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**Remaining MWPCP 2024 Courses**

- Regional Training -Redwood Falls– August 27-28
- Introduction to Wetland Delineation & Regulations- Brainerd - September 9-13
- Introduction to Wetland Delineation & Regulations- Arden Hills- September 30- October 4
- Antecedent Precipitation Tool- St Cloud MNDOT Training Center- October 22 (2 sessions)



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**MWPCP Regional Training Agenda**

<p><b>August 27</b></p> <p><b>2024 WCA Statute Changes</b></p> <ul style="list-style-type: none"> <li>Wetland classification system</li> <li>Definitions</li> <li>Agricultural Exemption</li> <li>Drainage exemption</li> <li>De minimis &amp; utility exemptions</li> </ul> <p><b>WCA Enforcement Short Course</b></p> <ul style="list-style-type: none"> <li>Assessing WCA impacts</li> <li>Reviewing ATF applications</li> </ul> <p><b>Delineation Field Review Exercise</b></p>	<p><b>August 28</b></p> <p><b>Wetland Bank Monitoring Reports</b></p> <ul style="list-style-type: none"> <li>Wetland Bank plans</li> <li>Monitoring reports</li> <li>Monitoring methods</li> </ul> <p><b>Intro to the Enviro Atlas Methods for the new Wetland Functional Assessment Method</b></p> <ul style="list-style-type: none"> <li>Common Wetland Indicators of Hydrogeomorphic Method</li> <li>Delineation review field exercise (Whittet bank site)</li> </ul>
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## 2024 Statute Changes – summary

**m** BOARD OF WATER AND SOIL RESOURCES



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### General Questions

- What's the difference between statute and rule?
- Who determines when the statutes become effective?
- Will the rules be different than the statutes?

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### Background

Amendments to WCA Statutes since the current rule was adopted (2009)

- 2011
- 2012
- 2015
- 2017
- **2024**

Some amendments require the completion of rulemaking before they become effective, others have been effective since passage.

We will discuss the 2024 amendments, most of which are effective August 1, 2024.

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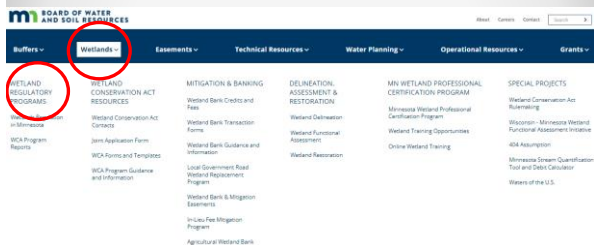
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### Information on BWSR Website

A ~~strikeout~~-underline version of the statutory amendments and a narrated presentation are posted on the BWSR website.



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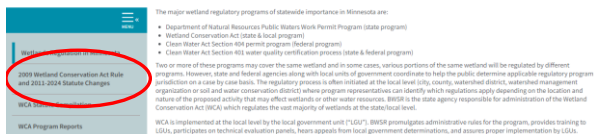
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### Wetlands Regulation in Minnesota



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### 2024 WCA Statute Changes Webinar



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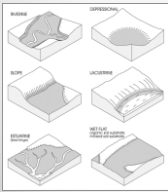
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### Hydrogeomorphic Classification System for Wetlands

A *Hydrogeomorphic Classification for Wetlands* (HGM for short) was added as an option for identifying "Wetland Type". HGM will be incorporated into WCA rules for implementation and Circular 39 removed.



HGM classifies wetlands based on their position in the landscape (depression, slope, floodplain, etc.) and their source of water (flooding from stream, lake bounce, seep, etc.).

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### Non-PW Deepwater Habitats Now Regulated by WCA

- Water bodies that are too deep to be wetlands (generally >8.2 feet deep) and are not big enough to meet the criteria for Public Waters (>2.5 ac in metro, >10 ac non-metro) are now subject to WCA regulations.
- This change is effective August 1. Most of these water bodies include a fringe of wetland that was already regulated by WCA.

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### Regulatory Authority for Non-PW Intermittent/Perennial Streams added to WCA

- BWSR can adopt rules that protect or mitigate impacts to watercourses that are upstream of Public Waters watercourses (drainage area >2 sq miles).
- This change is not effective until rules are adopted in a future rulemaking when the necessary resources and expertise are acquired to implement it.

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**Agricultural Exemption**

The following provisions were removed from the agricultural exemption:

- Agricultural activities impacting a wetland that was planted, in a crop rotation, or set aside program in six of the 10 years prior to 1991.
- Agricultural activities impacting a wetland on ag pastureland remaining in the same use (restricted to certain wetland types and sizes).

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**Agricultural Exemption**

The following provisions were added to the agricultural exemption:

- Impacts to wetlands on agricultural land labeled as prior-converted cropland (PC) by the USDA Natural Resources Conservation Service (NRCS).
- Impacts to wetlands on agricultural land resulting from drainage *maintenance* activities authorized by NRCS where labeled as farmed wetland (FW), farmed-wetland pasture (FWP) or wetland (W).
- ❖ Labels must be identified on a "Certified" Wetland Determination.

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**Drainage Exemption**

The following provisions were removed from the drainage exemption:

- Draining wetlands (certain type restrictions) in an unincorporated area on land that has been assessed drainage benefits for a public drainage system (with various requirements).
- Wetland impacts on lands that were planted with annually seeded crops, in a crop rotation, or set aside 8 of the last 10 most recent years.

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**Drainage Exemption  
Maintenance/Repair Provisions**

Previously, the drainage exemption had separate provisions for public and private drainage systems:

- **Private:** Wetland impacts resulting from maintenance/repair are exempt except for draining wetlands that have been in existence for more than 25 years.
- **Public:** Wetland impacts resulting from maintenance/repair are exempt except for draining types 3, 4, & 5 wetlands that have been in existence for more than 25 years.

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**Drainage Exemption  
Maintenance/Repair Provision**

Now, the “public” drainage maintenance exemption is the same as the “private” drainage maintenance exemption.

- What remains the same for public systems:
  - ✓ Drainage maintenance that drains wetlands that have existed for 25 years or less is still exempt.
- What changed for public systems:
  - ✓ Now all wetlands that have existed for more than 25 years will need to be evaluated for potential impacts, not just types 3, 4, and 5.

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**Utilities Exemption**

- WCA exempts impacts to wetlands resulting from the installation, maintenance, repair or replacement of utility lines meeting certain requirements including a ½ acre threshold.
- This exemption now requires that the project be authorized under a permit issued by the U.S. Army Corps of Engineers. The ½ acre threshold was eliminated.
- The repair and updating of existing subsurface sewage treatment systems to comply with state/federal/local requirements is also exempt, is unchanged, and does not require a Corps permit.

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**De Minimis Exemption**

WCA has a de minimis which exempts relatively small wetland impacts associated with a project. The threshold for this exemption varied by many factors. The exemption was changed as follows:

- Eliminated thresholds based on wetland "type" and on location in the 11-county metro area.
- Clarifies that if project wetland impacts exceed the applicable de minimis threshold, all wetland impacts require replacement.
- Additional restrictions added to prevent dividing property to increase de minimis amounts.
- Eliminated previous restrictions related to the landowner's portion of the wetland and the cumulative area drained or filled since 1992.
- Thresholds were changed.

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**De Minimis Exemption**

De Minimis thresholds are now as follows:

- **20 sf** – in shoreland building setback zone (can be increased to **100 sf** if permanent water runoff/retention/infiltration measures established).
- **100 sf** – in shoreland wetland protection zone.
- **400 sf** – in permanently/semi-permanently flooded areas of wetlands.
- **1/20th acre** - <50% area of state.
- **1/10th acre** – 50-80% area of state.
- **1/4 acre** - >80% area of state.

