



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 04-13

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 04-15-045 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Wetland Mitigation Banks, Chapter 173-700 WAC

The purpose of the rule is to provide a predictable, efficient, regulatory framework for the review of bank proposals and the certification of environmentally responsible wetland mitigation banks consistent with existing federal guidance on compensatory wetland mitigation banks.

The rule includes procedures for the certification, operation, monitoring and implementation of wetland mitigation banks. The rule contains procedures for certification and technical requirements for the implementation of wetland mitigation banks. The rule includes compliance procedures and the appeals process for wetland mitigation bank certifications.

Other identifying information: The proposed rule applies to both public and private wetland mitigation banks. Credits from certified wetland mitigation banks may be used to compensate for unavoidable wetland impacts authorized under state or local permits.

<p>Hearing location(s):</p> <p>See Attachment A</p> <p>Date: _____ Time: _____</p>	<p>Submit written comments to:</p> <p>Name: Yolanda Holder Address: Department of Ecology Shorelands and Environmental Assistance Program PO Box 47600 Olympia, WA 98504-7600 e-mail: yhol461@ecy.wa.gov fax: (360) 407-6902 Received by: 5pm on April 23, 2009</p>
<p>Date of intended adoption: <u>July 31, 2009</u> (Note: This is NOT the effective date)</p>	<p>Assistance for persons with disabilities: Contact <u>Max Willis at 360-407-6908 by April 1, 2009</u></p> <p>Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.</p>

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rule is to encourage wetland mitigation banking by providing an efficient, predictable statewide framework for the certification and operation of environmentally sound banks. This rule sets out to accomplish the following:

1. Provide timely review of bank proposals;
2. Establish coordination among state, local, tribal, and federal agencies involved in the certification of banks;
3. Ensure consistency with existing federal mitigation rules;
4. Provide incentives to encourage bank sponsors to locate and design banks that provide the greatest ecological benefits.

Reasons supporting proposal: The legislature required the department, in RCW 90.84, to adopt rules for the “certification, operation and monitoring of wetland mitigation banks.” The statute also directed that the rule provide a “predictable, efficient, regulatory framework” for the certification of wetland mitigation banks.

Statutory authority for adoption: Chapter 90.84 RCW, Wetlands Mitigation Banking	Statute being implemented: Chapter 90.84 RCW, Wetlands Mitigation Banking
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Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION: _____

DATE
3/2/09

NAME (type or print)
Polly Zehm

SIGNATURE
Polly Zehm

TITLE
Deputy Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 03, 2009
TIME: 2:44 PM

WSR 09-06-086

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington State Department of Ecology

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Yolanda Holder Lauren Driscoll	Ecology HQ, SEA Program, Lacey, WA	(360) 407-7186 (360) 407-7045
Implementation....	Kate Thompson Christina Merten	Ecology HQ, SEA Program, Lacey, WA	(360) 407-6749 (425) 649-7007
Enforcement.....	Lauren Driscoll	Ecology HQ, SEA Program, Lacey, WA	(360) 407-7045

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Yolanda Holder
Address: Department of Ecology
Shorelands and Environmental Assistance Program
PO Box 47600
Olympia, WA 98504-7600

phone (360) 407-7186
fax (360) 407-6902
e-mail yhol461@ecy.wa.gov

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Yolanda Holder
Address: Department of Ecology
Shorelands and Environmental Assistance Program
PO Box 47600
Olympia, WA 98504-7600

phone (360) 407-7186
fax (360) 407-6902
e-mail yhol461@ecy.wa.gov

No: Please explain: