

~~(2) The Department may accept monetary compensation only if it is determined that A MITIGATION BANKING PROJECT OR OTHER creation, restoration, or enhancement of nontidal wetlands are not feasible alternatives. Monetary compensation may not be a substitute for the requirement to avoid and minimize nontidal wetland losses.~~

(c) (3) Funds in the Nontidal Wetland Compensation Fund may be used only for the creation, restoration, or enhancement of nontidal wetlands, INCLUDING A MITIGATION BANKING PROJECT:

(I) ACQUISITION OF LAND;

(II) ACQUISITION OF EASEMENTS;

(III) MAINTENANCE OF MITIGATION SITES;

(IV) PURCHASE OF CREDITS IN MITIGATION BANKS; AND

(V) CONTRACTUAL SERVICES NECESSARY TO ACCOMPLISH THE INTENT OF THIS PARAGRAPH.

8-1209.1.

(A) THE GENERAL ASSEMBLY DECLARES THAT:

(1) IN THE APPLICATION REVIEW PROCESS, ONE OF THE PRIMARY MITIGATION ISSUES IS LOCATING THE MOST BENEFICIAL AREA TO CONDUCT WETLAND RESTORATION, CREATION, OR ENHANCEMENT;

(2) WHERE UNAVOIDABLE LOSSES OR DEGRADATIONS OCCUR AS A RESULT OF PERMITTED HUMAN ACTIVITY, THERE EXISTS A SEQUENTIAL PROCESS FOR MITIGATION SITE LOCATION WHICH INCLUDES CONSIDERATION OF ON-SITE ALTERNATIVES;

(3) MITIGATION BANKING, WHICH ALLOWS A PERSON TO RESTORE, ENHANCE, OR CREATE A FUNCTIONAL WETLAND ECOSYSTEM, MAY OFFER A SOUND MITIGATION ALTERNATIVE AND MAY PROVIDE AN OPPORTUNITY TO CONTRIBUTE TO THE GOAL OF NO NET LOSS IN WETLANDS ACREAGE AND FUNCTION; AND

(4) MITIGATION BANKING DOES MAY NOT ALTER THE REGULATORY REQUIREMENTS OF § 8-1207 OF THIS SUBTITLE.

(B) THE DEPARTMENT SHALL DEVELOP STANDARDS AND ADOPT REGULATIONS FOR THE CREATION OF WETLAND MITIGATION BANKS, INCLUDING:

(1) THE TYPES AND LOCATIONS OF WETLANDS TO BE RESTORED, CREATED, OR ENHANCED AND THE TYPES AND LOCATIONS OF WETLANDS TO BE FILLED FOR WHICH A PERSON MAY OBTAIN CREDIT THROUGH A MITIGATION BANK;

(2) THE TYPES AND NUMBER OF CREDITS AVAILABLE THROUGH THE BANK TO OFFSET EACH ACRE OF LOSSES BY ACREAGE AND BY FUNCTION OF A WETLAND TO BE FILLED;