

**Active-In Lieu-Fee-Program:**

An agreement between a regulatory entity and a sponsor that has been approved by the parties to collect funds and provide compensatory mitigation. The Sponsor may not yet have collected funds but is approved to do so.

**Adaptive Management:**

The development of a management strategy that anticipates the challenges associated with compensatory mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects. It requires consideration of the risk, uncertainty, and dynamic nature of compensatory mitigation projects and guides modification of those projects to optimize performance. It includes the selection of appropriate measures that will ensure that the aquatic resource functions are provided and involves analysis of monitoring results to identify potential problems of a compensatory mitigation project and the identification and implementation of measures to rectify those problems.

**Adaptive Management:****[Seattle]**

Actions taken by the bank sponsor on their own to correct any deficiencies on the site in order for the site to attain the required performance standards. The adaptive management activities shall be identified in the mitigation banking instrument. WAC 173-700-104

**Advance Credits:**

Any credits of an approved in-lieu fee program that are available for sale prior to being fulfilled in accordance with an approved mitigation credit sales project plan. Advance credits require an approved in-lieu fee program instrument that meets all applicable requirements including a specific allocation of advance credits, by service area where applicable. The instrument must also contain a schedule for fulfillment of advance credit sales.

**Approved-Active Bank:**

An approved bank that is authorized to sell credits.

**Approved-Inactive Bank:**

An approved bank that is currently not authorized to sell credits due to a failure to meet performance goals, the expiration of financial assurances, or other such factors.

**Approved-Sold-Out Bank:**

An approved bank that has sold all of its credits.

**As-Built Plans:****[Seattle]**

means a document which described the physical, biological, and if required, the chemical condition of a bank site after complete construction of each phase of an approved construction plan. As-built plans serve as a baseline from which to manage and monitor the site (WAC 173-700-104).

**Available Credits:****[Seattle]**

A potential credit that has been released by the department after a bank attains the performance standards specified in the instrument. WAC 173-700-104

**Bank Development Plan:**

The overall plan governing Establishment, Restoration, Creation, Enhancement, and/or Preservation of aquatic resources and associated upland buffers on the Bank Site.

**Bank Manager:**

The federal or state regulatory Project Manager responsible for overseeing bank operations including release of credits, compliance reviews, etc. For wetland and stream banks, typically the Corps project manager. In some districts, the Bank Manager may also be the IRT Chair.

**Bank Sponsor:**

Any public or private entity responsible for establishing and, in most circumstances, operating a Mitigation Bank.

**Banking Guidance:**

"Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks," an agreement between the Corps, EPA, FWS, NRCS, and NOAA, published in the Federal Register in November 1995. Also known as 1995 guidance.

**Banking Instrument:**

A written document which contains specifications pertaining to establishment, operation, and maintenance of a mitigation bank and which describes the responsibilities of the bank sponsor and signatory parties as appropriate. A common type of banking instrument is an interagency agreement (e.g., Memorandum of Agreement or Memorandum of Understanding).

**Baseline:**

Physical and functional conditions of an area which are expected to exist over time in the absence of a bank. Baseline is also commonly referred to as the "without project condition".

**Best Professional Judgment:**

A case-by-case assessment made by a professional with a background in wetland science.

**Buffer:**

An upland and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

**Buffer:**

[Seattle]

Those areas on the perimeter of a bank site that enhance and protect a wetland's functions and values by maintaining adjacent habitat and reducing adverse impacts from adjacent land uses. These areas are vegetated and can reduce impacts through various physical, chemical, and/or biological processes. (WAC 173-700-104)

**Client:**

The entity or entities (permittee or participant) whose activities will create a permitted wetland impact for which mitigation is being sought through a bank or in-lieu-fee-program.

**Combination Public/Private Bank:**

Commercial mitigation bank sponsored jointly by public and private sectors. For example, the land might be held by a state or local government agency while the compensatory mitigation activity is undertaken by the private sector.

**Commercial (Entrepreneurial) Bank:**

Commercial mitigation banks produce compensatory mitigation credits for sale to permit recipients in need of compensatory mitigation. Entrepreneurial Banks (also known as private commercial banks) are sponsored by the private sector and intended to generate a return on investment.

