

Frequently Asked Questions about the PCILF Program

So, you want to use the PCILF Program? Here's what you need to know:

1. What is the PCILF Program?

The Pierce County In-Lieu Fee (PCILF) Program is a voluntary program providing an option to developers needing wetland mitigation. The goal of this program is to provide this alternative while addressing ecosystem needs at the local watershed level.

With the one-time payment to purchase In-Lieu Fee Credits, a developer's obligations to compensate for unavoidable adverse impacts to wetlands or other aquatic resource areas are transferred to the sponsor of the PCILF program (Pierce County).

2. What is the cost to use the PCILF Program?

The greatest cost to use the program consists of the credit fee. Two things comprise this fee: the cost of each credit (or fraction of a credit) and the number of credits needed to offset any given impact. There is also a \$50 application fee when applying to use the PCILF program. The typical PALS submittal fees still apply as well.

How Much Does a Credit Cost?

The initial price of a single credit within the Chambers/Clover Creek Watershed is \$40,000. The initial credit price in the Nisqually Watershed is \$30,000.

A full credit will not always be needed; credits can be purchased in increments as small as 1/100th of a credit (costing \$400 and \$300, respectively). For example, one recent project in the Chambers/Clover Creek watershed will need sixth-tenths of a credit; the cost for those fractions of a credit will be \$26,000.

These credit prices will be reviewed annually. Prices may change based on actual and projected costs to run the PCILF program.

How Many Credits will I need?

This question is not as easily answered. The number of credits needed depends upon the types and levels of functions the impacted wetland was providing, as well as on the area of wetland impact.

But, The Price of Credits is Far Too Much

Pierce County is aware of concerns that the purchase of PCILF credits appears more costly than the cost to developers of providing their own, permittee-responsible

mitigation (PRM). In many cases, the purchase of PCILF credits will exceed the direct costs associated with PRM. However, new (2008) federal regulations now affect PRM and the cost of PCILF credits are expected to be comparable to PRM once the costs of performance monitoring, contingencies, and long term management are included.

Pierce County will do all that we can to keep the price of credits low. We will look for efficiencies in wetland restoration and will attempt to benefit from economy of scale (an outcome of implementing larger, consolidated mitigation sites). If we can find a way to implement sites and administer the program for less than we anticipate, the price of credits will come down.

3. Why would I want to use the PCILF Program?

The purchase of PCILF program credits is an alternative to traditional on-site mitigation--referred to as permittee-responsible mitigation (PRM).

The advantage of the PCILF program is that the developer will pay a one-time fee and then all obligations to design, construct, monitor, and maintain a mitigation site are transferred to the PCILF program sponsor. The design and implementation of a compensatory mitigation project will no longer be a factor in overall project scheduling.

In many cases, state or federal permit reviewers will request that applicants consider the purchase of PCILF program credits to meet their mitigation obligations. The Federal Rule for Compensatory Mitigation for Losses of Aquatic Resources (33 CFR 332.3(b)(2) through (b)(6)) states an order of preference for providing the required compensatory mitigation:

- 1) Mitigation bank credits (if a mitigation bank has a service area that includes the impact area). There are, however, no mitigation banks within Pierce County at this time.
- 2) In-lieu fee program credits (where the permitted impacts are located within the service area of an approved ILF program); then
- 3) Permittee-responsible mitigation.

In some cases, PRM may still prove to be more practicable and ecologically preferable. See also Question #4—Do I *have* to use the PCILF Program?

4. Do I *have* to use the PCILF Program?

Not necessarily. As noted above, the Corps of Engineers or Department of Ecology may direct an applicant to use the PCILF program but they also have flexibility in applying the above-mentioned Federal Rule hierarchy.

If permittee-responsible mitigation (PRM) is required by a state or local government and the Corps and Ecology agree the proposed PRM will appropriately offset the permitted impacts, then the Corps and Ecology may approve it even if a mitigation bank or ILF

program is available. In short, if an applicant proposes an ecologically sound on-site PRM design utilizing a watershed approach, it will be given serious consideration by permitting authorities.

5. Pierce County has approved my mitigation plan. Do I still need to use the PCILF program?

If Pierce County has already approved your mitigation plan, you will not need to submit a revised mitigation plan unless the Corps of Engineers or Dept. of Ecology directs you to use the PCILF program. However, as discussed in question # 4, if you are able to demonstrate to these regulatory agencies that you have developed a satisfactory mitigation plan, you would most likely not be required to use the PCILF program.

That said; even if Pierce County has approved your PRM mitigation plan, you always have the *option* to propose to use the PCILF program to satisfy the Pierce County Critical Areas review process. Doing so would require that you submit an ILF use plan, which would be a revision to your mitigation plan.

