

**- Rule Draft -**

**RULES OF THE  
ENVIRONMENTAL PROTECTION  
COMMISSION  
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-11  
WETLANDS**

**1-11.12 BONA FIDE AGRICULTURAL  
ACTIVITIES**

(1) The following exemptions apply to development within wetlands as a result of bona fide agricultural activities. Bona fide agricultural activities include necessary farming operations which are normal and customary for the area, such as site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, and construction of access and internal roads, bridges, or culverts to facilitate these operations; construction or maintenance of irrigation and drainage ditches; and construction, operation or maintenance of agricultural use ponds. The following exemptions do not include activities such as logging or timbering in wetlands, construction of permanent or temporary structures such as non-agricultural buildings or residences, or any similar non-agricultural uses of land even if related to bona fide agricultural activities. The applicant for any of the following wetland impacts must apply with the Wetlands Management Division to utilize the following exemptions under a Miscellaneous Activities in Wetlands authorization or under mitigation review as applicable.

(a) Reasonable Use exemption: The following wetland impacts satisfy the reasonable use requirement set forth in Section 1-11.07:

(i) Wetland impacts where the wetland impacts are addressed in a Southwest Florida Water Management District (District) approved Resource Management System (RMS) plan or a Natural Resource Conservation Service approved RMS plan implemented pursuant to the Agricultural Ground and Surface Water

Management program (AGSWM). The applicant for wetland impacts must fully implement the terms of the RMS plan to be eligible for this exemption. The conditions contained in the RMS plan shall be included in any approval as an order of the Executive Director and shall be enforceable as such pursuant to Section 17 of the EPC enabling act.

(ii) Where the impact is to an isolated non-forested wetland no greater than one quarter (1/4) acre in size and the impact is authorized in writing by the District through use of any of the state exemptions in Subsections 40D-4.051(7), (8)(a), (8)(d), (8)(m), (9)(d), or (9)(e), F.A.C.

(iii) Any activities constituting development as defined in this rule within isolated non-forested wetlands no greater than one quarter (1/4) acre in size where the wetland impact does not involve converting wetlands or other jurisdictional surface waters to uplands. An applicant may increase wetlands impacts under this Section up to a one half (1/2) acre isolated non-forested wetland if the impact incorporates the requirements set forth in Section 8.01.06A of the Land Development Code. The total cumulative area of wetland impacts on the property under this exemption shall not exceed one half (1/2) acre. The impact must also be authorized by a state exemption or an Environmental Resource Permit issued by the District. In the event wetland impacts are authorized in those wetlands in the future pursuant to Chapter 1-11, the previously impacted wetland area shall be mitigated as an undisturbed wetland for purposes of Section 1-11.08.

(iv) Any activities constituting development as defined in this rule within isolated non-forested wetlands no greater than one quarter (1/4) acre in size. To be eligible for this exemption wetland impacts on the property may not cumulatively exceed one half (1/2) acre. The wetland impact must also be authorized by a state exemption or an Environmental Resource Permit issued by the District. In the event wetland impacts are authorized in those wetlands in the future pursuant to Chapter 1-11,

the previously impacted wetland area shall be mitigated as an undisturbed wetland for purposes of Section 1-11.08.

**(b) Mitigation exemption:**

(i) Wetland impacts that are limited to fully isolated wetlands or other surface waters one quarter (1/4) acre or less in size, are exempt from the mitigation requirements under Section 1-11.08, unless the total proposed wetland impacts to isolated wetlands on the agricultural land cumulatively exceed one half (1/2) acre in size. This exemption does not apply where the wetland is used by threatened or endangered species, or the wetland is located in an area of state critical concern designated pursuant to Chapter 380, F.S.

(ii) Any wetland impacts authorized under Section 1-11.12(1)(a) that are proposed for mitigation pursuant to the uniform mitigation assessment methodology and are incorporated into an ERP shall be exempt from Section 1-11.08. The conditions of the ERP mitigation shall be included in any approval as an order of the Executive Director and shall be enforceable as such pursuant to Section 17 of the EPC enabling act. The mitigation must be located within Hillsborough County. However, if mitigation is otherwise required by the Wetland Rule Chapter 1-11 and the District does not require mitigation, an applicant must still comply with Section 1-11.08 for those wetland impacts and provide the appropriate mitigation.

(iii) To be eligible for this exemption under this Section the property must remain in a bona fide agricultural use for at least seven (7) years from the date of the impact. In the event the wetland impact area is taken out of agricultural use and the land converts to other uses such as residential or non-agriculture commercial use within seven (7) years, the wetlands that were impacted pursuant to the exemption must be re-created in substantially the same location and in the substantially the same condition, or the impacted wetlands must be mitigated pursuant to Section 1-11.08. If the property owner sells or conveys the property, the property owner shall ensure that future property owners are aware that the area must be re-

created or mitigated as provided above in the event the area converts to a non-agricultural use. The approval letter shall be recorded in the public records to serve as notice to future owners.

(2) Conditions and limitations applicable to all above exempt activities:

(a) Further subdivision of a property after the adoption of this rule shall not entitle present or future owners to wetland impact thresholds greater than the areas eligible under the area of original common ownership.

(b) These exemptions do not apply to any filling activity using anything other than clean fill as defined in Sections 62-701.200(38) or (15), or 62-701.730(15), F.A.C.

(c) Development under these exemptions shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.

(d) Fish ponds constructed under this Section shall not be eligible for the exemption in Section 1-11.11(1)(b)(iii).

(e) These exemptions do not apply to wetlands created, enhanced, or restored as mitigation for wetlands or surface water impacts under a permit issued by the Executive Director, DEP, District or United States Army Corps of Engineers.

(f) The development under these exemptions shall include best management practices for erosion, turbidity and other pollution control to prevent violations of state or Commission water quality standards.

(g) These exemptions do not apply to activities reviewed under the Mangrove Trimming and Preservation Rule Chapter 1-14.

(h) These exemptions do not imply exemption from obtaining all proper permits or complying with regulations of other federal, state or local agencies.

**Section History** – adopted \_\_\_\_\_, 200\_;  
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