

6115.0211 SPECIFIC STANDARDS; STRUCTURES.

Subpart 1. **In general.** In addition to compliance with the general standards in part 6115.0210, subparts 2 to 5, specific requirements shall apply to the activities described in subparts 3 to 8.

Subp. 2. [Repealed, 27 SR 529]

Subp. 3. **Wharves.** A permit is required for the construction or reconstruction of all wharves. The following order of preference for construction types shall be utilized: bulkheaded shoreline, inland slip with bulkheaded sidewalls, and wharf projecting into public waters.

Wharves shall be approved if the structure:

- A. is part of a designated port facility;
- B. is consistent with local land use plans and ordinances;
- C. does not extend further waterward than any existing wharves in the area or beyond any established harbor line, whichever is less;
- D. is of the minimum practicable size; and
- E. is not an obstruction to flood flows or longshore drift and is adequately designed to resist the natural forces of ice, wind, and wave.

Subp. 4. **Breakwaters.** A permit is required for the construction or reconstruction of all offshore breakwaters. These structures shall be approved if the following general conditions and the additional listed specific conditions are met:

- A. alternative dock or inland facilities are infeasible;
- B. the structure is limited to those waters where:
 - (1) prevalent wind, wave, or current conditions along the shoreline are of a magnitude and frequency that preclude the use and maintenance of docks to moor watercraft. Determinations of magnitude and frequency that would inhibit the use of docks is based on supporting facts including:
 - (a) the character of the water involved and its shoreline in relation to exposure to severe wind, wave, or current actions and the configuration and area of the water;
 - (b) the frequency of occurrence of storms producing severe winds and waves based on climatological data for the area; and
 - (c) the average number of days during each month of the navigational season when the shoreline is affected by severe wind, waves, or currents; and

(2) the conditions of the site and the number, type, or size of watercraft intended to be moored would preclude the development and use of on-land facilities, such as rollers, winch and track systems, sliderails, or other facilities that could be used to haul watercraft out of the water for on-land storage;

C. the facility is adequate in relation to appropriate engineering factors, including but not limited to those listed in part 6115.0201, subpart 5, item E, subitem (2), units (f) to (n);

D. the plan is adequate in relation to the geologic and hydrologic factors listed in part 6115.0201, subpart 5, item E, subitem (2), units (a) to (e);

E. the structure is designed in a compact fashion so as to blend in with the surrounding shoreline and so that all mooring and maneuvering activities can be normally confined to an area bounded by the property lines as extended into the public waters while minimizing the surface area occupied in relation to the number of watercraft to be served; and

F. the breakwaters do not exceed the minimum thickness necessary to withstand the anticipated forces consistent with maintenance requirements and are faced with an adequate layer of natural rock riprap of appropriate size and gradation.

Subp. 4a. **Mooring facilities.** Except as provided in part 6115.0210, subpart 4, item A, a permit is required for the construction of all offshore mooring facilities. A mooring facility shall be approved if the following general conditions and the additional listed specific criteria are met:

A. the mooring facility is designed in a compact fashion so as to blend in with the surrounding shoreline and so that all mooring and maneuvering activities can be normally confined to an area bounded by the property lines as extended into public waters while minimizing the surface area occupied in relation to the number of watercraft to be served;

B. the mooring facility minimizes encroachment waterward of the ordinary high water level;

C. for docks or mooring facilities more than eight feet in width, the applicant provides reasonable justification that the proposed width represents the minimal impact solution to a specific need with respect to all reasonable alternatives; and

D. offshore mooring facilities shall be approved, subject to the listed specific conditions:

(1) private offshore mooring facilities not serving as marinas, if the mooring facility is consistent with or allowed under local land use controls, as determined by the local government land use authority;

(2) public offshore mooring facilities not serving as marinas, if:

(a) a local unit of government passes a resolution that specifies the public interests to be benefited by the proposal;

(b) the mooring facility is appropriately sized consistent with the demand for mooring facilities in the area and the number of watercraft to be served; and

(c) the mooring facility is available for use by the general public; and

(3) offshore marinas, if:

(a) the area is zoned for such use or the local government land use authority grants a land use permit; and

(b) the marina is sized consistent with the demand for mooring facilities in the area and the number of watercraft to be served.

Subp. 5. **Retaining walls and erosion and sedimentation control structures.** A permit is required for the construction or reconstruction of all retaining walls and erosion and sedimentation control structures that do not impound water. The construction of retaining walls is discouraged because their appearance is generally not consistent with the natural environment and their construction and maintenance cost is generally greater than riprap.

