

CARLTON COUNTY - GUIDELINES FOR EXISTING PONDS

The following are frequently asked questions regarding ponds (Type 3, 4 or 5 wetlands), whether existing naturally or ponds that have been created by human activities:

A wetland was converted in the past from one type of wetland to another type of wetland through excavation. Is the original wetland type or the current wetland type used to determine whether additional excavation is considered an impact? For example, in the past, a shrub swamp (Type 6) was excavated to create a shallow marsh (Type 3). The current wetland type is used to determine whether additional excavation is considered an impact. Therefore, in the example, the regulated wetland type would be the shallow marsh (Type 3). Excavation in the permanently and semi-permanently flooded areas of the Type 3 wetland would be considered an impact and would require wetland replacement if the amount of impact exceeds the de minimis amount. The de minimis exemption for a Type 3 (or Type 4 and 5) wetland is 100 square feet or 20 square feet if the impact is within the building setback of a Department of Natural Resources Protected Water.

A wetland was converted in the past from one type of wetland to another wetland type by excavation. Can additional excavation occur at a later date without replacement? For example, a landowner excavated a Type 6 wetland in 1985 to create a Type 3 wetland and now wants to clean it out. Could the landowner do the work without replacement? Excavation of soil material within the permanently and semi-permanently flooded areas of the wetland is considered an impact and would require wetland replacement if the area exceeds the de minimis amount.

Can sediment that has accumulated in a wetland from human activity in a Type 3, 4 or 5 wetland be removed without the requirement for wetland replacement? For example, a Type 3 wetland in an intensely farmed area with steep slopes has accumulated a significant amount of sediment from erosion. Is removal of the sediment via excavation considered an impact? If the accumulation of sediment can be documented by evidence, including soil borings and aerial photography, the removal of sediment by excavation in the permanently and semi-permanently flooded areas of a Type 3, 4 or 5 wetland may not be considered an impact and may not require wetland replacement. Carlton County Planning and Zoning would consider the evidence and make a decision if requested.

Can vegetation be removed via excavation from Type 3, 4 or 5 wetlands without replacement? Removal of vegetation by excavation from a Type 3, 4 or 5 wetland, if soil is also removed, would be considered an impact that would require wetland replacement if the area exceeds the de minimis amount.

A Type 3, 4 or 5 wetland was created in an upland. Can additional excavation occur at a later date without replacement? Could the wetland be filled in at a later date? The Wetland Conservation Act does not regulate excavation or filling in uplands as long as the activity does not result in the conversion of naturally occurring wetlands to non-wetlands. Property owners are strongly encouraged to consult the Carlton County Planning and Zoning Office to determine whether an upland area was excavated to create the Type 3, 4 or 5 wetland. Carlton County would consider the evidence and make a decision if requested.

CONTRACTOR RESPONSIBILITY FORM

The Wetland Conservation Act requires that an agent or employee may not drain, grade, excavate or fill a wetland without first obtaining a signed statement from the landowner that all permits have been obtained or are not required, and said statement is submitted to Carlton County Planning and Zoning Office. Forms are available from Carlton County Planning and Zoning.