



# Public Notice

United States Army Corps  
of Engineers

SPECIAL NOTICE: Guidelines for Wetland Mitigation Banking and  
In-Lieu Fee Programs in Ohio, Version 2.0

Issuance Date: September 1, 2020

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Pittsburgh District

Buffalo District

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**The Ohio Interagency Review Team Releases the Guidelines for Wetland Mitigation Banking and In-lieu Fee Programs in Ohio, Version 2.0 for Application within the State of Ohio in the United States Army Corps of Engineers' Buffalo, Huntington and Pittsburgh Districts**

**JOINT PUBLIC NOTICE:** This joint Public Notice is distributed on behalf of the Ohio Interagency Review Team (IRT), which consists of the following federal and state resource agencies: United States Army Corps of Engineers (Corps) Buffalo, Huntington and Pittsburgh Districts, United States Environmental Protection Agency (USEPA), United States Fish and Wildlife Service, United States Department of Agriculture's Natural Resource Conservation Service, Ohio Environmental Protection Agency, and the Ohio Department of Natural Resources.

**AUTHORITY:** The attached document titled "Guidelines for Wetland Mitigation Banking and In-lieu Fee Programs in Ohio, Version 2.0," (Guidelines) and described below was developed by the Ohio IRT in accordance with the mitigation procedures derived from the Corps and the USEPA's final rule on Compensatory Mitigation for Losses of Aquatic Resources (Mitigation Rule), published April 10, 2008 in the Federal Register (Vol. 73, No. 70). The federal regulations associated with this final rule include 33 CFR 325 and 33 CFR 332 (federal regulation for the Corps) and 40 CFR 230 (federal regulation for the USEPA). The Mitigation Rule became effective June 9, 2008 and may be referenced in its entirety at: <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/FederalRegulation.aspx>. The Guidelines are based on regulations that contain legally binding requirements. They are not a substitute for those regulations, do not create legally binding requirements, and are not a regulation themselves.

**PROCESS:** The Ohio IRT recognized the need to update the March 2011 "Guidelines for Wetland Mitigation Banking in Ohio," based on evolving science, project reviews, and interactions with stakeholders. Stakeholder involvement is particularly important to ensure the Guidelines successfully provide transparent recommendations for establishing successful mitigation projects in the State of Ohio in compliance with the Mitigation Rule. The Ohio IRT engaged and worked with stakeholders throughout the development process for these Guidelines. The Corps facilitated formal stakeholder involvement in the development of the Guidelines by distributing and requesting public input on the Guidelines via a joint Public Notice dated June

12, 2019. The original comment period expired on July 12, 2019, but it was extended until August 4, 2019 in response to stakeholder requests. The Ohio IRT reviewed, considered, and resolved each comment received in response to the Public Notice. The Ohio IRT further engaged and worked with stakeholders during this process to fully consider their comments. In fact, some parts of the Guidelines were revised as a result of the collaboration with stakeholders.

**PURPOSE:** The purpose of this Public Notice is to distribute the Guidelines. The Guidelines are based on existing regulations and guidance, public comments received, stakeholder involvement, supporting scientific information, and technical expertise. The Guidelines represent a transparent, consistent and predictable platform of recommendations developed by the Ohio IRT to increase the likelihood for ecological success and sustainability of aquatic resources provided by mitigation banks and in-lieu fee programs. The Guidelines are not a functional or condition assessment method.

Incorporating the Guidelines' recommendations into project proposals is expected to result in more efficient review timeframes. Alternative proposals may be considered; however, if a proposal deviates from the Guidelines' recommendations, more review time may be required to ensure the requirements of the Mitigation Rule are met. Proposals that do not meet the requirements of the Mitigation Rule cannot be approved. Applicable recommendations of the Guidelines should be applied equivalently to all forms of compensatory mitigation, including permittee-responsible mitigation projects.

The Guidelines do not alter in any way the mitigation sequence specified in the Mitigation Rule (33 CFR 332) or in the Clean Water Act Section 404(b)(1) Guidelines (40 CFR 230). The Corps does not consider compensatory mitigation until adverse effects to waters of the United States have been first avoided and minimized to the maximum extent practicable.

The Guidelines may be modified by the Corps, in consultation with the Ohio IRT, based on public feedback and/or technical concerns which may arise in the future.

**NOTICE IS HEREBY GIVEN** that a virtual public meeting will be conducted by the Corps and the Ohio IRT to discuss the revisions incorporated into the Guidelines compared to the previous March 2011 "Guidelines for Wetland Mitigation Banking in Ohio." Details concerning the upcoming virtual public meeting will be provided in a separate public notice.

If you have any questions concerning this Public Notice, please contact Mr. Cory Wilson at 330-365-4271 or by email at [cory.l.wilson@usace.army.mil](mailto:cory.l.wilson@usace.army.mil).

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Attachment A:  
Guidelines for Wetland Mitigation Banking and In-Lieu Fee Programs in Ohio, Version 2.0

Buffalo District Website:

<https://www.lrb.usace.army.mil/Missions/Regulatory/Public-Notices/>

Huntington District Website:

<https://www.lrh.usace.army.mil/Missions/Regulatory/Public-Notices/>

Pittsburgh District Website:

<https://www.lrp.usace.army.mil/Missions/Regulatory/Public-Notices/>