


Crash Course in WCA Administration Virtual Training

BOARD OF WATER AND SOIL RESOURCES



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Crash Course in WCA Administration Virtual Training- February 6-7

Day One	Day Two
Wetland Regulatory Programs 101	Basic Decisions
LGU Duties & TEP Procedures	Replacement Plans
Application Procedures	Wetland Banking
Enforcement Procedures	Q/A & Quiz
Q/A & Quiz	



bwsr.state.mn.us/minnesota-wetland-professional-certification-program

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Minnesota Wetland Professional Certification Program

General Program Information

WSP/PCP Training Schedule

Basic Wetland Decisions and Regulation Courses

Regional Training


Regulatory Training

Technical Training


Virtual Training



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Basic WCA Decision Types



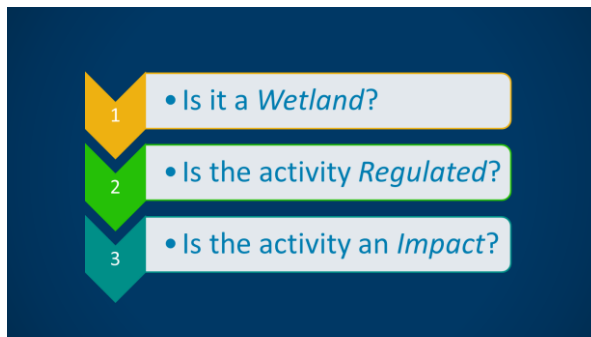
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Basic WCA Decision Types

- Boundary and Type
- No Loss
- Exemption



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- 1 • Is it a *Wetland*?
- 2 • Is the activity *Regulated*?
- 3 • Is the activity an *Impact*?

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What is regulated by WCA?

What is considered Impact?

A loss in quantity, quality, or biological diversity of a wetland *caused* by draining or filling or by excavation in types 3, 4, or 5.



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What is Drainage?

Any method for removing or diverting waters from a wetland

- Excavation of a ditch
- Tile Installation
- Filling
- Diking
- Pumping
- Diverted water
- Etc.



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What is Fill?

Any solid material added or redeposited in a wetland

- Alters cross-section or hydrological characteristics,
- Obstructs flow patterns,
- Changes Boundary, or
- Converts to non-wetland.



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Wetland Fill

- Does not include posts for walkways, bridges, powerline poles, etc.



- Does not include slash or woody vegetation as long as it originated from vegetation growing in the wetland and does not impair flow or circulation of water.



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What is Excavation?

- Wetland fill *does not* include posts and pilings unless it turns wetland into a nonaquatic use or significantly alters its functions and value.



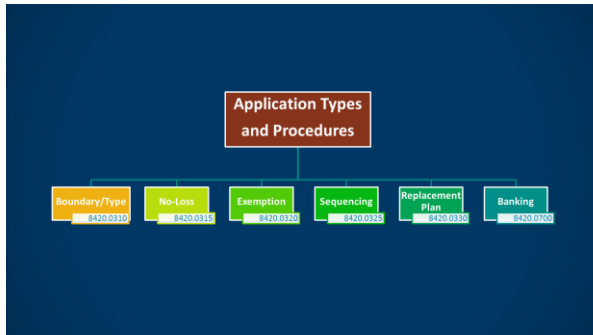
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What is Excavation?

Removal of soil by any method if it results in an impact*.



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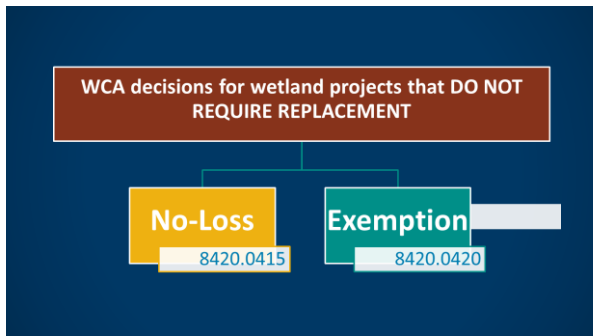
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Boundary/Type Applications: Where wetland regulation meets science

- Boundaries must be delineated using USACE 1987 Manual and Supplements (8420.0405 subp 1) 8420.0405
- Types must be ID'd using FWS Circular 39 and Eggers and Reed (8420.0405 subp 2)
- Requires NOA and NOD.
 - ** Should include site visit for confirmation
- Technical Decision



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No Loss Activity Basics

Defined:
No permanent loss of, or impact to, wetlands from an activity.



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No-Loss Criteria

"No-loss" means no permanent loss of, or impact to, wetlands from an activity according to the criteria in this part.

- Will not impact a wetland (8420.0415 Subp A.)
- Excavation limited to removal of sediment or debris Trees logs, beaver dams, trash, blockage of culverts (8420.0415 Subp B.)
- Water level management (8420.0415 Subp C.)
- Excavation limited to removal of sediment in wetlands utilized as storm water basins. (8420.0415 Subp E.)
- Operation, Maintenance or Emergency Repair. (culverts) (8420.0415 Subp F.)
- Temporary impact if: Returned to previous conditions. Activity completed within 6 months (8420.0415 Subp H.)



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No-Loss

- 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 (8420.0415 Subp G. G.)
- 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 (8420.0415 Subp D. D.)



