

## **8420.0935 STANDARDS AND CRITERIA FOR IDENTIFICATION, PROTECTION, AND MANAGEMENT OF CALCAREOUS FENS.**

Subpart 1. **Purpose.** The purpose of this part is to provide minimum standards and criteria for identifying, protecting, and managing calcareous fens as authorized by Minnesota Statutes, section 103G.223. Calcareous fens, as identified by the commissioner, must not be impacted or otherwise altered or degraded, wholly or partially, by any action, unless the commissioner, under an approved management plan, decides some alteration is necessary. The exemptions under part 8420.0420 and the sequencing provisions under part 8420.0520 do not apply to calcareous fens.

Subp. 2. **Identifying calcareous fens.** A calcareous fen is a peat-accumulating wetland dominated by distinct groundwater inflows having specific chemical characteristics. The water is characterized as circumneutral to alkaline, with high concentrations of calcium and low dissolved oxygen content. The chemistry provides an environment for specific and often rare hydrophytic plants.

### **Subp. 3. Procedures to list calcareous fens.**

A. The commissioner must investigate wetlands to determine if the wetland is properly identified as a calcareous fen.

B. The commissioner must, by written order published in the State Register, maintain a current list of known calcareous fens in the state and their location.

C. The commissioner must provide an updated list of calcareous fens to the board for further distribution.

Subp. 4. **Management plans.** Calcareous fens must not be impacted or otherwise altered or degraded except as provided for in a management plan approved by the commissioner. The commissioner must provide technical assistance to landowners or project sponsors in the development of management plans.

Subp. 5. **Restoration.** The commissioner may approve management plans to restore or upgrade a previously damaged calcareous fen.

### **Subp. 6. Appeals.**

A. A landowner or project proposer may challenge the commissioner's determination that a wetland is a calcareous fen or the commissioner's calcareous fen management plan by requesting a hearing. The hearing shall be conducted in the same manner as water permit hearings under Minnesota Statutes, chapter 103G.

B. The determination that a wetland is a calcareous fen may be appealed at any time by requesting a hearing. For a decision under a management plan, the hearing must be requested within 30 days after the notice of the commissioner's decision was mailed to the

project proposer; otherwise the decision becomes final and may not be challenged by the project proposer.

C. Appeal of the commissioner's decision after the hearing must be done in the manner provided for appeals from contested case decisions under Minnesota Statutes, chapter 14.

Subp. 7. **Enforcement procedures.** Enforcement procedures for calcareous fens must be conducted consistent with Minnesota Statutes, sections 103G.141 and 103G.2372, except that necessary restoration or replacement activities, if required, must be determined by the commissioner, in consultation with the local soil and water conservation district.

**Statutory Authority:** *MS s 103G.2242*

**History:** *34 SR 145*

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