

Lemm, Les P (BWSR)

From: Norris, Doug J (DNR)
Sent: Thursday, December 17, 2015 2:57 PM
To: Lemm, Les P (BWSR)
Cc: Hovey, Tom E (DNR); Gleason, John (DNR); Mixon, Kevin (DNR); Engstrom, Jennifer N (DNR); Sullivan, Colleen (DNR); Pierce, Ann M (DNR)
Subject: WCA Rule Revision Topics

Les,
Per the State Register Notice soliciting input on the WCA rule revisions (10-19-2015), here are some potential revisions that the DNR would like to at least discuss. I circulated the Notice throughout the DNR and received very little response, but I want to be clear that we may identify issues in addition to those listed here as the rule revision process proceeds.

- 8420.0111, Definitions, Subp. 26, Fill – We’ve had reports of solar installations being installed in wetlands without WCA authorization because the panels are mounted on posts, even though there is significant shading and a need to continuously cut the wetland vegetation. Need to discuss if the existing definition of fill is clear enough.
- 8420.0415, No-Loss Criteria, Paragraph D – Revise the language to better clarify the intent of this provision.
- 8420.0515, Special Considerations -- Clarify that Subpart 2 (Endangered and threatened species) and Subpart 3 (Rare natural communities) only apply to resources affected by activities authorized under a wetland replacement plan, including proposed replacement areas. For Subpart 3, consider whether to add a statement that compensatory mitigation may be considered in determining whether there will be permanent adverse effects (currently in guidance).
- 8420.0526. Actions Eligible for Credit -- Allow the restoration of public waters wetlands as compensation for wetland impacts authorized by a WCA replacement plan under certain circumstances.
- 8420.0544, Replacement for Public Transportation Projects, Paragraph I – The reference to “impacts to public waters” should be changed to “impacts to the wetland areas of public waters” in order to be consistent with statute (103G.222, Subd. 1(m)).

We look forward to participating in the rule revision process. As always, please contact me if we need to discuss further. Thanks.

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