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No-loss and exemption conditions

- Every activity in wetland, regardless of whether an application is submitted must:
 - Implement erosion control measures to prevent sedimentation of wetlands
 - Not block fish activity
 - Comply with all other applicable local, State, Federal requirements, including best management practices
- Exemptions cannot be combined on a project!

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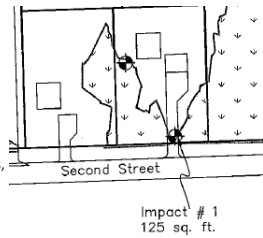
General Exemption Requirements for ALL

- Only has to fit one; not disqualified if not exempt by another
- If impacts exceed max allowed = nothing is exempt
- Max may not apply to all situations or wetlands-**very specific**
- May not be combined on a project
- Must stabilized to prevent sedimentation/erosion.

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Exemptions 8420.0420

- Impacts to wetlands that **DO NOT** require replacement
 - The activity is still regulated.
 - WCA does not REQUIRE an application; some LGU's may.
 - May not be combined on a project.
- Exemptions do not apply to: calcareous fens, wetland bank sites, project-specific replacement sites (8420.0420 Subp 1B)



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Exemptions

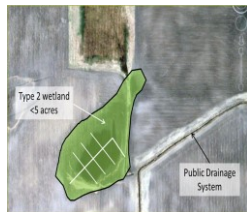
- Impacts from Agricultural Activities
- 8420.0420 Subp 2
 - (A) Type 1,2 Planted 6 of 10 prior to 1991
 - (B) Agricultural pasture land, except bottomland hardwood type 1
 - (C) SWCD conservation practices
 - (D) Wheeled booms on irrigation
 - (E) Aquaculture
 - (F) Wild rice
 - (G) Farm program MOU



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Exemptions

- Drainage Exemption
 - 8420.0420 Subp 3
- Public drainage maintenance
- Private drainage maintenance
- Planted 8 of 10 years
- Assessed benefits
- *Reminder – review the WCA language details and project specifics*



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Private Drainage/Ditch Maintenance

Replacement not required for maintenance or repair of existing private drainage systems

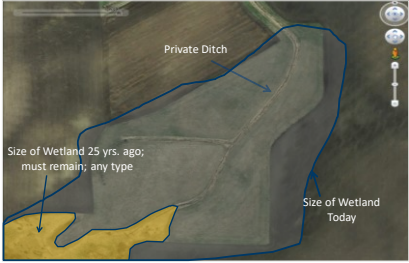
WHEN:

The work does not drain Wetland that have existed more than 25 years.



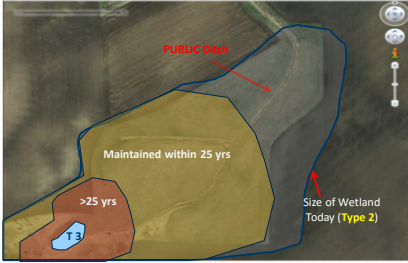
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Private Drainage/Ditch Maintenance Illustration



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Private VS. Public Drainage Ditch Maintenance Illustration



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Ditch Maintenance

CONDITIONS:

- Spoil must be placed and stabilized to minimize impacts.
 - ~ Remove
 - ~ place on existing spoil
 - ~ incorporate
 - ~ side cast
- Ditch must be stable and not degrade water quality downstream.



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Private Drainage/Ditch Maintenance

What items may be needed to demonstrate this exemption is met?

- Past records of maintenance (receipt to contractors)
- Aerial Photos with review
- Amount of Sediment Proposed to be removed (can be critical)
- Depth of ditch/soil types
- Site visit/confirmation of wetland type (growing season)
- Lateral Effect Calculations or estimates

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Exemptions

- **Federal Approvals** 8420.0420 Subp 4
 - Impacts authorized by Corps of Engineers that meet standards agreed to by BWSR, Dept. of Ag., DNR, and MPCA.
 - Pipelines, electrical, telephone, etc.
- **Utilities** 8420.0420 Subp 6
 - Installation, maintenance, repair or replacement of utility lines if impacts are avoided and minimized and less than 1/2 acre.



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Exemptions

Table 1: Base de minimis exemption amounts for all of Minnesota

		15,000 ft ² in all > 80% counties
Non Shoreland Areas	Types 1, 2, 6, 7 (excluding white cedar and tamarack wetland and any Type 7 wetland in a < 80% metro county)	5,000 ft ² in non-metro 50-80% counties 2,500 ft ² in metro 50-80% counties 2,000 ft ² in non-metro < 50% counties 1,000 ft ² in metro < 50% counties
	Types 3, 4, 5, 8, and white cedar and tamarack wetland (excluding any Type 7 wetland in a < 80% metro county)	100 ft ²
	Types 1, 2, 6, 7	400 ft ² *(1,000 ft ²)
Within Shoreland, but beyond structure setback	Types 3, 4, 5, 8, and white cedar and tamarack wetland	100 ft ²
Within Shoreland and structure setback	All wetland types	20 ft ² *(100 ft ²)

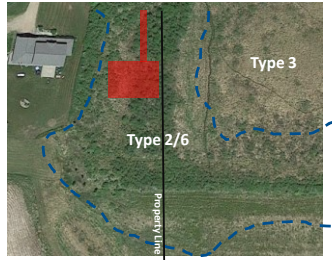
*Increased amounts shown in parenthesis may be allowed if wetland is isolated from the public water, or if permanent water runoff retention or infiltration measures are established in proximity to the impact and approved by the shoreland management authority.

