



MINNESOTA

| Original Wetland Acreage | Remaining Wetland Acreage | Acreage Lost | % Lost |
|--------------------------|---------------------------|--------------|--------|
| 15,070,000 | 8,700,000 | 6,370,000 | -42% |

Minnesota Wetlands: Minnesota wetlands are diverse, ranging from extensive northern peatlands to small prairie potholes. Most Minnesota wetlands are categorized as palustrine because they have vegetation that remains standing all year. Lacustrine and riverine wetlands commonly have beds of non-persistent-emergent, submersed, or floating aquatic plants. Probably the best known lacustrine wetlands are wild rice beds (nonpersistent-emergent wetlands).

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|-------------------------|-------------------------------------|----------------------------|---|----------------------------|---|-----------------------------|---|
| Summary | Individual Features | Regulation | Water Quality Standards | Mitigation | Monitoring and Assessment | Restoration | Public/Private Partnerships |
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SUMMARY

Minnesota's wetland web page is located at: <http://www.dnr.state.mn.us/wetlands/index.html>.

Overall Program

Wetland Resources in the state are protected, managed, and restored, through a multi-program approach administered by the Minnesota Department of Natural Resources (DNR), the Board of Water and Soil Resources (BWSR), Minnesota Pollution Control Agency (MPCA) and Local Government Units (LGU).

Innovative Features and New Programs/Initiatives

The enactment of the Wetland Conservation Act (WCA) of 1991 provided for a variety of innovations in wetland protection including tax incentives, easement acquisition programs, a statewide wetland banking program, and local comprehensive wetland protection and management planning. Additionally, shoreland and floodplain zoning programs also exist at the local level to protect wetland resources in these critical landscapes.

State Wetland Conservation Plan

Completed in 1997. A state/federal interagency resource group has undertaken several initiatives to accomplish various plan goals. Efforts currently underway include developing and promoting a shared state/federal/local wetland permits database for the state, developing an approved functional assessment

methodology for the state, development of local wetland management plans and model ordinances, and improved monitoring of wetland replacements (mitigation) required under state/federal/local permits. The plan is available at: http://files.dnr.state.mn.us/ecological_services/wetlands/wetland.pdf.

No Net Loss/Net Gain Goal

A no net loss goal and policy has been adopted by the State of Minnesota via Executive Order 00-02 re-issued by Governor Ventura, state statute, and rule subject to state and local regulations.

INDIVIDUAL FEATURES:

Regulation

A comprehensive description of Minnesota's regulatory program is available at <http://www.bwsr.state.mn.us/wetlands/publications/MNRegulations.pdf>.

Wetland Regulatory Statutes and Administrative Rules

Wetlands in Minnesota are regulated under state authorities found in Minnesota Statute 103 and promulgated in administrative rules Parts 6115 and 8420. These authorities regulate the draining and filling of all wetlands within the state. Additionally, excavation in types 3, 4, and 5 wetlands (USFWS Circular #39) is also regulated. These are implemented separately from the federal Clean Water Act (CWA) or River and Harbors Act regulations by the federal government.

Wetland Definition and/or Delineation; Comparability With Federal Definition

State wetland definitions are similar to the federal definitions found in the federal CWA. The WCA rules (MN Rule 8420) require use of the 1987 U.S. Army Corps of Engineers (Corps) Wetland Delineation Manual to define the boundary of wetlands subject to regulation under this state law.

Conversely, the DNR Protected Waters Program uses an approach that relies upon establishment of the "Ordinary High Water Mark" to define the jurisdiction of wetlands regulated under the Protected Waters Permit (PWP) program they administer (MN Rules 6115).

All wetlands are considered waters of the state for the purposes of MN Rules 7050 pertaining to water quality standards administered by the MPCA.

Evaluation Methodology

MN Rules 8420 contains language requiring the use of methods approved by BWSR for evaluating wetlands. This list contains a multitude of methods currently available in the public domain, including but not limited to, WET, HGM, Oregon Freshwater Wetland Assessment Method, and Minnesota Routine Assessment Method. Other methods can be applied once they receive approval from the BWSR as valid for evaluating wetlands.

Regulated and Exempted Activities

There is seamless regulatory coverage for wetlands across the state through the two state wetland regulatory programs. WCA and the PWP program regulate the draining, filling and excavating actions in wetlands and public waters. Like the federal CWA, each program contains several exemptions for certain limited activities. Currently, WCA contains ten (10) categories of exempted activities for activities like silviculture, utilities, incidental wetlands, and agricultural activities regulated through the federal farm

program under Swampbuster. The PWP provides exemptions for 14 activities such as riprap, debris removal, and seasonal docks.

