



US Army Corps
of Engineers®
Seattle District

Components of a Mitigation Plan

Per Final Rule 33 CFR Parts 325 and 332 dated April 10, 2008

Date: April 7, 2015



On April 10, 2008, the U.S. Army Corps of Engineers and the Environmental Protection Agency published the Final Rule for Compensatory Mitigation for Losses of Aquatic Resources. The Final Rule became effective on June 8, 2008. Section 33 CFR 332.4(c) describes the contents of a mitigation plan. Excerpted below are the components of a mitigation plan. Please refer to the text of the entire Final Rule for details on these components. The text of the final rule can be found at:

http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig_info.aspx

(1) **Preparation and Approval.** For individual permits, the permittee must prepare a draft mitigation plan and submit it to the district engineer for review. After addressing any comments provided by the district engineer, the permittee must prepare a final mitigation plan, which must be approved by the district engineer prior to issuing the individual permit. The approved final mitigation plan must be incorporated into the individual permit by reference. The final mitigation plan must include the items described in paragraphs (c)(2) through (c)(14) of this section, but the level of detail of the mitigation plan should be commensurate with the scale and scope of the impacts.

(2) **Objectives.** A description of the resource type(s) and amount(s) that will be provided, the method of compensation (i.e., restoration, establishment, enhancement, and/or preservation), and the manner in which the resource functions of the compensatory mitigation project will address the needs of the watershed, ecoregion, physiographic province, or other geographic area of interest.

(3) **Site selection.** A description of the factors considered during the site selection process. This should include consideration of watershed needs, on-site alternatives where applicable, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation project site. (See §332.3(d).)

(4) **Site protection instrument.** A description of the legal arrangements and instrument, including site ownership, that will be used to ensure the long-term protection of the compensatory mitigation project site (see §332.7(a)).

(5) **Baseline information.** A description of the ecological characteristics of the proposed compensatory mitigation project site and, in the case of an application for a DA permit, the impact site. This may include descriptions of historic and existing plant communities, historic and existing hydrology, soil conditions, a map showing the locations of the impact and mitigation site(s) or the geographic coordinates for those site(s), and other site characteristics appropriate to the type of resource proposed as compensation. The baseline information should also include a delineation of waters of the United States on the proposed compensatory mitigation project site. A prospective permittee planning to secure credits from an approved mitigation bank or in-lieu fee program only needs to provide baseline information about the impact site, not the mitigation bank or in-lieu fee project site.

(6) **Determination of credits.** A description of the number of credits to be provided, including a brief explanation of the rationale for this determination. (See §332.3(f).)

i) For permittee-responsible mitigation, this should include an explanation of how the compensatory mitigation project will provide the required compensation for unavoidable impacts to aquatic resources resulting from the permitted activity.

(ii) For permittees intending to secure credits from an approved mitigation bank or in-lieu fee program, it should include the number and resource type of credits to be secured and how these were determined.

(7) **Mitigation work plan.** Detailed written specifications and work descriptions for the compensatory mitigation project, including, but not limited to, the geographic boundaries of the project; construction methods, timing, and sequence; source(s) of water, including connections to existing waters and uplands; methods for establishing the desired plant community; plans to control invasive plant species; the proposed grading plan, including elevations and slopes of the substrate; soil management; and erosion control measures.

For stream compensatory mitigation projects, the mitigation work plan may also include other relevant information, such as planform geometry, channel form (e.g., typical channel cross-sections), watershed size, design discharge, and riparian area plantings.

(8) **Maintenance plan.** A description and schedule of maintenance requirements to ensure the continued viability of the resource once initial construction is completed.

(9) **Performance standards.** Ecologically-based standards that will be used to determine whether the compensatory mitigation project is achieving its objectives. (See §332.5.)

(10) **Monitoring requirements.** A description of parameters to be monitored in order to determine if the compensatory mitigation project is on track to meet performance standards and if adaptive management is needed. A schedule for monitoring and reporting on monitoring results to the district engineer must be included. (See §332.6.)

(11) **Long-term management plan.** A description of how the compensatory mitigation project will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management. (See §332.7(d).)

(12) **Adaptive management plan.** A management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation project, including the party or parties responsible for implementing adaptive management measures. The adaptive management plan will guide decisions for revising compensatory mitigation plans and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. (See §332.7(c).)

(13) **Financial assurances.** A description of financial assurances that will be provided and how they are sufficient to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with its performance standards (see §332.3(n)).

(14) **Other information.** The district engineer may require additional information as necessary to determine the appropriateness, feasibility, and practicability of the compensatory mitigation project.