

6115.0191 SPECIFIC STANDARDS; FILLING.

Subpart 1. **In general.** In addition to compliance with the general standards in part 6115.0190, subparts 2 to 5, specific requirements for certain activities shall be met as follows.

Subp. 2. [Repealed, 27 SR 529]

Subp. 3. **Navigational access.** Filling to gain navigational access to waters shall be permitted only where access to navigable depths cannot be reasonably attained by utilizing a dock, the excavation of an offshore access channel, or other alternatives which would result in less environmental impact.

Fill for navigational access shall not extend beyond the edge of open water, shall not exceed side slopes greater than 2:1 horizontal:vertical, shall not exceed a maximum width of 15 feet at the base of the fill, and shall not extend to a water depth greater than four feet.

Subp. 4. **Shoreline lost by erosion.** Permits for filling to recover shoreland lost by erosion or other natural forces shall be granted if:

A. the loss of shoreline is a threat to health and safety through the impending loss or damage to existing shoreline developments; or

B. the loss of shoreline has occurred as a result of changes in water level or flow conditions caused by artificial manipulation of flows or levels of the waters involved within a period of not more than five years prior to the date when an application for filling is submitted.

The requirements of items A and B do not preclude the issuance of permits to recover up to 400 square feet of eroded area or to place riprap materials or use other structural means for protection of the shoreline to prevent continuous erosion.

Subp. 5. **Port development or improvement.** Filling necessary for port development or improvement is allowed only on those waters that are under the jurisdiction of established port authorities subject to the following:

A. no filling is allowed to extend beyond the limits of federally established harbor lines, or when no harbor line has been established, beyond the maximum distance waterward which could be attained without obstructing navigational use of the waters;

B. the proposed development is part of a comprehensive port development plan that has been approved by the commissioner; and

C. adverse effects of the proposed filling on the physical and biological character of the area are subject to mitigation measures approved by the commissioner.

Subp. 6. **Fish and wildlife habitat.** Filling to restore or improve fish and wildlife habitat, except for filling in designated trout streams, shall be permitted provided plans are

submitted showing the nature and degree of habitat to be benefited, and the project will not create other adverse effects such as flooding, erosion, sedimentation, or navigational obstructions.

Subp. 7. **Trout streams.** Filling in trout streams officially designated by the commissioner is allowed only if:

A. the amount, method of placement, and location of the fill will not result in increased water temperatures, excessive sedimentation in the stream, or destruction of fish habitat; and

B. there is no other feasible or practical alternative other than filling.

Subp. 8. **Other purposes.** Filling for other purposes not specifically listed shall be subject to the general standards in part 6115.0190, subparts 2 to 5, and submission of information to show that:

A. the intended purpose of the fill is reasonable with respect to all other alternatives and there are no feasible and practical means to attain the intended purpose without filling; and

B. the proposal will adequately protect public safety and promote the public welfare.

Statutory Authority: *MS s 103G.315; 105.415*

History: *8 SR 533; 27 SR 529*

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