

Public Notice

U.S. Army Corps of Engineers, Norfolk District

CENAO-REG

April 3, 2009

Compensatory Mitigation Regulations

On April 10, 2008, the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency issued new regulations governing compensatory mitigation for unavoidable impacts to the nation's wetlands and streams. These regulations are intended to promote greater consistency, predictability and ecological success of compensatory mitigation projects under the Clean Water Act. The Corps' version of the regulations (33 CFR 332) can be found at

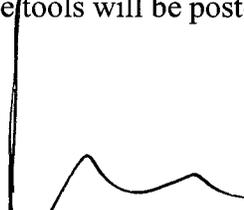
<http://www.usace.army.mil/CECW/Documents/cecwo/reg/materials/33cfr332.pdf>

We've received many questions about provisions of the regulations since they went into effect on June 9, 2008. Attached is a set of [Frequently Asked Questions \(FAQs\)](#) about the mitigation regulations. This document draws upon from the efforts of other Corps Districts, especially Buffalo District.

To facilitate understanding of the requirements of the mitigation regulations, we are providing a number of documents prepared by Corps and EPA Headquarters that summarize specific aspects of the mitigation regulations. These summary documents include:

- Fundamental elements of a mitigation plan ([attachment 1](#));
- Information used in development of a watershed approach to compensatory mitigation ([attachment 2](#));
- The elements required for a complete prospectus for third party mitigation (mitigation bank or in-lieu fee program) ([attachment 3](#));
- Information required in a third party mitigation program (mitigation bank or in-lieu fee program) instrument ([attachment 4](#));
- A timeline for processing a mitigation bank or in-lieu fee instrument proposal ([attachment 5](#));
- A timeline for processing disputes between the Corps Chair and federal agencies on third party mitigation ([attachment 6](#)).

Norfolk District is working with Virginia Department of Environmental Quality and members of the Virginia Interagency Review Team to develop related tools to facilitate compliance with these mitigation regulations including a revised template mitigation bank instrument and a template long-term management plan. These tools will be posted for use by the public once they are completed.



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