

**8420.0735 MONITORING AND CORRECTIVE ACTIONS.****Subpart 1. Monitoring.**

A. Monitoring of wetland bank sites must conform to the monitoring requirements of part 8420.0810. Failure to submit the required monitoring reports or otherwise comply with monitoring requirements will prevent the deposit of credits and may result in the freezing of the bank account by the board until compliance is attained.

B. After completion of the required monitoring period, the board shall periodically inspect wetlands deposited into the bank at a frequency sufficient to ensure that easement conditions are being met.

Subp. 2. **Maintenance responsibilities.** The fee owner and the banking applicant, if different from the fee owner, are jointly and severally responsible for the success of the banking project according to the approved banking plan and for maintaining the banking project according to the conditions of the conservation easement. The banking plan applicant, if different from the fee owner, is not responsible for maintenance after the monitoring requirements have been completed if the banking plan applicant no longer owns an easement interest in the real estate or credits associated with the banked wetland.

**Subp. 3. Corrective actions.**

A. If, during the monitoring period, the local government unit or the technical evaluation panel determines that a bank site does not meet the specifications in the approved banking plan, the local government unit must require corrective actions and notify the board's banking administrator. The board may restrict further deposits, withdrawals, and transfers of all credits associated with the bank site until the local government unit and the board, based on findings from the technical evaluation panel, determine that the banking project has been brought into compliance.

B. If, after the monitoring period, the board determines that wetlands deposited into the bank are not in compliance with the conditions of the conservation easement, the board must require corrective actions of the fee owner or banking plan applicant to bring the bank site into compliance with easement conditions.

C. If satisfactory remediation does not result under item A or B, the local government unit or the board may undertake reconstruction work to bring the site into compliance. Alternatively, when credits have not been withdrawn or transferred, the board may vacate the conservation and access easement and close the account. The board and local government unit may require reimbursement of reasonable costs of bringing the site into compliance or vacating the conservation and access easement.

D. Fee owners, banking plan applicants, or account holders may appeal restrictions on credit deposits, withdrawals, and transfers or demands for reimbursement of reconstruction costs to the board.

E. Noncompliance with easement conditions or impacts to bank sites are subject to enforcement under part 8420.0900.

**Statutory Authority:** *MS s 103G.2242*

**History:** *34 SR 145*

**Published Electronically:** *August 26, 2009*