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**Splitting Projects to Gain Exemptions**

- Previously, statute said that projects can't be split for the *sole* purpose of gaining exemptions. "*Sole*" was deleted. This means that projects can't be split to gain exemptions even if that was not the "sole" purpose of the split.

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**Wetland Banking – Review and Comment Timelines**

- As with all WCA decisions, a decision on a wetland bank plan must be made in compliance with Minnesota Statutes 15.99 which generally requires a decision within 60 days.
- Statute directs BWSR to establish review and comment period timelines in WCA rule for wetland banking projects. Once adopted, the review timelines would no longer be subject to MS 15.99.
- Does not apply to other WCA application types.

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**Wetland Replacement Responsibility – State Roads**

- WCA requires that BWSR provide replacement for wetland impacts associated with public transportation projects meeting certain requirements, except for projects that Minnesota Department of Transportation (MnDOT) is responsible for.
- Statute now clarifies that MnDOT is responsible for wetland replacement on public transportation projects that occur on state roads, regardless of who the project sponsor or co-sponsor is.

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### Next Steps, WCA Rulemaking

1. Notice posted in State Register
  - Expand the scope of WCA rulemaking to include 2024 statute changes
  - Request for comments (deadline August 12)
2. Review/consider comments received.
3. Incorporate relevant statute changes into an initial WCA rule draft.
4. Continue with the rulemaking process, including additional opportunities for public review and comment.

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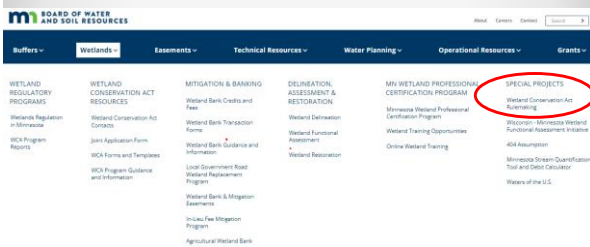
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### More Information

BWSR website WCA Rulemaking page: <https://bwsr.state.mn.us/wca-rulemaking>.




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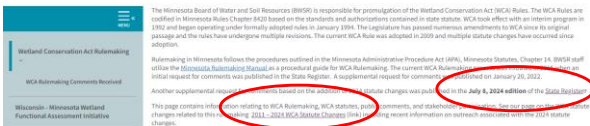
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### WCA Rulemaking Page

- Includes link to State Register Request for Comments.
- Link to statute changes includes a written summary and narrated presentation.

### Wetland Conservation Act Rulemaking




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**Hydrogeomorphic Method**

- Assesses functional conditions of a specific wetland referenced to data collected from wetlands across a range of physical conditions
- Established Classes based on geomorphic, hydrology and hydraulic functions of palustrine wetlands:
  - RIVERINE, DEPRESSIONAL, SLOPE, MINERAL SOIL FLATS, ORGANIC SOIL FLATS, ESTUARINE FRINGE, LACUSTRINE FRINGE

**Legend:**  
 P = Precipitation  
 ET = Evapotranspiration  
 SW = Surface Water  
 GW = Ground Water  
 GWI = Ground Water Inflow  
 GWO = Ground Water Outflow  
 GWS = Ground Water Storage  
 CRP = Change in Storage

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**HGM Classes**

- RIVERINE
- DEPRESSIONAL
- SLOPE
- MINERAL SOIL FLATS
- ORGANIC SOIL FLATS
- ESTUARINE FRINGE
- LACUSTRINE FRINGE

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**Parameters of HGM**

- **Geomorphology**- landscape position, surface shape
- **Hydrology**- water source and output
- **Hydraulics**- hydrodynamics

**Legend for Diagram:**  
 P = Precipitation  
 SW = Surface Water  
 GWI = Ground Water Inflow  
 GWO = Ground Water Outflow  
 ET = Evapotranspiration  
 AS = Change in Storage

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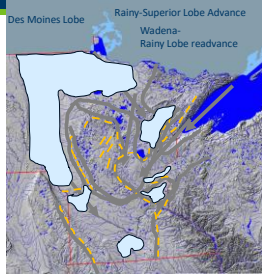
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In MN, geomorphology is result of glacial geology

Recent Glacial Geology of MN



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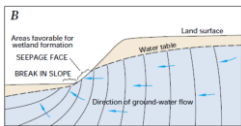
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Hydraulics- how water moves



- Uni-directional
- Bi-directional
  - Estuarine and lacustrine fringe

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### Wetland Hydrology

**Winter water table**

- Low evapotranspiration
- Storage capacity limited to surface water
- Plants, except evergreens, have no leaves

**Fall water table**

- Low evapotranspiration
- Storage capacity decreases
- Plants have leaves and become dormant

**Spring water table  
Summer water table**

- High evapotranspiration
- Storage capacity increases (surface and subsurface)
- Plants are actively growing

**Extent of Wetland Hydrology Indicators**

$P = \text{Precipitation}$      $SWD = \text{Surface Water Outflow}$   
 $SMI = \text{Surface Water Inflow}$      $SDI = \text{Ground Water Outflow}$   
 $GMI = \text{Ground Water Inflow}$      $ET = \text{Evapotranspiration}$   
 $\Delta S = \text{Change in Storage}$

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## Hydrology of HGM Classes

HGM Class (subset)	Hydrology Inputs	Hydrology Outputs	Hydraulics
levelling	surface flow precipitation groundwater	surface flow evapotranspiration	unidirectional
DEPRESSIONAL - surface	surface flow precipitation	groundwater recharge evapotranspiration	unidirectional
DEPRESSIONAL - ground	groundwater precipitation	intermittent surface flow evapotranspiration groundwater recharge	unidirectional
SLOPED - surface	surface flow precipitation	surface flow evapotranspiration groundwater recharge	unidirectional
SLOPED - ground	groundwater surface water precipitation	surface flow evapotranspiration	unidirectional
MINERAL SOIL FLATS	precipitation intermittent surface flow	evapotranspiration intermittent surface flow	unidirectional
ORGANIC SOIL FLATS	groundwater precipitation	intermittent surface flow Evapotranspiration	unidirectional
ESTUARINE FRINGE	surface flow tidal exchange precipitation	tidal exchange surface flow Evapotranspiration	bidirectional
LACUSTRINE FRINGE	surface flow groundwater precipitation	return flow to lake surface flow evapotranspiration	bidirectional

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## HGM Determination Key from WIMN RAM

Key to the Hydrogeomorphic HGM Classes	
1. Wetland is associated with a perennially flowing stream, floodplain, OR fringing a lake or reservoir	1
2. Wetland is associated with a perennially flowing stream or floodplain	3
3. Stream is designated 1 <sup>st</sup> or 2 <sup>nd</sup> order in the National Hydrography Dataset (NHD)	4
4. Regular overbank flooding occurs (e.g., there is an apparent change in water regime or vegetation close to the channel compared to broader contiguous wetland)	DEPRESSIONAL - Floodplain
4. Regular overbank flooding typically does not occur (e.g., no apparent change in water regime or vegetation in broader contiguous wetland)	7
3. Stream is designated 3 <sup>rd</sup> order or higher in NHD and regular overbank flooding occurs	5
5. Wetland lacks a closed topographic contour to retain water following overbank flooding conditions (i.e., the wetland is the floodplain)	MINERIAL - Lower Perennial
5. Wetland has a closed topographic contour such that floodwater is retained relative to the adjacent floodplain wetland following overbank flooding conditions (i.e., a depression within a broader floodplain)	DEPRESSIONAL - Floodplain
2. Wetland is fringing a lake or reservoir (e.g., named lake in Public Water Inventory, has Limited Wet Substratum categories in the continuous basin)	6
6. Lake water elevation maintains wetland hydrology – surface water flows to directionally between the wetland and lake (wetlands with A, C, or F water regime) AND/OR the wetland consists of a floating mat with a D water regime	LACUSTRINE FRINGE
6. Wetland elevation above typical high water lake elevation and not consisting of a floating mat (typically wetlands with a D water regime that are not floating)	7
7. Wetland is not associated with a perennially flowing stream channel, floodplain, or fringing a designated lake	7
7. Wetland is within a closed elevation contour that allows for water accumulation (i.e., a depressed basin, includes berms and mounds, depressments and excavations)	8
8. Wetland has a predominantly D water regime, is not floating, AND vertical accretion of peat has produced a tall surface	ORGANIC SOIL FLAT
8. Wetland has any other predominant water regime or has a D water regime, consists of a floating mat, and does not have significant vertical accretion of peat	DEPRESSIONAL
7. Wetland is not within a closed elevation contour	9
9. Wetland is on a topographic slope (e.g., > 1% percent slope)	10
10. Groundwater is the primary water source (e.g., batic seepage/haikout, groundwater indicator species)	SLOPE - Groundwater
10. Precipitation is the primary water source (e.g., groundwater indicator species not present)	SLOPE - Surface Water
9. Wetland is topographically flat (e.g., < 1% slope)	11
11. Wetland has predominantly mineral soil (if organic surface layer present, < 20 cm in depth)	MINERAL SOIL FLAT
11. Wetland has predominantly organic soil (an organic surface layer > 20 cm present)	12
12. Precipitation is the primary water source	ORGANIC SOIL FLAT
12. Groundwater is the primary water source (e.g., groundwater indicator spp. present)	SLOPE - Groundwater

