

**6115.0215 RESTORATION OF PUBLIC WATERS.**

Subpart 1. **Goals.** It is the goal of the department to encourage the restoration of public waters to:

- A. improve and protect fish and wildlife habitat and the diversity of the habitat;
- B. preserve the natural character of public waters and their shoreline zones;
- C. encourage the use of natural materials for shoreline zone protection and restoration;
- D. limit the removal of natural materials from the beds of public waters; and
- E. prevent erosion and siltation of public waters, while maintaining natural processes.

Subp. 2. **Scope.** This part applies to placement, construction, reconstruction, repair, relocation, abandonment, or other work needed to restore or protect public waters or to removal of any materials, structure, fill, water level control, excavation, or drainage device placed on or in public waters. For purposes of this part, "restoration" means the repair, reconstruction, or recreation of essentially natural or native conditions of a public water and its shoreline or banks. This part does not apply to restoration orders issued by the commissioner consistent with part 6115.0255.

Subp. 3. **Prohibited work.** Public waters alteration, protection, or restoration work is prohibited when the work:

- A. is detrimental to significant fish and wildlife habitat and there are no feasible, practical, or ecologically acceptable means to mitigate the effects;
- B. takes threatened or endangered species listed in chapter 6134 without authorization by the commissioner according to parts 6212.1800 to 6212.2300;
- C. obstructs navigation or creates a water safety hazard, as determined by the commissioner;
- D. violates the regulations of any local zoning authority or water management agency;
- E. results in the creation of land above the ordinary high water level that is not deemed essential by the commissioner as part of the project;
- F. uses materials that are not clean and free of pollutants, nutrients, and exotic species sources;
- G. manipulates water levels solely to satisfy private interests; or
- H. will adversely impact public infrastructure, particularly roads and drainage systems.

Subp. 4. **No permit required.** No permit is required for the following activities, unless prohibited elsewhere in parts 6115.0150 to 6115.0280:

A. to perform bank or shoreline zone restoration work using willow wattles, willow posts, brush matting, brush layering, fiber roll breakwaters, plant carpets, root wads, and other natural materials installed by hand for the purpose of shoreline zone restoration work, if:

(1) the project is approved by the commissioner and designed or reviewed by the local soil and water conservation district or the local watershed district;

(2) the design does not interfere with navigation or other riparian uses of the waterbody;

(3) the project is done during times of the year when it will not interfere with fish spawning or the nesting of protected bird species;

(4) local origin native plant species, adapted for the site, are used;

(5) an aquatic plant management permit is obtained, when aquatic macrophytes are used;

(6) the waterward encroachment is the minimum necessary for the purpose of the project; and

(7) a maintenance plan is developed for the project and a copy submitted for review to the department area fisheries office;

B. to remove or grade an ice ridge, if all of the following conditions are met:

(1) the ice ridge resulted from ice action within the last year;

(2) the project is either exempt from local permits or is authorized by issuance of a local government permit;

(3) the total length of shoreline zone to be affected does not exceed 200 feet;

(4) all ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the ordinary high water level of any public water;

(5) all ice ridge material that is composed of sand or gravel is removed as provided in subitem (4) or graded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the ordinary high water level;

(6) no additional excavation or placement of fill material occurs on the site;

(7) all exposed areas are immediately stabilized as needed to prevent erosion and sedimentation; and

(8) local zoning officials, the watershed district, if applicable, and the soil and water conservation district are given seven days' prior notice;

C. to construct, reconstruct, or abandon a water level control structure on a public watercourse with a contributing watershed of 300 acres or less, except on officially designated trout streams, if the structure does not qualify as a dam under parts 6115.0300 to 6115.0520;

D. to excavate or place fill for the purpose of planting or collecting native aquatic plants for restoration purposes, if the work is authorized by an aquatic plan management permit; and

E. to install natural rock riprap and associated filter materials where there is a demonstrated need to prevent erosion or to restore eroded shoreline, when there is a demonstrated need for such work, except along the shores of Lake Superior and officially designated trout streams, if:

(1) the rock is sized appropriately with the erosion potential of the wave or current action of the particular water body, but in no case shall the rock average less than six inches in diameter or more than 30 inches in diameter;

(2) the rock is placed so that it conforms to the natural alignment of the shoreline zone;

(3) the finished slope, as measured on top of the rocks, is not steeper than three to one (horizontal to vertical);

(4) no materials are placed more than six feet waterward of the ordinary high water level, unless the commissioner determines that this dimension may be measured from another point due to the particular nature of water levels of the public water;

(5) the total length of shoreline to be affected does not exceed 200 feet for public waterbasins or public water wetlands or five times the width of the public watercourse measured at bank full conditions;

(6) the riprap does not cover emergent vegetation, unless authorized by an aquatic plant management permit;

(7) the riprap does not obstruct navigation or the flow of water;

(8) a filter, consisting of crushed rock, gravel, or suitable filter fabric material is placed underneath the rock; and

(9) the rock and any filter material are free from organic material, soil, clay, debris, trash, or any material that may cause siltation or pollute the waterbody.

Subp. 5. **Permit required; criteria.** A permit is required for the restoration of public waters, except as provided under subpart 4, and shall be granted if all of the following conditions are met:

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

B. the proposed project is intended to achieve one or more of the following purposes:

- (1) improve navigational or recreational uses;
- (2) improve or restore fish or wildlife habitat;
- (3) expose sediment to remove or eliminate nutrients or contaminants;
- (4) restore shorelines or watercourse channels to more natural conditions;
- (5) improve or restore natural hydrologic conditions; or
- (6) improve or restore water quality;

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

D. adverse effects of the proposed project on the physical or biological character of the waters are avoided when possible and are subject to feasible and practical measures to mitigate the effects;

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

F. the proposed project is consistent with water and related land management plans and programs of local and regional governments, provided the plans and programs are consistent with state plans and programs; and

G. projects that involve the placement of fill to recover shoreland lost by erosion or other natural forces are subject to part 6115.0191, subpart 4, except that part 6115.0191, subpart 4, does not preclude the issuance of a permit to place riprap materials or use other structural and vegetative means for protection of the shoreline zone to prevent continuing erosion.

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

**History:** *27 SR 529*

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