US Army Corps of Engineers ®
St. Paul District

WISCONSIN DEPT. OF NATURAL RESOURCES

Wisconsin Mitigation Guidelines Procedures for Project Proponents on Compensatory Mitigation Requirements Version 2

June 2025

Table of Contents

1. Background and Use of the Wisconsin Mitigation Guidelines

The U.S. Army Corps of Engineers St Paul District (Corps) and the State of Wisconsin Department of Natural Resources (DNR) have updated the Wisconsin Mitigation Guidelines, which were issued on August 1, 2013, and addressed requirements for both project proponents in need of wetland compensation to offset impacts as well as requirements for developing wetland compensatory mitigation sites. As part of the update, the agencies separated into two documents..

The first document, *Wisconsin Mitigation Guidelines Procedures for Project Proponents on Compensatory Mitigation Requirements Version 2*, provides an overview of the mitigation regulations and requirements for applicants and exempt project proponents (collectively referred to as project proponents) in need of wetland mitigation as compensation for wetland impacts regulated under Section 404 of the Clean Water Act and s. 281.36., Wis. Stats. This document applies to all project proponents[1] who are required to mitigate for impacts to wetland resources under federal and Wisconsin state laws. The second document, *Procedures for Developing Wetland Compensatory Mitigation Sites in Wisconsin Version 2,* provides information on development of mitigation banks, ILF programs and sites and PRM. Note, the agencies focus on compensatory wetland mitigation in these documents and not compensatory stream mitigation. Please refer to the Corps' Stream Procedures for information on evaluating stream impacts and proposing compensatory stream mitigation.

2. Federal and State Wetland Mitigation Regulations

The federal mitigation rule, 33 CFR Part 332, establishes standards and criteria for the use of all types of compensatory mitigation, including the review of compensatory mitigation sites and factors that inform the Corps' determinations of the appropriate type and amount of compensation. The fundamental objective of any compensatory mitigation required by the Corps is to offset environmental losses resulting from federally authorized impacts to waters of the United States. The rule does not bypass the requirement that all Section 404 permits comply with the Section 404(b)(1) Guidelines, which means that project proponents must demonstrate all practicable avoidance and minimization of impacts to waters prior to a decision on the need for compensatory mitigation.

Wisconsin state law at s. 281.36, Wis. Stats., and ch. NR 350, Wis. Adm. Code, set out criteria for when DNR will require mitigation, credit ratios for bank and ILF credit purchases, preferred mitigation alternatives, and processes for completing mitigation requirements.

The DNR and Wisconsin Department of Transportation (WisDOT) have a Memorandum of Understanding (MOU) on Compensatory Mitigation for Unavoidable Wetland Losses Resulting from

[1] *This document applies to all applicants including the Wisconsin Department of Transportation. The Corps, DNR and WisDOT are developing a Memorandum of Understanding documenting past WisDOT bank approvals and memorializing future use of those grandfathered banks*.

State Transportation Activities. This MOU applies to any transportation activity subject to the DNR/DOT Cooperative Agreement (CoA) which establishes interagency liaison procedures in accordance with s. 30.2022, Wis. Stats. If a transportation activity affects a wetland, per s. 30.2022(2), Wis. Stats., WisDOT must conduct required mitigation by either complying with the interdepartmental liaison procedures and any applicable interagency agreement on mitigation banks that is approved by the DNR, or by using any of the methods specified in s. 281.36 (3r) (a) 1. to 3, Wis. Stats.

As outlined in the MOU, WisDOT follows their own hierarchy when making determinations on how to fulfill mitigation requirements, retaining the right to utilize WisDOT banks within the primary bank service areas, their own secondary service areas, or within the major basins prior to utilizing private banking credits or other compensatory mitigation options.

WisDOT's base compensation ratio for permanent wetland loss is 1.0 credit per one acre of impact, with increased increments for compensation with a different wetland type, in a different service area, or based on professional discretion to ensure sufficient offset of lost functions as addressed in the MOU. This may differ from the Corps and DNR's compensatory mitigation requirements.

3. When Compensatory Mitigation is Required

The State of Wisconsin

Wisconsin law requires that project proponents mitigate for wetland impacts under all individual permit applications. Project proponents who meet the criteria for a nonfederal exemption for wetlands over a certain size must also provide mitigation.[2] If an exempt project is in an urban area, mitigation is required for any impacts above 10,000 square feet. If an exempt project is outside an urban area, mitigation is required for any impacts above 1.5 acres. With individual permits and qualifying exemptions, the department may determine that mitigation is also required for temporary or secondary impacts, taking into consideration timeframe of impacts, temporal loss of wetland functions, and wetland quality.

The Corps of Engineers

Under Section 404 of the Clean Water Act, the Corps has responsibility for determining if compensatory mitigation is necessary to offset unavoidable losses of aquatic resource function resulting from permitted activities. The Corps will evaluate permit applications and determine the need for wetland compensatory mitigation on a case-by-case basis by considering the potential individual, secondary/indirect, and cumulative adverse impacts to the aquatic environment resulting from the regulated activities. Under the Corps' applicable Nationwide Permits or Regional General Permits, the

[2] *Refer to the DNR/WisDOT MOU for determination of when compensatory mitigation may be required for transportation activities that affect wetlands. "Transportation activity" is defined under s. 30.2022(1g), Wis. Stats., meaning an activity carried out under WisDOT's direction and supervision.*

Corps will require compensatory mitigation necessary to ensure the authorized activity results in only minimal adverse environmental effects.[3]

The Corps will evaluate the duration of impacts, degree (i.e., severity) and scale of impacts, and the current quality of the wetland when determining if compensatory mitigation is necessary. Below are general guidelines on these key factors and likelihood that the Corps will require compensatory mitigation.

Duration:

- Is the proposed regulated impact temporary or permanent?
    - The Corps is more likely to require wetland mitigation for permanent regulated impacts, as these impacts are not restored to preconstruction conditions. A permanent discharge of dredged or fill material within a wetland may include changing a wetland to dry land, increasing the bottom elevation of a wetland, or changing the use or function of a wetland.
    - The Corps is less likely to require compensatory mitigation for temporary regulated impacts, provided the impacted wetlands are restored in a timely manner to preconstruction conditions (including restoration of vegetation), contours, and elevations. However, the Corps may require compensatory mitigation to offset temporary impacts that are longer in duration with temporal loss of function that is more than minimal, for example, to include conversion of wetlands from one community type to another.

Degree and Scale:

- What is the acreage of impact(s) for the overall project?
    - When a Corps permit is required for a permanent discharge of dredged or fill material into wetlands, the wetland is typically lost via conversion to dry land, resulting in a total loss of wetland acreage and all functions.
    - The Corps is more likely to require wetland mitigation as the amount of wetland impacted and the overall loss of wetland function increases.
- Does the proposed activity impact one localized wetland area or several separate areas across a basin or across basins?
    - The Corps will evaluate the overall loss of wetland functions in all areas impacted and associated with a permit application.
    - If a proposal includes impacts to several separate wetland areas within the same overall project and watershed, such as in linear transportation or utility projects, the Corps will

[3]*General condition #23 of the Corps' Nationwide Permits includes a compensatory mitigation requirement for all losses of wetlands that exceed 1/10-acre (4,356 square feet) and require pre-construction notification (PCN), unless the Corps determines that some other form of mitigation would be more environmentally appropriate or if the adverse environmental effects of the activity are no more than minimal without compensatory mitigation. Further, for wetland losses of 1/10-acre or less that require PCN, the Corps may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.*

evaluate the overall net functional loss when deciding whether wetland mitigation is necessary.

Quality of Wetland:

- Will the proposed activity occur in a wetland that has a special designation? Examples of special designations include calcareous fens or wetlands providing critical habitat for a federally listed species. Is the wetland community rare or providing important water quality, habitat or other functions to the watershed?
- What is the current biological condition of the wetland? Examples of wetlands that are considered high functioning include those with low or limited invasive species presence, late successional communities (such as many forested communities), high species richness, and those not currently affected by unregulated activities such as exempt activities.
    - If the impacted wetland is high quality and functioning well, the overall loss of functions caused by the proposed activity will be greater and the Corps is more likely to require wetland mitigation.
    - If current designations or data suggest that the wetland impacted is lower quality and not functioning well, the Corps will evaluate all other factors when determining whether compensatory mitigation is required.