- De minimis 8420.0420 Subp 8
 - The de minimis exemption covers small impacts to wetlands typically used for driveways, roads, small projects by landowners, etc.
 - Very specific requirements depending on location in state, local area, shoreland, etc.
 - Review all nuances of each part for every project

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De Minimis Exemption

- Can't be combined
- 5% limitation if shared
- May not divide property simply to get more



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Exemptions

- Subp. 7. **Forestry.** The exemption under this subpart is for roads and crossings solely constructed, and primarily used, for the purpose of providing access for the conduct of silvicultural activities. A replacement plan is not required for impacts resulting from construction of forest roads and crossings so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not include, or result in, the access becoming a dike, drainage ditch, or tile line; impacts are avoided wherever possible; and there is no drainage of the wetland or public waters.

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Exemptions

- **Wildlife Habitat** 8420.0420 Subp 9
 - Lesser of 5% or 1/2 acre of Type 3,4,5
 - No adverse effect on T&E
 - **Certified by SWCD or TEP**
 - All spoil must be stabilized with native, noninvasive vegetation.



Excavation in Types 1, 2, 6, 7, 8 not regulated unless deeper than 8.2 feet depth

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Exempt?

- Located in >80% area
- Not in shoreland
- Proposed impact=7,490 SF
- Landowner's portion=154,223 SF



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Exempt?

- Located in >80% area
- Not in shoreland
- Proposed impact=7,490 SF
- Landowner's portion=154,223 SF




Yes.
5% of 154,223=7,711
Proposed impact is less
Qualifies for de minimis exemption
MN Rule 8420.0420 Subp. 8 C (2)

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Summary of Basic WCA Decisions

- Boundary/Type: approving wetland delineation that followed 3 parameter approach
- No-loss: activity that does not result in wetland impacts
- Exemptions: wetland impacts that are exempt from replacement

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Replacement Plan Applications

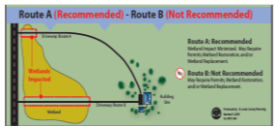
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Replacement Plans

8420.0330 REPLACEMENT PLAN APPLICATIONS.
 Subpart 1. **Requirement.** A landowner proposing a wetland impact that requires replacement under this chapter must apply to the local government unit and receive approval of a replacement plan before impacting the wetland.

Sequencing
8420.0520

- Avoid Impact (8420.0520 subpart 1)
- Minimize Impact (8420.0520 subpart 2)
- Replace (8420.0522)



BWSR Wetland Section | www.bwsr.state.mn.us/wetlands

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Preapplication Meeting

- Prior to preparation and/or formal submittal of an application
- Meet with the LGU/TEP to provide basic information of the project
- LGU/TEP inform the applicant of sequencing requirements and criteria to evaluate the replacement plan

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Application Contents

- Information necessary to be considered a complete application (**Joint Application Subparts 1-5, Attachments C & D**)

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Application Contents

Project Name and/or Number:

PART ONE: Applicant Information

If applicant is an entity (company, government entity, partnership, etc.), an authorized contact person must be identified. If the applicant is using an agent (consultant, lawyer, or other third party) and has authorized them to act on their behalf, the agent's contact information must also be provided.

Applicant/Landowner Name:
Mailing Address:
Phone:
E-mail Address:

Authorized Contact (do not complete if same as above):
Mailing Address:
Phone:
E-mail Address:

Agent Name:
Mailing Address:
Phone:
E-mail Address:

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Application Contents

PART TWO: Site Location Information

County: _____ **City/Township:** _____
Parcel ID and/or Address: _____
Legal Description (Section, Township, Range): _____
Lat/Long (decimal degrees): _____
Attach a map showing the location of the site in relation to local streets, roads, highways.
Approximate size of site (acres) or if a linear project, length (feet): _____

If you know that your proposal will require an Individual Permit from the U.S. Army Corps of Engineers, you must provide the names and addresses of all property owners adjacent to the project site. This information may be provided by attaching a list to your application or by using block 25 of the Application for Department of the Army permit which can be obtained at: http://www.mvp.usace.army.mil/Permits/37/docs/regulatory/regulatorydocs/angform_4345_2012oct.pdf

PART THREE: General Project/Site Information

If this application is related to a delineation approval, exemption determination, jurisdictional determination, or other correspondence submitted **prior** to this application then describe that here and provide the Corps of Engineers project number.

Describe the project that is being proposed, the project purpose and need, and schedule for implementation and completion. The project description must fully describe the nature and scope of the proposed activity including a description of all project elements that effect aquatic resources (wetland, lake, tributary, etc.) and must also include plans and cross section or profile drawings showing the location, character, and dimensions of all proposed activities and aquatic resource impacts.