6. Could there be a situation where I might be required to provide mitigation onsite even though I am buying credits from the PCILF program?

YES.

The PCILF program provides an *alternative* to on-site, permittee responsible mitigation. Developers will not be required to provide on-site mitigation for impacts that will be mitigated through the purchase of PCILF program credits, or vice versa. However, in some cases, regulatory authorities may determine that some wetland/aquatic resource functions *must* be replaced on site (because, for instance, of their role in supporting local hydrology, water quality, or supporting some other site-specific limiting factor). In these cases a decoupling approach may be taken: developers would be required to provide partial on-site mitigation (to replace some functions) and the remainder of the required mitigation could be met by the purchase of PCILF credits.

7. Is it now okay to just go ahead and fill wetlands, since the PCILF program can mitigate for wetland disturbances?

NO.

It is still necessary to follow the complete mitigation sequence, as codified in local, State, and Federal regulations. This sequence begins with avoidance.

The PCILF provides an alternative means of meeting obligations for compensatory mitigation after all efforts have been taken to avoid, minimize, and rectify impacts.

8. What are the steps to using the PCILF program?

All applicants must begin by following the standard review practice, as before. For Pierce County Critical Areas review, applicants will submit a master development

application, a wetland analysis report, other related documents, and associated application fees as required by PALS. The applicant will also be required to show that efforts have been taken to avoid and minimize adverse impacts to wetlands and other aquatic resource areas and that they have considered on-site mitigation options. After following the mitigation sequence (avoidance first, then minimization, etc. and finally looking to compensation) and the standard review process, a [stepwise sequence](#) is followed to purchase PCILF credits.

In short:

- 1) Upon receiving notification from the County that mitigation is necessary and that the PCILF program could be an option, Applicants will need to prepare an ILF Use Plan and submit that to the County (and other regulatory agencies) for approval.
- 2) If the ILF Use Plan is approved, a Credit Purchase Form must be submitted and approved. Then,
- 3) Applicant awaits the Credit Purchase Response and brings that to the County's Development Center (it functions as an invoice) in order to pay the credit fee and administration fee.

In limited circumstances, wetland impacts may be exempt from the mitigation requirements of the Pierce County Critical Area Regulations. Those projects may still use the PCILF program to comply with State and Federal requirements for compensatory mitigation, as may be applicable. Also, it will be necessary to provide documentation (a letter from Pierce County) verifying this exemption. An [amended sequence](#) applies to purchase PCILF credits in this scenario.

9. Can I reserve credits?

Yes; but only for a limited time. Also, credits reserved in this manner are specific to an individual project; they may not be transferred to another project or to another site.

Pierce County Code has a provision that allows applicants to make a non-refundable down payment to reserve PCILF credits once they have PALS' approval of their ILF Use Plan. Upon receiving this approval, the Applicant may opt to pay 10 percent of the credit fee, as a down payment. This will reserve the full amount of credits that will be required. This is an optional step and one the applicant may choose if they know that it will be some time before all environmental and development permits are secured and they desire the certainty of knowing that the credits will be available when they are ready to purchase them. This does not, however, lock in the price of credits and any down payment paid is non-refundable.

If an Applicant takes this approach, they will need to pay the cost of the remaining 90% of the required number credits (at the credit price at that time) when they are ready to purchase their credits (which can only occur once they have all applicable aquatic resource permits).

10. Why is the PCILF program being run by Pierce County rather than a non-governmental entity?

ILF programs (according to federal regulations) can only be sponsored by government or non-profit natural resource organizations. Pierce County Public Works (Public Works), Division of Surface Water Management (SWM), opted to act as sponsor of the PCILF program for several reasons:

- They have expertise in wetland and aquatic resource restoration.
- Providing improved wetland restoration, enhancement, and preservation aligns with SWM’s mission and strategic plan.

Initially, Public Works intended to develop this program because the department had a need for an alternative to permittee-responsible mitigation. However, the demand from Public Works’ projects alone was not enough to justify the effort to develop and implement such a program. It made sense to expand the program and to allow purchase of credits from other organizations and individuals.

After initial program development, most of which was funded with a non-matching grant from the Department of Ecology for that purpose, the Pierce County In-Lieu Fee Program will be fully supported by the sale of credits. This is a public benefit that is not placing additional demands on the Pierce County budget. The program is not subsidized and nor will it subsidize other programs or projects within the county.

11. What if my impact is not in unincorporated Pierce County?

The PCILF Instrument allows impacts within Pierce County Cities or other neighboring jurisdictions to be mitigated by the purchase of credits from the PCILF program, even when all PCILF mitigation receiving sites are in the *unincorporated* areas of Pierce County. Of course, the neighboring jurisdiction must also accept PCILF credit purchases as mitigation for impacts within their jurisdiction.