



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waterways Engineering and Wetlands

Aquatic Resource Compensatory Mitigation

April 10, 2014

Dial in no. for audio: 1-877-668-4493

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Agenda

1. Background on the Mitigation rule
2. Programmatic Enhancements &
Environmental Benefits
3. Development of the Technical Guidance
4. Proposed In Lieu Fee Program

Paradigm Shift

- **2008 Joint ACOE and EPA Mitigation Rule**
- Mitigation Bank Industry Development
- Mitigation Studies
- Opportunity to Standardize the Process and Provide Statewide Consistency

Programmatic Enhancements

- Implementation through existing regulations
 - Standardized Compensation Process Based on Science
 - Update In Lieu Fee (ILF) Program (Replaces PWRP)

Programmatic Enhancements

- Development of Technical Guidance
 - Compensatory Crediting Process
 - Resource Condition Assessments
- Existing Policy Revisions Necessary for ILF
- Goal is to Concurrently Implement

▶ Development of Technical Guidance

- Development of a standardized compensation process for all aquatic resource types
 - Standardizes processes and information
 - Function-based system
 - Relies upon Resource Condition Assessments or intensive evaluations when required

External Benefits

- Standardized Mitigation Process
- Predictive Expectations
- Builds on Statewide Consistency
- Reduces Application Review Time
- Reduces Applicant/DEP Conflicts
- Maximizes Information Use

Internal Benefits

- Reduces Review Time and Conflicts
- Asserts DEP's Independent Determination
- Provides Standard Process and Consistency
- Utilized by ILF, Banking and Permittee Responsible Mitigation
- Transparent Compensation Process

Environmental Benefits

- Establishes Common Resource Language
- Ensures Resource Functions are Offset
- ILF and Banking Increase Project Scales
- Potential for Impairment Recovery/TMDL
- Provides Ability to Incentivize Priorities

Proposed Technical Guidance

- Aquatic Resource Function Based Compensation
 - Standardizes mitigation accounting (310-2137-001)
- Aquatic Resource Condition Assessments
 - Level 2 Riverine (310-2137-003)
 - Level 2 Wetland (310-2137-002)
 - Level 2 Lacustrine (310-2137-004)
- Establishes Framework for Banking Industry

Proposed Technical Guidance

- Aquatic Resource Condition Assessments
 - Incorporate into existing Environmental Assessment
 - Minor cost difference anticipated
 - Assessment replaces narrative driven discussion about resource
 - Assessment information use is maximized increasing cost benefits

Proposed In Lieu Fee Program

- 2008 Joint ACOE and EPA Mitigation Rule
 - Required existing ILF programs to come into compliance
 - DEP's PWRP is an existing ILF program
- Efforts to standardize and integrate best available science into the program began prior to 2008

Proposed In Lieu Fee Program

- Comprehensive compensation in a watershed framework
 - Generates high quality restoration results
 - Greater ecological benefits and larger more effective projects
 - Integrates Commonwealth planning and priorities
 - Uses the latest scientific advances

Proposed In Lieu Fee Program

- Provides DEP the Opportunity to manage numerous environmental improvements to watersheds
 - Works on both public and private lands
- Provides Local and State Agencies with cost effective mitigation
- Covers 100% of project costs

Proposed In Lieu Fee Program

- Advantages over Permittee Responsible
 - Cost effective
 - Reduces costs and review time
 - No post issuance compliance (i.e. 5 yr. monitoring)
 - Predictable costs
 - Liability severance
 - Permittee responsibility terminates on payment

Proposed In Lieu Fee Program

- Must meet ACOE and EPA requirements
 - To provide *both* State and Federal Compensation
- DEP Policy Process
 - Draft Policy with Public Comment
 - Final Policy

Comment Period

- Public comment period ends May 7, 2014
- Comments received by facsimile will not be accepted.
- Submit written comments to:
Kenneth Murin
P. O. Box 8460
Harrisburg, PA 17105-8460

Note: All comments submitted must include the originator's name and address.

E-mail comments to:

Function Based Aquatic Resource Compensation Protocol:

- RA-EPTG01COMPCOMENTS@pa.gov

Wetland Condition Level 2 Rapid Assessment Protocol:

- RA-EPTG02L2WETLDCOM@pa.gov

Riverine Condition Level 2 Rapid Assessment Protocol:

- RA-EPTG03L2RIVERINEC@pa.gov

Lacustrine Condition Level 2 Rapid Assessment Protocol:

- RA-EPTG04L2LACUSTRI@pa.gov

Note: All comments submitted must include the originator's name and address.

Steps After Comment Period

- Revisions in response to comments
- Comment & Response Document created
- Application Form Revisions
- Training and Outreach
- Final Publication



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Questions?