

# TOPICS **BREAKING NEWS**



## **Amended WCA Rules Tighten Minnesota Wetland Regulations**

**Westwood TOPICS August 2007**

Amended Minnesota Wetland Conservation Act (WCA) Rules, which took effect in early August, 2007, limit wetland exemptions and increase wetland replacement requirements.

### **Background/Overview**

These are the most significant amendments of WCA Rules since 1996. Wetland officials say that No Net Loss of wetlands has not been achieved due to exempt wetland losses. Governor Pawlenty has asked for more close alignment with the principle of No Net Loss. These “emergency” rule amendments last for two years, at which time they will be replaced by formal “planned amendments.” Public comments on the planned amendments are due on September 20, 2007.



### **Exemptions**

- Most wetland exemption revisions apply to agricultural land uses.
- The wetland exemption for maintenance or repair of existing drainage systems now applies only to land that will remain in agricultural use for at least 10 years.
- The amounts of wetland fill allowed without replacement (the “de minimis” exempt amounts) have decreased, especially within shorelands and the Twin Cities Metropolitan area.
- The incidental wetland exemption remains intact.

### **Appeals**

- Fees charged by the Minnesota Board of Water and Soil Resources (BWSR) for filing appeals have increased.

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- The amended rules allow for appeal of local staff decisions to local government boards/councils.
- BWSR staff encourage local governments to put conditions on approvals that relate to the appeal period (e.g., don't grade, or grade at your own risk, until 30-day appeal period is over).

## **Wetland Replacement**

- Offsite wetland replacement location sequencing has become more complex with new “Wetland Bank Service Areas,” in addition to Counties and Watersheds.
- Stormwater Ponds are no longer eligible for Public Value Credit (PVC) wetland replacement.
- Buffers adjacent to New Wetland Credit (NWC) are still eligible for PVC.
- Water Quality Treatment Areas (e.g., ponds, rain gardens, infiltration areas) are now eligible for NWC if runoff is pre-treated and several other specific criteria are met.
- The required wetland replacement ratio increases above 2:1 if wetland replacement is not onsite, the same type, and in advance of wetland fill.
- Most land development wetland replacement plans will now require either 2.25: 1 or 2.5:1 wetland replacement.
- The wetland replacement type classification is based strictly on the plant community type.

If you have questions about how the new rules might impact your plans, give us a call and one of our 12 environmental scientists can guide you through the changes.