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Application Contents

PART FOUR: Aquatic Resource Impact¹ Summary

Aquatic Resource ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) ²	Size of Impact ²	Overall Size of Aquatic Resource ³	Existing Plant Community Type(s) in Impact Area ⁴	County, Major Watershed #, and Bank Service Area # of Impact Area ⁵

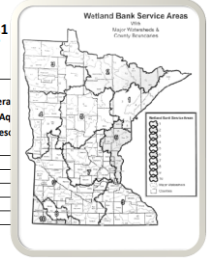
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Application Contents

PART FOUR: Aquatic Resource Impact¹

Aquatic Resource ID (as noted on overhead view)	Aquatic Resource Type (wetland, lake, tributary etc.)	Type of Impact (fill, excavate, drain, or remove vegetation)	Duration of Impact Permanent (P) or Temporary (T) ²	Size of Impact ²	Overa Aq Res



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Application Contents

For the impacted Wetland (info can come from delineation report):

- Soil survey of site, identify hydric soils
- Hydrologic inlets and outlets, adjacent Public Waters (shoreland), floodplain



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Application Content - Special Considerations

These factors must be considered by the applicant before submitting a replacement plan and by the LGU during the review: 8420.0515 Subp 1-10

- Subp 2. Endangered and threatened species
- Subp 3. Rare natural communities
- Subp 4. Special fish and wildlife resources (fish spawning, water birds, waterfowl, deer wintering/wildlife corridor)
- Subp 5. Archaeological, historic, or cultural resource sites
- Subp 6. Groundwater sensitivity (Decorah edge, Geologic Sensitivity)
- Subp 7. Sensitive surface waters (trout streams)



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Application Content - Special Considerations

Subp 8. Education or research use (Cedar Creek, Anoka Co)

Subp 9. Waste disposal site (former dump, superfund, TCAAP/AHATS)

Subp 10. Consistency with other plans (watershed management, land use, planning and zoning)



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Application Contents

PART FIVE: Applicant Signature

Check here if you are requesting a pre-application consultation with the Corps and LGU based on the information you have provided. Regulatory entities will not initiate a formal application review if this box is checked.

By signature below, I attest that the information in this application is complete and accurate. I further attest that I possess the authority to undertake the work described herein.

Signature: _____ Date: _____

I hereby authorize _____ to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this application.

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Application Contents

- Attachment C – Avoidance and Minimization
 - Project purpose, need and requirements
 - Avoid
 - Minimize
 - Offsite Alternative
- More on this in a moment....

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Application Contents

• Attachment D – Replacement/Compensatory Mitigation

Replacement/Compensatory Mitigation via Wetland Banking. Complete this section if you are proposing to use credits from an existing wetland bank (with an account number in the State wetland banking system) for all or part of your replacement/compensatory mitigation requirements.

Wetland Bank Account #	County	Major Watershed #	Bank Service Area #	Credit Type (if applicable)	Number of Credits

- a completed application for withdrawal of wetland credits from the wetland bank in a form provided by the board or a purchase agreement signed by the applicant and bank account holder (more on this later...)

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Application Contents

• Attachment D – Replacement/Compensatory Mitigation

Project-Specific Replacement/Permittee Responsible Mitigation. Complete this section if you are proposing to pursue actions (restoration, creation, preservation, etc.) to generate wetland replacement/compensatory mitigation credits for this proposed project.

WCA Action Eligible for Credit ²	Corps Mitigation Compensation Technique ²	Acres	Credit % Requested	Credits Anticipated ¹	County	Major Watershed #	Bank Service Area #

- Project Specific Replacement – rarely used as the replacement option due to complexities, difficulties, and past failures.

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Application Contents

• Key Concept – COMPLETE APPLICATION

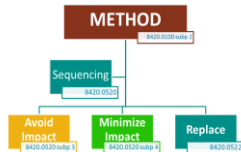
- LGU's should not send a Notice of Application for Replacement Plan Applications that are incomplete.

- Next up.....Reviewing the application - SEQUENCING

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Sequencing: 8420.0520

- LGU **MUST NOT** approve a wetland replacement plan unless the LGU finds the project complies with Sequencing.
- Avoid
- Minimize
- Rectify/Reduce
- Replace



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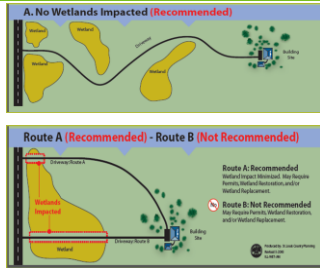
Key Concepts

- Sequencing is a MUST for all replacement plans
- **TWO** avoidance alternatives – only one can be “no build”
- Evaluate projects...can wetlands be avoided?
- Are impacts minimized?
- Long term effects
- 8420.0520 Subp C – Page 45 of 2009 Rule book

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Sequencing

- Avoid
- Minimize
- Rectify/Reduce
- Replace



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How does applicant demonstrate sequencing?

- Clearly define the **purpose** of the project.
- Identify the physical, economic, and/or demographic **requirements** of the project.
- **Justify** why this project should or must go on this site.
- Show (concept plans, discarded grading plans, etc.) and describe other **reasonable alternatives** that were considered or could be considered.

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Alternatives Analysis

- LGU must determine if feasible and prudent alternatives are available that avoid wetland impact

• 8420.0520 Subp. 3

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Alternatives Analysis

What is *feasible and prudent*?

