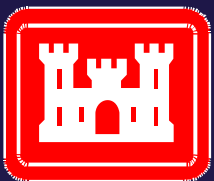


Corps / EPA Compensatory Mitigation Rule: Agency Roles and Responsibilities

Regulatory Branch
U.S. Army Corps of Engineers

Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency

January 2009



Corps' Responsibilities

- Determining appropriate amount and type of compensatory mitigation
- Making public interest review decisions
- Conducting 404(b)(1) Guidelines analyses
- Approving mitigation plans
- Approval/disapproval of third-party mitigation instruments
- Oversight of third-party mitigation



EPA/FWS/NOAA Roles in Mitigation Decisions

- Comment on public notices
- Participate on IRTs
- Elevate issues regarding Bank/ILF proposals under DR process in rule
- Elevate issues under CWA 404(q) process
- [EPA – only] Prohibit disposal sites (CWA §404(c))



1992 404(q) MOAs

- Corps responsibilities:
 - Acts as project manager in the evaluation of permit applications
 - Requesting and evaluating information concerning all permit applications
- Corps makes final determinations of:
 - Compliance with Corps regulations (e.g., public interest review)
 - Compliance with the 404(b)(1) Guidelines



1992 Army – EPA/FWS/NOAA 404(q) MOAs

- Corps will fully consider EPA/FWS/NOAA comments when determining compliance with:
 - National Environmental Policy Act
 - 404(b)(1) Guidelines
 - Other relevant statutes, regulations, and guidelines



1992 Army –EPA/FWS/NOAA 404(q) MOAs

- EPA/FWS/NOAA may provide comments on its views regarding compliance with the 404(b)(1) Guidelines
- Comments will be provided within applicable time frames



Interagency Review Team

- Reviews documentation for establishment and management of Mitigation Bank and In-Lieu Fee program
- Corps is chair
- If third-party mitigation is used to satisfy another federal, tribal, state, or local program, that agency may serve as co-chair
- District Engineer will seek to resolve issues via consensus based approach, while meeting the decision-making time frames in the Rule



Interagency Review Teams

- Agency participation
 - U.S. EPA
 - U.S. Fish and Wildlife Service
 - NOAA Fisheries
 - Natural Resources Conservation Service
 - Other Federal agencies
 - Tribal, state, and local regulatory and resource agencies



Role of the IRT

- Facilitate establishment of Mitigation Banks or In-Lieu Fee programs through the development of instruments
- Review and comment on documents
 - e.g., prospectus, instruments, mitigation plans
- Should use a watershed approach



Role of the IRT

- May choose to sign Instruments
- Examples of other roles
 - Assessing monitoring reports
 - Recommending Adaptive Management measures
 - Credit release approval process
 - Instrument modification process
- Must abide by time limits specified in the Rule



MOAs with Other Agencies

- District Engineer and other IRT members may delegate IRT review functions to other federal, state, or local government agencies
- District Engineer retains sole authority for final approval of Instruments and other documents



IRT Training Course

http://www.conservationfund.org/irt_mitigation_training

Mitigation Banking IRT Resources | The Conservation Fund - Windows Internet Explorer

http://www.conservationfund.org/irt_mitigation_training

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Mitigation Banking IRT Resources

Send to a Friend

Welcome to the resource webpage for Mitigation Banking Interagency Review Team (IRT) members. This webpage complements the *Training Course for Mitigation Banking IRT's* offered by The Conservation Fund and the Environmental Law Institute, in partnership with the US Army Corps of Engineers, the US Environmental Protection Agency, and the US Fish & Wildlife Service.

This training features extensive interaction among participants, real-world examples,

Spotlight - Training



The Conservation Leadership Network announced its fall courses for 2008, including the following offerings:

- Strategic Conservation Planning Using the Green Infrastructure Approach
- GIS Tools for Strategic Conservation Planning
- Balancing Nature and Commerce in Communities that Neighbor Public Lands

Course Topics: Technical and Policy

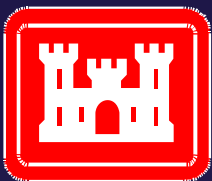
- Real estate instruments
- Financial Assurances
 - short and long-term (PAR demo)
- Site selection
- Service Area determination
- Credit determination/release
- Performance standards
- Long-Term Management plans
- Management and monitoring



Course Topics:

Process and Organization

- Successful IRT practices/models
 - District/State Guidance
 - Regular meetings
- Collaborative decision-making and negotiation skills
- Dispute resolution



Questions?



- What guidance, technical resources, training courses, or other supporting materials do we need?

