

Chapter 200-130 WAC

FLOOD MITIGATION STANDARDS FOR STATE AGENCIES

WAC

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WAC 200-130-001 Authority. Pursuant to the authority granted by RCW 43.19.760, 43.19.781, and 43.17.060, the director of the department of enterprise services establishes the following risk management standards to be followed by all state agencies on flood mitigation.

[Statutory Authority: RCW 43.19.011, 43.19.620, 43.19.985, 43.19.742, 43.19.769, 39.26.080, 39.26.090, 39.26.251, 39.26.255, and 39.26.271. WSR 15-23-062, § 200-130-001, filed 11/13/15, effective 12/14/15. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-001, filed 11/17/11, effective 11/17/11. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-001, filed 4/2/91, effective 5/3/91.]

WAC 200-130-010 Purpose. The purpose of these standards is to discourage state development on flood plains whenever there is a practical alternative. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

[Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-010, filed 11/17/11, effective 11/17/11. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-010, filed 4/2/91, effective 5/3/91.]

WAC 200-130-011 Objectives. The objectives of these flood mitigation standards are:

- (1) To protect the people and the property of the state from unnecessary loss due to flood;
- (2) To restore and preserve the natural and beneficial values served by flood plains;
- (3) To minimize the impact of state development on wet lands and known flood plains;
- (4) To comply with chapter 86.16 RCW, Flood plain management, in which the state of Washington has adopted the National Flood Insurance Program regulations of the Federal Emergency Management Agency for flood plain management. The participation of the state in this program allows flood insurance to be sold to both the private and public sector, and satisfies some of the conditions necessary for the state to be self-insured for flood coverage, under the National Flood Insurance Program;
- (5) To comply with the requirements of the National Flood Insurance Program, thereby permitting state agencies to be eligible for federal financial assistance, including disaster relief funds for the replacement, permanent repair, or reconstruction of insurable state-owned properties damaged by the flood; and
- (6) To ensure that the state of Washington and its agencies are eligible to obtain flood insurance, or to be approved

(11/13/15)

for self-insurance by the Federal Insurance Administrator under the National Flood Insurance Program.

[Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-011, filed 11/17/11, effective 11/17/11. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-011, filed 4/2/91, effective 5/3/91.]

WAC 200-130-012 Application. These standards apply uniformly to:

- (1) All state agencies;
- (2) Projects and proposals for state-owned developments, new construction, and property undergoing substantial improvement; and
- (3) New leases except for existing leases or renewed leases.

[Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-012, filed 11/17/11, effective 11/17/11. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-012, filed 4/2/91, effective 5/3/91.]

WAC 200-130-013 Definitions. (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate including, but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC 200-130-001 through 200-130-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the state risk manager, department of enterprise services, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, which is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which

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equals or exceeds fifty percent of the fair market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

[Statutory Authority: RCW 43.19.011, 43.19.620, 43.19.985, 43.19.742, 43.19.769, 39.26.080, 39.26.090, 39.26.251, 39.26.255, and 39.26.271. WSR 15-23-062, § 200-130-013, filed 11/13/15, effective 12/14/15. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-013, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 43.17.060 and chapter 43.19 RCW. WSR 00-01-104, § 236-100-013, filed 12/16/99, effective 1/16/00. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-013, filed 4/2/91, effective 5/3/91.]

WAC 200-130-014 Responsibilities of each state agency. (1) Each state agency is responsible for reducing the liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial management and shall include a statement that the project or proposal meets the requirements of WAC 200-130-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

[Statutory Authority: RCW 43.19.011, 43.19.620, 43.19.985, 43.19.742, 43.19.769, 39.26.080, 39.26.090, 39.26.251, 39.26.255, and 39.26.271. WSR 15-23-062, § 200-130-014, filed 11/13/15, effective 12/14/15. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-014, filed 11/17/11, effective 11/17/11. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-014, filed 4/2/91, effective 5/3/91.]

WAC 200-130-015 Flood mitigation standards. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then adhere to the regulations of the National Flood Insurance Program (44 C.F.R. Ch. 1).

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

- (a) One foot above the one hundred-year flood elevation;
- or

- (b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC 200-130-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the office of risk management pursuant to WAC 200-130-016(2).

[Statutory Authority: RCW 43.19.011, 43.19.620, 43.19.985, 43.19.742, 43.19.769, 39.26.080, 39.26.090, 39.26.251, 39.26.255, and 39.26.271. WSR 15-23-062, § 200-130-015, filed 11/13/15, effective 12/14/15. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-015, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 43.17.060 and chapter 43.19 RCW. WSR 00-01-104, § 236-100-015, filed 12/16/99, effective 1/16/00. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-015, filed 4/2/91, effective 5/3/91.]

WAC 200-130-016 Exemptions. (1) Exemptions from the elevation requirements of WAC 200-130-015(3) are granted automatically for:

(a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);

(b) Roads, bridges, and highway facilities.

(2) All other exemptions from the elevation requirements of WAC 200-130-015 must be granted by the department of enterprise services, office of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of Enterprise Services, 1500 Jefferson Street S.E., MS: 41466, Olympia, WA 98504-1466. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of Enterprise Services, 1500 Jefferson Street S.E., MS: 41401, Olympia, WA 98504-1401 within thirty days of the date of the denial letter.

[Statutory Authority: RCW 43.19.011, 43.19.620, 43.19.985, 43.19.742, 43.19.769, 39.26.080, 39.26.090, 39.26.251, 39.26.255, and 39.26.271. WSR 15-23-062, § 200-130-016, filed 11/13/15, effective 12/14/15. Statutory Authority: 2011 c 43. WSR 11-23-093, recodified as § 200-130-016, filed 11/17/11, effective 11/17/11. Statutory Authority: RCW 43.17.060 and chapter 43.19 RCW. WSR 00-01-104, § 236-100-016, filed 12/16/99, effective 1/16/00. Statutory Authority: Chapters 43.17 and 43.19 RCW. WSR 91-08-057, § 236-100-016, filed 4/2/91, effective 5/3/91.]