

Wetland Conservation Act No-Loss Provisions (As of October 2025)

An activity that will not impact a wetland	MN Rules 8420.0415 A
Excavation in wetlands when limited to removal of sediment or debris such as trees, logs, stumps, beaver dams, blockage of culverts, and trash, provided the removal does not result in alteration of the original cross-section of the wetland or watercourse. Wetland areas created solely by beaver activities may be drained by removing those materials placed by beaver. Drainage is permitted by removing or moving materials blocking installed roadway culverts and related drainage structures. Additional excavation or removal of other materials is not permitted unless it can be shown by aerial photographs that the proposed activity will not drain or fill wetland that was there before the beaver dam was built or before the culvert became plugged.	MN Rules 8420.0415 B
Temporary or seasonal water level management activities done for the purpose of performing maintenance or as part of vegetation or habitat management activities, which will not result in the conversion of a wetland to a nonwetland or conversion of a nondegraded wetland to a different type.	MN Rules 8420.0415 C
An activity conducted as part of an approved replacement or banking plan, conducted or authorized by public agencies for the purpose of wetland restoration or fish and wildlife habitat restoration or improvement according to the guidance referenced in part 8420.0112, items J and H, or repair and maintenance of earthen containment structures.	MN Rules 8420.0415 D
Excavation limited to removal of deposited sediment in wetlands that are presently utilized as storm water management basins, or excavation and removal of contaminated substrate, when the excavated area is limited to the minimum dimensions necessary for achieving the desired purpose and stabilized to prevent water quality degradation.	MN Rules 8420.0415 E
An activity associated with the operation, routine maintenance, or emergency repair of existing utilities and public works structures, including pipelines, provided the activity does not result in additional wetland intrusion or additional impacts, either wholly or partially.	MN Rules 8420.0415 F
Temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activity does not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters.	MN Rules 8420.0415 G
A temporary impact that is rectified by repairing, rehabilitating, or restoring the affected wetland. No-loss under this item only applies if all of the following conditions are met: (1) the physical characteristics of the affected wetland, including ground elevations, contours, inlet dimensions, outlet dimensions, substrate, plant communities, and hydrologic regime, are restored to preproject conditions sufficient to ensure that all preproject functions are restored; (2) the activity is completed and the physical characteristics of the wetland are restored within six months of the start of the activity, unless an extension is granted by the local government unit after consultation with the technical evaluation panel; (3) the landowner provides sufficient financial assurance acceptable to the local government unit to cover the estimated cost to restore the wetland to preproject conditions. The local government unit must return any remaining financial assurance to the landowner upon a determination by the local government unit that the conditions in this item have been met by the landowner; and (4) a no-loss has not been approved under this item for a particular site within a wetland within the previous ten years, except that repairs to the original project may be allowed under the no-loss if the local government unit determines the request to be necessary and reasonable.	MN Rules 8420.0415 H

Wetland Conservation Act Exemptions (As of October 2025)

Agricultural activities. A replacement plan for wetlands is not required for: (1) impacts to wetlands on agricultural land labeled prior-converted cropland and impacts to wetlands resulting from drainage maintenance activities authorized by the United States Department of Agriculture, 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 in accordance with Code of Federal Regulations, title 7, part 12, as amended. It is the responsibility of the owner or operator of the land to provide a copy of the final certified wetland determination to, and allow the Natural Resources Conservation Service to share related information with, the local government unit and the board for purposes of verification; (2) activities in a wetland conducted as part of normal farming practices. For purposes of this clause, "normal farming practices" means farming, silvicultural, grazing, and ranching activities such as plowing, seeding, cultivating, and harvesting for the production of feed, food, and fiber products, but does not include activities that result in the draining of wetlands; (3) soil and water conservation practices approved by the soil and water conservation district, after review by the Technical Evaluation Panel; (4) wetland impacts resulting from aquaculture activities, including pond excavation and construction and maintenance of associated access roads and dikes, 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, United States Code, title 33, section 1344, but not including construction or expansion of buildings; (5) wetland impacts resulting from wild rice production activities, including necessary diking and other activities, 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, United States Code, title 33, section 1344; or (6) agricultural activities on agricultural land that is subject to the swampbuster provisions of the federal farm program restrictions consistent with a memorandum of understanding and related agreements between the board and the United States Department of Agriculture, Natural Resources Conservation Service.	MN Statutes 103G.2241 Subdivision 1	Replaced 8420.0420 Subpart 2
Drainage. (a) 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. (b) A public drainage authority may, as part of the repair of a public drainage system, as defined in section 103E.005, subdivision 12, install control structures, realign the ditch, construct dikes along the ditch, or make other modifications as necessary to prevent the drainage of the wetlands.	MN Statutes 103G.2241 Subdivision 2	Replaced 8420.0420 Subpart 3