WCA rule tells us (8420.0520 subp 3C(2)):

- Can be done from an engineering perspective
- Is in accordance with accepted engineering standards and practices
- Is consistent with public health, safety, and welfare requirements
- Is environmentally preferable based on social, economic, and environmental impacts
- Would not create any truly unusual problems

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Evaluating Alternatives (continued)

• LGU must consider (8420.0520 subp 3C(3)):

- Could the size, configuration, or density of the project be modified to avoid wetlands?
- Has the applicant made efforts to remove constraints (zoning restrictions, ordinance requirements, etc.) that are causing wetland impacts (i.e. request for variances, PUD, conditional use permit, etc.)?

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Impact Avoidance



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What if an avoidance alternative DOES exist?

- If the LGU determines that a feasible and prudent alternative exist that avoids wetland impacts, it **MUST DENY** the replacement plan.

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Project Example

- Proposed "Preferred" Alternative
- Impact Area = 86,190 sq ft
- Narrative states "avoidance is not possible"
- Front facing street
- 2nd Avoidance alternative was NOT provided
- Offsite analysis was provided



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Project Example

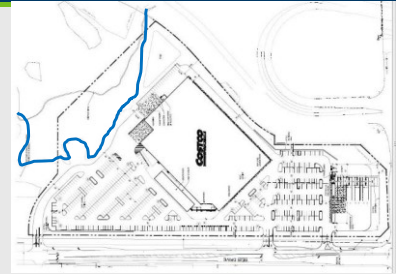
Offsite Analysis



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Project Example

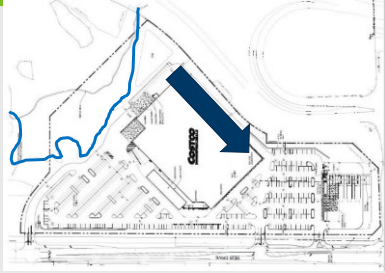
- Applicant is reminded that 2 avoidance alternatives are required
- Avoidance Alternative
- NO impact
- Did not accomplish purpose- too small build site
- Not enough parking
- No space for large trucks



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Project Example

- Applicant is reminded that 2 avoidance alternatives are required
- Avoidance Alternative
- NO impact
- Did not accomplish purpose- too small build site
- Not enough parking
- No space for large trucks



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Project Example

- Avoidance was not feasible
- Next Step – evaluate **minimization**

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Project Example

Change the project configuration

- Final Approved Alternative
- Side facing street
- Large retaining walls

PERMANENT WETLAND = 41,022 S.F.
 TEMPORARY WETLAND IMPACT AREA = 22,743 S.F.

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Project Example

Change the project configuration

- Final Approved Alternative
- Side facing street
- Large retaining walls

PERMANENT WETLAND = 41,022 S.F.
 TEMPORARY WETLAND IMPACT AREA = 22,743 S.F.

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Alternatives Analysis Continued...

Future considerations when reviewing a site and potential off-site impacts

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Alternatives Analysis Continued...

- Direct and secondary impacts – A wetland may not be directly impacted (filled/drained/excavated) but can be impacted through loss of hydrology

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What if an avoidance alternative does NOT exist?

- LGU evaluates:
 - Minimization
 - Rectification
 - Reduction/Elimination of impacts over time
 - Replacement

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Impact Rectification

- Temporary impacts must be rectified by repairing, rehabilitating, or restoring the affected wetland to pre-project conditions

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Reduction or Elimination of Impacts Over Time

- Once complete, further impacts must be reduced or eliminated and preserve or maintain wetland functions
- Best Management Practices (BMP)
- Silt fence
- Storm-ponds
- Buffers
- Rip-Rap



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Sequencing Flexibility

- Allowed at the *discretion of the LGU* if:
 - Impacted wetland degraded;
 - Avoidance results in severe degradation;
 - Upland site of the project or replacement has greater function and value;
 - Human health and safety is a factor.
- Alternatives must still be considered by the applicant and evaluated by the LGU 8420.0520 Subp 7a(B)

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Sequencing – Replacement

Final Review Step

LGU must evaluate if unavoidable impacts will be adequately replaced AND if correctly sited.

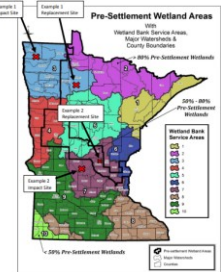
Adequate Replacement

- Must replace the functions and values at an equal or greater level than that which was lost.
- Uses wetland area as the unit of measurement (acreage or sq. ft.)

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Replacement Siting

- Must follow a priority order:
 - Minor watershed
 - Major watershed
 - Same BSA (presettlement area restrictions DO NOT apply)
 - Another BSA (presettlement area restrictions apply)



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Replacement Ratios - Banking

Minimum Replacement Ratios: Banking		
Location of impact	Replacement	Minimum replacement ratio
>80% area or agricultural land	Outside bank service area	1.5:1
	Within bank service area	1:1
<50% area, 50-80% area, and nonagricultural land	Outside bank service area	2.5:1
	Within bank service area	2:1



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Application to withdraw wetland credits

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Quick facts on ILF (as proposed)

Minnesota In-Lieu Fee Program

A program in which wetland replacement requirements are satisfied through payment of money to the board or a board-approved sponsor to develop replacement credits according to section 103G.2242, subdivision 12. (Minn Stat.)

