

WAC 173-700-104 Definitions. "Adaptive management activities"

means actions taken by the bank sponsor on their own to correct any deficiencies on the site in order for the site to attain the required performance standards. The adaptive management activities shall be identified in the mitigation banking instrument.

"Agricultural lands of long-term commercial significance" or **"ALLCS"** means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production. Long-term commercial significance includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

"Aquatic resources" means those areas where the presence and movement of water is a dominant process affecting their development, structure, and functioning. Aquatic resources may include, but are not limited to, vegetated and nonvegetated wetlands or aquatic sites (e.g., mudflats, deepwater habitats, lakes, and streams).

"As-built plans" means a document which describes the physical, biological, and, if required, the chemical condition of a bank site after complete construction of each phase of an approved construction plan. As-built plans serve as a baseline from which to manage and monitor the site.

"Available credits" means a potential credit that has been released by the department after a bank attains the performance standards specified in the instrument.

"Bank" or **"wetland mitigation bank"** means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification.

"Bank sponsor" or **"sponsor"** means any public or private entity responsible for establishing and, in most circumstances, operating a bank.

"Buffer" means those areas on the perimeter of a bank site that enhance and protect a wetland's functions and values by maintaining adjacent habitat and reducing adverse impacts from adjacent land uses. These areas are vegetated and can reduce impacts through various physical, chemical, and/or biological processes.

"Compensatory mitigation" means the restoration, creation, enhancement, or in exceptional circumstances, the preservation of wetlands or other aquatic resources for the purpose of compensating for unavoidable impacts to wetlands or other aquatic resources which remain after all appropriate and practicable avoidance and minimization have been achieved.

"Consensus" means a process by which a group synthesizes its ideas and concerns to form a common collaborative agreement acceptable to all members.

"Cowardin class" means the classification of a wetland area as described in *Classification of Wetlands and Deepwater Habitats of the United States* USFWS publication FWS/OBS 79/31.

"Creation" means the establishment of wetland area, functions, and values in an area where none previously existed. Creation may also be known as establishment.

"Credit" means a unit of trade representing the increase in the ecological value of the bank site, as measured by acreage, functions, or by some other assessment method.

"Cultural resources" means sites, structures, buildings, districts, lands, landscapes, and objects that have historical, archaeological, and traditional cultural significance. Cultural resources are the tangible and material evidence of the human past.

"Days" means calendar days.

"Debited credit"

(1) An available credit that has been withdrawn from the bank to meet regulatory requirements.

(2) A reserved credit that has been used to meet a regulatory requirement.

"Debit project" means those projects that use credits from a bank to fulfill regulatory requirements for compensation of impacts. These projects may require more than one regulatory approval under federal, state, and local rules.

"Department" means the department of ecology.

"Enhancement" means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

"Financial assurance" means the money or other form of financial instrument (e.g., surety bonds, trust funds, escrow accounts, proof of stable revenue sources for public agencies) required of the sponsor to ensure that the functions of the bank are achieved and maintained over the long term.

"Function assessment" means an evaluation of the degree to which a wetland is performing, or is capable of performing, specific wetland functions and processes. Function assessments include the use of scientifically based quantitative and qualitative methods developed for assessing functions, as well as the use of best professional judgment.

"Hydrogeomorphic classification" or **"HGM class"** means a wetland classification scheme that groups wetlands based on their location in the landscape and water regime.

"Indian Country" means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights of way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights of way running through the same.

"Instrument" or **"mitigation banking instrument"** means the documentation of agency and sponsor concurrence on the objectives and administration of the bank. The mitigation banking instrument describes in detail the physical and legal characteristics of the bank, including the service area, and how the bank will be established and operated.

"Interagency review team" or **"IRT"** means an interagency group of federal, state, tribal, and local regulatory and resource agency rep-

representatives who are invited to participate in negotiations with the sponsor on the terms and conditions of the instrument.

"Local jurisdiction" means any local government such as a town, city, or county in which the bank site is located.

"Maintenance" includes all activities and actions necessary to ensure the successful development of a bank.

"Mitigation sequencing" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to wetlands or other aquatic resources.

"Operational life" or **"operational life of a bank"** means the period during which the terms and conditions of the instrument are in effect. With the exception of arrangements for the long-term management, permanent protection, and financial assurances, the operational life of a mitigation bank terminates at the point when:

(1) Available credits have been exhausted and the bank is determined to be functionally mature and self-sustaining to the degree specified in the instrument; or

(2) The sponsor voluntarily terminates the banking activity with written notice to the department.

"Performance standards" are measurable criteria for determining if the project goals and objectives are being achieved. Performance standards document a desired state, or amount of change necessary to indicate that a particular function is being performed or structure has been established as specified in the design.

"Potential credit" means a credit anticipated to be generated by the bank, but is not currently available for use.

"Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

"Preservation" means the permanent protection of ecologically important wetlands or other aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection or enhancement of the aquatic systems, or both. Preservation does not result in a gain of aquatic resource area or functions.

"Prime farmland soils" means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

"Prospectus" is the conceptual proposal for a bank project.

"Reestablishment" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions. Reestablishment falls under the broader term of restoration.

"Rehabilitation" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repair-

ing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

"Remedial actions" means actions required by the department to correct any deficiencies on the site in order for the site to attain the required performance standards. Remedial actions may be required by the department to gain compliance by the sponsor with this chapter.

"Reserved credit" means an available credit that has been withdrawn from the bank but which is not associated with a specific regulatory requirement at the time of purchase. Purchase of reserved credits does not provide any guarantee that a project will be authorized under existing regulatory programs. Reserved credits are purchased at the buyer's sole risk.

"Restoration" is a broad term referring to both reestablishment and rehabilitation.

"Service area" means the designated geographic area in which a bank can reasonably be expected to provide appropriate compensation for unavoidable impacts.

"Signatories" means those entities that have documented their concurrence with the terms and conditions of the instrument through their signature on the document.

"Sustainability" means the ability of a bank to persist in the landscape and maintain its functions in anticipation of future development needs within the watershed. Sustainable bank sites must have sufficient buffer areas to protect the site from degradations due to activities on adjacent lands.

"Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

"Urban areas" means areas located within a designated urban growth area.

"Water resource inventory areas" or **"WRIA"** refers to Washington state's sixty-two major watershed basins as described in chapter 173-500 WAC, water resources management program established pursuant to the Water Resources Act of 1971, as amended.

"Watershed characterization" means an approach to identify and map areas within a watershed that are most important to support a watershed process. It identifies the degree of impairment to these areas, and identifies areas most important for protection and restoration.

"Watershed processes" means the dynamic physical and chemical interactions that form and maintain the landscape and ecosystems on a geographic scale of watersheds to basins (hundreds to thousands of square miles). The most important factors include the movement of water, sediment, nutrients, pathogens, toxic compounds, and wood.

"Watershed-based approach to mitigation" means an analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs. A landscape perspective is used to identify the types and locations of compensatory mitigation projects that will benefit the watershed and offset losses of aquatic resource functions and services caused by authorized activities. The watershed approach may involve consideration of landscape scale, historic, and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources when determining compensatory mitigation requirements.

"Wetland(s)" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

[Statutory Authority: Chapter 90.84 RCW. WSR 09-19-013 (Order 04-13), § 173-700-104, filed 9/3/09, effective 10/4/09.]