Note that activities not regulated by the Corps have no Corps permit requirements and therefore no federal compensatory mitigation requirements. Further, projects eligible for authorization under Nationwide Permit 27 (Aquatic Habitat Restoration, Enhancement, and Establishment Activities) must result in increases in aquatic resource functions and therefore will have no compensatory mitigation requirements.

4. Identifying Appropriate Compensatory Mitigation for Your Impact

Once the agencies determine that a project proponent must provide compensatory mitigation to offset impacts, the project proponent must consider the following in their compensatory mitigation proposal:

1. Are there available bank or ILF credits to purchase that would offset the authorized impacts? Or will the project proponent propose PRM either because there are no bank or ILF credits or because PRM would be environmentally preferable? These questions relate to preference hierarchy, as further discussed below.
2. The location of the compensatory mitigation, i.e., if there are credits available at multiple banks or ILF sites, which one does the project proponent select? If PRM is the only option available or ecologically preferred, where does the project proponent propose construction and protection of the PRM project?
3. The functions provided by the wetland compensation, i.e., will the structural and functional characteristics of the compensatory mitigation site adequately offset the losses of wetland functions at the impact site?

A. Preference Hierarchy

To answer the question about whether a project proponent will purchase bank or ILF credits or design, construct and protect a PRM site, it is important to consider the preference hierarchy. The federal mitigation rule and ch. NR 350, Wis. Adm. Code, outline general federal and state preferences for where and what type of compensatory mitigation is provided to offset impacts, and project proponents should familiarize themselves with both these rules. These rules establish a general preference for purchase of released bank credits over advance ILF credits,[4] and advance ILF credits over PRM, due to the generally increasing temporal loss and reduced functional benefits to the watershed with advance ILF credits and PRM. The agencies generally consider released ILF credits (or those "excess" credits generated after all advance credit sales have been fulfilled) as equivalent in preference to released bank credits as both are tied to an existing mitigation site that has been permanently protected and met administrative and ecological performance standards.

It is important to remember that this preference hierarchy is intended to be a guide and all compensatory mitigation decisions are made by the agencies on a case-by-case basis based on a variety of site and watershed specific factors, considering the information provided by the project proponent. In some cases, a project proponent may provide the required compensatory mitigation from a source lower in the preference hierarchy, or a combination of sources, if they can demonstrate that it is environmentally preferable. The site's location within a service area (HUC 6 watershed) and in relation to a HUC 8 watershed and whether the functions of the impacted resource are adequately offset by the proposed compensation are also considered when the agencies make decisions on what compensatory mitigation is appropriate and environmentally preferable, as further described below. Note that the cost of providing compensation from any of the three mitigation mechanisms cannot be used as justification for determining another mechanism environmentally preferable.

B. Location/Service Areas

To answer the second question, it is important to consider that Wisconsin is divided into three major watershed basins: Lake Superior, Lake Michigan, and Mississippi River. These basins are subdivided further to create twelve total service areas (Figure 1). Service areas follow USGS Basin Level 2 hydrologic units corresponding to modified 6-digit hydrologic unit codes (HUCs). Agencies delineated service areas to provide spatially equivalent areas where feasible. Each service area is then broken down further into HUC 8 watersheds, which are considered smaller subbasins within the larger watershed (Figure 2).

Generally, the state preference is for the purchase of bank credits within the same HUC 8 watershed when an approved bank in that watershed has in-kind credits available to fulfill all or part of the compensation requirements. If a service area has multiple banks with available credits, but none individually contain a sufficient amount of appropriate credits, project proponents could propose to purchase their compensation from multiple sources, including banks in other HUC 8s with available and appropriate credits within the service area. If a service area does not contain a sufficient amount of

[4] *Advanced ILF credits are approved and released prior to site identification, construction, protection, and monitoring.*

bank credits, project proponents could propose to provide a portion of their compensation from available advance ILF credits.