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## Deepwater Habitat



Deepwater aquatic habitats are areas that are permanently inundated at mean annual water depths >8.2 ft or permanently inundated areas less than or equal to 8.2 ft that do not support rooted-emergent or woody plant species

They have the follow diagnostic characteristics:

- 1) vegetation -no rooted-emergent or woody plant species are present in these permanently inundated areas
- 2) Soil- the substrate technically is not defined as a soil if the mean water depth is >8.2 ft or if it will not support rooted emergent or woody plants

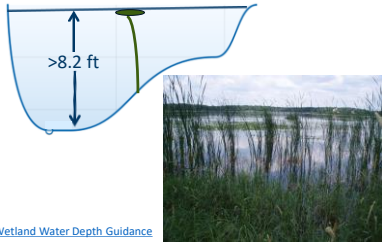
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### Limits of wetland (depth)- Deepwater Habitat

**Important Considerations for Wetlands**

- Must be capable of supporting rooted, emergent vegetation.
- Must have soil.

If the water is too deep or fast flowing, cannot support rooted vegetation and soil cannot form (unconsolidated bottom).



Wetland Water Depth Guidance

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### Permanently and Semipermanently flooded areas

- 2009 Rule language:
- Subp. 51. **Permanently and semipermanently flooded area of a ~~type 3, 4, or 5~~ wetland.** "Permanently and semipermanently flooded area of a ~~type 3, 4, or 5~~ wetland" means the portion of a ~~type 3, 4, or 5~~ wetland below the level where the water has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.



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### Permanently and Semipermanently flooded areas- Circular 39 & Eggers & Reed

	Eggers & Reed
1	Seasonally Flooded Basins
1	Floodplain Forests
2	Sedge Meadows
2	Fresh (wet) Meadows
2	Wet to Wet-Mesic Prairies
2	Calcareous Fens
3	Shallow Marsh
4	Deep Marsh
5	Shallow, Open Water
6	Shrub-Carr
6	Alder Thicket
7	Hardwood Swamp
7	Coniferous Swamp
8	Open Bog
8	Coniferous Bog

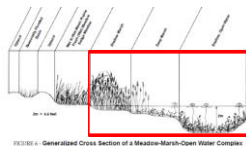


FIGURE 4. Generalized Cross Section of a Meadow-Marsh-Open Water Complex.

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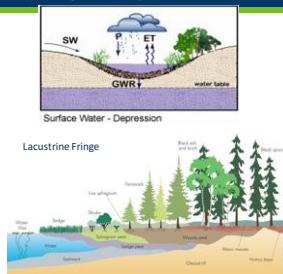
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permanently and semipermanently flooded areas- Hydrogeomorphic Method

HGM Class	Typical Water Regimes
Mineral Flat	All regimes except permanently flooded (Saturated most of growing season)
Organic Flat	All regimes except permanently flooded (Saturated most of growing season)
Organic Flat	Saturated
Sloped	Saturated
Riverine	Temporary Flooded
Lacustrine Fringe	Semi permanently to permanently flooded (up to 8.2')
Depression	Seasonally Flooded
Depression	Saturated
Depression	Semi permanently flooded (up to 6')



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Mapping flooded areas



Nontidal	
A	Temporarily Flooded
B	Seasonally Saturated
C	Seasonally Flooded
D	Continuously Saturated
E	Seasonally Flooded / Saturated
F	Semipermanently Flooded
G	Intermittently Exposed
H	Permanently Flooded
J	Intermittently Flooded
K	Artificially Flooded

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Ag Exemption, Subp.2

Impacts from Agricultural Activities

- 8420.0420 Subp 2
- (A) Type 1,2 ~~Planted~~ 6 of 10 prior to 1991
- (B) Agricultural ~~pasture~~ land, except bottomland ~~hardwood~~ type 1
- (C) SWCD Conservation Practices
- (D) Wheeled Irrigation booms
- (E) Aquaculture (F) Wild Rice (G) Ag Bank



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**NEW** Agricultural Exemption Statute

Replacement plan for wetlands is not required for:

- impacts to wetlands on agricultural land labeled prior-converted (PC) cropland and
- impacts to wetlands resulting from drainage maintenance activities authorized by the Natural Resources Conservation Service, on areas labeled farmed wetland, farmed wetland pasture, and wetland.

The prior-converted cropland, farmed wetland, farmed-wetland pasture, or wetland must be labeled on a valid final certified wetland determination issued by the Natural Resources Conservation Service.

Landowner is responsible to provide a copy of the final certified wetland determination (026 and CWD map) to, and allow the Natural Resources Conservation Service to share related information with, the local government unit and the board for purposes of verification.

Provision 1

Provision 2

Applies to both

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Provision 1, Agricultural Land

"...impacts to wetlands on agricultural land labeled prior-converted (PC) cropland...."

"Agricultural land" means land used for the following uses:

- (1) pasture or hayland for domestic livestock;
  - (2) producing agricultural crops;
  - (3) growing nursery stocks; or
  - (4) Pasture or animal feedlots
  - (5) Farmyard, associated building sites
- etc.

Must be principally used for cultivation or production of plant/animals. Includes lands in Conservation Contract (CRP)



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WCA Drainage Definitions

WCA Rules Chapter 8420 definitions:

• **Ditch** – Ditch has the meaning given under Minnesota Statutes, section 103E.005, subdivision 8.

“Ditch means open channel to conduct the flow of water”

• **Drain or drainage** – any method for removing or diverting water from wetlands

• **Drainage system** – Drainage system means a system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets

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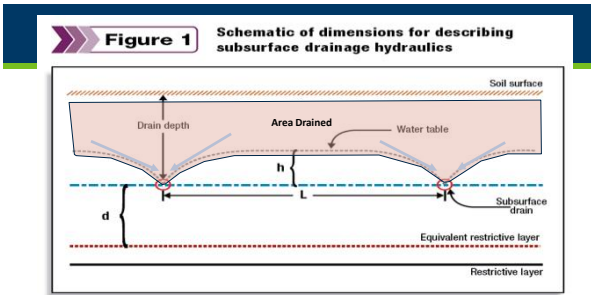
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From Strook et al. (2011)

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Drainage Specific Definitions & Scope under WCA



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WCA Drainage

Any method for removing or diverting waters from a wetland

- Excavation of a ditch
- Tile Installation
- Filling
- Diking
- Pumping
- Diverted water
- Etc.