Special Provisions for Agriculture and Forestry

Each program contains exemptions or other provisions to allow for certain agricultural and silvicultural activities within wetlands of the state similar to those found in the federal CWA. Under each program, wetlands may be used for the purposes of pasture or cropland during periods of drought provided it does not result in draining, filling or excavating wetlands. Additionally, WCA provides exemptions for those wetlands enrolled in and receiving federal farm program benefits, as these wetlands are regulated by the U.S. Department of Agriculture through the Swampbuster provisions of the federal farm bill. WCA also provides an exemption for the construction of forest roads necessary to conduct silvicultural activities. However, activities conducted under this and all exemptions must limit the impact on the hydrologic and biologic characteristics of the wetland.

Penalties and Enforcement

Each program is enforced by the MN-DNR through conservation officers. Both provide for the issuance of cease and desist orders and civil restoration orders. Failure to comply with each is a criminal misdemeanor under Minnesota Statute 103G.

Permit Tracking

Currently, the issuing local government unit tracks permits issued under the WCA. Annually, WCA activity by LGUs is reported to the BWSR. The DNR Division of Water staff tracks permits issued under the PWP program. No central tracking system currently exists.

State General Permit (PGP or SPGP) for 404

See joint permitting below.

Assumption of Section 404 Powers

WCA directs this activity to occur and the BWSR is considering this undertaking to streamline and simplify state wetland permitting activities. However, legislative changes may be necessary before assumptions could occur.

Joint Permitting

Joint permitting currently occurs between the PWP program and the Corps. The state is pursuing another General Permit with the Corps for the WCA program. Additionally, there is a joint permitting effort between the PWP program and the WCA. This allows for waiver of permit authorities between the programs on a case-by-case basis to reduce regulatory duplication.

Special Area Management Plans and Advanced Identification Plans

Currently, WCA provides for the development of a "local comprehensive wetland protection and management plan" for implementation of WCA through ordinance at the local government level. To date, approximately 15 local governments either have or are completing a local wetland management plan. Currently no Special Area Management Plans (SAMPS) exist in Minnesota; however, the Corps may begin to endorse local plans as SAMPS for Section 404 purposes.

Role of Local Governments

LGUs are the primary implementers of WCA, reviewing and approving or denying replacement and/or wetland banking plans at the local level. Additionally, they perform a formal commenter role providing input to DNR Division of Waters on PWP issues.

Staffing

DNR PWP program maintains a multitude of staff at the area, regional and state level to administer the program. BWSR maintains a staff of 20 persons providing program administration and assists 200-plus local governments implement WCA across the state. Additionally, DNR maintains several positions in enforcement and program support to assist with program implementation and oversight.

Water Quality Standards

Wetlands and Water Quality Standards

In 1994, the state codified narrative wetland water quality standards incorporating wetlands as Waters of the State. Wetlands are included in the state use classification system and include 2D Aquatic-Life Use, 3D Industrial Consumption, 4C Agricultural and Wildlife, class 5 Aesthetic Enjoyment and Navigation, class 56 Other Uses, and Class 7 Limited Use Waters. Wetlands are also included in the State's nondegradation process for National Pollution Discharge Elimination System (NPDES) and State Disposal System (SDS) permit programs.

Wetland Definition

All wetlands are considered waters of the state for the purposes of MN Rules 7050 pertaining to water quality standards administered by the MPCA. For additional information see wetland definition under "Regulation" above.

Designated Uses

As mentioned above, the state has designated use classifications for the state's wetland. Unless specified, wetlands are protected for classes 2, 3, 4, 5 and 6 uses.

Narrative and/or Numeric Criteria

The MPCA is currently conducting biological assessments using the Index of Biological Indicators (IBI) to gather baseline data for future use.

Antidegradation Policy

As mentioned above, wetlands are included in the State's non-degradation processes for NPDES and SDS. MPCA anticipates development of Total Daily Maximum Load standards for wetlands for wetlands as funding and staffing allows.

Other

No additional information.

Staffing

Approximately two (2) FTE's are allocated to wetland water quality by the MPCA.

Mitigation

Mitigation Policy

Projects subject to regulation under the state's PWP program, WCA program, and Section 401 Water Quality Certification program are all subject to compensatory mitigation requirements. Projects proposed for the WCA and Section 404 federal CWA programs are required to sequence (i.e. avoid, minimize) before compensating for any unavoidable impacts specified.

Mitigation Banks

Like the federal Section 404 Program, WCA provides for the use of wetland banks as compensatory mitigation. The BWSR administers a statewide wetland-banking program, which contains wetland bank accounts from the construction of public and private banks. This bank system is utilized for compensating impact to wetlands under all state/federal wetland regulations including the mitigation requirements of the U.S. Department of Agriculture Swampbuster Program.

