

SPECIAL PUBLIC NOTICE



**US Army Corps
of Engineers
Memphis District**

**Issue Date: April 14, 2023
Expiration Date: May 14, 2023**

30-Day Notice

REQUEST FOR COMMENTS FOR MISSOURI STREAM MITIGATION METHOD (MSMM)

The U.S. Army Corps of Engineers Districts within the State of Missouri (Kansas City, Little Rock, Memphis, Rock Island, St. Louis) (Corps) initially finalized the MSMM on March 1, 2007. The MSMM is the primary tool the Corps uses to determine the amount of stream impacts and the appropriateness of compensatory mitigation proposals for Department of the Army permit actions within the State of Missouri. This updated revision of the MSMM will enhance the Corps ability to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The MSMM was further developed and modified using best available information and scientific concepts on May 29, 2013, and the Corps is planning to update the MSMM again. Thus, the Corps is requesting public comment on the most recent draft version of the MSMM.

A Project Delivery Team comprised of representatives from Federal and state agencies as well as the Kansas City, Little Rock, Memphis, Rock Island, and St. Louis Districts of the Corps, convened to discuss aligning the document with Corps and USEPA joint regulation for Compensatory Mitigation for Losses of Aquatic Resource; Final Rule (Federal Register / Vol. 73, No. 70 Pages 19594-19687, April 10, 2008) (herein referred to as Mitigation Rule), national guidance, statewide policies, recent science, and Regulatory Project Manager experience. Therefore, the MSMM has been developed and modified using best available information and applies scientific concepts to assist regulatory agency personnel in determining a value which represents the loss of aquatic functions at an impact or project site.

The MSMM describes the preferred method for quantifying unavoidable stream impacts associated with the review of permit applications submitted for authorization under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344). The MSMM will typically be applied on those permit evaluations where a pre-construction notification is required to be submitted to the Corps, and the Corps determines that compensatory mitigation is necessary to offset unavoidable stream impacts associated with the permit evaluation. Therefore, the MSMM will be the preferred method when assessing mitigation requirements for all types of stream systems (perennial, intermittent, and ephemeral) that contain an ordinary high-water mark and are determined to be jurisdictional waters of the United States.

Another key element of the MSMM is to address the requirements for making a determination of credits identified in Section 332.4 (c)(6) of the Mitigation Rule and does not replace any other mitigation plan requirements or components identified in the rule. All mitigation plan documentation must be prepared in accordance with the Mitigation Rule, which governs planning, implementation, and management of permittee-responsible and third-party compensatory mitigation projects. Therefore, the MSMM is intended to serve as a tool for determining the amount of stream mitigation credits that a proposed project will generate based on the mitigation plan prepared for Stream Mitigation Banks, Individual In-Lieu Fee Stream Project Approvals, or Permittee-Responsible Mitigation Sites within the State of Missouri. A copy of the MSMM can be viewed at the following web address:

<https://usace.contentdm.oclc.org/utis/getfile/collection/p266001coll1/id/10776>

COMMENTS: Comments relating to the MSMM are due by close of business May 14, 2023. Comments on the MSMM should be sent to: Regulatory.MissouriState@usace.army.mil. Questions regarding this public notice and the MSMM can be sent to Mr. James Reenan at the U.S. Army Corps of Engineers, Missouri State Regulatory Office, 515 East High Street, Suite 202, Jefferson City, Missouri, 65101 or by email at james.s.reenan@usace.army.mil.