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## WCA Drainage Impact

A loss in quantity, quality, or biological diversity of a wetland *caused* by drainage.



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## Certified Wetland Determination (CWD) Basics



- Determinations by NRCS/ID areas subject to Wetland Conservation Provisions of Food Security Act
  - May contain wetlands correctly labeled as PC
- CWD issued to Landowner & operator
- May not be completed on all enrolled lands
- Can be requested by those not in farm program

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## Valid CWD

- Determination date Prior to Nov. 28, 1990: not certified
- Determination date Between Nov. 28, 1990 to July 3, 1996: not certified,
  - with limited exceptions
  - NRCS Documentation needed from landowner
- Determination After July 3, 1996: Certified
- Final certification – date in column or 30 days after Determination date



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### Ag Exemption Applicable CWD Labels

#### Provision 1

"...impacts to wetlands on agricultural land labeled prior-converted (PC) cropland...."

#### Prior Converted Cropland

- NRCS/USDA Label on Certified Wetland Determination (CWD)
- Represents land drained, filled, or manipulated before December 23, 1985; was cropped prior to December 23, 1985; was not abandoned; and does not meet FW criteria
- NRCS determination



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### Ag Exemption Applicable CWD Labels

#### Provision 2 "...on areas labeled farmed wetland, farmed-wetland pasture, and wetland...."

FW Farmed Wetland, area that was manipulated and planted before December 23, 1985, but still meets wetland criteria. May be farmed/maintained in the same manner as not abandoned.

FWP Farmed Wetland Pasture, area used for pasture or hay and manipulated before December 23, 1985 but still meets wetland criteria. These may be used/maintained in the same manner as long as not abandoned.

W Wetland, An area that meets wetland criteria, including wetlands farmed under natural conditions.



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### DEFINITIONS OF WETLAND LABEL CODES

- DEF Artificial Wetland. An area that is artificial or originates as an artificial wetland.
- CDD Crop Detail Decision. Crops of Equivalent present decision regarding wetlands, 404 of the Clean Water Act, but not the label code to reflect the wetland conversion provisions of the Farm Security Act of 1985, as amended.
- CW Cropland Wetland. A wetland converted before December 23, 1985 and December 28, 1980, for agricultural, silvicultural, commercial, or domestic uses; cropland converted wetlands, even if the wetlands do not remain.
- CW1985 A wetland converted after December 28, 1980. It may still be eligible for USDA program benefits under the wetland conversion.
- CWTE Cropland Wetland Technical Error. An area converted based on an incorrect NRCS determination, or information from a NRCS or FWS employee.
- FW Farmed Wetland. An area that has been manipulated and planted before December 23, 1985, but still meets wetland criteria. These may be farmed and maintained in the same manner as long as they are not abandoned.
- FWP Farmed Wetland Pasture. An area that is used for pasture or hay and manipulated before December 23, 1985 but still meets wetland criteria. These may be used and maintained in the same manner as long as they are not abandoned.
- WV Wetland. An area that meets wetland criteria for which the wetland average, value, and function has been already enhanced according to an NRCS approval plan.
- WNE Wetland Effect Exception. A non-wetland area determined to be managed because the conversion had a natural effect. These wetlands are to be used according to the natural effect agreement entered into for the natural effect determination as a result of application.
- WNTM Wetland in Transition. An area used as a mitigation for replacement of lost wetland average, value, and function.
- WNA Non-Wetland. An area that does not meet the wetland definition.
- WNO2000 Nonwetland. An area determined to be a non-wetland resulting from a decision from the National Appeals Process.
- PC Prior Converted Cropland, which was drained, filled, or manipulated before December 23, 1985, was cropped prior to December 23, 1985, was not abandoned, and does not meet FW criteria.
- PCNW May meet either PC and in NW definition.
- PC1 May meet either PC and in 17V definition.
- W1 Wetland. An area that meets wetland criteria, including wetlands farmed under natural conditions.
- W2 Manipulated Wetland. A wetland area that has been manipulated after December 23, 1985, but not compensated for the proper wetland protection possible, and production was not taken over by the manipulation. These include wetlands exempted by drainage maintenance agreements.

### Other CWD Labels

- Numerous other label codes
- Only PC, W, FW and FWP specific to the new statute

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### NRCS Drainage Maintenance Basics

“...impacts to wetlands resulting from drainage maintenance activities authorized by the Natural Resources Conservation Service...”



#### Specific to Provision 2

- NRCS determines drainage maintenance based on the drainage manipulations that were in place prior to 12/23/85 and the resulting hydrologic conditions.
- Generally a project that increases hydrologic affects to the wetland beyond would exceed NRCS maintenance
- Authorized maintenance may still allow modification to system layout, but should result in same affect as above.

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### NRCS Drainage Maintenance

**Maintenance Exemption Fact Sheet**

When you check "YES" to question 10 on the AD-1026 form you are indicating that your drainage activity is a maintenance activity as defined in the NRCS manual (11-2000) and that you are not seeking a permit under the CWA for your drainage activity.

**Limitations and Requirements for Drainage Maintenance**

- Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands reserved for agricultural production and the subsequent management and use of the wetlands. Maintenance activities are limited to:
  - Repairing or replacing drainage structures, without deepening or widening the ditch, such that the original hydrology of the ditch is not impaired beyond that existing prior to December 23, 1985.
  - Replacing existing tile systems (including tile, infiltration and settlement) without deepening the ditch, such as grading of the ditch that drainage is impaired beyond what was provided for the system that existed prior to December 23, 1985, and provided that previously existing tile is not replaced.
- Drainage maintenance may be conducted on Farmed Wetland (FW) and Farmed Wetland (FWS) that have not previously been determined or designated as such by the State. Maintenance activities on Farmed Wetland (FW) and Farmed Wetland (FWS) that have not previously been determined or designated as such by the State may result in the loss of eligibility for CWD benefits.
- For any **new** drainage maintenance activities, the State must document the "Change in Capacity" criteria for each drainage maintenance activity, and deal with any drainage system issues.

If you check question 10 "yes" you are indicating that the ditch/dike, drainage, tile system, or other drainage activity on your land is a drainage activity as defined in the NRCS manual (11-2000) and that you are not seeking a permit under the CWA for your drainage activity. You are not seeking a permit under the CWA for your drainage activity. You are not seeking a permit under the CWA for your drainage activity. You are not seeking a permit under the CWA for your drainage activity.

If you are uncertain if your drainage activity meets the requirements defined as maintenance, please address your questions to your local NRCS office.

Other Federal, State or local permits or conditions may apply to activities involving wetlands. It is the responsibility of the producer to obtain other necessary permits. Contact the State or local Natural Resources Conservation Service office for more information. Contact the State or local Natural Resources Conservation Service office for more information. Contact the State or local Natural Resources Conservation Service office for more information.

NRCS Maintenance—repair, rehabilitation, and replacement of the capacity of existing drainage to allow for continued use of wetland currently in ag production as conditions were before 12/23/1985.

- Cleaning existing drainage ditch without improvement to drainage
- Repair existing tile without improvement to drainage (same depth, size, grade)
- May require rendering existing tile ineffective
- Should be documented/records kept by owner/operator

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### NEW Agricultural Exemption Statute

Replacement plan for wetlands is not required for:

- impacts to wetlands on agricultural land labeled prior-converted (PC) cropland and
- impacts to wetlands resulting from drainage maintenance activities authorized by the Natural Resources Conservation Service, on areas labeled farmed wetland, farmed-wetland pasture, and wetland.

The prior-converted cropland, farmed wetland, farmed-wetland pasture, or wetland must be labeled on a valid final certified wetland determination issued by the Natural Resources Conservation Service.

Landowner is responsible to provide a copy of the final certified wetland determination (026 and CWD map) to, and allow the Natural Resources Conservation Service to share related information with, the local government unit and the board for purposes of verification.