In-lieu fee versus banking, major differences

- Mitigation is completed in advance with banking, after sale of credits with ILF
- Banking is for profit, ILF is open only to government and NGOs
- Corps is involved in finances with ILF, no involvement in banking
- ILF requires development of a compensation planning framework for program approval, banking does not

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Quick facts on Ag bank

Eligibility to USE the Ag Bank:

- ✓ The wetland must be proposed to be drained for agricultural use.
- ✓ The land must remain in agricultural use.
- ✓ The wetland must be a farmed wetland (FW) or otherwise degraded wetland on existing agricultural land.

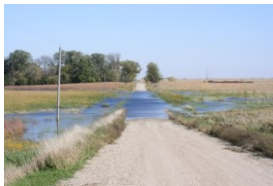
Differences with Standard Bank:

- Credits can only be used for Ag projects
- Flexibility on Vegetation Standards
- Expired CRP sites could be eligible “as-is”

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Local Government Road Wetland Replacement Program

- WCA exempts certain local road projects from State wetland replacement requirements
- BWSR is required to replace the associated wetland impacts so the local governments don't have to
- These wetland credits also satisfy Corps of Engineers' Section 404 permit requirements



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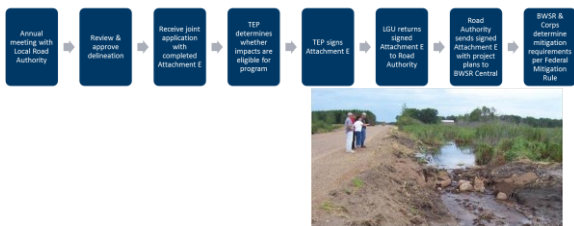
What projects Qualify?

- **Repair, rehabilitation, reconstruction or replacement of currently serviceable** existing State, City, County or Town public road.
 - Provided that:
 - Project minimizes impacts
 - Plans are provided to the LGU
- What doesn't qualify?
 - New roads
 - Roads expanded solely for additional capacity lanes



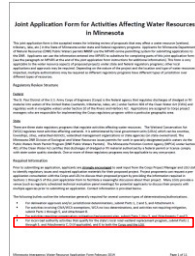
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Reviewing Local Road Projects



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Joint Application Form



- For Local Road Projects:
- Parts 1-5; Attachments C and E
 - May need Attachment D if there will be impacts that do not meet the Local Road Program eligibility requirements

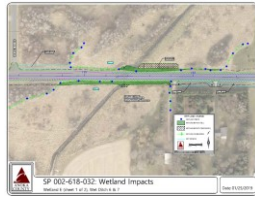


90

Application Requirements

Local Road Unit should provide TEP the following:

- Project plans depicting wetland boundaries
- Description of wetland impacts by type
- Information demonstrating wetland impact minimization
- Only one alternative is required



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Good Example

MNDOT's Road Design Manual (2000) also recommends turn and/or bypass lanes for rural undivided roadways with traffic volumes over 1,500 ADT and speed limits above 45 mph. Current road condition compared with required and proposed are laid out in the table below.

	Existing	Required	Proposed
Lane Width (ft)	12	11-12	12
Shoulder Width (ft)	0-6	8	8
In-Slope	1:4	1:4	1:4

This project is proposed to improve CSAH 18 to meet today's State Aid Standards and improve safety along the corridor.

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Attachment E – Joint Application

Attachment E
Local Road Replacement Program Qualification

Complete this part only on a local road authority (county, highway department, city, transportation department, etc.) leading application and use project or project or grant number for the Local Road Replacement Program (LRRRP). If portions of your project are not eligible for the LRRRP, that Attachment E should be completed and attached to your application.

Does your project involve rehabilitation, reconstruction, or replacement of a currently serviceable road to meet state-of-the-art design or other standards/requirements. Applicants should identify the specific road alternatives and how the project will justify them. Attach supporting documents and information as applicable.

Provide a study, plan, and/or aerial photograph accurately depicting wetland boundaries within the project area. Attach associated administrative documentation used or reference upon the wetland study to identify wetland resources. Do not attach any type of review or approval of wetland resources or other aspects of the project by a trustee or trustee of the local National Wetlands Bank (NWB) or other of Department.

In the table below, identify only the **eligible** impacts from Part II that the local authority has determined should qualify for the LRRRP.

Wetland Impact ID as listed in Attachment A	Type of Impact (see Attachment A)	Size of Impact (square feet or acres)	Existing Plant Community (Type I or II)	County, Water Resource & Soil Survey Area # if Impact?

Type I wetland areas and their adjacent buffer areas are those of Minnesota and Wisconsin. Type II wetland areas have been determined by a trustee to major waterway and buffer areas were mapped in the MNDOT-0522 (July 7).

