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USEPA Docket Center  
Attention: Docket No. EPA—HQ—OW—2006—0020  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

**Re: Comments to Proposed Rule on Compensatory Mitigation for Losses of Aquatic Resources (Docket No. EPA—HQ—OW—2006—0020)**

The American Council of Engineering Companies (ACEC) appreciates this opportunity to submit comments to the U.S. Environmental Protection Agency (EPA) regarding the proposed rule on compensatory mitigation for losses of aquatic resources.

ACEC is the business association of America's engineering industry, representing nearly 6,000 independent engineering companies throughout the United States engaged in the development of America's transportation, environmental, energy, industrial and other infrastructure. ACEC member firms represent the broad spectrum of the industry, from very large firms to small, family-owned businesses. Overall, our members employ well over 300,000 people throughout the 50 states. Founded in 1910 and headquartered in Washington, D.C., ACEC is a national federation of 51 state and regional organizations.

In general, ACEC supports the proposed rule and believes that its final promulgation will assist all who are involved in project developments that impact our Nation's waters and wetlands by establishing defined standards and rules for the use of wetlands mitigation banks. The standardization of the wetlands banking and compensatory mitigation process, including its use and implementation, will encourage environmentally-responsible development practices and ensure that any loss or degradation of wetlands attributed to such development is properly mitigated.

ACEC supports public-private partnerships that this rule should foster, and it supports the efforts of the business community to be responsible environmental stewards. ACEC believes this proposed rule will help ensure that the Nation does not lose critical wetlands and will also ensure responsible project

development. The new rule will help expedite the project review and approval process, enabling engineering firms to more efficiently and effectively undertake work in wetlands areas.

The proposed rule also relies heavily on a “watershed” approach to implementing wetlands mitigation alternatives. As the supplementary information to the proposed rule notes, this term can have a variety of meanings and applications. Therefore, we strongly support clarifying the definition of the term “watershed,” so that the term can be interpreted and applied in a consistent manner regardless of the geographic location of the wetlands mitigation project. For example, it would also be helpful if the final rule could specifically identify the watersheds that are eligible for use as locations for mitigation projects. This identification would provide project developers with clarity upfront as to which watersheds could be used for mitigation purposes.

In addition, ACEC members have urged the clarification of the terms “services” and “values” (See Section 332.2). The definition of the word “services” is very similar to that of “values.” For simplicity, the term “services” could be eliminated, with the term “values” being used in its place, as the term “values” is most often used operationally in the natural resources community. We also urge the clarification of the term “buffers” (See Section 332.23(i)). Specifically, the definition of this term could be improved and clarified if the definition were to address the issue of buffer size.

In addition, we hope that, going forward, the EPA and the Corps of Engineers can revisit Clean Water Act Section 404 guidelines in terms of reviewing the sequential assessment of wetlands mitigation alternatives with a goal of having a consistent application of Section 404 to wetlands across the country.

For these reasons, we support the proposed rule and look forward to offering any additional assistance that our association and its members may be able to provide in ensuring that the wetlands mitigation process is effectively implemented. Thank you, in advance, for your consideration of our views on this proposed rule.

Sincerely,

David E. Kunz  
Director of Environmental & Energy Programs  
American Council of Engineering Companies