**Commercial Bank:**

A mitigation bank which makes wetland credits available for sale to third parties on the open market. It includes all forms of commercial banks including private, entrepreneurial, private-public, private non-profit, & public commercial banks.

**Compensation Ratio:**

The rate at which credits must be withdrawn (i.e., debited) from a bank in order to provide for satisfactory compensation of unavoidable wetland losses. Compensation ratios are based on various factors, including the intrinsic similarities and differences in functions and values which exist between the respective wetland areas, probability of successful compensation, locational, temporal, and other determining factors.

**Compensatory Mitigation:**

The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

**Compensatory Mitigation Project:**

Means compensatory mitigation implemented by the permittee as a requirement of a DA permit (i.e., permittee-responsible mitigation), or by a third party (e.g., a mitigation bank, or an in-lieu fee program).

**Completed In-Lieu Fee Sites:**

In-lieu-fee mitigation sites where construction has been completed, though the site may still be under monitoring requirements.

**Completed In-Lieu Fee Sites:**

In-lieu-fee mitigation sites where construction has been completed, though the site may still be under monitoring requirements.

**Condition:**

The relative ability of an aquatic resource to support and maintain a community of organisms having a species composition, diversity, and functional organization comparable to reference aquatic resources in the region.

**Consolidated Mitigation:**

Off-site compensatory mitigation that cannot be characterized as wetland mitigation banking, in-lieu-fee mitigation, or off-site permittee-responsible mitigation. Often referred to as consolidated banking or pooled mitigation.

**Construction In-Lieu-Fee Sites:**

In-lieu-fee mitigation sites where construction has been started on the site but is not yet completed.

**Corps-Administered In-Lieu-Fee Program:**

An in-lieu-fee program approved by and administered by the Corps.

**Creation:**

[Seattle]

means the establishment of wetland area, functions, and values in an area where none previously existed. Creation may also be known as establishment. (WAC 173-700-104).

**Credit:**

A unit of measure (e.g., a functional or area measure) representing the accrual or attainment of aquatic functions at a compensatory mitigation site. The measure of function is based on the aquatic resources restored, established, enhanced, or preserved.

**Credit Production:**

The establishment of compensatory wetland credits by the preservation or enhancement of existing wetlands, the restoration of former or degraded wetlands, or the creation of wetlands on non-wetland sites.

**DOA:**

Department of the Army

**Days:**

Calendar days

**Debit:**

A unit of measure (e.g., a functional or area measure) representing the loss of aquatic functions at an impact or project site. The measure of function is based on the aquatic resources impacted by the authorized activity.

**Debiting:**

A mitigation action involving the use of compensatory credits in a bank to replace the functions and values of a wetland area which is lost or degraded by permitted construction or agricultural conversion. Authorization to debit a bank is the responsibility of the Corps of Engineers.

**Debiting Wetland:**

A wetland area which has been or will be adversely impacted by permitted construction, the compensation of which is to be accomplished by debiting a mitigation bank.

**Design Standards:**

Predetermined requirements or specifications, physical or biological, for how a wetland site is to be constructed or mitigated.

**Enhancement:**

The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Enhancement:**

[Buffalo,Huntington,Pittsburgh]

Enhancement means activities conducted in existing wetlands to improve or repair existing or natural wetland functions and values of that wetland. Ohio Administrative Code 3745-1-50(m)

**Entrepreneurial (Or Commercial) Bank:**

A bank sponsored by a private entrepreneur with credits available for sale on the open market.

**Escrow Account:**

A predetermined amount of money that the bank sponsor places into a bank account to be held until performance standards or other milestones are met.

**Establishment:**

The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area and functions.

**Federal Credits:**

These credits may be used to offset federal permitted impacts. In most Districts, they may also be used for state or local mitigation.

**Financial Assurances:**

Financial promises from a sponsor to cover expenses in a bank or in-lieu-fee site should it fail to meet the

requirements of its authorizing instrument. A mechanism or instrument used to guarantee some aspect of the Bank. Financial Assurances may include an escrow account or other mechanism acceptable to the MBRT. There may be 3 different Financial Assurances associated with a Mitigation Bank: a) A mechanism to guarantee an advance release of Mitigation Bank Credits; b) The Maintenance and monitoring Funds; c) The Catastrophic Event and Long-Term Management Funds.

