

Wetland Mitigation Banks, Chapter 173-700 WAC

Due to the low success rate of compensatory wetland mitigation, the 1998 Washington State Legislature initiated a review of wetland protection rules. This review led to the adoption of RCW 90.84, *Wetlands Mitigation Banking*. This law:

- Expresses the Legislature's support of wetland banking as an important option for compensatory mitigation.
- Affirms the state's authority to regulate wetland banking.
- Sets minimum guidelines for establishing banks.
- Directs the Department of Ecology (Ecology) to develop a rule to establish a statewide certification program for wetland mitigation banks. This helps ensure that banks are ecologically sustainable and can effectively compensate for unavoidable impacts to wetlands.

Ecology convened a negotiated rule team in 1998 to draft rule language. In 2001, this team completed drafting proposed language for 173-700 WAC. Ecology tested the draft rule language under a five year pilot program which began in 2004.

Ecology has now finalized the rule language based on the lessons learned from the pilot program and comments received throughout the rule-making process.

The goals of the proposed rule are to:

- Provide timely review of wetland mitigation bank proposals.
- Establish coordination among state, local, tribal, and federal agencies involved in certifying wetland mitigation banks.
- Ensure consistency with existing federal rules on compensatory wetland mitigation.
- Encourage bank sponsors to locate and design wetland mitigation banks to provide the greatest ecological benefits.

WHY IT MATTERS

Ecology believes that wetland banks can provide a good option for mitigating wetland losses.

Wetland banks:

- Reduce the time lag between the lost or reduced wetland functions and values and the compensation for those impacts (temporal loss).
- Provide mitigation that supports local watershed restoration priorities.
- Combine the mitigation needs of many small projects into one larger wetland complex.
- Provide for long-term protection, management, and maintenance of the compensatory wetlands.

IMPORTANT DATES

Adoption Date: Sept. 3, 2009

Effective Date: Oct. 4, 2009

Contact information:

Yolanda Holder
360-407-7186
yhol461@ecy.wa.gov

Special accommodations:

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Response to Comments

Ecology's response to comments received during the public comment period is now available. Download a copy at: www.ecy.wa.gov/laws-rules/activity/wac173700.html

Whom does this rule affect?

- Those parties proposing wetland banks.
- Developers looking for mitigation options.
- Local jurisdictions.
- Tribal governments.

More information

Wetland mitigation banking rule documents:

www.ecy.wa.gov/laws-rules/activity/wac173700.html

Wetland mitigation banking website:

www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking

To stay informed about the banking program, join the wetland banking listserv:

listserv.wa.gov/cgi-bin/wa?A0=WETLAND-MITIGATION-BANKING

To get updates on Ecology's rule-making activities, sign-up for the **WAC Track** e-mail list:

www.ecy.wa.gov/maillist.html

Appeal procedures

This adoption can be appealed under procedures described in the Administrative Procedure Act (RCW 34.05.330). For additional information about appealing this adoption please contact Jerry Thielen, Ecology's Regulatory Affairs Manager, at (360) 407-7551 or by email jthi461@ecy.wa.gov.