



# Special Public Notice

## Issuance of Draft Update to 2006 Guidance on Wetland Mitigation in Washington State

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This Special Public Notice announces the issuance of a draft update to the 2006 interagency guidance, *Wetland Mitigation in Washington State, Part 1*, which applies to activities affecting wetlands in the State of Washington and the Seattle District of the U.S. Army Corps of Engineers (Corps). This Special Public Notice solicits comments from the general public on Part 1 of the draft guidance. Part 2 is not being updated at this time.

The draft guidance is located at:

<https://ecology.wa.gov/Water-Shorelines/Wetlands/Mitigation/Interagency-guidance>

### **Background**

Corps and U.S. Environmental Protection Agency (EPA) regulations (33 CFR 320-331 and 40 CFR 230) and Washington State Department of Ecology (Ecology) regulations (90.48 RCW and Chapter 173-201A WAC) authorize these federal and state agencies to require compensatory mitigation for unavoidable impacts to wetlands and other waterbodies meeting the definition of “waters of the United States” or “waters of the State.”

The Corps, EPA, and Ecology are aware of the challenges associated with past compensatory mitigation projects and are committed to improving the quality and success of future mitigation. *Guidance on Wetland Mitigation in Washington State* is intended to help the regulated public meet mitigation requirements associated with federal and state permits, and help ensure future compensatory mitigation successfully compensates for impacted wetland functions.

In 2006, Ecology, the Seattle District of the Corps, and EPA Region 10 jointly published Part 1, Version 1 of Wetland Mitigation in Washington State. Since the release of the guidance, the 2008 Federal Mitigation Rule and Washington’s wetland mitigation banking rule went into effect and numerous guidance documents and tools related to compensatory mitigation have been published. The intent of this update is to incorporate and provide consistency with these rules and published documents:

- Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (2008 Federal Mitigation Rule, 33 CFR Parts 325 and 332 and 40 CFR Part 230).
- Wetland Mitigation Banks (2009 state wetland banking rule, Chapter 173-700 WAC).
- Selecting wetland mitigation sites using a watershed approach (2009 and 2010).
- Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (2012).
- Calculating credits and debits for compensatory mitigation in wetlands (2012).
- Updated Washington State Wetland Rating System (2014).

A primary reason the agencies are presenting updated mitigation guidance is to ensure consistency with the 2008 Federal Mitigation Rule. This document outlines and clarifies the agencies' requirements and expectations for wetland mitigation, particularly compensatory mitigation.

The guidance includes:

- A primer on the wetland regulatory process
- Overview of how to prepare for the wetland regulatory process
- Compensation approaches (permittee responsible, programmatic)
- Compensation methods (creation, restoration, enhancement, preservation)
- Location, amount, buffers, and aquatic resource tradeoffs
- Other considerations (Endangered Species Act, invasive species, climate change)
- Stormwater and wetlands

Please note: While the updated interagency guidance is intended to help permit applicants and consultants develop compensatory mitigation proposals, this general guidance can be superseded by project-specific mitigation requirements.

### **Commenting on this document**

We encourage you to help improve the draft updated guidance by providing your written comments to Ecology. There are three ways to submit comments:

1. Online using Ecology's [online comment form](#) (preferred method).
2. Sending an email to: [dana.mock@ecy.wa.gov](mailto:dana.mock@ecy.wa.gov) and [patricia.johnson@ecy.wa.gov](mailto:patricia.johnson@ecy.wa.gov).
3. Commenting by mail:

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### **Online public Q&A webinar**

Due to continuing health and safety concerns related to the COVID-19 pandemic and to comply with Washington State's [Safe Start Guidance](#), we will not hold in-person public events. Instead, Ecology will host a one-hour online question and answer session on Monday, October 19 at 1:30 p.m. If you would like to participate, please RSVP to [dana.mock@ecy.wa.gov](mailto:dana.mock@ecy.wa.gov) and [patricia.johnson@ecy.wa.gov](mailto:patricia.johnson@ecy.wa.gov) to receive the WebEx link for the event.

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