



Public Notice

US Army Corps of Engineers

Louisville, Nashville,
Memphis and
Huntington Districts ®

Public Notice No.
LRL-2018-01040-pgj

Date: August 23, 2019

Closing Date: N/A

Please address all comments and inquiries to:
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NOTICE ANNOUNCING THE ISSUANCE OF RESOURCE-BASED, PREDEFINED SERVICE AREAS FOR THIRD PARTY MITIGATION WITHIN KENTUCKY

This notice announces that on August 23, 2019, the Louisville, Nashville, Memphis and Huntington Districts of the U.S. Army Corps of Engineers (Districts), in accordance with 33 C.F.R 332, "Compensatory Mitigation for Losses of Aquatic Resources" (Mitigation Rule), issued resource-based, predefined service areas for third party mitigation within Kentucky. These service areas: 1) set equivalent standards for all third party mitigation regarding service area, 2) streamline the approval process, 3) provide consistency, predictability and transparency to Sponsors and the public regarding the approval of service areas for mitigation bank and in-lieu fee projects within the Commonwealth of Kentucky, and 4) ensure compliance with 33 C.F.R. 332 and RGL 19-01.

COVERAGE AREA: All "waters of the United States" (U.S.) within the Commonwealth of Kentucky.

DESCRIPTION OF THE SERVICE AREAS: The Mitigation Rule set equivalent standards for all third party mitigation and defined service areas in the context of mitigation banks and in-lieu fee programs. A service area is "the watershed, ecoregion, physiographic province, and/or other geographic area within which the mitigation bank or in-lieu fee program is authorized to provide compensatory mitigation required by Department of Army permits" (33 C.F.R. 332.8). In accordance with (33 C.F.R. 332.8(d)(6)(ii)(A):

- "The service area must be appropriately sized to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the entire service area."
- "Delineation of the service area must also consider any locally-developed standards and criteria that may be applicable."

- “The economic viability of the mitigation bank or in-lieu fee program may also be considered in determining the size of the service area.”

The final, resource-based, predefined service areas have been delineated based on these requirements and are depicted on the attached figures titled: “Resource-based, Predefined Service Areas For Third Party Mitigation Within Kentucky LRL-2018-01040”.

The Districts primarily used publically available, state and federal data as the basis for the service area delineation, including various databases maintained by the Commonwealth of Kentucky, as well as data maintained by the following federal agencies: the U.S. Geological Survey, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the U.S. Environmental Protection Agency, and the U.S. Department of Agriculture.

Because of the diversity and distribution of Kentucky’s aquatic resources and the need for appropriately-sized areas that would facilitate aquatic resource compensation throughout the entire service area, the type and distribution of aquatic resources as a function of ecological, state-wide, landscape- and watershed-scale factors were considered. Specifically, the proposed service areas are based on the following: geology, physiography, topography, ecoregions, hydrologic units, soil characteristics, aquatic species of greatest conservation need, aquatic federally endangered species and identified critical habitat, habitat connectivity, type and distribution, resource extraction, land use, watershed health and vulnerability, stream crediting protocols and District boundaries. The Districts also considered the potential need for mitigation associated with Corps’ authorizations, economic viability and environmental justice issues when delineating these service areas.

A copy of the final paper documenting the method for determining the resource-based, service areas is available by making a request, in writing, to the address listed above.

IMPLEMENTATION PROCEDURES: For new mitigation bank and in-lieu fee proposals, the Sponsor may request the resource-based, predefined service area where the mitigation site resides. Previously approved mitigation banks or in-lieu fee programs may continue to operate in accordance with the approved instrument or may request, in writing, modification of the instrument to utilize the resource-based service areas. In the event of a requested modification, the Districts will process the request in accordance with 33 C.F.R. 332.8 (g)(1). The resource-based, predefined service areas are considered guidance; as such, mitigation banks and in-lieu fee programs can continue to propose other service areas and the Districts will undertake case-specific determinations, consistent with 33 C.F.R. 332.8(d)(6)(ii)(A).

Legend



Resource-based, Predefined Service Areas For Third Party Mitigation Within Kentucky LRL-2018-01040

Legend

- Kentucky Pre-defined Service Areas
- 8-digit HUC

Ecoregion Level IV

- | | |
|---|---|
| 68a, Cumberland Plateau | 71f, Western Highland Rim |
| 68c, Plateau Escarpment | 71g, Eastern Highland Rim |
| 69d, Dissected Appalachian Plateau | 71h, Outer Nashville Basin |
| 69e, Cumberland Mountain Thrust Block | 71k, Hills of the Bluegrass |
| 70b, Monongahela Transition Zone | 71l, Inner Bluegrass |
| 70d, Knobs-Lower Scioto Dissected Plateau | 72a, Wabash-Ohio Bottomlands |
| 70f, Ohio/Kentucky Carboniferous Plateau | 72c, Green River-Southern Wabash Lowlands |
| 70g, Northern Forested Plateau Escarpment | 72h, Caseyville Hills |
| 70h, Carter Hills | 73a, Northern Holocene Meander Belts |
| 71a, Crawford-Mammoth Cave Uplands | 74a, Bluff Hills |
| 71b, Mitchell Plain | 74b, Loess Plains |
| 71c, Knobs-Norman Upland | |
| 71d, Outer Bluegrass | |
| 71e, Western Pennyroyal Karst Plain | |

