

Local Government Road Wetland Replacement Program (LGRWRP) Guidance

Preparation and Processing of Applications

May 14, 2021

This document is intended to help local road authorities (county, city, township) better understand and utilize the LGRWRP. It consists of three main parts:

- *Benefits of using of the LGRWRP*
- *How to prepare and submit an application*
- *Processing applications after TEP approval*

Benefits of Using the LGRWRP

The LGRWRP was established to provide wetland replacement (mitigation) for certain qualifying road reconstruction, repair and rehabilitation projects conducted by local road authorities (cities, townships, counties). BWSR provides wetland mitigation for wetland impacts incurred as a result of a qualifying project. Prior to program establishment in 1996, road authorities were responsible for providing their own wetland mitigation for such projects. Using the program for qualifying projects relieves the local road authority from the responsibility of providing wetland replacement for both state and federal wetland regulatory programs. Use of the program is voluntary, and local road authorities must follow the process established by BWSR if they choose to use the program.

How to Prepare and Submit an Application

Step 1: Identify all wetlands within the project right-of-way.

- Options include hiring a consultant or utilizing existing County/City/Township staff with wetland identification/delineation expertise.
- Road authorities can sometimes save time/money by having wetlands identified in multiple potential project areas and combining them into a single delineation report for review and approval by the Wetland Conservation Act (WCA) local government unit (LGU) and/or WCA technical evaluation panel (TEP). Approval by the LGU is a WCA decision that goes through a formal approval process and is valid for up to 5 years. If the project or projects are clearly eligible for using the LGRWRP (see Step 3 below), then the road authority can alternatively seek a less formal concurrence from the TEP on the accuracy of the wetland delineation in the form of a TEP findings document. Such findings are sufficient for using the LGRWRP.
- Wetland and overall site characteristics will determine how complicated and extensive wetland identification and delineation is needed for a project. Some project sites have obvious wetlands with obvious boundaries that can be determined using offsite mapping resources and minimal field

observation. Others are more complicated and require field identification and sampling. Regardless of the type of delineation needed, a wetland delineation report is required which accurately describes wetland characteristics, types, methods used, and resulting wetland boundaries.

- Road authorities should plan to complete and submit wetland delineations such that they can be reviewed prior to the onset of winter conditions (frozen ground, snow cover). Early planning and coordination with the TEP are crucial if project timelines are tight.

Step 2: Quantify impacts to wetlands.

- Using either final or preliminary project plans, determine the areal extent (square footage or acreage) of wetland areas that will be filled, excavated, or drained. Even rough estimates based on preliminary plans will be useful in proceeding to Step 3. Wetland impacts based on final plans will be required prior to submittal to BWSR (Step 6).
- It is important to separate wetland areas proposed to be filled from those proposed to be excavated or drained.

Step 3: Ask the WCA LGU for a pre-application TEP meeting/review (optional, but highly recommended).

- This step will allow the TEP to evaluate the project for LGRWRP qualification. Any wetland impacts that do not qualify for the LGRWRP can be identified so that the Road Authority can plan for alternate ways to meet wetland replacement requirements.
- Having an annual meeting with the TEP to discuss and evaluate upcoming projects for the year is highly encouraged. Even if construction plans have not been developed, showing project locations and discussing project needs and features will often facilitate quicker and more straight forward application reviews when project plans are finalized and submitted.
- The Road Authority should be prepared to explain the reason for the project, identify key design features, and discuss why wetland impacts cannot be avoided. TEP members are generally not experts in road design and safety, so it is important for the Road Authority to explain the design and related safety features in a way that is comprehensible to a non-expert.

Step 4: Complete the joint application form including Attachment E for using the LGRWRP.

- The joint application form is used for applying for any needed federal authorization for wetland/stream impacts (i.e. Section 404 of the Clean Water Act as administered by the St. Paul District U.S Army Corps of Engineers). If the project is eligible for the LGRWRP, Attachment E of the form is used for the WCA TEP to confirm eligibility.
- When completing Attachment E it is important to quantify only wetland impacts requiring replacement under the state WCA program. Part 4 of the form may include more areas where wetlands are being altered because other programs (i.e. Army Corps 404) require documentation of all wetland alterations regardless of the type of alteration. Often the numbers in Part 4 and Attachment E are the same. The TEP can help you figure out which impacts require replacement under WCA.
- When answering the questions in Attachment E, reference and attach any documents pertaining to road safety and design requirements. As the TEP are not experts in road design and safety, it is important to extract, highlight, and explain relevant design standards and requirements as opposed to attaching large documents with highly technical and extraneous information.

- For purposes of wetland compliance, plan sheets should clearly mark and highlight areas of wetland impact by type (fill, excavate, drain) and include sizes of each impact (areal extent, not volume). For large projects, only include plan sheets showing wetland impacts along with an overall plan sheet indicating their locations.
- Be sure to include the Army Corps of Engineers Permit number on Attachment E if you have received one from the Corps. This will help BWSR satisfy any federal replacement requirements for the project.

Step 5: Provide a copy of the application to each WCA TEP member requesting a signature on Attachment E.

- Copies can be sent directly to the TEP. In some areas the WCA LGU representative is willing to distribute the application to TEP members on behalf of the Road Authority.
- The TEP has 30 days to review the application and sign Attachment E, inform the Road Authority of inaccuracies, or inform the Road Authority that the application is ineligible for the LGRWRP. Early pre-application coordination with the TEP will help avoid unexpected determinations and potential project delays.

Step 6: Provide application with TEP-signed Attachment E to BWSR Bank Administration.

- It is the Road Authority's responsibility to provide the application and the TEP-signed Attachment E to the BWSR Bank Administration.
- In some areas the WCA LGU representative is willing to distribute the application with signed Attachment E to BWSR Bank Administrator on behalf of the Road Authority.
- BWSR will fulfill any state/federal wetland mitigation/replacement requirements after the application with signed Attachment E is received. Road Authorities should wait to construct their project until receiving correspondence from the Corps indicating an issued permit, qualification under a General Permit, or no Federal jurisdiction.

Processing Applications after TEP Approval

After receiving the TEP-approved application (i.e. all application materials including the TEP-signed Attachment E from the Joint Application Form) the following process occurs with BWSR Wetland Bank Administration Staff (staff):

- Application materials are reviewed for completeness and accuracy. This includes checking for TEP signatures and confirming accuracy of wetland impact acreages. TEP members and/or the Road Authority may be contacted to provide missing information or otherwise clarify application elements.
- The minimum WCA wetland replacement requirement is determined for the project.
- Staff coordinate with U.S. Army Corps of Engineers staff to determine if there are federal wetland mitigation requirements associated with a required permit.
- Staff satisfy wetland replacement requirement by debiting credits from LGRWRP wetland bank accounts.
- A confirmation email is sent to the road authority. Wetland fill associated with the project can begin. Note that emergency road repairs under 10,000 sf can proceed prior to application submission.

Need Help? – contact your BWSR regional wetland specialist or amy.waters@state.mn.us.