



Signature on file

Roger Millar, PE, FASCE, FAICP
Secretary of Transportation

March 22, 2019

Date

Wetlands Protection and Preservation

I. Introduction

A. Purpose

This Secretary's Executive Order directs employees to protect and preserve Washington's wetlands, to ensure no net loss of wetland acreage and function caused by department actions, and to increase the quantity and quality (function) of wetlands in the long term.

B. Supersession

This Secretary's Executive Order supersedes and replaces Policy Statement P 2038.01 *Wetlands Protection and Preservation*, dated April 6, 2018. All references to the superseded P 2038.01 now reference E 1102.00.

C. What Has Changed

- Policy Statement P 2038.01 has been converted to a Secretary's Executive Order. The intent of the policy and the direction to employees remain the same.
- In Section VI, this Secretary's Executive Order adds language about leadership review and replaces a reference to the Assistant Secretary for Multimodal Development and Delivery with a reference to the Secretary of Transportation.

II. Wetland Policy

It is the policy of the Washington State Department of Transportation (WSDOT) to avoid and minimize wetland impacts, and mitigate for adverse effects to wetlands, in accordance with the [Governor's Executive Order \(EO\) 89-10](#).

Adverse effects or impacts to wetlands may include filling wetlands or other waters (aquatic resources), excavating wetlands, draining wetlands, altering natural drainage patterns and wetland hydrology, discharging sediment or toxic substances in runoff, mechanically removing native wetland vegetation, compacting wetland soils, using wetlands as staging areas, altering wetland or stream buffer areas, shading wetlands from bridges, or other activities adversely affecting wetlands and aquatic resources. Additional information is available in Chapter 431 in the [Environmental Manual](#) M 31-11.

“ ‘Mitigation’ means sequentially avoiding impacts, minimizing impacts, or compensating for remaining unavoidable impacts” ([RCW 90.74.010](#)).

Employees must:

- Avoid, where practicable, any actions that would adversely affect wetlands in planning, designing, constructing, and maintaining the state's transportation system.
- Locate projects, construction staging areas, and maintenance activities in suitable upland areas if they do not depend on being in wetlands.
- Minimize impacts where it is not feasible to avoid wetlands.
- Ensure no net loss of wetlands by compensating for unavoidable impacts using cost-effective and environmentally responsible mitigation options.
- Protect and preserve wetlands and mitigation sites under department stewardship.
- Implement the long-term goal of [EO 89-10](#), to increase the quantity and quality of Washington's wetlands resource base by seeking opportunities for voluntary wetland restoration and creation of additional wetlands.

Exceptions:

- No part of this policy shall impede or delay emergency work essential to save lives or to protect health and safety, per Section 8 of [EO 89-10](#).
- This policy does not apply to routine highway maintenance activities that meet the exemption criteria of the Clean Water Act, Section 404(f), unless required by permit.

III. Information to Carry Out This Secretary's Executive Order

Employees must incorporate this policy into the day-to-day operations of the department and the ongoing development of the state's transportation plans and facilities in the following ways:

- **System and Corridor Planning:** Identify areas of potential wetland impact as early as possible in the planning process, to inform project scoping and advance mitigation planning. Develop project design alternatives that avoid (preferred) or minimize wetland impacts. When impacting wetlands is unavoidable, develop options for mitigation that address the needs and functions of the watershed.
- **Project Plan and Scope:** Identify wetlands based on field information and include avoidance measures in scoping. Consider early compensatory mitigation options including wetland banks, in-lieu fee programs, advance mitigation, and other practicable environmentally preferable options that replace lost wetland functions.
- **Design:** Avoid wetlands when practicable and employ design innovations to minimize adverse effects to wetlands.
- **Environmental Review:** Develop compensatory mitigation for unavoidable wetland impacts using appropriate interdisciplinary technical expertise.
- **Permits:** Confirm that the contract accurately reflects all permits and environmental commitments.
- **Construction:** Confirm that all construction personnel working on WSDOT projects are aware of environmental commitments. Monitor construction to assure compliance with permits and initiate remedial actions when needed. Implement compensatory mitigation plans, monitor site performance, and manage mitigation sites to meet permit conditions.
- **Long-Term Stewardship:** Manage mitigation sites and other department-owned wetlands for long-term stewardship.

- **Asset Management:** Be proactive in reducing the number of sites that WSDOT needs to manage in the long term. Evaluate transferring department-owned wetlands to qualified entities that agree to restrict the use of the property consistent with preservation of the natural and beneficial values of the wetland using [RCW 47.12.370](#).
- **Developer and Utility Impacts:** Ensure WSDOT does not gain mitigation sites through third-party proposals to impact WSDOT-owned natural or mitigation sites. Third parties must provide WSDOT with copies of all documentation, permits, and concurrence from applicable permitting agencies prior to any permit authorization by WSDOT.
- **Record on Right of Way Plans:** Record mitigation sites on right of way plans within permit timelines to ensure long-term protection.
- **Fish Passage Projects:** Fish passage projects typically restore habitat and improve function of the watershed. Some fish passage projects have wetland impacts. In many cases, restoration of fish passage compensates for incidental wetland impacts. Depending on the impact area, the wetland category, and the age of trees removed, permitting agencies may require mitigation and monitoring for some projects. This policy does not require mitigation in addition to that required by permitting agencies.

IV. Contact for More Information

For more information about this Secretary’s Executive Order, please contact the environmental staff in your region or mode or the Headquarters Environmental Services Office at 360-705-7480.

V. References

- Clean Water Act, Section 404(f) – Highway maintenance exemptions
- [RCW 47.12.370](#) *Environmental mitigation—Exchange agreements*
- [RCW 90.74.010](#) *Definitions*
- [Governor’s Executive Order 89-10](#) *Protection of Wetlands*
- [WAC 468-12](#) *Transportation Commission and Transportation Department State Environmental Policy Act Rules*
- Secretary’s Executive Order [E 1018](#) *Environmental Policy Statement*
- Secretary’s Executive Order [E 1031](#) *Protections and Connections for High Quality Natural Habitats*
- [Environmental Manual](#) M 31-11, Chapter 431

VI. Review and Update Requirements

When changes are necessary to update this document, please inform the Director of the Development Division. The Director of the Development Division reviews this document periodically and proposes updates for leadership review and approval by the Secretary of Transportation.

Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the Office of Equal Opportunity at wsdotada@wsdot.wa.gov or by calling toll free, 855-362-4ADA(4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.