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Actions Eligible for Credit

- Restoration of completely drained wetland
- Restoration of partially drained wetland
- Vegetative restoration of farmed wetlands
- Protection of wetland previously restored via conservation easements
- Wetland Creations
- Restoration and protection of Exceptional Natural Resource Value
- Preservation of wetlands
- Upland buffer areas



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Actions Eligible for Credit 8420.0526

Subpart	Action
2	Buffer
3	Restoration, Completely Drained or Filled
4	Restoration, Partially Drained or Filled
5	Vegetative Restoration of Farmed Wetland
6	Protection of Wetlands Previously Restored
7	Wetland Creation
8	ENRV
9	Preservation

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Establishing a Wetland Bank

State and Federal Review Process in Minnesota

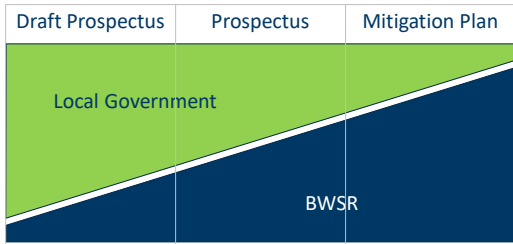
- Draft Prospectus
 - State: Optional
 - Federal: Optional
- Prospectus
 - State: Optional
 - Federal: Required
- Mitigation Plan/Draft MBI
 - State and Federal: Required
- Final Mitigation Plan and MBI
 - Federal only and required



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Roles in Establishing a Wetland Bank



97

Draft Prospectus

- Optional
- No decision required
- Help sponsors
- Complex or difficult projects
- Minimal investment

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Draft Prospectus

- Basic project information
- Easement questionnaire
- Basic Features
- Why is it a good bank project
- Constraints
- Existing wetlands



99

Draft Prospectus

- BWSR provides "Discussion Items"
- WS uses discussion items at TEP meeting
- TEP writes Findings based on discussion
- Sponsor receives TEP findings and decides what to do

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Prospectus

- Required by Corps
- No decision required
- Baseline Information
- Justify Credit Actions
- Justify Credit Allocation
- General Concept Plans

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Prospectus

- Crediting
- Topographic Information
- Wetland Determination
- Title Opinion
- Site Hydrology Information

Credit Action	Wetland Type (Plant Community)	Acres* (LA Area)	% Credit	Credit Amount (LA Credit)
Restoration - CFC	Type 2 - Fresh (wet) Meadow	11.7	100%	11.7000
Restoration - CFC*	Type 2 - Fresh (wet) Meadow	1.1	50%	0.5500
Restoration - CFC	Type 3 - Shallow Marsh	1.4	100%	1.4000
Restoration - CFC*	Type 3 - Shallow Marsh	0.1	50%	0.0500
Restoration - CFC	Type 4 - Deep Marsh	10.0	100%	10.0000
Subj. 3 - Buffer	Type 2 - Fresh (wet) Meadow	11.1150		2.8738
	Type 3 - Shallow Marsh	2.1500	37%	0.8051
	Type 4 - Deep Marsh	9.8100		1.4018
	TOTAL BANKING VALUE:	46.4	100% ALL	31.3311

*0.1000 buffer area. Actual credit area.

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Roles for reviewing prospectus

TEP/LGU Roles:

- Verify previous comments addressed
- Verify sponsor adequately described the site
- Review wetland delineation or determination
- Review crop history (if necessary)
- Provide LOCAL perspective on project and eligibility

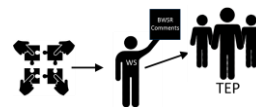
BWSR Role:

- Evaluate easement issues
- Vegetation, Engineering, and Bank Coordinator comments included
- Statewide consistency
- Technical answers and interpretations
- Coordination with Corps

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Roles for reviewing prospectus

- Comments become more direct
- Baseline information must justify credit actions and allocations
- Some credit actions require more information
- Project takes shape but detailed plans not required
- Balance information needs versus sponsor's cost



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Mitigation Plan

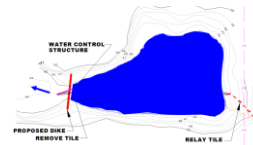
- Document of record
- Required for both programs
- LGU Decision Required
- Section 15.99 time limits!
- Attached to Corps' MBI

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Mitigation Plan

Required:

- Detailed vegetation plans
- Detailed construction plans
- Detailed monitoring plans
- Performance standards
- Credit release schedule



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TEP Review

- Verify Corps has completed Prospectus phase
- Verify Prospectus information carried forward and comments addressed
- Verify Baseline Information is complete and adequate
- Wetland delineation approval
- Review detailed plans to your comfort level

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Mitigation Plan

"Plans are nice but performance releases credits." J. Overland

- Monitoring plan must relate to performance standards
- Performance standards must relate to credit releases
- The Mitigation Plan is the basis for implementation, credit releases, and allowable actions into the future
- DOCUMENTATION IS CRITICAL

WCA/CWA Credit Release Schedule						
Type of Compensation	Type of Wetland Credit	Percent of Area	Project Credits	Banked Credits	Final Credits	Final Area
Banked Credits	Type 1 - Fresh Water Wetland	10%	10,000	1,750	1,100	1,750
	Type 2 - Fresh Water Wetland	10%	10,000	1,750	1,100	1,750
Banked Credits	Type 1 - Medium Shrub	2%	2,000	350	220	350
	Type 2 - Medium Shrub	2%	2,000	350	220	350
Banked Credits	Type 1 - Shrub	0.5%	500	87.5	55	87.5
	Type 2 - Shrub	0.5%	500	87.5	55	87.5
Credit Bank	Type 1 - Fresh Water Wetland	10.00%	10,000	1,750	1,100	1,750
	Type 2 - Fresh Water Wetland	10.00%	10,000	1,750	1,100	1,750
TOTAL	40.0%	40,000	6,925	4,490	6,925	6,925

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Mitigation Plan Decision

- Track 15.99 time limits, extensions needed
- Most Mitigation Plans will require some revision
- Make final decision in accordance with section 15.99
- Clearly identify and retain approved Mitigation Plan
- When possible the WCA and Corps approved plans should be the same

The image shows a 'Notice of Decision' form from the Minnesota Wetland Conservation Act. It includes fields for 'Project Name', 'Location', 'Applicant', and 'Date of Decision'. There are checkboxes for 'Approved' and 'Not Approved', and a section for 'Comments'.