In Lieu Fee Program

While the state does not maintain a statewide "In Lieu Fee Program," several LGU's maintain such as part of their local Comprehensive Wetland Protection and Management Plan. These plans allow for variations of state wetland replacement standards based on an analysis of functions and values within the area managed through the plan. The In Lieu Fee parts of these plans generally allow for applicants with approved impacts to pay into a LGU provided In Lieu account at a specified amount. Money generated through this process is used to conduct public value natural resource projects in the plan area. Projects are selected by a technical committee made up of federal, state, and local natural resource persons from the local area having jurisdiction over the impact or managing resources affected by the approved wetland impact.

Ad Hoc Arrangements

The only arrangement of this type in Minnesota currently is the state's transportation replacement programs. Presently, the legislature allocates funding to BWSR to perform replacement of wetland impacts created by upgrades to existing city, county, or township roads. BWSR uses these funds to offset wetland impacts through: 1) purchasing wetland credits from the statewide bank; 2) conducting acquisition and restoration of wetlands; and 3) restoring and acquiring permanent wetland easements.

Additionally, the MN Department of Transportation (MNDOT) is also solely responsible to mitigate impacts from its projects. To accomplish this, MNDOT also mitigates impacts through the same approaches used by the BWSR to offset local transportation impacts.

Mitigation Database

The state maintains several reporting mechanisms to track losses and gains in wetland resources. BWSR maintains an LGU reporting system for various actions under the WCA. Additionally, BWSR maintains a statewide wetland-banking database to track deposits and debits. DNR Division of Waters maintains data regarding its permit actions under the state waters program. Additionally, the Corps also maintains a database for its Section 10 and 404 Permit program actions.

Staffing

Currently, BWSR maintains seven (7) staff with wetland mitigation responsibilities. Additionally, over 200 LGUs also oversee mitigation as part of their duties under the WCA. DNR also maintains staff with responsibilities for ensuring mitigation compliance as conditions of their PWP program.

Monitoring and Assessment

Mapping/Inventory

The state has several geographic coverages that involve wetlands. The most notable is the National Wetland Inventory, which covers the entire state. These maps were completed in the early 1990's and made available for use. Additionally, the DNR maintains waters/wetland maps that contain those waters or wetlands that are under their PWP program jurisdiction. These are available for each county in the state where public waters or protected waters wetlands exist. Additionally, many LGUs maintain Geographic Information System (GIS) data concerning the wetlands and waters within their land use controls. Generally, mapping information for the state's wetlands uses the Cowardin Wetland Classification System. DNR maps cover Circular 39 Types 3, 4, and 5 wetlands only because of their limited wetland jurisdiction. For more information on Minnesota wetland maps visit:

http://www.dnr.state.mn.us/waters/watermgmt_section/pwi/maps.html.

Wetland Classification and Assessment

The state has developed a functional assessment method for use by agencies and LGUs to evaluate wetlands. This method is known as the Minnesota Routine Assessment Method (MNRAM) and is generally used on a case-by-case basis for permitting decisions. Additionally, several LGUs have modified this method merging it with GIS, to use as a tool for doing watershed planning and developing local comprehensive wetland protection and management plans under the WCA. Currently, this method is being updated to improve its measurement accuracy.

Overall Wetland Gain and Loss Tracking System

BWSR is required to make a report to the Minnesota Legislature on a biennial basis regarding the loss and gains to wetlands and waters of the state as part of the program's "No Net Loss" requirement. This report is all encompassing covering local, state, federal and non-governmental actions that affect wetland resources of the state. Overall, the state has met or exceeded the "No Net Loss" mandate of the Legislature.

Staffing

There are 16 or more state staff, in various agencies, responsible for conducting monitoring and assessment of the state's wetland resources. Additionally, there are 200 or more LGUs who also monitor wetlands as part of their WCA implementation responsibilities.

Restoration

Program Description

Minnesota maintains several restoration programs that include wetlands. The Reinvest in Minnesota (RIM) program offers landowners incentives to restore wetlands and other fragile lands across the state. This program is administered by the BWSR and DNR. BWSR has also participated in a Conservation Reserve Enhancement Program (CREP) with the U.S. Department of Agriculture to restore wetlands, floodplains and other lands to improve water quality in the Minnesota River Watershed. Additionally, the DNR and U.S. Fish and Wildlife Service (FWS) acquire and restore wetlands through their habitat acquisition programs. To date, these programs have been responsible for the restoration of several thousand acres of wetland resources across Minnesota.

Restoration Program Goals

Goals vary depending upon the restoration program. RIM and CREP are aimed at improving water quality and wildlife habitats in the state. WCA or Corps restoration goals are driven by the concept of “No Net Loss” and the need for compensatory mitigation. The DNR and FWS goals are wildlife or fisheries habitat driven. Several non-governmental organizations such as Ducks Unlimited, The Nature Conservancy, Pheasants Forever, and Minnesota Waterfowl Association also restore wetlands for conservation purposes.