Federal approvals. (Agricultural Bank Exemption). A WCA wetland replacement plan is not required for the mitigation of wetland impacts resulting from agricultural activities when: (A) the activity impacts a wetland identified in Section II, Paragraph A of this memorandum that is subject to Swampbuster; (B) wetland mitigation is required under Swampbuster and consists of the withdrawal of credits from the Minnesota Agricultural Wetland Bank in accordance with Section III of this memorandum; (C) the activity and associated wetland credit withdrawal is authorized by NRCS using the "Application for Replacement of Agricultural Wetland Impacts Using the Minnesota Wetland Bank" (form) available on the BWSR website, as amended; (D) the landowner agrees by signing the form to allow USDA to share information relating to the proposed activity and associated wetland bank credit withdrawal, and a copy of the completed and fully executed form with required attachments is provided to the BWSR Bank Coordinator; and (E) the approved credits are withdrawn from the wetland bank and the landowner has received confirmation from BWSR of the withdrawal.	MN Rules 8420.0420 Subpart 4	The agricultural wetland bank exemption is the only valid exemption under this subpart. See Ag Bank MOU.
Restored wetlands. A replacement plan is not required for: A. draining a wetland that was restored or created for conservation purposes under a contract or easement providing the landowner with the right to drain the restored or created wetland to preproject hydrologic conditions. The landowner must provide a contract or easement conveyance demonstrating that the landowner or a predecessor restored or created the wetland for conservation purposes but retained the right to subsequently drain the restored or created wetland to the conditions that existed before restoration or creation; or B. impacts to a wetland that was restored or created by a landowner without any assistance or financing from public agencies or private entities other than the landowner, if the wetland has not been used for wetland replacement or deposited in the state wetland bank. For purposes of this item, assistance by public agencies does not include consultation on project design or advice on the project's relationship to state or federal programs. The landowner must provide a contract, billing statements, or other evidence sufficient to demonstrate that the landowner or a predecessor restored or created the wetland without any assistance or financing from public agencies or private entities other than the landowner or predecessor. The landowner must also provide sufficient information to determine that the area was not wetland before restoration or creation activity.	MN Rules 8420.0420 Subpart 5	
Utilities; public works. (a) A replacement plan for wetlands is not required for wetland impacts resulting from: (1) 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, United States Code, title 33, section 1344, and the direct and indirect impacts of the proposed project have been avoided and minimized to the extent possible; (2) activities associated with operation, routine maintenance, or emergency repair of existing utilities and public work structures, including pipelines, provided the activities do not result in additional wetland intrusion or additional draining or filling of a wetland either wholly or partially; or (3) repair and updating of existing subsurface sewage treatment systems necessary to comply with local, state, and federal regulations.	MN Statutes 103G.2241 Subdivision 6	Replaced 8420.0420 Subpart 6

(b) Work of an emergency nature may proceed as necessary, and any drain or fill activities shall must be addressed with the local government unit after the emergency work has been completed.		
Forestry. The exemption under this subpart is for roads and crossings solely constructed, and primarily used, for the purpose of providing access for the conduct of silvicultural activities. A replacement plan is not required for impacts resulting from construction of forest roads and crossings so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not include, or result in, the access becoming a dike, drainage ditch, or tile line; impacts are avoided wherever possible; and there is no drainage of the wetland or public waters.	MN Rules 8420.0420 Subpart 7	
De minimis. (a) Except as provided in paragraphs (d), (e), (f), (g), (h), and (i), a replacement plan for wetlands is not required for impacts to the following amounts of wetlands, excluding the permanently and semipermanently flooded areas of wetlands, as part of a project outside of the shoreland wetland protection zone: (1) one-quarter acre of wetland in a greater than 80 percent area; (2) one-tenth acre of wetland in a 50 to 80 percent area; or (3) one-twentieth acre of wetland in a less than 50 percent area. (b) Except as provided in paragraphs (e), (f), (g), (h), and (i), a replacement plan for wetlands is not required for up to 100 square feet of impacts to wetlands as part of a project within the shoreland wetland protection zone beyond the shoreland building setback zone. (c) Except as provided in paragraphs (e), (f), (g), (h), and (i), a replacement plan for wetlands is not required for up to 20 square feet of impacts to wetlands as part of a project within the shoreland building setback zone, as defined in the local shoreland management ordinance. The amount in this paragraph may be increased to 100 square feet if permanent water runoff retention or infiltration measures are established in proximity as approved by the shoreland management authority. (d) Except as provided in paragraphs (c), (e), (f), (g), (h), and (i), a replacement plan is not required for up to 400 square feet of impacts to the permanently and semipermanently flooded areas of wetlands as part of a project. (e) The amounts listed in paragraphs (a), (b), (c), and (d) may not be combined on a project. (f) When the total area of impacts to wetlands as part of a project exceeds the applicable amount in this subdivision, a replacement plan is required for the entire amount. (g) This exemption may not be combined with another exemption in this section on a project. (h) Property may not be divided to increase the amounts listed in paragraph (a), (b), (c), or (d). (i) If a local ordinance or similar local control is more restrictive than this subdivision, the local standard applies.	MN Statutes 103G.2241 Subdivision 9	Replaced 8420.0420 Subpart 8

Wildlife habitat. A replacement plan is not required for: A. excavation or the associated deposition of spoil within a wetland for the primary purpose of wildlife habitat improvement, if: (1) the total area of deposition, and excavation if within the permanently or semipermanently flooded areas of type 3, 4, or 5 wetland, does not exceed five percent of the wetland area or one-half acre, whichever is less, and the spoil is stabilized to prevent erosion and native, noninvasive vegetation is established; (2) the project does not have an adverse effect on any species designated as endangered or threatened under state or federal law; and (3) the project will provide wildlife habitat improvement as certified by the soil and water conservation district or technical evaluation panel using Wildlife Habitat Improvements in Wetlands: Guidance for Soil and Water Conservation Districts and Local Government Units in Certifying and Approving Wetland Conservation Act Exemption Proposals, Minnesota Interagency Wetlands Group, December 2000, or similar criteria approved by the board; or B. duck blinds.	MN Rules 8420.0420 Subpart 9	
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