**Provision 1**  
**Applies to Both**

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### PC Provision Breakdown

"...impacts to wetlands on agricultural land labeled prior-converted (PC) cropland...."

**Needs & Requirements**

- CWD w/PC label
- Must be on Agricultural Land
- Deed restriction optional.

**Allows**

- Any impacts to areas meeting wetland criteria within the 139.7 acres of PC exempt from replacement
- New drainage, fill, or other ag activity impact
- Existing maintenance

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### PC Provision Example

"...impacts to wetlands on agricultural land labeled prior-converted (PC) cropland...."

**LGU Review/Process**

- Evaluate activity/other exemptions
- Review Valid Certified Wetland Determination (CWD)
  - Provided by owner/operator
  - Map w/026 form- Label at top
  - Confirm validity/date
- No wetlands outside area labeled PC impacted
- Consider Deed Restriction if needed (very rare)
- Provision applies to New or existing drainage

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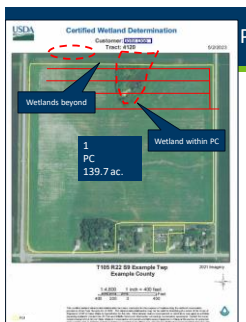
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### PC Provision; Adjacent Wetlands Ex

"...impacts to wetlands on agricultural land labeled prior-converted (PC) cropland...."

**LGU Review/Process**

- Evaluate activity/may not impact adjacent wetland OR may meet another exemption.
  - NRCS Lateral Effect Distances tool output
  - Confirm data entry
- Review Valid Certified Wetland Determination (CWD)
  - Valid CWD map w/026 from Both if impacting both
  - PC label(s)
  - Provided by owner(s)/operator(s)

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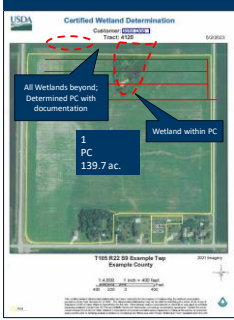
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PC Provision; Adjacent Wetlands Ex

- If proposal is new and/or improved drainage that impacts wetland areas beyond PC label (or unknown label), work would not meet Ag Exemption, Provision 1.
- If PC label on adjacent land, activity would meet Ag. Exemption, Provision 1.

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PC/NW Label, Provision 1

Treatment of PC/NW areas

- PC/NW - very common label combination used by NRCS for simplification
- Results in difficulty ID areas as PC
- Exemption does not apply if area is not ag land as defined by WCA
- Exemption may apply if area meets WCA definition of ag land....
  - Requires determination if PC 'fits'




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PC/NW Label, Provision 1

PC or NW?

- Did area support Woody vegetation on 12/23/85?
  - If so, area should be considered NW and exemption not met
- If not, is evidence provided that an agricultural commodity was produced anytime prior to 12/23/85?
  - If so, area should be considered PC and exemption met




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### PC/NW Label, Provision 1

Activities impacting wetlands on PC/NW labeled areas:

- 1) defined as WCA ag land, AND
- 2) did not support woody veg on 12/23/85, AND
- 3) produced ag commodity once pre 12/23/85.

Ag Exemption, Provision 1, met.

**Key point(s);** impacts on ag land & w/PC label met



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### NEW Agricultural Exemption Statute

Replacement plan for wetlands is not required for:

- impacts to wetlands on agricultural land labeled prior-converted (PC) cropland and
- impacts to wetlands resulting from drainage maintenance activities authorized by the Natural Resources Conservation Service, on areas labeled farmed wetland, farmed-wetland pasture, and wetland.

The prior-converted cropland, farmed wetland, farmed-wetland pasture, or wetland must be labeled on a valid final certified wetland determination issued by the Natural Resources Conservation Service.

Landowner is responsible to provide a copy of the final certified wetland determination (026 and CWD map) to, and allow the Natural Resources Conservation Service to share related information with, the local government unit and the board for purposes of verification;

**Provision 2 Applies to Both**

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### Provision 2, Authorized Drainage Maintenance

“...impacts to wetlands resulting from drainage maintenance activities authorized by the Natural Resources Conservation Service, on areas labeled farmed wetland, farmed-wetland pasture, and wetland.”

**Requirements**

- Activity occurs on an area labeled W, FW, or FWP
- Must be drainage maintenance authorized by NRCS
- May include impacts to other wetlands resulting from the authorized drainage maintenance (other labels, unlabeled wetlands, or even wetlands on non-agricultural land)



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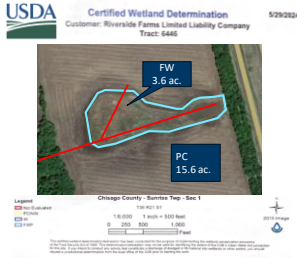
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## Authorized Drainage Maintenance Example

### LGU Review/Process

- Evaluate proposal/Consider Drainage Exemption, if not exempt
- Review Certified Wetland Determination (CWD)
  - Provided by owner/operator
  - CWD Map w/026 form
  - Confirm CWD validity/date & W, FW, FWP labels



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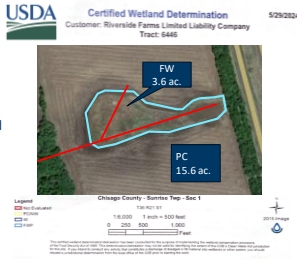
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## Authorized Drainage Maintenance Example

### Verification of drainage maintenance authorized by NRCS

- Evaluated activity (drainage plan, maps, photos, etc.)
- IF it's a repair/replacement of existing, for practical purpose, *may* consider 'authorized by NRCS'
  - layout/design could change but mimic hydrologic effect
  - Existing *may* need disabling



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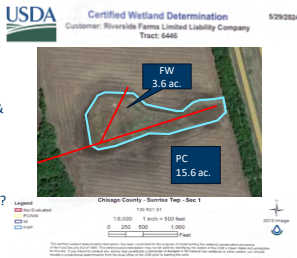
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## Authorized Drainage Maintenance Example

### Verification of drainage maintenance authorized by NRCS

- IF activity clearly exceeds repair or replacement (i.e. deeper, larger, relocated & more effective)
  - Information demonstrating results of activity?
    - Setback, consulting review, etc.
  - Copy of NRCS review/response based on site specific evaluation if completed?
  - Verification not possible, *may* not be exempt.



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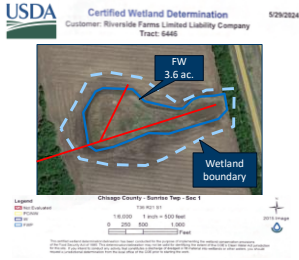
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### Authorized Drainage Maintenance Example

**Verification of drainage maintenance authorized by NRCS; \*\*Expanded Wetland\*\***

- Wetland boundary beyond FW label
- Activity impacts wetlands beyond label
- Still Exempt if repair/replacement
  - Same effects, may be considered 'authorized by NRCS'
- **Key point(s):** activity is occurring "on the FW label" and may be considered authorized with same hydrologic effects.



