

Release of National Wetlands Mitigation Action Plan

Issue: In response to recent independent critiques of the effectiveness of wetlands compensatory mitigation for authorized losses of wetlands and other waters under Section 404 of the Clean Water Act, EPA and the Corps in conjunction with the Departments of Agriculture, Commerce, Interior, and Transportation released the National Wetlands Mitigation Action Plan on December 26, 2002.

Status:

- The Plan includes 17 tasks that the agencies will complete over the next three years to improve the ecological performance and results of compensatory mitigation.
- Completion of the first task in the Plan, release of a revised Corps of Engineers Mitigation Regulatory Guidance (RGL 02-2) occurred concurrent with the Plan. RGL 02-2 replaces the Corps' October 2001 controversial RGL 01-1 which drew criticism from Congress, Federal Agencies, and the public regarding its apparent departure from existing interagency mitigation policy.
- Completing the actions in the Plan will enable the agencies and the public to make better decisions regarding where and how to restore, enhance, and protect wetlands; improve their ability to measure and evaluate the success of mitigation efforts; and expand the public's access to information on these wetland restoration activities.

Background:

- Independent evaluations published in 2001 by the National Academy of Sciences (NAS) and the General Accounting Office (GAO) provided a critical evaluation of the effectiveness of wetlands compensatory mitigation for authorized losses of wetlands and other waters under Section 404 of the Clean Water Act. These analyses and other commentaries highlighted a number of shortfalls and identified a variety of technical, programmatic, and policy recommendations for the Federal agencies, States, and other involved parties.
- On October 1-2, 2001, EPA co-sponsored with the State of Maryland a Mitigation Stakeholder Forum that brought together States, the regulated community, academia, mitigation providers, federal agencies, members of the environmental community, and others to discuss the recommendations of the NAS and GAO.
- In response to Congressional and public concerns with RGL 01-1, the Corps requested comments from the federal agencies on the RGL. Based on the comments received, an interagency workgroup was convened and developed modifications to the RGL that provide useful information on developing a mitigation plan, are consistent with existing interagency guidance, endorse mitigation of impacts in advance or concurrent with authorized losses, and endorse the use of uplands and preservation in limited circumstances that still promote no net loss.
- As part of the RGL effort, the interagency group drafted the National Mitigation Action Plan endorsing the no net loss goal and outlining specific action items that address the concerns of the NAS, GAO, and other independent evaluations. The seventeen actions with various agency leads address areas of concern including data collection and availability, clarifying performance standards, improving accountability, and integrating mitigation into the watershed approach.