

Wetland Conservation Act (WCA) Topic of the Week

WCA and Lakeshores

July 29, 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: Does WCA regulate projects along lakeshores?

Answer: WCA regulates impacts to wetlands along lakeshores unless the wetlands are part of a Department of Natural Resources (DNR) Public Water (PW) or Public Water Wetland (PWW).

Question: How do you know if a wetland is part of a DNR Public Water (PW) or Public Water Wetland (PWW)?

Answer: The DNR maintains an inventory of Public Waters under the jurisdiction of their Public Waters Work Permit Program (PWWPP) - maps and files located [here](#).

Question: What is the boundary of PWWPP jurisdiction on a lakeshore?

Answer: The boundary of a Public Water (and PWWPP jurisdiction) is defined by its Ordinary High Water Level (OHWL). The OHWL for lakeshores is a specific elevation. Wetlands may extend beyond the OHWL of Public Waters lakeshores. Therefore, it is important to determine the OHWL of the lake in the area where a project is proposed. The DNR's [LakeFinder](#) page has information on the OHWL of some, but not all lakes. If there is no OHWL indicated on the LakeFinder page, then applicants must contact the DNR's Area Hydrologist to make this determination for their project. Alternatively, applicants can enter information about their project in the DNR's online permitting system ([MNPARS](#)) for DNR staff to review and determine if a PWWPP permit is needed. Applicants must have an accurate topographic survey of their project site to determine where the OHWL is in relation to proposed project activities. A surveyor may need to convert the OHWL elevation using modern vertical datum if the OHWL elevation is based on older vertical datum.

Question: What if a project impacts wetlands above and below the OHWL on a lakeshore?

Answer: Both WCA and PWWPP have provisions that allow permitting authority to be waived from one program to the other when a project impacts wetlands in both program jurisdictions. The DNR determines if waiving jurisdiction is appropriate for the project. If waiving jurisdiction is not appropriate, then the applicant will need to apply for both WCA approval and a PWWPP permit. This is also true for projects that impact both WCA wetlands and PWWPP wetlands in non-lakeshore areas.

Question: Is a project compliant with WCA if it is determined to comply with the County/City shoreland ordinance?

Answer: Not necessarily. Some counties and cities have integrated WCA and shoreland permitting into one decision. Others have not, requiring applicants to seek approval for both shoreland and WCA compliance separately, sometimes with separate entities within the same county or city.

Question: Are WCA regulations different for wetland impacts in lakeshore areas compared to other areas?

Answer: No, WCA regulations on draining, filling, and excavation generally apply in the same way for lakeshore areas as other areas. The applicable de minimis exemption amount (amount of wetland impact allowed without replacement) is almost always significantly smaller in lakeshore areas compared to other areas.

Question: What should people know before purchasing lakeshore property in relation to wetlands?

Answer: Someone contemplating purchasing lakeshore property with the intent of building or otherwise improving it should contact the WCA Local Government Unit (LGU) for help in determining if wetlands are present along the shoreline (or in other areas of the property). If wetlands are present along the lakeshore, then it is important to find out where the OHWL is either through self-research or by contacting the DNR Area Hydrologist. Many counties have detailed topographic information available that can be used to approximate where the OHWL occurs on a specific property. A discussion with the DNR Area Hydrologist, County/City shoreland staff, and WCA LGU staff will help identify the types of activities that may be possible. Applicants who have a specific project in mind can ask for a pre-application Technical Evaluation Panel (TEP) meeting to discuss the WCA compliance implications of their project.

Appendix – WCA and PWWPP Jurisdiction Along Lakeshore – Illustrated Example

