

Wisconsin Agricultural Mitigation Bank

Program Factsheet

Introduction

This document is intended to explain the function and operation of the Wisconsin Agricultural Mitigation Bank (WAMB). The WAMB is overseen by the Natural Resources Conservation Service (NRCS) and administered by the Wisconsin DNR's through an NRCS grant. The purpose of the WAMB is to provide a mitigation option to Wisconsin farmers who impact wetlands to stay in compliance with the Swampbuster Provisions of the Food Security Act. For more information about the NRCS's Wetland Mitigation Bank Program (WMBP) please see the links below:

[NRCS WMBP](#)

[WAMB Website](#)

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Overview

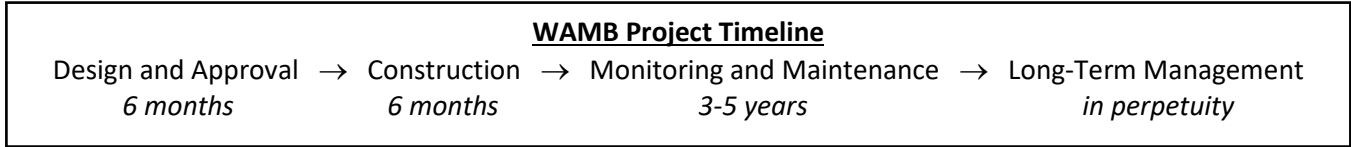
The WMBP is a program authorized by the Food Security Act of 1985 and created by the National Resources Conservation Service (NRCS). The goal of this program is to provide agricultural producers with an additional option to stay in compliance with the Swampbuster Provisions of the Food Security Act, if they complete agricultural activities that will impact wetlands. This program in Wisconsin is administered by the DNR's Wisconsin Wetland Conservation Trust (WWCT) and is called the Wisconsin Agricultural Mitigation Bank (WAMB). The WAMB accomplishes wetland mitigation by restoring and protecting artificially drained wetlands. The restoration of wetlands generates credits, which may then be sold to producers to offset their NRCS wetland impacts. Mitigation sites must not have been purchased using federal dollars, and any areas currently encumbered by easements or other restrictions (Right-of-way, utility, mineral rights, etc.) are not eligible for credit generation. Only the NRCS determines if an agricultural wetland impact can be mitigated for by purchasing credits from the WAMB. WAMB credits will not satisfy any mitigation required by the Clean Water Act or Wisconsin wetland statute 281.36.

Project Implementation

Mitigation projects require significant planning to ensure success. Project implementation can be divided into administrative and on-the-ground tasks. Common administrative tasks needed for project implementation include project costs analysis, contracting and payment methods, determinations of different stakeholders' roles, real estate needs, and credit sales processes. On-the-ground project needs include site data collection, engineering, project design, Site Mitigation Plan (SMP) creation, and site maintenance and monitoring. DNR will assist in all aspects of project implementation and will work with contractors and other stakeholders to carry out different portions of the project. DNR will develop a Site Mitigation Plan (SMP) for the project in consultation with the landowner and contractors. All SMP's will be sent to the NRCS for final approval. The landowner can be as involved as they would like with project implementation, though all final decisions regarding sites must be approved by the DNR. DNR will provide landowners regular updates on project status.

For projects selected to be at least partially funded with grant dollars, DNR will work with the landowner or other partners to determine the scope and amount of funding to be awarded. In this scenario, the DNR typically will be able to fund project planning, project implementation and maintenance activities. Landowners must consult with DNR before incurring any project costs to determine if they could be eligible for reimbursement under the grant. Project construction including earthwork and seeding will be contracted out to a contractor, consultant, or other qualified wetland professional. DNR will follow standard State of Wisconsin procurement procedures to when contracting for any services. Site maintenance activities will also be contracted out. Site monitoring, typically for five years, will typically be completed by DNR staff. Before site planning begins, all project tasks should be identified and assigned to the appropriate party. Further, all contracting needs and payment methods should also be finalized before any work occurs.

Below is a brief timeline of a typical WAMB Mitigation project.



Credit Holders

The DNR will not sell credits generated from WAMB mitigation sites. The DNR will partner with third parties who will operate as a Credit Holder for mitigation sites and will sell WAMB credits. Credit holders could be the landowner of the mitigation site or another entity. Regardless, the DNR will facilitate each credit sale to ensure efficiency. Typically, credit holders will be responsible for the long term management responsibilities on the mitigation sites for which they sell credits. This will be described in each Site Mitigation Plan (SMP).

