

PERMANENT WETLANDS PRESERVE (PWP) ELIGIBILITY INFORMATION

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A. WETLANDS ELIGIBLE FOR PERMANENT WETLANDS PRESERVE

A.1 Statutory Purpose

The statutory purpose (Minnesota Statutes, section 103F.516) of Permanent Wetlands Preserve is to:

". . . acquire permanent easements on land containing type 1, 2, 3, or 6 wetlands, as deemed in United States fish and wildlife service circular no. 39."

The statute was amended in 1994 to include type 6 as eligible wetlands.

A.2 Program Goals

The BWSR encourages SWCDs and local screening committees to place a high priority on securing easements on wetland basins that are:

- ❖ highly susceptible to alteration
- ❖ farmed wetlands (types 1 and 2 with crop history)
- ❖ not protected by state or federal laws (e.g., Wetland Conservation Act (WCA), Public Waters Wetlands, Swampbuster, etc.)
- ❖ at low risk of being negatively impacted by activities on adjacent parcels not enrolled in the program

A.3 Hydrologic Regimes

The *Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989)* must be used to determine the presence and boundaries of a wetland. The definitions for hydrologic regimes eligible for Permanent Wetlands Preserve are generally described below.

Riverine

Wetland(s) contained within the banks of a channel that may contain moving water, or a wetland that forms a connecting link between two water bodies.

Floodplain

Wetland(s) located in the floodplain of a watercourse, with no well defined inlets or outlets, including tile systems, ditches or natural watercourses.

Flow-through, non-depressional

Wetland(s) with both a well-defined outlet and one or more well-defined inlets, including tile systems, ditches, or natural watercourses.

Depressional

Wetland(s) confined to distinct depressional areas. The hydrology of the depressional basin may be confined or flow-through.

A.4 Wetland Types

Type 1, 2, 3 or 6 wetlands are eligible for PWP. Wetland types are determined according to *Classification of Wetlands and Deepwater Habitats of the United States (Cowardin et al., 1979)*, and *FWS Circular #39: Wetlands of the United States (Shaw and Fredine, 1971)*. Conversion of Cowardin et al. notation to Circular #39 is aided by the conversion key found in Table 1 below and the Dept. of Natural Resources (DNR) poster/brochure *Wetland Types and Definitions*.

Table 1. Wetland Classification Equivalency Chart

(adapted from the WCA Permanent Rules, M.R. 8420, relating to wetland conservation)

COWARDIN SYSTEM CLASS ¹	APPROX. CIRCULAR 39 TYPE	COWARDIN SYSTEM CLASS ^{1E}	APPROX. CIRCULAR 39 TYPE	COWARDIN SYSTEM CLASS ¹	APPROX. CIRCULAR 39 TYPE	COWARDIN SYSTEM CLASS ¹	APPROX. CIRCULAR 39 TYPE
PEMA	1	PSSA	6	PFOA	1	PML (all)	8
PEMB	2	PSSB	6	PFOB	7	PAB (all)	5
PEMC	3	PSS3B	8	PFOC	7	PUB (all)	5
PEMD	3	PSSC	6	PFOD	7	PRB (all)	5
PEME	3	PSSD	6	PFOE	7	POW (all)	5
PEMF	4	PSSE	6	PFOF	7	PUS (all)	5
PEMG	4	PSSF	6	PFOG	7	L1 (all)	5*
PEMH	4	PSSG	6	PFOH	7	L2 (all)	5
PEMJ	1	PSSH	6	PFOJ	1	R2 (all)	**
PEMK	4	PSSJ	6	PFOK	7	R3 (all)	**
PEMW	1	PSSK	6	PFOW	1	R4 (all)	**
PEMY	2	PSSW	6	PFOY	7		
PEMZ	4	PSSY	6	PFOZ	7		
PEMU	4	PSSZ	6	PFOU	7		
		PSSU	6				

¹ Also includes subclass and Hydrologic Regime

*Circular 39 does not classify deepwater as a wetland type, but for purposes of this table, these areas can be approximated as type 5.

**No equivalent. Circular 39 does not address riverine wetlands.

B. PERMANENT WETLANDS PRESERVE PROGRAM ELIGIBILITY CRITERIA

B.1 General Criteria

The land is owned by individuals, family farms, family farm partnerships, authorized farm partnerships, family farm corporations, authorized farm corporations, or estates or testamentary trusts. Definitions can be found in the [Landowner Definition](#) section. Authorized farm corporations and authorized farm partnerships must provide proof that they are registered with the Minnesota Department of Agriculture. Nonprofit organizations are **not eligible** to convey a RIM Reserve easement to the state.

The land must have been owned by the applicant, or parent of the applicant, or blood relative of the applicant for at least one year before the date of application.

The land must be at least five acres in size in an unincorporated area, at least 2.5 acres in an incorporated area, or must be a whole field as defined by the Farm Service Agency (FSA), or must be a whole tax parcel as identified by the local assessor. **This requirement may be waived for a partial enrollment of a depressional basin (see Specific Criteria #3c - *Partial Basins*) where several parties are collectively enrolling parcels in the basin.**

The easement area can include up to four acres of upland for each acre of eligible wetland. Non-eligible wetland types cannot be included in the adjacent upland and will either need to be excluded from or donated to the easement area. Easement areas including the minimum upland needed to protect the wetland from nutrient and sediment loading should be considered **higher** priority over easement areas containing the 4:1 ratio (this allows more easements to be funded). SWCDs have the authority to adopt policies that restrict the number of upland acres enrolled as an easement area to a ratio of less than 4:1.

The easement area must contain existing natural or restored wetlands at the time of application. Restored wetlands offered for enrollment must have been legally restored. Drained wetlands that **are restorable** under the specific criteria listed in the RIM Reserve Eligibility section of the handbook are **not eligible** for PWP.

The land must not be enrolled under another federal or state government program, or under another easement, whose purpose conflicts with or substantially duplicates the terms of a PWP conservation easement. Conservation easements must be evaluated on a case-by-case basis to determine whether or not they substantially duplicate the PWP easement.

The wetland is not a site used to mitigate a wetland loss.

Unused (abandoned) wells on the proposed easement area must be properly sealed before the easement can be conveyed. All associated costs to properly seal the wells are the responsibility of the landowner.

Hazardous substances, buried tanks, pollutants, or contaminants on the proposed easement area must be properly removed or cleaned up before the easement can be conveyed. All associated costs to do so are the responsibility of the landowner.

No structures, temporary or permanent, can be located on the easement. Existing structures must be removed prior to conveying the easement, and all cost associated with the removal are the responsibility of the landowner. An appeal may be made to the district, and then to the state board, to waive this requirement where special circumstances exist.

Only perpetual easements are eligible for enrollment.

Wetlands identified on the DNR Public Waters Inventory are eligible to receive compensation and are eligible for enrollment.

B.2 Specific Criteria

Specific considerations and/or restrictions may pertain to terms and individual eligible hydrologic regimes. Below are the specific requirements that must be met for land to comply with the crop history definition, or for the wetlands to be enrolled as eligible riverine, floodplain, nondepressional or depressional basins.

All lands that will be compensated at the "land with crop history" easement payment rate must meet the crop history criteria below.

Crop History

Acres have been in agricultural crop production for at least two of the last five years (complete, annual cropping seasons) prior to the date of application. Introduced hayland and introduced pasture qualifies as crop history if the area has been cultivated in a rotation of row crops or small grains, or interseeded with introduced or native species, at least twice during the 10 years prior to the date of application, and has been harvested or grazed at least two of the five years prior to the date of application. Acres enrolled in a federal or state conservation program at a cropland rate two of the past five years qualify as crop history.

Riverine Wetland, Floodplain Wetland, or Nondepressional Flow-Through Wetland

- ❖ The entire wetland area under applicant's ownership must be offered for enrollment.
- ❖ The applicant's owned portion of the basin offered for enrollment must contain at least 70% eligible wetland types 1, 2, 3 or 6. (Refer to [A.4 Wetland Types](#) above for more information.)

Depressional wetland(s) must meet the following additional criteria:

- ❖ The entire wetland basin (owned and non-owned area) must be classified as a type 1, 2 3 or 6 (refer to A.4 Wetland Types).
- ❖ The entire wetland basin should be offered for enrollment.
- ❖ Partial wetland basins may be enrolled if all of the following conditions exist.
 - 1) The area offered for enrollment includes a majority (e.g., 75% or greater of the total acreage) of the depressional wetland basin;
 - 2) the area offered for enrollment includes all basin outlet(s);
 - 3) there is a low probability that an outlet in any portion of the non-enrolled basin will be installed; and
 - 4) the non-enrolled portion of the basin is adequately protected by the Wetland Conservation Act or by another government regulations.

For partial basin enrollments that do not meet all of these four conditions, but do offer significant resource protection with minimum risk that the basin will be adversely impacted, contact your board conservationist for approval to submit the application for funding consideration.

C. MAXIMUM ENROLLMENT

There are no restrictions on acreage enrollment for the PWP Program.

D. CALCULATION OF PAYMENT RATES

Payment rates are established on an annual basis by the state board. The current basis for the payment rates is summarized below.

Table 2. Permanent Wetland Preserve Payment Rates

ELIGIBLE LANDS	ALL LAND Non-Metro	NON- AG LAND Metro Area ¹	AG LAND ² Metro Area
Cropped ³ Wetlands	90% of ATAMV ⁴	20% of ATAMV	90% of ATAMV
All Other Wetlands	50% of ATAMV	20% of ATAMV	50% of ATAMV
Cropped Adjacent Uplands	90% of ATAMV	60% of ATAMV	90% of ATAMV
Non-Cropped Adjacent Uplands	60% of ATAMV	60% of ATAMV	60% of ATAMV

¹**Metro Area** includes the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

²**Ag Land** means at least 50% of the easement area is devoted for use as pasture or hayland, or to the production of horticultural, row, close grown, introduced pasture, introduced hayland crops, and growing nursery crops. In addition, use "Ag Land" rates for parcels enrolled in Ag Land Preserves or Green Acres.

³**Cropped** means the area has been planted to agricultural crops for two of the past five years prior to the date of application or is introduced pasture or hayland that has been interseeded or in a rotation of row crop or small grain at least twice in the last 10 years and has been harvested twice in the last five years. (See Specific Criteria for a full definition.)

⁴**ATAMV** stands for the Assessor's Township Average Market Value or other factor as established annually by the state board.