Agencies generally will not approve the purchase of bank or ILF credits or the development of PRM sites as compensatory mitigation outside of the service area where the impacts to wetlands are authorized. Applicants proposing PRM should propose PRM projects as close to the impact site as practicable within the service area, as s. 281.36., Wis. Stats. requires PRM projects to be completed within the same watershed or within a half mile of the discharge.

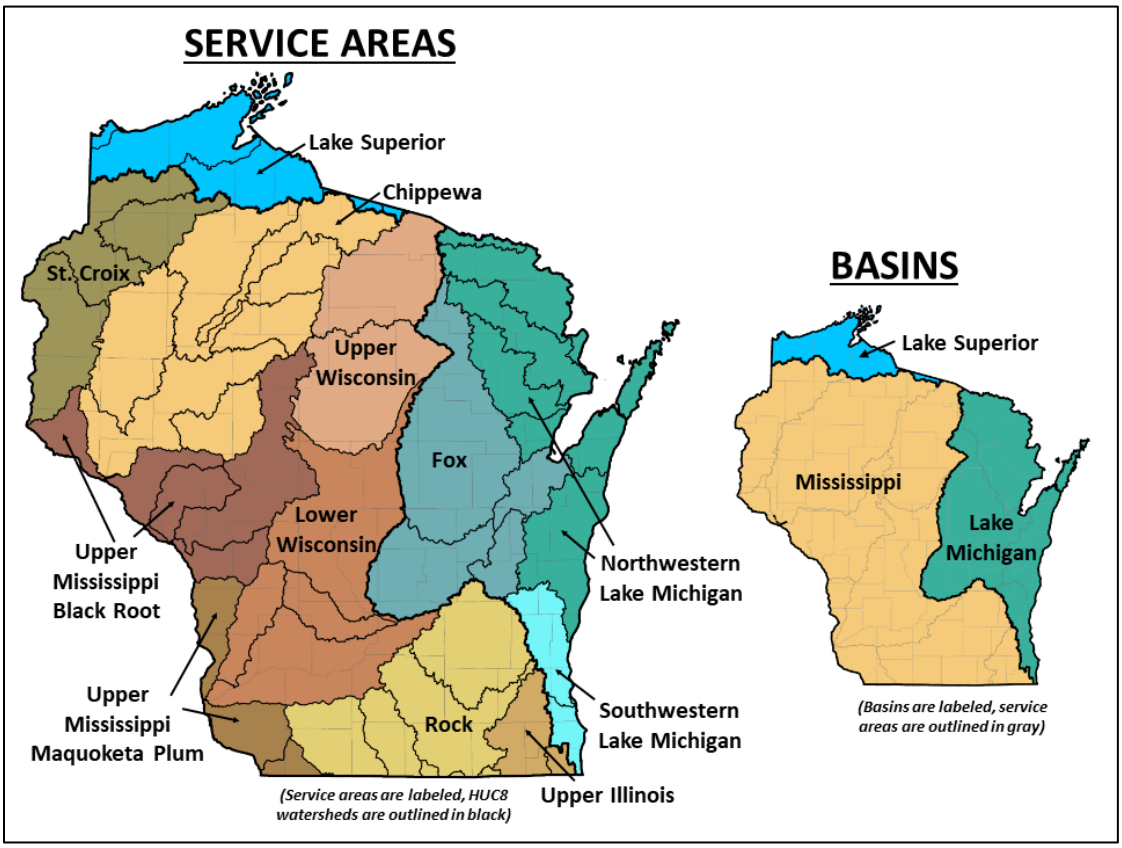

Figure 1: Wisconsin Mitigation Service Areas (HUC 6 Watersheds) and Major Basins

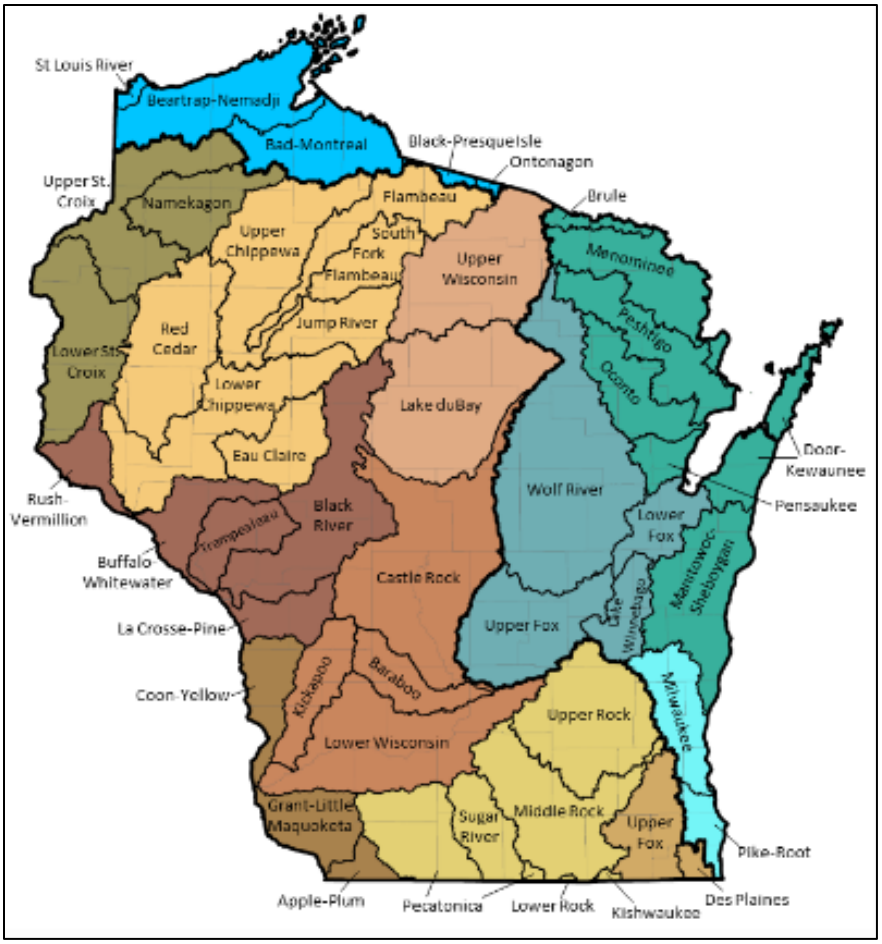

Figure 2: Wisconsin 8-Digit HUCs (Subbasins)

C. Functional Replacement

To answer the third question, it is important to assess whether the structural and functional characteristics of the compensatory site would adequately offset lost functions at the impact site by providing a similar suite of functions or similar functioning communities to the impacted wetland. The agencies use the Wetland Community vegetation descriptions adapted from Eggers and Reed (2011) to characterize functions. In the Version 1 guidance, the agencies adopted eleven wetland plant community types for use as in-kind classifications. For Version 2, the agencies have consolidated some wetland communities (Table 1) for easier credit tracking on mitigation sites, recognition of overlapping functions, and acknowledgement of their frequent