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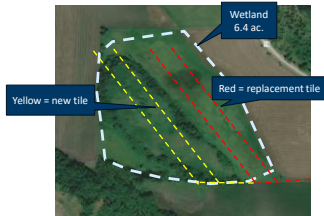
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### Authorized Drainage Maintenance Example

**LGU Review/Process**

- Evaluate proposal/Consider Drainage Exemption
- Proposed tile activity
  - Two replacement tile lines
  - Two new lines
- Assume Drainage exemption not met



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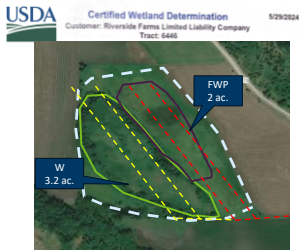
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### Authorized Drainage Maintenance Example

**LGU Review/Process**

- Review Certified Wetland Determination (CWD)
  - Provided by owner/operator
  - CWD Map w/026 form
  - Confirm CWD validity/date & W, FW, FWP labels



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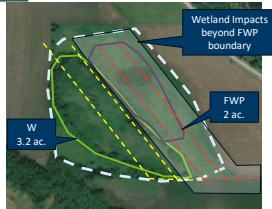
## Authorized Drainage Maintenance Example

### Verification of drainage maintenance authorized by NRCS



If red tile(s) are repair/replacement of what was in place, for practical purpose, *may* consider this area 'authorized by NRCS'

- Wetland impacts beyond FWP label still exempt
- **Key point:** drainage maintenance of red tile is occurring "on an area labeled FWP" with same hydrologic effects, **even if impacts beyond the labeled polygon**



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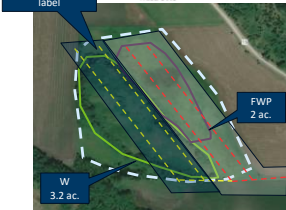
## Authorized Drainage Maintenance Example

### Verification of drainage maintenance authorized by NRCS



The new yellow tile...

- Increased hydrologic effect beyond original drainage
- Exemption not met; replacement required



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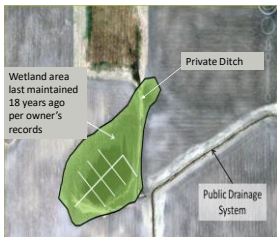
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## Exemptions – Drainage Exemption

A replacement plan is not required for draining or filling of wetlands, except for draining wetlands that have been in existence for more than 25 years, resulting from maintenance and repair of existing drainage systems, including public drainage systems.



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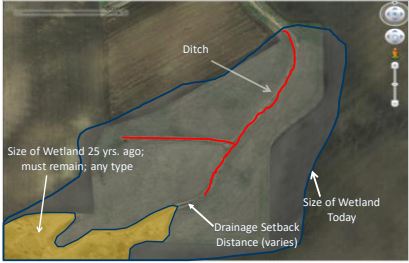
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### Drainage/Ditch Maintenance Illustration



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### Rule vs Application

#### Application - Not so Easy...

- When was it dug? Maintained?
- How much sediment is planned for removal?
- Do we have past records?
- Is there culverts near?
- Can the impacts be quantified?
- Delineate? Drainage estimates?
- Evidence? Other Information?



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### Items to Consider...

- Offsite data Sources (NWI, Soils, Past delineations/records, Public Waters Map, Lidar, etc)
- Aerial Photo (FSA, Google Earth, MN Historic Aerial Photo's, Other sources)
- FSA Crop Records (when available)
- Antecedent Precipitation (puts information into context)
- Downstream Controls (possibly no change to drainage due to culvert elevations?)
- Lateral Effect Calculations (often submitted with agent involved; still has limits)
- Current Sediment Depth (is it so little as to not be quantifiable?)
- Others data (Elevation Data, Plans, As-builts, Contractor notes/bills, etc.)
- Site Visit



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## Drainage Specific Requirements

### 8420.0420, Subp. 3, D

- Spoil must be placed and stabilized to minimize impacts.
- Ditch must be stable and not degrade water quality downstream.



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## Ditch Maintenance

### CONDITIONS:

- Spoil must be placed and stabilized to minimize impacts.
  - remove
  - place on existing spoil
  - incorporate
  - side cast (new fill)
- Ditch must be stable and not degrade water quality downstream.



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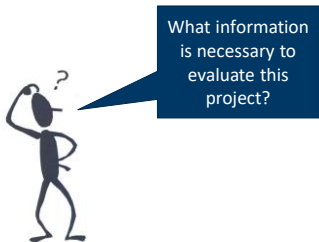
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## Drainage Project Evaluation



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## Drainage Project Evaluation



### Drainage Project Fact Sheet for Wetland Conservation Act Compliance

Wetlands Section, Minnesota Board of Water & Soil Resources

Version: 1.1  
Date: 4/28/2019

#### Purpose

Projects that involve the installation, improvement, repair and/or maintenance of public or private drainage systems (collectively referred to as "drainage projects") must comply with the provisions of the Minnesota Wetland Conservation Act (MCA). These projects typically involve construction type activities in or near wetlands regulated under WCA rules and have the potential to impact these wetlands. Wetland impacts regulated by the WCA include drainage, fill and excavation (under certain circumstances). This fact sheet is intended to identify the types of information that is often needed to evaluate drainage projects for WCA compliance. Drainage authorities, private landowners and consultants can use this document to inform their applications for WCA compliance, and local government unit (LGU) and technical evaluation panel (TEP) representatives can use it to inform their review of applications.

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## General Review Process for Drainage Projects

- 1) Is the activity drainage maintenance?
  - Review Drainage Maintenance Exemption first.
- 2) Does activity drain wetlands in existence for more than 25 years?
  - If no, Drainage maintenance likely applies
  - If yes, Review for Ag Exemption
- 3) Is there a valid final Certified wetland determination provided?
  - If no, wetland impacts not exempt/requires replacement (assumes exceeds de minimis)
  - If yes, review label and application of Provisions 1 or 2.

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## Exemptions

- **Federal Approvals** 8420.0420 Subp 4
  - Impacts authorized by Corps of Engineers that meet standards agreed to by BWSR, Dept. of Ag, DNR, and MPCA.
    - Pipelines, electrical, broadband, etc.
- **Utilities** MS 103G.2241

A replacement plan for wetlands is not required for wetland impacts resulting from:

- new placement or maintenance, repair, enhancement, realignment, or replacement of existing utility or utility-type service, including pipelines, when wetland impacts are authorized under and conducted in accordance with a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act
- Repair and updating existing septic systems to comply with local, state and federal regulations



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### Exemptions – de minimis

- The de minimis exemption covers small impacts to wetlands typically used for driveways, culverts, small projects by landowners, etc.
- Very specific requirements depending on location in state, local area, shoreland, etc.

Table 1: Maximum de minimis exemption amounts for per MS 103G.2241 (Aug. 1, 2024)

Impacts to wetlands, excluding permanent and semipermanently flooded areas of wetland.	Presettlement area of state	Impact area up to (acres):	Impact area up to: (square feet):
Outside of Shoreland Wetland Protection Zone	Greater than 80 percent area	One-quarter (1/4)	10,890
	50 to 80 percent area	One-tenth (1/10)	4,356
	Less than 50 percent area	One-twentieth (1/20)	2,178
Within Shoreland Protection Zone, but beyond structure setback	Statewide	N/A	100
Within Shoreland Protection Zone and structure setback	Statewide	N/A	20 <sup>(1,000)</sup>
Impacts to permanent and semipermanently flooded areas of wetlands	Statewide	N/A	400

▲ Increased amount shown in parenthesis may be allowed if wetland is isolated from the public water, or if permanent water runoff retention or infiltration measures are established in proximity to the impact and approved by the shoreland management authority.

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### Enforcement Procedure Overview



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Assessing Wetland Impacts

8/26/2024

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SWCD Role in a violation

- Landowner contact for ROs
- Site visit- gather information/evidence
- Prepare Restoration/Replacement Order
- Monitor restoration/ replacement site.
- Certificate of Satisfactory Completion

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LGU Role in a violation

- Help Determine if site has permit for work or prior work done
- Landowner contact for CDO or RPN
- Set up site visits
- Assist SWCD with RO findings
- Assist with gathering evidence
- Receive ATF applications from landowner
- Track the cases

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### BWSR's Role in a violation

- Rule interpretation
- Bounce ideas back and forth
- May contact more specialist BWSR staff to assist in difficult projects
- Assist SWCD/LGU in developing RO's
- Assist in technical findings

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### DNR Role

As a member of TEP

- Provide technical assistance in case which require DNR as a member of TEP
- Provide information on instances where a public waters permit is needed
- Minnesota's endangered, threatened, and special concern species
- Bounce ideas back and forth

As an enforcement role

- Issue Cease and Desist(CDO)/Resource Protection Notice(RPN)
- Serve CDO/RPN
- Grant extensions
- Serve citations
- Liens




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### Resource Protection Notices

Used as a notice when activity is complete and no sign it will continue

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### Cease & Desist Orders

Minnesota Department of Natural Resources  
Wetland  
CEASE AND DESIST ORDER

Form with fields for: Date Issued, Issued To, Project Name, Location, and Violation Information.

