



MEMO

Division of Enforcement

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To: WCA Local Government Units
Soil and Water Conservation Districts
DNR Waters and Fisheries Sections

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Subject: Wetland Conservation Act, Public Waters and Aquatic Plant Violations

Since April of 2009 DNR Enforcement Officers responding to potential violations with wetlands, public waters or aquatic plants not in progress and not likely to continue have not issued a Cease and Desist Order (CDO). Instead, the officers have been completing an Initial Case Report (ICR) and forwarding it to the DNR Water Resource Enforcement Officer (WREO). The WREO's have then been forwarding the ICR to the responsible Local Government Unit (LGU), Soil and Water Conservation District (SWCD) or DNR section along with members of the Technical Evaluation Panel (TEP) for site inspection follow up.

The ICR process was initiated for three primary purposes;

- 1) To provide an improved process for the identification and tracking of potential violations;
- 2) To recognize the technical expertise and legal authority of local governments and staff to determine the compliance status of an activity and the need for enforcement actions; and
- 3) To ensure CDO authority remains available for activities that warrant it.

In an effort to continue and improve the communication, documentation and streamlining of the notification process, when a CDO is not issued, the DNR Division of Enforcement is now implementing the Resource Protection Notification (RPN). The RPN replaces the requirement Officers currently have to complete an ICR for initial documentation of potential violations. This memo amends enforcement MOD 2009-01 regarding that initial requirement. The RPN provides the necessary information needed by the LGU, SWCD or DNR WREO to follow up on a possible violation. The design of the RPN form is such that it will be routed the same as a CDO and is compliant with current data privacy requirements. At times an Officer may need to provide additional information regarding an investigation. In those instances, an ICR will be completed and provided along with the RPN to local government staff.

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The RPN does not change any processes used to verify permits, prior approvals, and qualifications for exemptions or no-loss. Once the status of the project has been determined (previously approved, exempt, no-loss violation), the LGU will e-mail the WREO and the TEP to close the case or indicate what the next action will be (after-the-fact application, restoration/replacement order, etc.).

When compliance with a restoration or replacement order is achieved, a certificate of completion must be issued from the SWCD to the landowner with a copy provided to the DNR WREO. This is an important requirement that must be completed in order to allow closure of the case by DNR Enforcement.

Each LGU should continue their own internal processes for tracking and handling potential enforcement cases. However, there are differences between CDO and RPN that local WCA staff need to be aware of:

- When a CDO is issued to a landowner, it includes information regarding timelines for applying for an exemptions or other after the fact approval, and directs them to contact their LGU or local SWCD.
- When an RPN is issued, the land owner will receive a copy of the RPN, but the LGU will be responsible for the initial landowner communication and/or to determine if enforcement is warranted.

Note: This process does not limit or impede the ability of a Conservation Officer to communicate with the landowner or conduct investigatory work at any time, but recognizes the LGU's authority to make decisions on qualification for exemptions, etc.

The changes described above will have little impact on the day-to-day enforcement activities of local staff, but are important to ensure effective communication between Conservation Officers, local staff, and landowners, and to facilitate the timely and efficient resolution of potential violations.

Please call or e-mail either of us with any questions.

Thank You.