The issuance of permits is contingent on the following conditions:

A. existing or expected erosion problems preclude the use of riprap shore protection, there is a demonstrated need for direct shoreland docking, or the design is consistent with existing uses in the area. Examples are: riverfront commercial-industrial areas having existing structures of this nature, dense residential shoreland areas where similar retaining walls are common, resorts where floating docks may be attached to such a bulkhead, or where barges are utilized to transport equipment and supplies;

B. adequate engineering studies are performed of foundation conditions, tiebacks, internal drainage, construction materials, and protection against flanking;

C. the facility is not an aesthetic intrusion upon the area and is consistent with all applicable local, state, and federal management plans and programs for the water body; and

D. encroachment below the ordinary high water level is held to the absolute minimum necessary for construction.

Subp. 6. **Boat launching ramp.** A permit is required for the construction or reconstruction of any boat launching ramp not covered under part 6115.0210, subpart 4, item B, and shall be granted if:

A. the applicant demonstrates a need for a launching facility;

B. the proposed ramp is of the minimum dimensions necessary for launching of watercraft;

C. the proposed ramp does not obstruct flowing water; and

D. construction does not necessitate alteration of shoreland that could result in substantial erosion and sedimentation.

Subp. 6a. **Boathouses.** A permit is required for the construction, reconstruction, relocation, removal, or repair of a boathouse. The permit shall be granted if the following conditions are met:

A. the boathouse is located in an area of historic boathouse use. "Historic boathouse use" shall be determined by the commissioner and shall be based on a review of factual information such as photographs, local government comments, newspaper accounts, or other relevant information;

B. the boathouse is approved by the local unit of government by means of a resolution with supporting documentation that identifies the owner, length, width, height, number of rooms, and sanitary facilities of the boathouse; and

C. the boathouse was located on public waters before January 1, 1997.

Subp. 6b. **Energy exchangers.** A permit is required for the construction, reconstruction, relocation, or repair of energy exchangers located on the bed of a public water. The permit shall be granted if the following general conditions and the additional listed specific conditions are met:

A. there are no other feasible and practical alternative sites for the project that would have less environmental impact;

B. a closed loop design is utilized;

C. the facility is designed in accordance with sound engineering practices;

D. the facility is not located in a designated trout stream or lake, a designated wild and scenic river, or an outstanding resource value water as defined in part 7050.0335;

E. the facility is designed in a fashion and located so as not to cause a navigation hazard;

F. the facility will not exceed more than a minimum encroachment, change, or damage to the environment, particularly the ecology of the waters;

G. the facility will not take threatened or endangered species identified in chapter 6134 without authorization by the commissioner according to parts 6212.1800 to 6212.2300;

H. the facility will not contain substances, if released into public waters, that would be detrimental to water quality or plant or animal life forms; and

I. the construction, relocation, or reconstruction of privately owned structures shall be permitted only when a federal, state, or local governmental agency accepts responsibility for future maintenance of the facility or its removal in the event that the private owner fails to maintain or abandons the facility.

Subp. 7. **Other facilities.** A permit is required for the construction, reconstruction, relocation, removal, repair, and abandonment of all other offshore structures, boat storage structures, cables other than utility crossings, pilings, or other structures not covered by specific regulations.

A. Permits for structural repair, relocation, or modification, other than minor maintenance work such as reroofing, painting of structures, or similar work, shall be issued if all of the following conditions are met:

- (1) the applicant demonstrates a need for the work;
- (2) the cost of the work will not exceed 50 percent of the replacement cost of the structure;
- (3) the degree of permanence of the structure will not be materially increased by virtue of constructing a new foundation or replacing the majority of the structure above the foundation;
- (4) the structure being repaired has appropriate permits from the local land use or sanitary authority; and
- (5) the degree of obstruction or structure size is not increased.

B. Permits for construction, relocation, or reconstruction of publicly owned structures shall be issued where:

- (1) public need is documented and outweighs adverse environmental impact;
 - (2) the site is adequately protected from the forces of ice and wave pressures;
- and
- (3) the proposed construction is of sound design and is not necessarily obtrusive or visually incompatible with the natural surroundings.

C. The construction, relocation, or reconstruction of privately owned structures, other than docks and mooring facilities, shall be permitted only when a governmental agency or local unit of governmental accepts responsibility for future maintenance of the structure or its removal.

Subp. 8. **Removal of structures.** Where the commissioner has determined that a structure is no longer functional, constitutes a public nuisance or a hazard to navigation, or

poses a threat to public health or safety, the structure shall be removed from public waters under the applicable provisions of these rules. Except as provided under part 6115.0210, subpart 4, item C, a permit is required for the removal or abandonment of all existing waterway obstructions including boathouses, bridges, culverts, pilings, piers, and docks. Permits shall be issued provided:

A. the original cross-section and bed conditions will be restored insofar as practicable;

B. adequate provisions are made to mitigate any side effects resulting from removal, such as restoration of wave or current forces; and

C. no portion of the structure remains which would obstruct or impair navigation, interfere with the passage of flood waters, or contribute to erosion and sedimentation.

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

History: *8 SR 533; 25 SR 143; 27 SR 529; 8 SR 533; 25 SR 143; 27 SR 529; 41 SR 545*

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