**VIOLATION INFORMATION:**

Project Name: \_\_\_\_\_  
Location: \_\_\_\_\_  
Date of Violation: \_\_\_\_\_  
Type of Violation: \_\_\_\_\_

**CEASE AND DESIST ORDER:**

THIS ORDER IS ISSUED TO YOU TO STOP OR RESTRICT ANY ACTIVITY THAT VIOLATES ANY APPLICABLE STATE OR FEDERAL LAW, RULE, OR ORDER. YOU MUST STOP ALL SUCH ACTIVITY IMMEDIATELY AND YOU MUST NOT REPEAT SUCH ACTIVITY UNTIL YOU HAVE OBTAINED THE NECESSARY PERMITS FROM THE DNR.

ANY VIOLATION OF THIS ORDER IS A MISDEMEANOR.

Used when equipment is onsite and it appears the activity will continue to impact wetlands.

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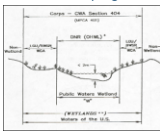
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### Public Waters & WCA Violations

- DNR present during initial site visit to make jurisdiction determination
- Define WCA and Public Waters Impacts
- Work with Area Hydrologist to issue Restoration Orders for both programs




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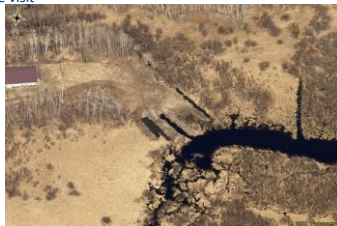
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### Off-Site Review

Review available data prior to site visit

- NWI
- FSA/Google Earth/Pictometry
- Web Soil Survey
- Topo
- LIDAR




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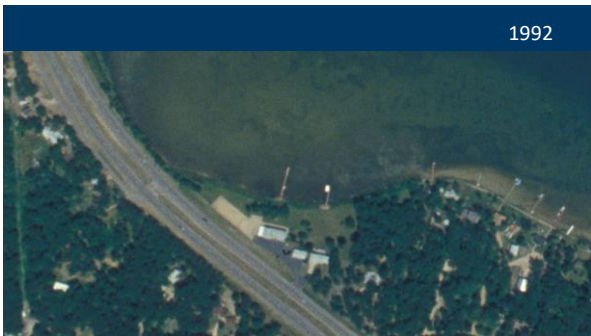
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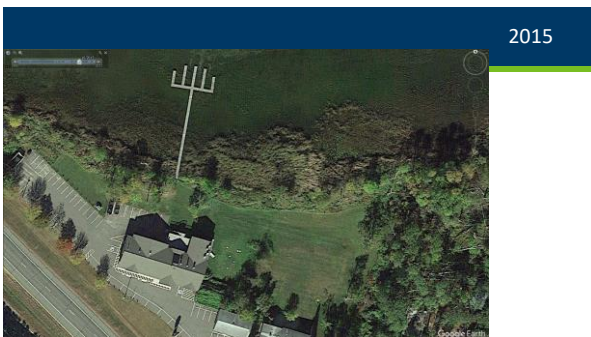
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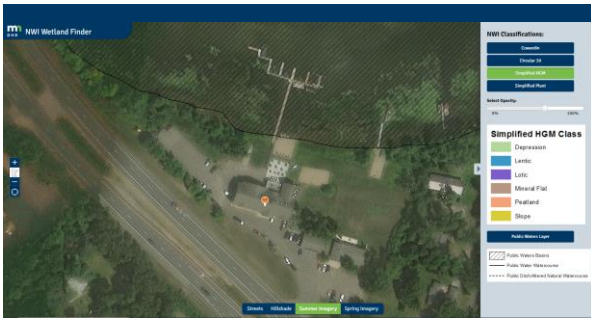
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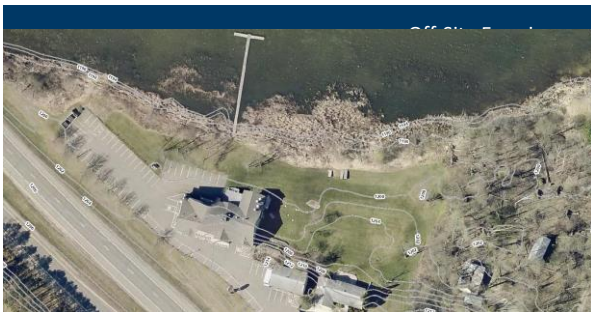
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### Off-Site Review Exercise

- Is the reported activity occurring within a wetland?
- Who are the required members on the TEP?
- Is there a possible exemption for these reported activities?

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### On-Site Investigation

Who

- Landowner/responsible party
- SWCD & LGU
- Conservation Officer when needed

What to bring

- Soil Auger
- Munsell
- Data collection app (ArcCollector/Trimble)
- Useful off-site information collected
- Something to take photos



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### On-site Investigation

#### Soft Skills

- Talk to landowner/responsible party to determine what happened and why
- Avoid putting the landowner/responsible party immediately on the defensive
- Do not apologize for doing your job

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### On-site Investigation

#### What to collect

- Map out the nature of the activity (areas of fill, excavation, etc.)
- Soil borings within areas of impact and adjacent
  - Take note of wetland indicators
  - Fill out data sheets
- Pictures, pictures, pictures
- You may only have one chance to be on-site



#### After the on-site

- Write up findings right after the site visit
  - Findings should include all information that was found on-site. Assume every RD will be appealed or end up in court
- Disagreement between landowner/responsible party? Require a delineation

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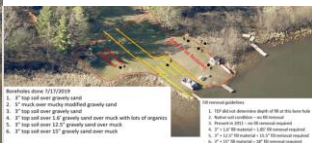
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### Soil borings



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- Is the activity occurring within a wetland?
- Does it qualify for a No Loss/Exemption?
- What is the next step?

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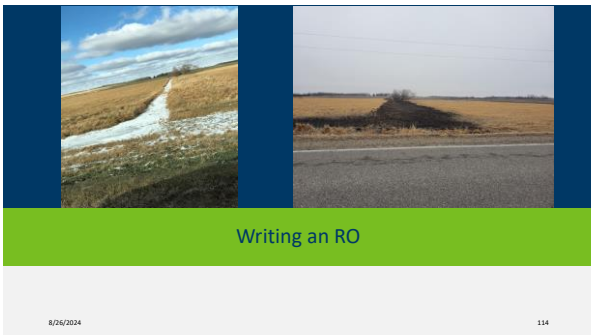
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## Restoration/Replacement Order

### Restoration Order

- An order that prioritizes the restoration of the impacted wetland
- This order will provide guidance to the landowner/responsible party on how to achieve successful restoration and a timeline

### Replacement Order

- An order that requires replacement for wetland impacts
- This is used in situations where restoration is not possible or prudent

A combination of both orders can be used in certain situations

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## Voluntary Restoration

### Voluntary or Formal?

- Benefits to a voluntary restoration
  - Faster timeline when the landowner/responsible party is willing to cooperate
  - Less heavy handed of an approach
  - Possibly easier restoration standards
- Downsides to voluntary restoration
  - Could delay overall restoration if the landowner/responsible party is unwilling
  - Good communication with DNR enforcement is needed

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## Voluntary Restoration

WASHINGTON CONSERVATION DISTRICT

NOTICE OF WETLAND RESTORATION ACT VIOLATION OF

RE: [Redacted]

DATE: [Redacted]

TO: [Redacted]

FROM: [Redacted]

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# The RO

## Restoration Order Gives the Landowner Options

- Restoration is priority
- Apply for replacement, exemption, no-loss
- Appeal- w/in 30 days + \$500 fee
- Court/Deed Restriction if no action is taken by landowner

A screenshot of a Restoration Order form. The form includes fields for 'Case Number', 'Project Name', 'Location', and 'Date'. It also contains a section for 'Findings of Fact' and a signature line for the 'Authorized Representative'.

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# The RO

## What goes into a RO?

- LGU should help SWCD with findings
- The findings should bring the reader up to speed on all the important history of the violation and **how it was determined** to be a violation
- Include as much detail as possible in case of appeal/court
- Data sheets, maps, pictures, and off-site review items can all be added as supporting documents

A screenshot of a Restoration Order form, specifically the 'Findings of Fact' section. It includes a header 'This order is based on:' with fields for 'Name' and 'Address'. Below that, it asks for 'Location' and 'Legal Description'. The main section is a large text box for 'Findings of Fact (facts that demonstrate the existence of a violation). Attach additional sheets if narrative exceeds space provided.'

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# The RO

## What goes into a RO?

- SWCD should provide the technical aspects of the restoration
- **Be specific (sometimes)**
  - How much fill needs to be removed (6" or 5')?
  - What type of seed mix should be used?
  - What BMPs are needed?
  - Where should the fill material go once removed?
  - Where should the tile be broken?
  - More details and clear guidance = faster restoration
- **Don't forget the compliance date**

A screenshot of a Restoration Order form. It features a large text box for 'Findings of Fact' and a section for 'This order must be completed by the date:'. Below that, it asks for 'Compliance Date' and provides instructions: 'Comply with the restoration order by the date indicated above. Submit an affidavit for application to the state Department of Transportation (see following instructions)'. The bottom of the form has a section for 'This Order was Prepared by:' with fields for 'Name', 'Organization', 'Address', 'Email', and 'Signature'.

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The RO

What goes into a RO?

- Be sure to include a due date for ATF applications
• Once the RO material is completed, SWCD should sign it and send it to the CO/WREO
• Make sure the CO/WREO sends you a signed copy when served
• Extensions are issued only by enforcement and if:
- The landowner has a good reason for not getting it done
- Has made some progress
- Maybe weather related (heavy rains, early freeze)
- Submitted application
- Filed an Appeal

This Order was issued by:
Office:
Project Number:
[ ] in person [ ] by certified mail
Signature:
Date:
After the First Application Submission:
For an RO to be valid, you must provide a written consent letter to the Board of Water and Soil Resources...

121

Blank lined area for handwritten notes.

Bad RO. What would you change?

Findings of Fact (facts that demonstrate the existence of a violation): Attach additional sheets if narrative exceeds space provided.

On September 6 2019 [redacted] received a RPN Notice from the DNR about a potential wetland violation. This is involving a tiling activity on a 4 ac. parcel and a lift pump installation. This activity didn't have a WCA application at this time. [redacted] SWCD tried to set up several meetings with [redacted] but he was having some medical procedure done. On 10/17/2019 I talked to [redacted] and we agreed to meet on site on 10/21/2019. When I arrived at the site I was met by [redacted] a friend of [redacted]. He told me [redacted] had been hurt seriously in a farming accident. I told [redacted] that I would fill out a Wetland Application for him for a No Loss and submit the application for him. The application was denied. There is no cropping history on these acres and acres impacted exceed the exemption standard. ( 8420.0420) Part B, Subp. 2.

122

Blank lined area for handwritten notes.

Bad RO. What would you change?

You are hereby ordered to restore impacted wetlands in conformance with the following plan and specifications (actions needed to restore including any referenced attachments): Attach additional sheets if narrative exceeds space provided.

- 1) [redacted] Will either have to remove all tile and the lift pump from the impacted wetland acres or buy wetland credits from the Wetland Bank System from (BWSR) Board of Water Soil Resources.

123

Blank lined area for handwritten notes.

Good RO

**Findings of Fact** (facts that demonstrate the existence of a violation): *Attach additional sheets if narrative exceeds space provided.*

5/15/20- SWCD received 2 complaint calls regarding excavation within wetland areas of the field.  
5/21/20- SWCD investigated the complaint from the county road and determined that new drainage ditches were created within the wetland areas, and across the field.  
5/22/20- SWCD Mailed letter to the landowner regarding the potential violation.  
5/29/20- Landowner contacted SWCD by phone. The completed work was discussed, as well as the rules of the Minnesota Wetland Conservation Act  
6/9/20- SWCD and BWSR staff reviewed the recent excavation within the wetland portions of the described parcel. It was found that the new ditches drain 3 separate wetlands in the field and share the same outlet into the fringes of Horseshoe Lake. Wetlands impacted include a 1.4 acre Type 2 Wet Meadow, 0.80 acre Type 2 Wet Meadow, and a 0.95 acre Type 3 Shallow Marsh. There is no evidence of any preexisting drainage features within any of the wetland basins. The impacted wetland areas have been reviewed for No-Loss and Exemption Standards within WCA. Specifically, Exemptions under Agricultural Activities. An aerial slide review and an onsite review of the field was completed. It is determined that the impacted wetlands do not meet any of the No-Loss or Exemption criteria. It is agreed that the completed work is a violation of the Wetland Conservation Act.

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Good RO

**You are hereby ordered to restore impacted wetlands in conformance with the following plan and specifications** (actions needed to restore including any referenced attachments): *Attach additional sheets if narrative exceeds space provided.*

All ditches dug must be restored back to pre-altered conditions. Ditches to be filled back to pre-altered conditions are identified on the attached "New Ditch Location" Map  
- Ditches are to be filled level to land immediately adjacent to the ditch.  
- Ditch fill will be compacted with the tracks of machine used to replace the fill.  
- Oats will be spread over the disturbed ditch area to temporarily control erosion until the next cropping season.  
-Contact Meeker SWCD 48 hours before restoration work will be completed.

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Mock RO

In your groups, draft a Restoration Order for the beach violation we have been working on.

Print Packets of materials and a blank RO

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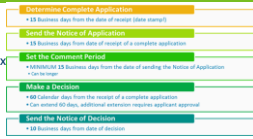
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### AFT Applications

- Review the application like any other
- 21 days per rule to submit an ATF but there is flex
- Keep track of your timelines (15.99)
- What is the application requesting?
  - No Loss, Exemption, Replacement
- Keep an eye out for
  - Poor exhibits/figures – show what is needed
  - Second avoidance alternative
  - No loss/exemption specifics
  - Purpose and need not well defined... or not at all



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### AFT Applications

#### Poor Exhibits



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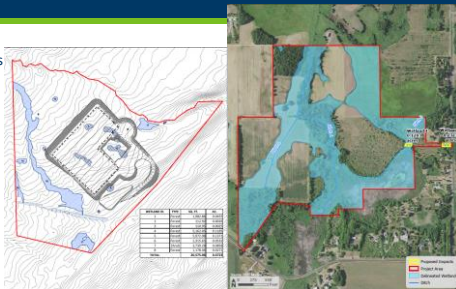
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### AFT Applications

#### Good Exhibits



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### AFT Applications

#### Replacement

- Sequencing still applies
- 2X is the starting point

Minimum Replacement Ratio: Banking		
Location of impact	Replacement	Minimum replacement ratio
>80% area or agricultural land	Outside bank service area	1.5:1
	Within bank service area	1:1
<80% area, 50-80% area, and nonagricultural land	Outside bank service area	3:1
	Within bank service area	2:1

X 2  
ATF

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### Questions?

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