#### Fulfillment Of Advance Credit Sales Of An In-Lieu Fee Program:

Application of credits released in accordance with a credit release schedule in an approved mitigation project plan to satisfy the mitigation requirements represented by the advance credits. Only after any advance credit sales within a service area have been fulfilled through the application of released credits from an in-lieu fee project (in accordance with the credit release schedule for an approved mitigation project plan), may additional released credits from that project be sold or transferred to permittees. When advance credits are fulfilled, an equal number of new advance credits is restored to the program sponsor for sale or transfer to permit applicants.

#### Functional Capacity:

The degree to which an area of aquatic resource performs a specific function.

#### Functions:

The physical, chemical, and biological processes that occur in ecosystems.

#### Hydric Soil:

Soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil.

#### Hydrologic Unit:

A geographic area possessing common surface drainage characteristics. Specific hydrologic units referred to in this guidance are those depicted on the U.S. Geological Survey's Hydrological Unit Map of the United States, 1980 and are (from smallest to largest area) Cataloging Unit, Accounting Unit, and Hydrologic Sub-region.

#### Impact:

##### Adverse Effect

##### In-Kind:

Resource type that is structurally and/or functionally similar to the impacted resource type.

##### In-Lieu Fee Program Instrument:

The legal document for the establishment, operation, and use of an in-lieu fee program.

##### In-Lieu-Fee Program:

A program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the rules governing the operation and use of in-lieu fee programs are somewhat different from the rules governing operation and use of mitigation banks. The operation and use of an in-lieu fee program are governed by an in-lieu fee program instrument

##### Instrument:

Mitigation banking instrument or in-lieu fee program instrument.

##### Interagency Review Team (IRT):

An interagency group of federal, tribal, state, and/or local regulatory and resource agency representatives that reviews documentation for, and advises the district engineer on, the establishment and management of a mitigation bank or an in-lieu fee program.

##### Invasive Species:

A species that is non native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

##### Irrevocable Trust:

A trust which may not be revoked after its creation, as in the case of a deposit of money by one in the name of another as trustee for the benefit of a third person.

##### Jurisdictional Wetland:

A wetland that meets the legal definition of a wetland under the Clean Water Act and is thereby under the jurisdiction of the Corps for regulatory purposes.

##### Landscape:

A mosaic where several attributes-such as geological land forms, soil types, vegetation types, local faunas, natural disturbance regimes, land uses, and human aggregation patterns- tend to be similar and repeated across the whole area.

**Letter Of Credit:**

An engagement by a bank or other person made at the request of the bank sponsor that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit.

**Long-Term Steward:**

The landowner or easement holder of the Bank lands charged with long-term maintenance and management responsibility. A Long-Term Steward may be designated once Success Criteria monitoring (typically monitoring for 10 years following completion of grading) has been completed. In some cases, the Sponsor may also be the Long-Term Steward.

**Maintenance:**

Actions taken by the sponsor or other entity to assure that the bank or in-lieu-fee site meets performance criteria or other goals.

**Mitigation:**

For purposes of Section 10/404 and consistent with the Council of Environmental Quality Regulations, the Section 404(b) (1) Guidelines and the Memorandum of Agreement Between the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation under the Clean Water Act Section 404 (b) (1) Guidelines, mitigation means sequentially avoiding impacts, minimizing impacts and compensating for remaining unavoidable impacts.

**Mitigation Bank:**

A site, or suite of sites, where resources ( e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by DA permits. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument.

**Mitigation Banking Instrument:**

The legal document for the establishment, operation, and use of a mitigation bank.

**Mitigation MOA:**

The MOA signed in 1990 between the EPA and the U.S. Department of the Army to clarify the protocol for determining the type and level of mitigation required under the Section 404(b) (1) guidelines.

**Mitigation Replacement Ratio:**

The number of units of credit which must be debited from a bank or in-lieu-fee program in order to compensate, or replace, one unit of wetland which is expected.

**Mitigation Type - Species Conservation:**

Compensatory mitigation credits used to offset impacts to federal or state-listed species or species of concern

**Mitigation Type - Upland:**

A form of compensatory mitigation that is not a water of the US, such as a wetland or stream. This could include buffer areas.

**Monitoring:**

The act of measuring mitigation bank or in-lieu-fee site conditions and comparing them to either set performance criteria or reference wetlands.