109

Easement Acquisition

GENERAL PROCESS INFORMATION

- Easement acquisition is typically initiated after mitigation plan approval
- Easement acquisition does not have to be completed prior to construction
- The process is managed at BWSR by Easement Section Staff, not Wetland Specialists
- It is the responsibility of the sponsor/landowner to initiate the easement acquisition process



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LGU role in Easement Acquisition

- Help the sponsor find the ["Conservation Easement Acquisition Overview for Private Wetland Banks"](#)
- BWSR easement staff will take it from there



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Easement Acquisition

The significant steps in the easement acquisition process include:

- Sponsor submits initial \$1,000 Easement Acquisition Fee to BWSR along with application
- BWSR performs a preliminary review of ownership information to identify potential issues
- Sponsor provides DRAFT Certificate of Survey in required format for BWSR review & comment
- BWSR provides sponsor with instructions to obtain Title Commitment
- Sponsor (landowner) provides Title Commitment to BWSR for State Attorney General (AG) review & comment
- BWSR prepares Conservation Easement document to be signed by landowner
- Landowner signs Easement and returns to BWSR with \$2,400 Easement Acquisition Fee balance
- BWSR sends instructions to record the Easement and issue a Title Insurance Policy
- BWSR notifies sponsor that easement acquisition process is complete

112

Construction Certification

- LGU must certify the initial construction

- Documentation:
 - as-built drawing
 - surveyed map
 - Delineation
 - seed tags
 - construction photos



- Site Visit with TEP
 - Recommend TEP Findings of Fact

113

Credit Deposits

- Up to 15% of the credits are eligible for deposit after the certification of construction
- Remaining credits are eligible for deposit based on the credit release schedule and performance standards in the approved bank plan
- Subject to review by the LGU & TEP
- After certifying the credit for deposit, the LGU must forward to BWSR banking administrator

The image shows a 'Transaction Form to Deposit Credits' for the Minnesota Wetland Bank Program. It includes sections for 'Wetland Bank Information', 'Account Holder Information', and 'Credits to be Deposited'. The 'Credits to be Deposited' section has a table with columns for 'Credit ID', 'Credit Type', 'Credit Amount', and 'Credit Date'.

114

Credit Withdrawal and Transfer

- Submitted as part of Replacement Plan to LGU with jurisdiction of impact site
- Reviewed and approved by the LGU with TEP input
- Processed and entered into official ledger by BWSR
- BWSR coordinates approved transactions with Corps



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Credit Transactions

Help us improve transaction processing efficiency.

Make sure all requested information is provided

Make sure account information is provided and each column is filled out

Don't worry about fees – BWSR will handle that

116

Credit Transactions

Transaction forms cannot be processed without required signatures

When processing transactions we need LGU name and contact. Typed or printed information makes it easier to figure out

117

Credit Transactions

Transaction forms cannot be processed without required signatures

When processing transactions we need LGU name and contact. Typed or printed information makes it easier to figure out

118

Review

- Types of Wetland Banks
 - Standard
 - Private and Agriculture
 - In Lieu of Fee (proposed)
 - Local Road Program
- Replacement for Public Road Projects
 - Repair, rehabilitate, reconstruction of currently serviceable roads
- Actions Eligible for Credit
 - Restoration of drained wetlands, vegetation restoration, protection, ENRV, Preservation, upland buffer
- Establishing a Wetland Bank
 - Draft Prospectus
 - Prospectus
 - Mitigation Plan
- LGU and TEP procedures for banking
 - Construction Certification, deposit of credits, withdrawal of credits

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Questions?

BWSR Wetland Section | www.bwsr.state.mn.us/wetlands

120

An exemption is:

- a)An activity that no matter how large of an impact requires replacement.
- b)A regulated activity that does not require replacement.
- c)An activity that requires an application everywhere in the State.
- d)An activity occurring in a calcareous fen.

121

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122

During the review of a replacement plan application, LGUs must use this process to determine whether a project avoids, minimizes then replaces wetland impacts:

- a)No-loss criteria
- b)Sequencing
- c)Exemption standards
- d)Replacement order

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During the review of a replacement plan application, LGUs must use this process to determine whether a project avoids, minimizes then replaces wetland impacts:

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- b)Sequencing
- c)Exemption standards
- d)Replacement order

124

Which member of TEP is responsible for writing a WCA restoration Order?

- a)LGU
- b)BWSR
- c)SWCD
- d)Army Corps

125

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- a)LGU
- b)BWSR
- c)SWCD
- d)Army Corps

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