

Comments on Draft Wetland Rules

Ohio EPA
401/wetlands Section
November 8, 2006

Main Topics of Comments

- Mitigation Location – Watershed Approach
- Mitigation Ratios – Upland Buffers
- Mitigation Type – In Kind, Out-of-Kind
- Monitoring, Assessment, Performance Standards
- Wetland Tiered Aquatic Life Uses, Technical Documents, Science
- Avoidance, Minimization, Enforcement
- Cost Analysis/Financial Assessment

Mitigation Location/Watershed

- All mitigation within same 14 digit HUCs
- Problems with cost & quality in 14 digit HUCs – retain 8 digit HUC watersheds
- Banks are too far removed from impacts
- Need criteria to demonstrate when within watershed cannot be done
- Ohio Rules inconsistent with Federal rules
- Urban wetland mitigation needs to be urban

Mitigation Ratios – Upland Buffers

- Opposed to 3:1 to 1:1 reduction for all Cats.
- If perf. standards met, ratios are too high
- 2:1 of \geq quality too high for Cat. 1s
- Higher ratios to compensate for poor quality
- Upland buffer regs. exceed OEPA authority
- UBs need to be wider to protect quality

In-Kind, Out-of-Kind

- OEPA is not measuring functions
- Some functions on-site, others off-site
- Need flexibility to provide what's needed
- OEPA classification system inconsistent
- Favors individual projects over banks
- Costly and time consuming

Monitoring, Assessment, Performance Standards

- Mitigation wetlands should not be compared to natural wetlands
- Mitigation requirements should vary with size and quality of impacted wetlands
- Adds expense, time and complication
- Performance standards assure quality of mitigation
- Permanent protection is unreasonable

Wetland TALUs, Technical Documents, Science

- Use of IBIs should not replace ORAM
- Question if rules are based on sound science
- No external input or peer review of IBIs
- OEPA reports document poor quality of mitigation

Avoidance, Minimization, Enforcement

- There needs to be more emphasis on avoidance rather than mitigation
- Best mitigation is low Cat. 2, need to add protection to wetlands of higher quality
- There needs to be tougher enforcement and increased penalties
- Need more inspections of development sites and mitigation projects
- Urban wetlands need extra protection

Cost Analysis/Financial Assessment

- Rules will add cost, time and confusion – need a detailed financial assessment
- Developers have not been shouldering the real cost associated with impacting wetlands
- Rules will at least double mitigation costs
- Rules will have serious negative impacts on the economy

Thank you!