



FREQUENTLY ASKED QUESTIONS REGARDING WETLAND MITIGATION BANKING

Q: *How does mitigation banking differ from more traditional mitigation?*

A: In the past, requirements for mitigation have been met on a permit-by-permit basis. The permit applicant is responsible for designing, constructing, and maintaining new wetlands in accordance with permit conditions. Replacement wetlands are most often constructed during or after the loss of existing wetland functions.

When wetland mitigation bank credits are purchased and used, the legal responsibility for establishment and maintenance of wetlands shifts to the bank sponsor. These wetlands are generally established in advance of permitted losses. A mitigation bank is typically used to offset wetland losses associated with several permits, rather than a single project.

Q: *I own property which includes natural wetlands. Can these wetlands be placed in a mitigation bank?*

A: Usually, no. Wetland mitigation banks will generally consist of wetlands restored or created under a formal mitigation banking agreement between the "bank sponsor" and the DEQ, not currently existing wetlands. However, under certain exceptional circumstances, partial credit may be allowed for the preservation of outstanding wetland resources. No more than 15 percent of the acreage in a mitigation bank may be for the preservation of outstanding natural wetlands.

Q: *Can I create a mitigation bank in an undeveloped part of the state and use the credits in another, rapidly developing area?*

A: Because the purpose of mitigation is to replace the public benefits, such as flood control and water quality protection, which are lost when wetlands are impacted by development, mitigation must generally be located in the same watershed as the impact. If the only significant function which needs to be replaced is habitat for plants or animals which do not rely on watershed boundaries, such as migratory songbirds, mitigation may be within the same ecoregion (a mapped area of relatively uniform landscape characteristics and habitat).

Q: *Will it be easier to get a wetland permit if I use a mitigation bank?*

A: No. Permit decisions are based solely on criteria outlined in the Wetland Protection Part (Part 303) of the Natural Resources and Environmental Protection Part, and are not influenced by the availability of mitigation. However, the use of a mitigation bank may make it easier to comply with the conditions of a permit if and when it is issued.

Q: *Who can sponsor a mitigation bank?*

A: A mitigation bank can be sponsored by any public or private person or organization. It can also be sponsored by a partnership between public and/or private groups. For example, a bank may be designed and constructed by a private company, but ultimately turned over to a non-profit environmental organization or unit of government for long term management.

Q: *What happens to the wetland established in the bank after all of the "credits" are sold or used?*

A: The wetlands in the bank must be maintained in perpetuity. Long term management and protection of the wetlands in the bank is the legal responsibility of the mitigation bank sponsor, and a long term management plan must be developed before the bank is established.

Q: *How can I find out where mitigation credits are available for sale?*

A: The DEQ maintains a registry of mitigation bank credits to inform the public as to where credits have been established and where they are available for sale.

Q: *Who will decide if I can use a mitigation bank to meet the requirement of my permit?*

A: DEQ Water Resources Division staff must approve the mitigation for each wetland permit, including proposed use of credits from a particular mitigation bank. They will determine whether off-site mitigation is appropriate, and whether the proposed bank will replace the wetland functions which are being lost.

Q: *Will I ever be required to use a wetland mitigation bank instead of constructing my own mitigation site?*

A: No. A permit applicant may always choose to meet mitigation requirements by designing and constructing an individual mitigation site.

The Administrative Rules for Wetland Mitigation Banking (R 281.951 - 281.961) should be consulted for details of the mitigation banking process.

For additional information, contact:

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