Eligibility Criteria

Eligibility is determined on a program-by-program basis. Most programs target restoration of pre-existing wetlands or riparian habitats in rural settings. Both public and private lands are eligible depending upon the particular program undertaking the restoration.

Restoration Database

No single database exists to track restorations of wetland resources. Each agency maintains database information as it pertains to work it conducts or authorizes. BWSR collects and reports basic restoration data to the legislature on a biennial basis.

Staffing

Staffing levels vary by agency and program.

Public/Private Partnerships

Acquisition Program

As mentioned above, several programs exist for the acquisition of wetland resources through fee title or by placement of a conservation easement. Programs like RIM and CREP generally take perpetual easements on wetlands being restored or preserved. DNR and the FWS maintain fee title acquisition programs to acquire wetlands. BWSR’s road replacement program can obtain wetlands either by easement or acquisition. Several groups like The Nature Conservancy have conducted acquisition of wetlands in the state.

Public Outreach/Education

All agencies involved in wetlands in Minnesota, conduct public outreach and education about wetland resources annually through oral presentations or distribution of written materials. Several joint state/federal wetland regulatory brochures are available and distributed to the general public. A state wetland web page is currently under development. All wetland and water agencies have wetlands as part of their agency web pages for the public to use. Additionally, several publications about wetland resources have been created, published and distributed throughout the state.

Tax Incentives

Under the WCA, counties and watershed districts may allow individual landowners to apply to the state for property tax abatement on wetlands they identified locally as high priority for preservation. For more information visit: <http://www.dnr.state.mn.us/wetlands/taxation.html>.

Technical Assistance

Technical assistance is available to private landowners through their local soil and water conservation district. Additionally, the FWS and the USDA Natural Resources Conservation Service also provide such assistance to landowners in the state.

Other Nonregulatory Incentives for Private Landowners

Several incentive programs operated by the state and federal government exist. Programs such as Reinvest in Minnesota, Conservation Reserve Enhancement Program, Wetland Reserve Program are available in various areas of the state.

Wetland Training and Education

An interagency team provides training to LGUs, state and federal agency staffs and the private sector (as available) on wetland delineation, restoration, functional assessments and regulation. Additionally, all agencies generally conduct some type of educational outreach on wetlands to the public.

<http://www.dnr.state.mn.us/projectwet/index.html>.

Watershed Planning

N/A

Special Problems

Minnesota wetlands experience significant pressure from agricultural activities and intense development pressures. Over half of the state is utilized for the production of agricultural commodities. Much of this area is reliant upon drainage infrastructure to carry out production. As drainage technology improves, more land is being pattern tiled to improve or increase crop production, thus causing additional wetland loss. In the area surrounding the Minneapolis-St. Paul area and in the lake areas of the state, intensive land development is occurring, increasing the desire to use all available lands for residential and commercial development. Much of these undeveloped areas consist of critical wetland resources that are under threat of conversion.

Coordination

An interagency state wetland team coordinates wetland issues across the state. This team includes local, state, federal agency staff persons, and several special interest or conservation groups.

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Contact Points

Organizational Contacts Minnesota DNR Division of Waters:
<http://www.dnr.state.mn.us/waters/orgchart.html>.

Guidebooks, Brochures, Websites, Other Educational Materials

Board of Water and Soil Resources. The Wetland Conservation Act of 1991. St.Paul, Minnesota

Board of Water and Soil Resources. Wetlands in Minnesota. St. Paul, MN.

Board of Water and Soil Resources. Wetland Regulations in Minnesota. St. Paul, MN.

Department of Natural Resources. Minnesota Public Waters and Wetlands Permit Program. St. Paul, MN.

Minnesota DNR Publications web page: http://www.dnr.state.mn.us/ecological_services/pubs.html.

Websites:

Minnesota DNR Division of Waters Web site: www.dnr.state.mn.us/waters

St. Paul District-Army Corp of Engineers Web Site: www.mvp.usace.army.mil

Board of Water and Soil Resources Web Site: www.bwsr.state.mn.us

Main Page: <http://www.dnr.state.mn.us/wetlands/index.html>

Water Related Regulations: <http://www.dnr.state.mn.us/waters/law.html>.

Water Law Basics http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/waterlaws.html

Additional information on Water Permits:

http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/requirements.html

Wetlands Review & Conservation Program:

http://www.dnr.state.mn.us/ecological_services/wetlands/index.html

Minnesota State Home Page: <http://www.state.mn.us/cgi-bin/portal/mn/jsp/home.do?agency=NorthStar>

Minnesota Legislative Page: <http://www.leg.state.mn.us/>