

Wetland Conservation Act Fact Sheet

WETLAND REGULATIONS

The filling, excavation, and draining of wetlands are regulated by the Wetland Conservation Act of 1991, which is administered by a local government unit (LGU). In addition to the Wetland Conservation Act, the Valley Branch Watershed District (VBWD) has additional stormwater and wetland regulations over activities occurring within its boundaries. The VBWD is the LGU responsible for administering the Wetland Conservation Act in the areas of all cities and townships within the legal boundaries of the VBWD, including all of Pine Springs and areas of White Bear Lake, Maplewood, North St. Paul, Lake Elmo, Woodbury, Grant, Mahtomedi, Oak Park Heights, Oakdale, Afton, West Lakeland Township, and Baytown Township. The cities of Mahtomedi and Oak Park Heights have local wetland ordinances that also apply and should also be contacted prior to starting a project. If your project may involve filling, excavation, or draining of wetlands, contact the VBWD to discuss the rules and regulations of the Wetland Conservation Act

WHAT IS A WETLAND?

Wetlands are defined by the *U.S. Army Corps of Engineers Wetland Delineation Manual* (1987 Edition). Wetlands vary widely and can be difficult for the untrained to identify, some wetlands rarely have standing water on the ground surface. Many wetlands are farmed and may not be recognizable as wetlands. Wetlands may include the following: temporarily flooded basins, shallow and deep marshes, shrub swamps, wet meadows, and certain forested areas. If you are uncertain whether or not an area is a wetland contact the VBWD Engineer's wetland specialist:

Karen Wold
Barr Engineering Company
4300 MarketPointe Drive
Minneapolis, MN 55435
Phone: 952-832-2707
Fax: 952-832-2601
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APPROVAL PROCESS

The Wetland Conservation Act requires project proponents complete a sequencing analysis before proposing to drain, fill, or excavate wetlands by completing the following steps:

1. Attempt to avoid direct and indirect impacts to wetlands;
2. Minimize impacts to wetlands by limiting the degree or magnitude of wetland activity;
3. Rectifying temporary impacts by repairing, rehabilitating, or restoring the affected wetland,
4. Reducing or eliminating impacts to wetlands over time by preserving the wetlands through proper maintenance, management, and operation of the project to avoid further draining or filling of wetlands, and
5. Replace unavoidable wetland impacts by replacing with wetland areas of equal or greater public value.

WETLAND JURISDICTION

Certain wetland activities are exempt from the Wetland Conservation Act, allowing projects with minimal impact or projects located on land where certain pre-established land uses are present to proceed without regulation. A landowner believing that a proposed wetland alteration activity is exempt ([Minnesota Rules 8420.0122](#)) or that the activity may qualify for a no loss determination ([Minnesota Rules 8420.0220](#)) must submit a VBWD Permit Application and associated fees along with a *Joint Application Form for Activities Affecting Water Resources in Minnesota (Joint Application Form)* with Attachment B to the VBWD Engineer's wetland specialist for a determination. A landowner who does not request a determination may be subject to the enforcement provisions in part [Minnesota Rules 8420.0290](#). Certain activities might be exempt from the Wetland Conservation, but not from other VBWD rules and regulations, and a VBWD permit might still be required. An applicant intending to drain, excavate, or fill a wetland who does not qualify for an exemption or no-loss determination shall obtain approval of a replacement plan from the LGU before beginning excavation, draining or filling. A person who does not do so is subject to enforcement. The Wetland Conservation Act Rules can be accessed at: <https://www.revisor.mn.gov/rules/?id=8420>.

