WETLANDS

The goal is to avoid impacts to wetlands. However, if avoidance is not practicable, then the project should minimize the impacts and compensate for the impacts by providing mitigation.

I. DESIGNATION AND RATING WETLANDS

A. Designating wetlands. Wetlands are those areas, designated in accordance with the *Washington State Wetland Identification and Delineation Manual*, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances to support, a prevalence of vegetation adapted for life in saturated soil conditions.

B. Wetland ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, *Ecology Publication #93-74*, Eastern Washington. *Ecology Publication 91-58*), as revised.

II. COMPENSATORY MITIGATION REQUIREMENTS

A. Compensatory mitigation. In cases where avoidance is not practicable, impacts should be minimized and compensatory mitigation should be provided.

B. Mitigation shall achieve equivalent or greater functions. Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater wetland functions. Mitigation plans shall be consistent with the Department of Ecology *Guidelines for Development Freshwater Wetlands Mitigation Plans and Proposals*, 1994, as revised.

C. Compensation for wetland area. Wetland mitigation actions shall not result in a net loss of wetland area except when the following criteria are met:

1. The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determine by a site-specific function assessment; or

2. The lost wetland area provides minimal functions as determined by a site-specific function assessment and other replacement habitats provide greater benefits to the functioning of the watershed, such as riparian habitat restoration and enhancement.

D. Compensation for wetland functions. Mitigation actions shall address functions affected by the alteration to achieve equal or greater hydrologic and biological functions, and shall provide similar wetland functions as those lost, except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide functions shown to be limiting within a watershed through a formal watershed assessment plan or protocol; or

2. Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.

E. Preference of compensatory mitigation actions. Mitigation actions that require compensation shall be approved according to the following order of preference:

1. Restoring wetlands on upland sites that were formerly wetlands.

2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.

3. Enhancing significantly degraded wetlands.

4. Preserving high-quality wetlands that are under imminent threat.

F. Wetlands enhancement as mitigation

1. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must identify how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

G. Wetland preservation as mitigation. Impacts to wetlands may be mitigated by preservation of wetland areas, protected in a separate tract or easement, when used in combination with other forms of mitigation such as creation, restoration, or enhancement at the preservation site or at a separate location. Preservation may also be used by itself, if the following conditions are met:

1. Preservation is used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied;

2. Creation, restoration, and enhancement opportunities have also been considered, and preservation is the best mitigation option;

3. Preservation of a high quality system occurs in the same Water Resource Inventory Area (WRIA) or a watershed where the wetland impact occurs;

4. Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation;

5. The preservation site is determined to be under imminent threat, specifically, sites with the potential to experience a high rate of undesirable ecological change due to on- or off-site activities. ("Potential" includes permitted, planned, or likely actions that are not adequately protected under existing regulations [for example, logging of forested wetlands]); and

6. The area proposed for preservation is of high quality and critical for the health of the watershed or basin. Some of the following features may be indicative of high quality sites:

    a. Category I or II wetland rating;

    b. Rare wetland type (for example, bogs, mature forested wetlands, estuaries);

    c. Habitat for threatened or endangered species;

    d. Wetland type that is rare in the area;

    e. Provides biological and/or hydrological connectivity;

    f. High regional or watershed importance (for example, listed as priority site in watershed plan); and

    g. Large size with high species diversity (plants and/or animals) and/or high abundance.

H. Preference for location of mitigation. Mitigation actions shall be conducted in an appropriate location to adequately replace lost functions as determined above.

The following sequence of steps should be undertaken to determine if a location will have a high likelihood of success due to an adequate source of water, ability to control invasive species, appropriate adjacent land uses and development pressures, adequate buffers, connectivity to other habitats and other relevant factors:

1. An evaluation of on-site opportunities;

2. An evaluation of opportunities within the same sub-basin or Watershed Assessment Unit;

3. An evaluation of opportunities within the same Water Resource Inventory Area (WRIA)

4. Mitigation actions shall not be located outside of the same WRIA unless

   a. Regional or watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been formally established and strongly justify location of mitigation at another site; or

   b. Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

I. Mitigation timing. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

The Council may authorize temporary delay, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety and general welfare of the public.

III. WETLAND BUFFERS

A. Standard buffer widths. The Council shall require appropriate buffer widths in accordance with the recommendations of a qualified professional biologist and the best available science on a case-by-case basis to protect wetland functions and values based on site-specific characteristics.

B. Wetland buffer width averaging. The Council may allow modification of a uniform wetland buffer width in accordance with the recommendation of a qualified professional biologist and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands professional demonstrates that:

1. It will not reduce wetland functions or values;

2. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places.

3. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer.

C. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use.

D. Buffer conditions shall be maintained. Wetland buffers shall be retained in an undisturbed condition.

E. Buffer uses. The following uses may be permitted within a wetland buffer, provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Conservation and restoration activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

2. Passive recreation. Passive recreation facilities including:

a. Walkways and trails;

b. Wildlife viewing structures and fishing access areas, provided that these facilities and their access trails are the minimal necessary to provide access and only if they are consistent with protecting the functions and values of the wetland.

3. Stormwater management facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within wetland buffers, provided that

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland.