

## Wetland Conservation Act (WCA) Topic of the Week

### Wetland Replacement: Banking vs. Project Specific

September 15, 2020

*WCA topics of the week are a series of informal fact sheets that provide practical information on WCA program implementation in a question and answer format. They are intended to better clarify and summarize certain aspects of WCA implementation and should be considered as supplemental to WCA statutes, rules and any associated BWSR guidance and policy. Information in these fact sheets are subject to change over time.*

**Question:** What is wetland replacement?

**Answer:** Wetland replacement is a WCA term for replacing the public value of a wetland that is lost due to an impact. Wetland replacement is called compensatory mitigation in the federal mitigation rule that governs impacts and replacement under Section 404 of the Clean Water Act. Restoring, preserving, and/or creating a wetland are typical methods used to replace wetland impacts. These wetlands are referred to as replacement wetlands. Wetland replacement can be accomplished via use of wetland bank credits or project-specific replacement.

**Question:** What is wetland banking?

**Answer:** Wetland banking is a regulatory process to establish replacement wetlands prior to wetland impacts that it will be used to replace. Replacement wetlands are issued “credits” based on the area of wetland (and buffer) and the amount of functional lift (increase in important wetland functions). Each credit can be used to replace one acre of wetland impact. Wetland banks are proposed, reviewed, and approved through a wetland bank application process prior to implementation. Once a wetland bank is constructed and protected with a conservation easement, credits are released incrementally over time based on specific performance standards related to functional lift.

An important defining characteristic of wetland banking is that it involves generating replacement credits that can be used for unidentified and future wetland impacts. Because the wetland impacts that the bank credits will replace are not known, the standards for the wetland bank are relatively high to assure that replacement of public values will be accomplished.

**Question:** What is project-specific replacement?

**Answer:** As the name implies, project-specific replacement involves the establishment of a replacement wetland or wetlands to replace a specific, identified wetland impact or set of impacts for a project. An applicant can propose to restore, preserve, or create a wetland for replacing a wetland impact for his/her project. Project-specific replacement is approved in conjunction with a replacement plan application whereby the wetland impacts it is proposed to replace are identified in the plan. In contrast to wetland banking, project-specific replacement involves replacement for specifically identified and approved wetland impacts. There can be more flexibility in the standards for project-specific replacement as the wetland impacts it is replacing are known.

**Question:** Can banking and project-specific replacement be combined on a project?

**Answer:** Yes. The same replacement wetland can be used to both replace a specific wetland impact and to generate bank credits for use in replacing unknown future impacts. Such projects are required to follow the wetland bank approval process as opposed to a project-specific replacement plan application. Credits generated from the replacement wetland are first used to replace project-specific impacts and additional credits are deposited into a wetland bank.

**Question:** Are there advantages of using wetland bank credits versus project-specific replacement?

**Answer:** Yes, wetland bank credits are already established and can be simply used/purchased upon replacement plan approval. The applicant fulfills his/her replacement obligations immediately. In contrast, project-specific replacement must be constructed prior to or concurrent with approved wetland impacts. Such projects involve up to 5 or more years of monitoring, and it takes applicants years to fulfill their wetland replacement obligations.

**Question:** Under what circumstances would project-specific replacement make sense?

**Answer:** When an applicant has both the financial means and access to a restorable wetland in the same area as a wetland impact he/she is proposing to replace. Also, project-specific replacement may be the only replacement option if there is a scarcity of available bank credits in a particular area of the state.

**Question:** Can project-specific replacement wetlands be converted to wetland bank credits?

**Answer:** No. Applicants intending to bank wetland credits must go through the wetland bank approval process. Project-specific replacement is approved in the context of a specific project and may not meet the requirements for wetland banking. There are some very old wetland replacement sites approved under different rules that allowed for "excess credits" from project-specific replacement plans to be banked. For those projects, banking of credits is allowed provided there is documentation of this type of approval.

**Question:** Can project-specific replacement be constructed prior to the wetland impact?

**Answer:** Yes, but the project-specific replacement plan must be approved before construction starts.

**Question:** Can a wetland bank be constructed prior to approval of a wetland bank plan?

**Answer:** No. Wetland bank sites will not be approved for credits if any restoration or creation activities are started before bank plan approval. In rare circumstances some minor activities may be allowed by the WCA Local Government Unit (LGU) and Technical Evaluation Panel (TEP) if a bank plan is in the review process and the field evaluation has been substantially completed and documented.