PERMIT REVIEW/DECISION OVERVIEW

The VBWD Board of Managers meets on the second and fourth Thursday of each month to consider project approvals. Decisions are typically made based on recommendations by the VBWD Engineer and if the project includes wetland issues, the Technical Evaluation Panel (TEP) typically provides comments and/or a recommendation. The TEP is typically comprised of representatives from the LGU, the Soil and Water Conservation District, the Board of Water and Soil Resources (BWSR), and sometimes the Minnesota Department of Natural Resources. Once a Wetland Replacement Plan Application is complete, and assuming there are no significant issues, a recommendation can be made to the VBWD Board of Managers within 1-2 months of the receipt of the application (Table 1). If the application does not comply with the Wetland Conservation Act rules or the VBWD rules and those issues are not quickly resolved by the applicant, it may take more than 2 months to make a decision. While the regulatory guidelines indicate that a decision should be made within 60-days of receiving a complete application, there are circumstances involved with certain projects that result in extended review periods. Table 1 provides an approximate time frame for the various steps often involved in the Wetland Conservation Act approval process.

Table 1: General Time Frame for the Wetland Conservation Act Approval Process

Days	Average Total Days	Activity
0	0	<i>Submit VBWD Permit Application and associated fees along with the Wetland Delineation Report and Joint Application Form with Attachment A:</i> If wetlands are within the project area you are required to submit a complete Wetland Delineation Report to the Local Government Unit (LGU). Wetland Delineations should be completed during the growing season (typically May – October). These can be submitted with a replacement plan application also.
5 - 20	5 – 20	<i>Wetland Field Verification:</i> All wetland delineations must be field verified preferably during the growing season by the LGU.
5 - 30	10 – 20	<i>Pre-application Meeting:</i> If wetland impacts are proposed, which may require a Wetland Replacement Plan, the LGU recommends that the applicant request a pre-application meeting. At that time, the Valley Branch Watershed District (VBWD) and Wetland Conservation Act (WCA) rules and regulations can be discussed regarding how they may apply to your project. A landowner believing that a proposed wetland alteration activity is Exempt or that the activity may qualify for a No Loss determination must submit Attachment B of the <i>Joint Application Form</i> , which can be found at the following Minnesota Board of Water and Soil Resources (BWSR) website link: http://www.bwsr.state.mn.us/wetlands/wca/index.html to the LGU.
5- 15	15 – 25	<i>Application Submittal and Public Notice:</i> The LGU receives a complete WCA Application from the landowner. The LGU must submit a <i>Notice of Application</i> within 15 business days of receipt of a <u>complete</u> plan application to the appropriate agencies.
15 - 30	30 – 60	<i>Comment Period:</i> The LGU will specify when the comment period ends. The comment period must be a minimum of 15 business days for wetland boundary and type, sequencing, and wetland replacement plan decisions.
15-60	30-60	<i>Technical Review:</i> During and following the public comment period, the VBWD staff reviews the project for compliance with the WCA and VBWD rules. During this time, the VBWD staff works with the applicant to help them resolve any inadequacies in the plan. When most significant issues have been reasonably well-addressed, a recommendation is made to the VBWD Board of Managers who makes WCA sequencing and replacement plan application decisions. The VBWD Engineer or their designee has the authority to approve wetland boundary and type, no-loss, and exemption decisions.
5- 30	30 – 60	<i>Technical Evaluation Panel (TEP) Meeting:</i> A TEP meeting may be needed to better address questions or issues. The TEP meeting typically results in a recommendation. However, multiple TEP meetings may be needed.
5- 10	20 – 60	<i>LGU Decision:</i> The VBWD Engineer sends a memorandum to the Board of Managers the Friday before its Thursday meeting. The memorandum includes a recommendation to <u>Approve</u> , <u>Approve with Conditions</u> , or <u>Deny</u> a sequencing or replacement plan application. The Board of Managers then act upon that recommendation at its meeting.
Post Decision		
5 - 10	30 – 110	Within 10 working days after the VBWD Board of Managers has made a decision on a <i>Wetland Replacement Plan Application</i> , the VBWD Staff submits the <i>Notice of Decision</i> to all who received a <i>Notice of Application</i> . If approval is given, the project may commence <u>after</u> all of the conditions of the project permit have been satisfied.
30	60 – 140	The decision of the VBWD Board of Managers becomes final 30 days after the <i>Notice of Decision</i> is mailed if it is not appealed. Work before that time is at the permit applicant's own risk.