presence in wetland complexes on sites. Specifically, the agencies have combined wet meadow plant communities into a single wetland and credit type as they are typically interspersed, are difficult to predict where and to what extent each will develop and are difficult to delineate for precise mapping and crediting over time.

Mitigation banks approved prior to these updated guidelines may have available wet meadow credits that were further classified as fresh wet meadow, sedge meadow, wet mesic prairie or fen. Project

proponents looking to purchase wet meadow credits can consider any of these sub-communities as in-kind.

Table 1: Wetland Community Types Considered In-Kind

Wetland Community	Includes
Wet meadow	Fresh (wet) meadow, sedge meadow, wet to wet mesic prairie, fen
Marsh	Shallow marsh, deep marsh
Shrub swamp	Shrub-carr, alder thicket
Wooded swamp	Hardwood swamp, coniferous swamp
Floodplain forest	Floodplain forest
Seasonally flooded basin	Seasonally flooded basin
Bog	Open bog, coniferous bog
Shallow, open water	Shallow open water

ILF advance credits for sale to project proponents will not have an associated plant community type because the mitigation project to offset impacts is typically identified and completed after the sale of credits. If agencies decide that ILF advance credit purchase is appropriate compensatory mitigation, project proponents would purchase general advance wetlands credits from the ILF sponsor.

