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
- 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.
Function Based Aquatic Resource Compensation Protocol:
• RA-EPTG01COMPCOMMENTS@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
Questions?