Site Maintenance and Monitoring

Site maintenance and monitoring are components of, and will be described in, the Site Mitigation Plan (SMP). Maintenance and monitoring will be completed in order to meet and measure site performance standards, which will also be detailed in the SMP. Performance standards will evaluate the vegetation and hydrology of the site post-restoration. All standards must be met for all credits to be released. The typical monitoring period for sites will be five years, though the period can be extended if a site is not meeting performance standards. Maintenance and monitoring will begin the year after earthwork and seeding has been completed. Maintenance will consist of activities to ensure the site is dominated by native wetland species. Typical activities will include herbicide applications, mowing, burning, and targeted reseeding, if needed. Maintenance will usually be completed by a contractor. The WDNR will be responsible for monitoring of mitigation sites and will complete and submit any necessary reports to the NRCS.

Easements

A perpetual conservation easement is required to be recorded on every mitigation site. The goal of these conservation easements is to ensure the restored wetland functions and values are protected. Any eligible entity may hold conservation easements. The WDNR has a pre-approved conservation easement and will typically be the easement holder for WAMB mitigation sites. Any easement that differs from the WDNR pre-approved easement must be approved by the NRCS Office of General Council (OGC) before being recorded. The WDNR is not able to purchase conservation easements on mitigation sites. If the landowner wishes for the DNR to hold the easement, it will need to be donated to the DNR.

Funding

An NRCS grant was awarded to the WDNR in May 2022. Further funding was awarded in October 2023. The grant is currently being used to fund the implementation of mitigation projects, including funding DNR staff time and reimbursement of contractors. As of February 2024, these dollars may be used for all aspects of site establishment including earthwork, planning, contracting, seeding and maintenance as needed. The grant award may not be used to purchase land or easements and may not be used to establish long-term management endowments. DNR is searching for two sites to fund restoration using

the October 2023 grant dollars. If you are interested in applying, please visit the WAMB Webpage for up to date information on this application and application materials. The rubric used to score these applications is below.

WAMB Mitigation Site Application Scoring Criteria	Maximum Score
Project Description: The proposal demonstrates the ability to result in a successful and sustainable net gain of wetland functional values and area consistent with WAMB project timelines.	30
Funding Source: Project is expected to be fully funded through grant dollars or additional non-restrictive funds to complete project. Described expenses are cost-efficient and appropriate.	5
Ecological Suitability: Physical and biological characteristics of the site lends itself to a high likelihood of project success. Hydric soils and/or a high proportion of the site are restorable. Minimal invasive species are-present or are adequately addressed.	20
Hydrology: Hydrology present on-site is adequate for supporting wetlands once restored. Artificial drainage features can be disabled without negatively impacting neighboring properties.	20
Ownership and Long Term Management: Project land is free of any easements or restrictions that will limit restoration. The project has identified an entity responsible for long term management and the general strategy is sufficient. Restoration will require minimum maintenance of structures to sustain objectives.	10
Site Protection: Landowners are willing to protect the site in perpetuity through a conservation easement. Easement will be donated to DNR.	5
Credit Holder: Proposal has identified a credit holder for the site and has adequately addressed that entity's qualifications for selling credits.	10
Total Maximum Score	100

Communication

The WDNR will have recurring meetings with landowners and contractors to ensure timelines are met and provide adequate communication throughout the project. The NRCS will be invited to participate as needed. For each mitigation site, an MOU will be created and signed between the WDNR and the landowner outlining the responsibilities of each party. The DNR also intends to promote the WAMB through presentations, targeted outreach, electronic, and hardcopy media. Credit holders and landowners may choose to advertise the program as well but is not necessary.

Mitigation Credits and Credit Sales

Credits play a critical role in the function of the WAMB. Credits will be generated as a result of wetland restoration activities that restore wetland functions and values to the landscape. Typically, one acre of wetland restoration will generate 1 credit. These credits, once generated, will then be made available for producers to purchase to offset any wetland impacts that result from an agricultural activity. Areas labeled W or FW on a certified wetland determination are not eligible to generate credits, as the NRCS already considers them wetlands. Generally, producers will need to purchase 1 credit for each acre of wetland that they impact. Credits will range in price, the national average cost for these credits is around \$20,000. A standard credit release schedule is below.