**Non-Federal Credits:**

These credits are intended for use solely outside federal jurisdiction.

**Off-Site:**

An area that is neither located on the same parcel of land as the impact site, nor on a parcel of land contiguous to or near the parcel containing the impact site.

**On-Site:**

An area located on the same parcel of land as the impact site, or on a parcel of land contiguous to or near the impact site.

**Operational Life:**

The duration of time in which a bank is actively managed. Operational life ceases when bank wetlands attain functional maturity or are self-sustaining and all credits are either withdrawn or use of the bank is voluntarily

terminated.

**Out-Of-Kind:**

A resource type that is structurally and/or functionally different than the impacted resource type.

**Pending Bank:**

A proposed bank currently under consideration.

**Performance Bond:**

A bond purchased by the credit producer from a third party to ensure that the site functions properly for the specified period and that all necessary corrective actions will be taken. Once the period has ended and performance has been met, the bond is released. The bond can also be released in stages as different milestones are reached.

**Performance Standards:**

Observable or measurable physical (including hydrological), chemical and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

**Permittee-Responsible Mitigation:**

An aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility.

**Permitting Agency:**

The regulatory entity with jurisdiction over impacts to wetlands and the agency that makes determinations about whether a proposed project will be issued a permit, and therefore whether wetland impacts will occur.

**Potential Credit:**

[Seattle]

means a credit anticipated to be generated by the bank, but is not currently available for use (WAC 173-700-104)

**Preservation:**

The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Private Commercial Bank:**

Commercial mitigation bank sponsored by a private sector entity such as a partnership or LLC. These are also referred to as entrepreneurial banks.

**Private Nonprofit Bank:**

Commercial mitigation bank sponsored by a private nonprofit entity.

**Proposed Bank:**

A bank with prospectus that has been submitted to the Corps for Public Notice and to stimulate MBRT formation.

**Prospectus:**

A preliminary plan for a mitigation bank prepared by a prospective sponsor and submitted for review and approval by the MBRT.

**Public Commercial Bank:**

A commercial mitigation bank where the sponsor is a government agency (usually state or local government)

**Re-Establishment:**

The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

**Reference Aquatic Resources:**

Aquatic resources that represent the range of variability exhibited by a regional class of aquatic resources as a result of natural processes and anthropogenic disturbances.

**Rehabilitation:**

The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Release Of Credits:**

Determination by the district engineer, in consultation with the IRT, that credits associated with an approved

mitigation plan are available for sale or transfer, or in the case of an in-lieu fee program, for fulfillment of advance credit sales. A proportion of projected credits for a specific mitigation bank or in-lieu fee project may be released upon approval of the mitigation plan, with additional credits released as milestones specified in the credit release schedule are achieved.

Reserved Credit:

[Seattle]

means an available credit that has been withdrawn from the bank but which is not associated with a specific regulatory requirement at the time of purchase. Purchase of reserved credits does not provide any guarantee that a project will be authorized under existing regulatory programs. Reserved credits are purchased at the buyer's sole risk. (WAC 173-700-104)

Restoration:

The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riparian Areas:

Lands adjacent to streams, rivers, lakes, and estuarine-marine shorelines. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality.

Sacramento Term:

[Sacramento]

Test for District Specific definition

Sequencing Guidelines:

Permit review process for mitigation that involves the consideration of mitigation in three steps: (1) avoidance of the impact, (2) minimization of any unavoidable impacts, and (3) compensation for any remaining impacts.

Service Area:

The geographic area within which impacts can be mitigated at a specific mitigation bank, as designated in its instrument.

Service Area:

[Norfolk]

Under Virginia state law, the same 8 digit HUC as the impact site or an adjoining 8 digit HUC in the same river basin

Services:

The benefits that human populations receive from functions that occur in ecosystems.

Single-Client Bank:

Single client mitigation banks are those developed and used by a single entity, such as a state department of transportation, to provide compensatory mitigation exclusively for its own permitted impacts. Also known as a Single-user bank.

Single-User Bank:

Single user mitigation banks are those developed and used by a single entity, such as a state department of transportation, to provide compensatory mitigation exclusively for its own permitted impacts. Also known as a Single-client bank.

Species Conservation:

Compensatory mitigation credits used to offset impacts to federal or state-listed species or species of concern.