In addition to considering whether the compensatory mitigation site would offset functions lost at the impact site, agencies may also take into account more holistically the functional needs of the watershed where impacts occur and whether the compensatory mitigation site is responsive to those needs (i.e., stressors in the watershed and whether the compensation site is responsive to particular stressor(s)). For example, the agencies can consider watershed assessments and priorities identified in local watershed plans developed by local watershed authorities, non-profits, the state, or other entities. Greater weight is given to watershed plans that align with the agencies' goals and are developed with consideration for current trends in habitat loss or conversion, cumulative impacts of past development activities, current development trends, the presence and needs of sensitive species, chronic environmental problems such as flooding or poor water quality, or other relevant data. The use of one or more approved ILF program compensation planning frameworks (CPF) is also appropriate and CPFs are considered watershed plans.

5. Determining the Amount of Compensatory Mitigation Required

The agencies determine the amount of mitigation required for project proponents on a case-by-case basis and must ensure the amount is commensurate with permitted impacts and sufficient to replace lost wetland functions, including direct and indirect effects caused by the impact. When a wetland functional or condition assessment method is available, such as the Wisconsin Rapid Assessment Methodology or other appropriate method, project proponents may use the results of such assessments to inform functional loss at the impact site, and this assessment can help inform the amount of required mitigation.

In the absence of a functional assessment, the agencies use ratios to determine the amount of required mitigation. The DNR's requirements start at no less than 1.2 credits per one acre of permanent direct impacts and the Corps requirements start at no less than 1.0 credit per one acre of permanent direct impacts and increase as deemed appropriate to ensure sufficient offset of lost functions. If both agencies require mitigation for an impact, the agencies coordinate and align requirements where possible to ensure project proponents satisfy both requirements while minimizing any conflicting requirements.

The agencies will require minimum mitigation amounts in scenarios when mitigation is in-kind, when the wetland impacted does not have a special designation, is not rare, subject to past loss, or difficult to replace, when the mitigation is located in the same service area of the impact, and when there is no temporal loss. The agencies may require a higher mitigation ratio when mitigation is out-of-kind, the impacted wetland is rare or difficult to replace, the mitigation is located outside the service area of impact, or there is temporal loss. If compensation is out-of-kind, a typical ratio increase in increments of 0.25 may be implemented for each variable to accommodate loss of function, e.g., up to 1.45:1 or 1.7:1 total, or an additional 0.25 increase, up to 1.7:1 total, if the compensation is both out-of-kind and out-of-service area, etc. Each of these variables that may require more mitigation than the minimum are discussed in more detail below.

Wetland Functional Quality and Community Types

Mitigation requirements will be set in part based on an evaluation of the lost function associated with the wetlands that will be impacted by authorized permits or exemptions compared with the functions provided at the compensation site. To account for lost wetland function and set mitigation requirements, the agencies may use a crediting system or an appropriate wetland functional or condition assessment if available. When an appropriate wetland functional assessment tool is not available, wetland community types are generally considered to provide similar functions when the same community is provided as compensation as that impacted, see Table 1 for reference. When the agencies approve an impact to a wetland community that is rare in the watershed, particularly difficult to replace and not available, or has a special designation, they will likely require increased compensation to offset the higher loss of functions.

Location in the Watershed

The agencies will require compensatory mitigation within the same watershed (HUC 8 or service area) as the impact. An increase in ratio due to location is generally not applied so long as the impact and compensation are located in the same HUC 8 or service area. In the rare event the purchase of credits outside the service area is approved by the agencies, such as situations where there are no private banks or ILF credits available and PRM is not a feasible option, the agencies will likely require an increased ratio to account for this loss of function to the impacted watershed.

Permanent Versus Temporary Impacts

As described above, when compensation is required for permanent impacts, a ratio of at least 1:1 for the Corps and 1.2:1 for the DNR is required. When compensation is required for temporary impacts, the agencies generally will require compensation at a ratio less than their starting ratios for permanent impacts. The agencies will determine the amount of compensation by considering the type and duration of the temporary impact, the quality of the impacted community type, and length of time before it is anticipated to return to pre-impact functional condition. Temporary impacts may include, but are not limited to, open trenching, timber mat placement, temporary clearing of vegetation such as a forested wetland clearing, or impacts to any wetland plant community that is dominated by native plant species. The agencies may also require mitigation at a reduced ratio for secondary impacts to wetlands when associated with a regulated impact. Secondary impacts may include, but are not limited to, conversion of wetland type, hydrologic impacts, changes in wildlife use due to habitat fragmentation or conversion, or the introduction or increase of invasive or non-native plant species to a wetland.

