

**8420.0705 ESTABLISHING WETLAND BANK SITE.**

Subpart 1. **Eligibility for wetland banking.** Replacement wetland credits that result from any of the eligible actions in part 8420.0526, and that meet the standards of parts 8420.0522 and 8420.0528, may be deposited in the state wetland bank for later use in replacing unavoidable impacts. To be eligible for deposit in the bank, the credits must be specifically designated for wetland banking purposes prior to undertaking the replacement actions and certified by the local government unit prior to deposit. Designation of credits for wetland banking is accomplished by approval of a wetland banking plan by a local government unit. Replacement actions completed or initiated without prior local government unit approval are not eligible for deposit in the wetland bank.

**Subp. 2. Local government unit and board authority.**

A. Based on a comprehensive local water or wetland protection and management plan approved by the board, a local government unit may, by rule or ordinance, limit the establishment of bank sites within its jurisdiction. The local government unit that approves a banking plan application is responsible for construction certification according to part 8420.0800, ensuring the monitoring provisions of part 8420.0810 are fulfilled, and certifying credits for deposit according to part 8420.0725.

B. The board may reject or modify an application for deposit if, during its review, any part of the bank application or plan is missing, incorrect, or inconsistent with this chapter.

Subp. 3. **Application procedures.** When replacement actions are proposed for banking purposes, the applicant must submit to the local government unit a banking plan application, in a form prescribed by the board, containing the information identified in parts 8420.0305, item B, and 8420.0330, subpart 3, item B, and other information required by the board. The banking plan must also contain specific performance standards and a proposed credit release schedule based upon achievement of those standards. The local government unit is responsible for ensuring that a copy of the banking plan application is sent to the administrator of the state wetland bank, to the St. Paul District Office of the United States Army Corps of Engineers, and to those required to receive a copy of an application in part 8420.0255, subpart 3. The technical evaluation panel must review the banking plan application and may recommend changes or additions to the performance standards and credit allocation schedule. The wetland banking plan applicant must be advised of any panel recommendations. Based on the panel's findings and recommendations and other comments received, the local government unit must determine the likelihood that the replacement actions will be successful and approve, approve with modifications, or deny the banking plan application.

Subp. 4. **Combined banking and project-specific replacement.** When a banking plan applicant wishes to use a portion of the credits generated from a banking project for

project-specific replacement, the banking plan must identify the project-specific impact and the amount of credits to be used according to a corresponding replacement plan. The credits must meet the requirements of parts 8420.0500 to 8420.0528 and the approved replacement plan, and be deducted before deposit of any credits into the state wetland bank.

Subp. 5. **Conservation easement.** No credits may be deposited in the state wetland bank until a perpetual conservation easement, in a format prescribed by the board, is granted to and accepted by the state. The easement must encompass the entire replacement area, unless the local government unit and the board approve an alternate boundary at the time of bank application approval. The easement must provide for preservation of the banked wetland's functions by the fee owner and wetland banking plan applicant. The wetland banking plan applicant must also provide a title insurance policy that is acceptable to the state naming the state of Minnesota as the insured. If the conservation easement does not abut a public road, the fee owner and wetland banking plan applicant must also grant and record an access easement in favor of the board; the local government unit; and any other state, local, or federal regulatory authority that has authorized use of credits from the site for wetland replacement. The access easement does not confer a right of access to the general public. The boundary of bank areas must be clearly marked as prescribed in the conservation easement. This subpart does not apply to state land.

Subp. 6. **Time limits for construction.** Replacement actions under an approved banking plan must be initiated within three years of banking plan approval or the banking plan must be resubmitted to the local government unit for consideration. Construction certification according to part 8420.0800 must be gained within five years of banking plan approval.

**Statutory Authority:** *MS s 103G.2242*

**History:** *34 SR 145*

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