

8420.0415 NO-LOSS CRITERIA.

"No-loss" means no permanent loss of, or impact to, wetlands from an activity according to the criteria in this part. The following qualify for a no-loss:

- A. an activity that will not impact a wetland;
- B. 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;
- C. 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;
- D. 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;
- E. 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;
- F. 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;
- G. 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; or

H. 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.

Statutory Authority: *MS s 103G.2242*

History: *34 SR 145*

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