Potential Temporal Loss of Wetland Function due to Mitigation Source

The agencies require sufficient compensation to account for the temporal loss of functions that can occur between the time of impact and provision of compensation on the landscape. As discussed earlier, there is often a temporal loss of wetland functions associated with some compensation sources over others.

Because mitigation banks do not receive any credits until the site is approved, protected through a conservation easement, and financial assurances have been provided to guarantee construction and maintenance, the starting ratio for purchasing mitigation bank credits is generally 1 or 1.2 credits per one acre of direct impacts, depending on the agency. As described above, the agencies may require a higher ratio due to the purchase of mitigation bank credits of an out-of-kind community, credits from a different service area than where the wetland impacts occur, to offset temporal loss of wetland function, or to fully compensate for impacts to wetland function or acreage. When the source of mitigation is ILF advance credits, the DNR will generally require a minimum of 1.45 credits per one acre of direct impacts due to the greater temporal loss of functions.

When compensation is provided through a PRM site, the agencies must consider whether there will be a temporal loss in providing a fully functioning PRM site compared to when the impact will occur. For example, if a project proponent secures, protects, constructs and meets all performance standards prior

to the authorized impact, the agencies could determine there will be no temporal loss and not increase the required mitigation. However, typically PRM sites are protected and constructed concurrently with the impact and monitored for five or more years beyond that until performance standards are met. As a result, most PRM sites result in a temporal loss and therefore agencies will generally increase the amount of required mitigation.

6. Purchase of Compensatory Mitigation Credit

A. When to Purchase Credits

Project proponents must purchase wetland credits prior to initiating the authorized work permitted by either agency. The DNR generally requires project proponents to purchase wetland credits prior to state permit issuance during the permitting period of a proposed project; this ensures that a project fulfills the required mitigation permit requirements prior to the impact occurring. The DNR may allow project proponents to purchase credits after permit issuance if the permit has a condition that mitigation will be completed prior to discharge, while the Corps generally conditions permits to require credit purchase before authorized impacts and does not require credit purchase before permit issuance. Project proponents are responsible for engaging with both agencies as needed during the application review process to ensure that any wetland credits purchased prior to Corps permit issuance will meet the permit conditions of both agencies. Credit purchase requirements are typically rounded to the nearest hundredth.

B. RIBITS and State Credit Ledgers

To track credit availability for use under state and federal permits, the Corps and the DNR each keep a publicly viewable ledger for each bank and ILF program.[5] The Corps' public ledger also documents the credits released and sold by community type, date, permit/file number, and project proponent/purchaser. The agencies routinely conduct quality assurance reviews to ensure the state and federal ledgers match and that all withdrawal entries are documented.

Prior to initiating the authorized work and prior to finalizing the purchase of credits from any ILF or bank sponsors, it is the project proponent's responsibility to ensure that:

- ✓ They know what type and amount of credits are required to satisfy both agencies requirements.
- ✓ They have reviewed the Corps and State ledgers to ensure that the amount and type of credits they need as compensation for their state and federal permits are both approved and available in those ledgers.
- ✓ All affidavits are finalized, submitted to, and approved by the agencies.
- ✓ They retain copies of all affidavits for their records.

Project proponents can find the Corps' ledger for mitigation banks and ILF sites on RIBITS. Project proponents can find the state ledger for mitigation banks and ILF sites at

[5] *WisDOT publishes an annual wetland report on their website that details credit sales and availability at WisDOT banks.*

https://dnr.wisconsin.gov/topic/Wetlands/mitigation/bankingRegistry.html and https://dnr.wisconsin.gov/topic/Wetlands/wwct/credits.html#process. Withdrawal affidavits are not uploaded as publicly visible, and the purchase price is not shown in either ledger.

