in a public watercourse having a total drainage area, at its mouth, of five square miles or less, if the watercourse is not an officially designated trout stream and the placement of fill does not result in:

(1) any diversions of water from the drainage area;

(2) any impoundment of waters by damming the watercourse; or

(3) any actions that would result in erosion and cause sedimentation of downstream waters as determined by the county or local soil and water conservation district.

Subp. 5. **Permits required.** Permits are required for the placement of fill in public waters, except as provided under subparts 3 and 4, and a project must meet all of the following requirements:

A. the project does not exceed more than a minimum encroachment, change, or damage to the environment, particularly the ecology of the waters;

B. the fill consists of clean inorganic material that is free of pollutants and nutrients;

C. the existence of a stable, supporting foundation is established by appropriate means, including soil boring data where deemed necessary by the commissioner;

D. where erosion protection is deemed necessary by the commissioner, the site conditions and fill material are capable of being stabilized by an approved erosion control method such as riprap, retaining wall, or other method which is consistent with existing land uses on the affected public water;

E. the proposed project represents the minimal impact solution to a specific need with respect to all other reasonable alternatives;

F. the size, shape, depths, shoreline, and bottom character and topography, and susceptibility of the beds of public waters to actions of wind, waves, and currents are such that the fill will be stable;

G. adverse effects on the physical or biological character of the waters are subject to feasible and practical measures to mitigate the effects;

H. the proposed filling is consistent with applicable floodplain, shoreland, and wild and scenic rivers management standards and ordinances for the waters involved; and

I. the proposed filling is consistent with water and related land management plans and programs of local and regional governments, provided such plans and programs are consistent with state plans and programs.

Statutory Authority: *MS s 103G.315; 105.415*

History: *8 SR 533; 25 SR 143; 27 SR 529*

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