Sponsor:

Any public or private entity responsible for establishing and, in most circumstances, operating a mitigation bank or in-lieu fee program.

Standard Permit:

Standard, individual permit issued under the authority of Section 404 of the Clean Water Act.

Success:

Accomplishment of wetland or other aquatic resource restoration, enhancement, creation, or preservation in accordance with bank objectives, design specifications, or success criteria.

Suspended Bank:

A bank where credit transactions have been suspended by the IRT Chair(s) . Suspension may be due to failure to comply with the bank instrument, permit, or site plan.

Temporal Loss:

The time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site. Higher compensation ratios may be required to compensate for temporal loss. When the compensatory mitigation project is initiated prior to, or concurrent with, the permitted impacts, the district engineer may determine that compensation for temporal loss is not necessary, unless the resource has a long development time.

**Terminated Bank:**

Any of the following: 1) A proposed bank that is no longer under consideration for approval; 2) A bank for which the IRT Chair has withdrawn its approval. 3) Any proposed or approved bank that the Sponsor has withdrawn from

**Terminated Instrument:**

A previously approved mitigation bank or in-lieu fee program instrument that has been ended or invalidated by the District Engineer.

**Transaction Type - Initiation:**

The activities associated with establishment of a bank. The initiation transaction specifies the amount of land manipulated, the type of manipulation (re-establishment, preservation, enhancement, etc.) and the anticipated credits to be generated from that activity.

**Transaction Type - Release:**

Credits associated with an approved bank or in-lieu fee program are available for sale or transfer.

**Transaction Type - Withdrawal:**

The debit or withdrawal of credits from a bank to satisfy mitigation requirements for a permitted activity.

**Umbrella Agreement:**

Banking instruments sponsored by a single entity to establish and operate a banking program with multiple bank sites.

**Umbrella Bank:**

A banking program with multiple bank sites sponsored by a single entity.

**Uplands:**

A form of compensatory mitigation that is not a water of the US, such as a wetland or stream. This could include buffer areas.

**Values:**

The utility or satisfaction that humans derive from aquatic resource services. Values can be described in monetary terms or in qualitative terms, although many of the values associated with aquatic resources cannot be easily monetized. Values can be either use values (e.g., recreational enjoyment) or non-use values (e.g., stewardship, biodiversity).

**Waters of the State:**

[St. Paul]

"Waters of the state" means surface or underground waters, except surface waters that are not confined but are spread and diffused over the land. Waters of the state includes boundary and inland waters. MN Wetland Conservation Act Subd. 17.

**Watershed:**

a land area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ultimately the ocean.

**Watershed:**

[St. Paul]

"Watershed" means the 81 major watershed units delineated by the map, "State of Minnesota Watershed Boundaries - 1979." MN Wetland Conservation Act Subd. 17.

**Watershed Approach:**

An analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory projects address those needs. A landscape perspective is used to identify the types and locations of compensatory mitigation projects that will benefit the watershed and offset losses of aquatic resource functions and services caused by activities authorized by DA permits. The watershed approach may involve consideration of landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources when determining compensatory mitigation requirements for DA permits.

**Watershed Plan:**

A plan developed by federal, tribal, state, and/or local government agencies or appropriate non-governmental



organizations, in consultation with relevant stakeholders. A watershed plan addresses aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. Watershed plans may also identify priority sites for aquatic resource restoration and protection. Examples of watershed plans include special area management plans, advance identification programs, and wetland management plans.

Watershed Resource Inventory Area (WRIA):

[Seattle]

Refers to Washington State's sixty two major watershed basins as described in chapter 173-500 WAC, Water Resources Management Program established pursuant to the Water Resources Act of 1971, as amended.

Wetland Mitigation Banking:

Wetland restoration, creation, enhancement, and in exceptional circumstances, preservation undertaken expressly for the purpose of compensating for unavoidable wetland losses in advance of development actions, when such compensation cannot be achieved at the development site or would not be as environmentally beneficial.

Wetlands:

Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Withdrawn Bank:

A proposed bank that has been removed from consideration for approval, generally for a temporary period of time. Could be converted to Terminated Bank status if no re-activation activity occurs within a reasonable amount of time (time will vary depending on the circumstances initiating the withdrawn status).