Project Milestones	Credit Release Percentage
As-Built Approval	20%
Hydrology Standard	20%
Interim Vegetation Standard	30%
Final Vegetation Standard	30%

Credit details specific to the WAMB:

- Non-DNR entities will be the holder of credits generated from WAMB mitigation sites. The landowner, if they choose, may hold and sell credits from these sites, but it is not necessary.
- DNR will identify an entity that will hold and sell credits for mitigation sites if the landowner does not choose to.
- DNR will keep an updated ledger tracking all credit sales, as well as credits available from each banking site. This ledger gets reported to the NRCS on an annual basis.
- DNR will create a credit application form for producers to formally detail their desire to purchase ag mitigation credits.
- DNR will review all proposed mitigation credit purchases for accuracy, including ensuring that the proposed impacts do not also require Clean Water Act (CWA) mitigation or Wisconsin state wetland mitigation.
- Credit prices will be determined by the credit holder, but should be set using an objective model, and including administration and long-term site management costs and should prioritize affordability by participants and be comparable with other established ag mitigation sites in Wisconsin.
- If a service area has multiple bank sites, the producer will have the option to purchase credits from all banks in the service area. It will be the producer's responsibility to contact the eligible banks and determine which bank they purchase credits from.
- DNR will create the proper reporting documents required to document the sale of credits.
- DNR requests that a portion of credit sale revenue be set aside for long term management. This will be determined in the MOU agreement. The rest of credit sale revenue may be used at the discretion of the credit holder.
- Typically, credit holders will also be responsible for long term management.
- Credits generated from restoration are released as performance standards are met. In general, credits are released as follows: 20% initial credit release after the as built report is submitted and conservation easement recorded, 20% once hydrology standards are met, 30% once interim vegetation standards are met, 30% once final vegetation standards are met.

Step-by-Step Credit Sale Process

A typical process for a credit sale is outlined below:

1. A participant identifies an agricultural activity that could impact a wetland and decides they want to mitigate for that impact. The participant checks with the DNR and the U.S. Army Corps of Engineers to ensure the impact does not require federal mitigation under the CWA or state mitigation under s. 281.36 (3n) (d) Wis. Stats.
2. The participant contacts the NRCS, who will work with them to determine if they need to get a certified wetland determination. The NRCS will inform the participant of their compliance options, one of which is purchasing credits from the WAMB.
3. If the participant wishes to utilize WAMB mitigation credits, the NRCS performs a functional assessment, which determines the credits needed to mitigate for the proposed activity and impacted wetland. NRCS provides the participant with DNR contact information to purchase credits.
4. Participant completes the DNR credit application and includes their certified wetland determination and NRCS approved functional assessment.
5. DNR reviews the application and, if accepted, provides the participant with a list of eligible Credit Holders to purchase credits from. If it is not accepted, the DNR will inform the participant and NRCS.
6. Participant contacts an eligible Credit Holder to inquire about the potential sale. If an acceptable purchase price can be determined, the Credit Holder sends an invoice to the participant for payment.
7. Once payment is complete, the Credit Holder issues the approved affidavit (Appendix F) confirming purchase and sends it to the participant, NRCS, and DNR.
8. NRCS provides an updated CPA-NRCS-026-WC, Certified Map, and Letter to Participant.

Long Term Management

Long term management (LTM) is an important part of a restoration project to ensure that the wetlands restored remain functional in perpetuity. LTM will begin once the monitoring period is complete. Specific LTM components will be described in an SMP and MOU, but typical land management activities will include invasive species control, reseeding, prescribed burns, and earthwork repairs. Annual inspections to ensure easement compliance should also occur. These inspections should look for boundary encroachments, unauthorized development, invasive species establishment and other easement violations. Funding for long term management activities typically comes from credit sales and will be the responsibility of the credit holder for each site. The intent is for sites to be high functioning and sustainable after meeting the rigorous final vegetative standards and therefore require minimal management. Regardless, landowners or credit holders should plan for annual management activities of some capacity.

Project implementation and project partners can be complex and could vary with each project. If you are interested in establishing a mitigation site, and have questions about responsibilities, timelines, or anything else regarding the WAMB. Please contact Nathan Dhuey, Agricultural Wetland Mitigation Specialist at nathan.dhuey@wisconsin.gov 608-640-0241.