

Compilation of Tables in MWPCP Basic Class Presentations:

Plant Indicator Status:

Wetland Indicator Status	Definition
Obligate Wetland (OBL)	Almost always occur in wetlands
Faculative Wetland (FACW)	Usually occur in wetlands, but may occur in non-wetlands
Faculative (FAC)	Occur in wetlands and non-wetlands
Faculative Upland (FACU)	Usually occur in non-wetlands, but may in occur in wetlands
Obligate Upland (UPL)	Almost never occur in wetlands

WCA Application Requirements:

Decision Type	Application Requirement
Wetland Boundary/Type	Application required
Exemption or No-Loss Provision	Application not required (unless LGU has more restrictive local requirement)
Replacement Plan	Application required
Banking Plan	Application required

WCA and Public Waters Program Comparison:

Program Element	WCA	PWWPP
Basis of Authority	Mn Rules Chapter 8420 and associated statutes	Mn Rules Chapter 6115 and associated statutes
Regulated Waters	Wetlands except incidental and wetland areas of Public Waters (unless waived)	Public Waters and Public Waters Wetlands (which includes deepwater habitats, streams and wetlands)
Jurisdictional Boundaries	Wetland Delineation per 87 Manual	OHWL
Regulated Actions	Fill, drain, excavate (semi-perm. Flooded areas of type 3, 4, 5)	Changes in course, current or cross-section
Program Administration	LGU implementation, BWSR oversight, DNR enforcement	DNR implementation
Type of Approvals	WCA decisions	Permit authorizations
Applying for Approval	WCA application or request for decision	MNPARS online application

Comparison of Jurisdiction Boundaries of WCA and Public Waters:

	Wetland Delineation	OHWL
Boundary Type	Line representing change from where all 3 parameters are present to where one or more parameters is absent.	Elevation representing where high water has left evidence on the landscape.
Key Factors	Hydrophytic vegetation, hydric soils and wetland hydrology	Evidence on landscape
Determination	Applicants/consultants make determination, regulatory agencies review and approve.	DNR makes determination

Comparison of Section 10 and Section 404 of the Clean Water Act:

Authority	Waters Regulated	Scope of Regulation
Section 10 Rivers & Harbors Act	Navigable Waters	Work in, over or under a navigable water
Section 404 Clean Water Act	WOTUS (which includes navigable waters)	Discharges of dredged or fill material

Section 404 and Wetland Conservation Act Comparison:

Program Element	WCA	Corps Regulatory
Basis of Authority	State statutes and rule (Mn Rules Chapter 8420)	Section 404 of Clean Water Act (CWA) and Section 10 of Rivers and Harbors Act (RHA)
Regulated Waters	Wetlands except incidental and wetland areas of Public Waters (unless waived)	Navigable Waters and Waters of the U.S. (WOTUS)
Regulated Actions	Fill, drain, excavate (semi-perm. Flooded areas of type 3, 4, 5)	Discharges of dredged or fill material (404 CWA) Work in, over, or under navigable waters (Section 10 RHA)
Program Administration	LGU implementation, BWSR oversight, DNR enforcement	Corps Districts implement, EPA oversight on 404
Type of Approvals	WCA decisions	Permit authorizations via IPs, GPs, NWP
Applying for Approval	WCA application or request for decision	Pre-Construction Notification (PCN) for GPs/NWPs, Application for IP
Mitigation for Impacts	Replacement	Compensatory Mitigation

Comparison of Wetland Conservation Act, Section 404 and Section 401 of Clean Water Act:

Program Element	WCA	Corps Regulatory Program	401
Basis of Authority	State statutes and rule (Mn Rules Chapter 8420)	Section 404 of Clean Water Act and Section 10 of Rivers and Harbors Act	Section 401 of Clean Water Act
Regulated Waters	Wetlands except incidental and wetland areas of Public Waters (unless waived)	Waters of the U.S. (WOTUS)	Waters of the U.S. (WOTUS)
Regulated Actions	Fill, drain, excavate (semi-perm. Flooded areas of type 3, 4, 5)	Discharges of dredged or fill material	Federally permitted or licensed activities that may result in a discharge into WOTUS
Program Administration	LGU implementation, BWSR oversight, DNR enforcement	Corps Districts implement, EPA oversight	MPCA, EPA and Authorized Tribes implement
Type of Approvals	WCA decisions	Permit authorizations via IPs, GPs, NWP	Water Quality Certifications
Applying for Approval	WCA application or request for decision	Pre-Construction Notification (PCN) for GPs/NWPs, Application for IP	Request Pre-filing meeting ³⁰ in advance of request for certification. Anti-degradation assessment form
Mitigation for Impacts	Replacement	Compensatory Mitigation	Mitigation

Comparison of Wetland Conservation Act, Clean Water Act and Wetland Conservation Provisions of the Food Security Act:

Program Element	WCA	404	Wetland Conservation Provisions of Food Security Act
Basis of Authority	State statutes and rule (Mn Rules Chapter 8420)	Clean Water Act	Food Security Act
“Regulated” Waters	Wetlands except incidental and wetland areas of Public Waters (unless waived)	Waters of the U.S. (WOTUS)	All wetlands
“Regulated” Actions	Fill, drain, excavate (semi-perm. Flooded areas of type 3, 4, 5)	Discharges of dredged or fill material	Draining, dredging, filling, leveling, or otherwise manipulating to make crop production possible.
Program Administration	LGU implementation, BWSR oversight, DNR enforcement	Corps Districts implement, EPA oversight	Farm Service Agency, technical determinations by NRCS
Type of Approvals	WCA decisions	Permit authorizations via IPs, GPs, NWPs	Eligible to receive benefits
Applying for Approval	WCA application or request for decision	PCN	Form 1026
Mitigation for Impacts	Replacement	Compensatory Mitigation	Mitigation

WCA Noticing Requirements:

Summary of LGU Application Types		
Decision Type	NOA Required	NOD Required
Boundary or Ty	Yes	Yes
No-Loss	No	Yes
Exemption	No	Yes
Sequencing	Yes	Yes
Replacement PI	Yes	Yes
Bank Plan	Yes	Yes

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

Non-Shoreland Areas	Types 1, 2, 6, 7 (<i>excluding white cedar and tamarack wetland and any Type 7 wetland in a < 50% metro county</i>)	10,000 ft ² in all > 80% counties
		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 (<i>excluding any Type 7 wetland in a < 50% metro county</i>)	100 ft ²
Within Shoreland, but beyond structure setback	Types 1, 2, 6, 7	400 ft ² *(1,000 ft ²)
	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.

Wetland Banking Process Comparison for WCA and Corps Programs:

