

# Minnesota Wetland Conservation Act

## Federal Approvals Exemption for Utilities

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In accordance with MN Stat. § 103G.2241, Subdivision 3 and MN Rule Chapter 8420.0420, Subpart 4, a replacement plan is not required for wetland impacts resulting from the construction, maintenance, or repair of utility lines, including pipelines, and associated facilities when:

- (1) the applicant has provided notice to all Wetland Conservation Act local government units with jurisdiction over the proposed project, including a description of the project, the proposed alignment, the intent to utilize this exemption, and notification that comments may be provided to the U.S. Army Corps of Engineers, St. Paul District (Corps). The notice must be provided prior to or concurrent with application for a permit from the Corps. In the event the proposed work is eligible for a Corps non-reporting general permit, the applicant must submit an application and request verification from the Corps that the proposed work complies with the terms and conditions of the non-reporting general permit;
- (2) all affected wetlands are either jurisdictional under the federal Clean Water Act or the applicant agrees to proceed with the federal review using a preliminary jurisdictional determination which assumes that all aquatic resources in the project area, including any wetlands, are jurisdictional under the Clean Water Act;
- (3) the applicant receives a general permit verification letter or a signed individual permit (letter of permission or standard individual permit) from the Corps authorizing the work under Section 404 of the Clean Water Act and provides a copy to each local government unit; and
- (4) once authorized by the Corps, all work must be conducted and completed in accordance with the terms and conditions of the Corps' permit (33 U.S.C. §1344), including any conditions provided by Wetland Conservation Act local government units that the Corps determines are necessary to protect the public interest for a particular project, and the exemption conditions of MN Rule Chapter 8420.0410.

Failure to comply with conditions 1 through 4 will void eligibility for this exemption. Applicants are encouraged to coordinate with local government units early and throughout the project planning process.

For the purposes of this exemption, "utility line" has the meaning given in the St. Paul District regional general permit RGP-003-MN, which defines utility line as "any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission of electrical energy, telephone, electronic data, and radio or television communication."

This exemption applies only to the Minnesota Wetland Conservation Act. This exemption does not apply to public waters, to calcareous fens as identified by the commissioner, to activities that affect any of the special considerations identified in MN Rule Chapter 8420.0515, or to other circumstances identified in MN Rule Chapter 8420.0420, subpart 1, item B. Qualification for this exemption does not release the project sponsor from any rules, regulations, requirements, or standards of any applicable federal, state, or local agency.