



Brochures in the Series

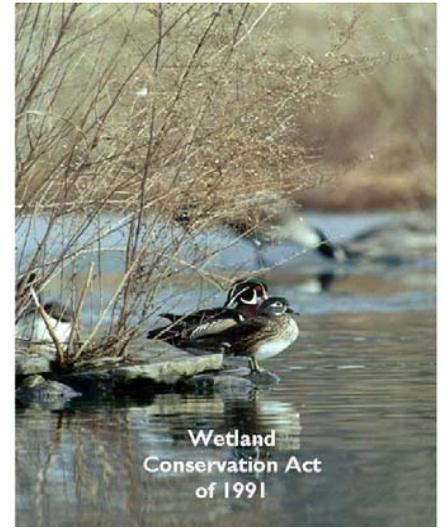
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This guide was developed by the Anoka Conservation District through the 2002 Agricultural Preservation Program and adapted for the residents of Stearns County by Stearns County Environ-

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www.co.stearns.mn.us

The information presented here is only a summary of the Wetland Conservation Act provisions. Please contact the Environmental Services Department for more complete information.



VIOLATIONS & ENFORCEMENT

Brochure #8

Stearns County Environmental Services
Administration Center Room 343
705 Courthouse Square
St. Cloud, MN 56303

(320) 656-3613
FAX (320) 656-6484
1-800-450-0852

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WETLAND VIOLATIONS & ENFORCEMENT

All draining and filling and some excavation activities conducted in wetlands under the jurisdiction of the Wetland Conservation Act (WCA) are subject to administration by the Local Government Unit (LGU).

Enforcement of WCA is directed by the Minnesota Department of Natural Resources (DNR) Conservation Officers. Conservation Officers (CO's) get involved when they become aware of a violation of WCA. This may happen through phone calls from the public or public agencies or by observing the activity directly. It is the responsibility of the CO to follow up and determine if the activity is a violation.



The spoil piles are a violation of the Wetland Conservation Act.

Issuing A Cease and Desist Order

The CO may choose to contact the landowner, contractor, or the LGU to determine if an exemption applies or if there is an approved replacement plan. If evidence of an approved replacement plan or exemption is not forthcoming and the drain or fill activity is underway, the CO may issue a Cease and Desist Order (CDO) to the landowner. A CDO may be issued when the CO has probable cause that a drain, fill or excavation activity is in a wetland and is in violation of the WCA.

Once the CDO is issued to the landowner, a copy is forwarded to the LGU, the DNR and the Soil and Water Conservation District (SWCD).

Task	Responsible Party	Timeline
Issue CDO and copy to SWCD, LGU & DNR	CO, Commissioner of DNR or other peace officer	As necessary
Apply for exemption or no-loss determination	Landowner	Immediately
Inspect the site and prepare a Restoration or Replacement Order	SWCD	Promptly upon notification
Issue a Certificate of Exemption or No-loss, if applicable, and request the enforcement authority to rescind the Cease and Desist Order and notify the landowner, SWCD and DNR.	LGU	Within 60 days
Issue the Restoration or Replacement Order after a CDO has been issued	CO, Commissioner of DNR or other peace officer	Promptly upon receipt of Restoration Order

After a Cease and Desist Order is Issued

After a CDO is issued, all work within the wetlands must be stopped until further notice. Violation of a CDO is a misdemeanor.

If the landowner feels that an exemption or no-loss determination applies, an application should be made to the LGU immediately. If the exemption or no-loss application is denied, a Restoration or Replacement Order prepared by the SWCD will then be in effect.

Restoration/Replacement Orders

A technician from the SWCD will investigate the site and determine if it is possible to restore the wetland. If restoration is possible, a Restoration Order will be developed by the SWCD and issued by the CO. If the wetlands cannot be restored, a replacement plan will be developed by the landowner in cooperation with the LGU.

The Restoration Order will specify a date by which the landowner must either:

- Restore the wetland according to the SWCD plan and obtain a Certificate of Satisfactory Restoration from the SWCD; or
- Appeal the Restoration Order; or
- Submit a replacement plan application to the LGU.

The order shall state that it will be canceled if the landowner obtains a Certificate of Exemption or No-Loss from the LGU, or a certificate that replacement has been completed according to an approved replacement plan. Otherwise, the landowner must restore the wetlands in a manner required by the Restoration Order



After this spoil was removed the Cease and Desist Order was rescinded.

If the SWCD determines that restoration will not restore all losses caused by the drain or fill activity, the enforcement authority may order a combination of restoration and replacement, or may order replacement rather than restoration.

The order will direct the landowner to obtain a replacement plan approval from the LGU. The order will specify that if a replacement plan approval is not obtained, the landowner must restore the wetland in a manner determined by the SWCD.

Each Cease and Desist, Restoration and Replacement Order shall tell the landowner that violation of the order is a misdemeanor.

If as part of the misdemeanor proceeding, the court orders restoration or replacement, the SWCD shall determine which is appropriate and if it is restoration, the method of restoration will be determined. If the court orders replacement, the landowner must follow the replacement plan process of the WCA unless the court orders otherwise.

If the responsible party seeks approval of a replacement plan after the proposed project has already impacted the wetland, the LGU can require the party to replace the impacted wetland at twice the usual ratio required.

Contractors are responsible if work drains, excavates, or fills a wetland unless they have received a signed statement from the landowner stating a replacement plan is not required or has been approved.

