

Federal Agency Roles and Responsibilities

Clean Water Act Section 404
Compensatory Mitigation Decisions

April 2011
Lexington, KY



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

EPA/FWS/NOAA

Section 404(q)1992 MOAs

- Candidates for individual case elevation must meet 2 criteria for initiation of 404(q) elevation procedures
 - The project must involve an Aquatic Resource of National Importance (ARNI)
 - The project must result in (or have the potential to result in) substantial and unacceptable adverse impacts on an ARNI (after considering mitigation)

Interagency Review Teams

- Agency participation
 - Corps
 - 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

Interagency Review Teams

- Purpose: review documentation for establishment and management of Mitigation Bank and In-Lieu Fee program
 - prospectus, instruments, mitigation plans, monitoring reports, credit release requests, instrument/plan modifications
- Chair: Corps
- 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
 - Also, formal dispute resolution process in rule

IRT Training Course

http://www.conservationfund.org/irt_mitigation_training

Mitigation IRT Resources | The Conservation Fund - Windows Internet Explorer provided by EPA

http://www.conservationfund.org/irt_mitigation_training

File Edit View Favorites Tools Help pdf Search PDF

Mitigation IRT Resources | The Conservation Fund

THE CONSERVATION FUND

America's Partner in Conservation

Text | Print

Our Sites

GO

Who We Are

How We Work

Where We Work

What We Do

Support Us

Contact Us

News

Email Sign-up

Community Login



National Conservation Training Center in West Virginia

Spotlight - Training



The Conservation Leadership Network announces the following courses:

- Strategic Conservation Planning Using the Green Infrastructure Approach
- GIS Tools for Strategic Conservation Planning

A Passion For Conservation



At the Fund, we combine a passion for conservation with an entrepreneurial spirit to protect your favorite places before they become just a memory.

[Donate Now](#)

Home » What We Do » Training & Education

- Awards & Grants
- ▶ Climate Change
- Children & Nature
- Community & Economic Development
- Conservation Finance
- ▶ Conservation Leadership Network
- Conservation Real Estate
- Forests
- Mitigation
- Places We Protect
- Publications
- ▼ Strategic Conservation
 - Project Profiles

Mitigation IRT Resources

SHARE

Welcome to the resource webpage for Mitigation Banking and ILF Program Interagency Review Team (IRT) members. This webpage complements the *Training Course for Mitigation Banking and In-Lieu Fee Program IRT's* offered by The Conservation Fund 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, exercises, and a high-calibre cadre of instructors. Participants gain a thorough grounding in the relevant federal policy and regulations guiding the review, establishment and management of mitigation banks and in-lieu fee programs; solid expertise on how to effectively and efficiently review and oversee the establishment and operation of mitigation banks and in-lieu fee programs; and the leadership skills necessary to be an effective member of an IRT. For additional information on compensatory mitigation, see ['Related Links'](#) at right.

The next course offering will be June 20-24, 2011 - [click here](#) for more information. Below you'll find select resources from the June 2010 course offering. They are organized according to the modules from the course ([download agenda](#))

Session 1: Overview of Federal Mitigation Banking Policy and Regulations