C. Credit Affidavit of Purchase

An affidavit of credit purchase should include the following information at minimum:

- ✓ Date of sale.
- ✓ Bank/ILF Site Information:
  - Name of individual mitigation bank or ILF program.
- ✓ Project/Impact Site Information:
  - Name of the project proponent (and authorized representative if the project proponent is a company, non-profit, agency, etc.).
  - Project Name.
  - Project impact location, Including township, range, section, and municipality.
  - HUC 8 watershed and service area name where the authorized impact will occur.
  - Relevant Corps and/or DNR permit numbers or exemption numbers.
  - Acreage of impacts by wetland community type, if applicable.
- ✓ Credit ratios applied and number of credits sold for each affected community.
- ✓ Community types of the mitigation bank credits sold (not required for ILF credits).
- ✓ Final credit amount(s).
- ✓ Printed names of both the project proponent or exempt project proponent and Mitigation Bank Sponsor.
- ✓ Signatures of both the project proponent or exempt project proponent and Mitigation Bank Sponsor.

Project proponents or sponsors must immediately submit executed affidavits to both the Corps at WisRIBITS@usace.army.mil and the DNR Wetland Mitigation Coordinator (see DNR mitigation bank webpage).

7. Legal Responsibilities of the Project Proponent and the Sponsor

A. Permit Conditions and Requirements

When compensatory mitigation is required, the agencies will include special conditions to their permits that specify the type, amount and timeline under which the project proponent must provide the mitigation. These special permit conditions will vary depending upon the authorizing agency, mitigation alternative proposed and approved for use, and type of permit authorization (or state exemption) required.

When compensatory mitigation is provided through PRM, responsibility for site protection, operation, maintenance, and long-term management stays with the project proponent. The project proponent prepares a Mitigation Plan that is reviewed and approved by the agencies and incorporated as a condition of the permit authorizing the impact. Project proponents proposing PRM should refer to the Procedures for Developing Wetland Compensatory Mitigation Sites in Wisconsin for information on mitigation plans and site reviews.

Permit conditions for PRM sites generally:

- ✓ Describe the PRM site and reference the approved mitigation plan, included as an enclosure of the permit.
- ✓ For an Individual Permit from the Corps, the project proponent must submit a final mitigation plan and the Corps must approve that plan prior to permit issuance.
- ✓ In contrast, for General Permits from the Corps, the project proponent may submit the mitigation plan and receive approval prior to verification, or the project proponent may submit the mitigation plan after verification and must receive Corps approval of that plan prior to beginning authorized work.
- ✓ Identify the party responsible for completing the work associated with the PRM site and ensuring site success.
- ✓ Describe any other requirements not otherwise specified in the approved mitigation plan, such as:
  - Site objectives.
  - Required monitoring methods, timeline, etc.
  - Performance standards associated with compensatory mitigation.
  - Required construction and maintenance financial assurances (amount, mechanism, beneficiary, timeline, release schedule).
  - Long-term management provisions, including any required funding.
  - Timelines for completion of construction, seeding and planting.
  - Timelines for recording of the site protection mechanism.

When compensatory mitigation is provided through the purchase of available bank and ILF credits, responsibility for ensuring site success remains with the project proponent only until they finalize and demonstrate purchase of credits. Permit conditions for bank and ILF credits generally:

- ✓ Clarify the party responsible for purchasing credits.
- ✓ Identify the specific mitigation bank or ILF program (or ILF site if released credits are purchased).
- ✓ Specify the number and type of credits required.

B. Transfer of Mitigation Liability

When compensatory mitigation is provided through the purchase of bank or ILF credits (released or advance), an affidavit of credit purchase is used to document a legal transfer of mitigation responsibility from the project proponent to the sponsor. The affidavit shows that a project proponent has secured the appropriate amount and type of credits from a mitigation bank or ILF program sponsor. When a credit purchase is made, the legal responsibility for providing the mitigation is assumed by a sponsor.

The project proponent retains the legal responsibility for submitting an affidavit of credit purchase to the agencies, retaining documentation of the credit purchase, and complying with all other conditions of the state and federal permits.