

SPECIAL PUBLIC NOTICE



Issue Date: May 29, 2013

US Army Corps
of Engineers
Memphis District

IMPLEMENTATION OF THE UPDATED MISSOURI STREAM MITIGATION METHOD (MSMM)

This notice is an informational notice only, no comments are requested.

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Missouri Department of Natural Resources

BACKGROUND: The U.S. Army Corps of Engineers Districts within the State of Missouri (Kansas City, Little Rock, Memphis, Rock Island, St. Louis) (Corps) adopted the MSMM on March 1, 2007. The MSMM is the primary tool the Corps has used for the evaluation of stream impacts and 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 Corps conducted a comprehensive review of the MSMM to address conformance with the 2008 Compensatory Mitigation Rule (see 33 CFR part 332), inconsistencies in the document and other issues identified during the first three plus years of use. As part of this review, a public notice was issued on March 27, 2012 requesting public input on the draft revised MSMM. We evaluated all comments received and tested various public recommendations in the development of this final version of the 2013 MSMM.

PURPOSE: For projects approved pursuant to the Corps Regulatory Program with jurisdiction 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 Corps of Engineers must require compensatory mitigation to offset losses of aquatic functions and services. The MSMM created a tool to identify impacts to aquatic ecosystems (debits) and effects of mitigation actions (credits) so that debit and credits can be compared in like terms. Use of a standard assessment tool improves efficiency, communication and consistency and provides increased predictability in the mitigation design and evaluation process.

APPROVED GRANDFATHERING PROVISIONS: The following bullets identify those situations where mitigation credit evaluations using the 2007 version of the MSMM will be maintained and where the 2013 MSMM will apply.

- Stream mitigation credit determinations made for approved Mitigation Banking Instruments and approved In-Lieu-Fee Projects using the 2007 version of the MSMM will remain unchanged. The Adverse Impact Worksheet accompanying the 2013 MSMM is suitable for determining debits (credits required) from the approved mitigation bank or ILF project where credits were established using the 2007 version of the MSMM.
- Upon final implementation of the 2013 MSMM, those mitigation banks that are pending final approval, whereby the sponsor has submitted a final instrument (phase IV) and where the 2007 version of the MSMM Worksheets have been used to determine the total potential stream credits available, the evaluation will remain valid and use of the 2007 version will remain unchanged.
- Upon final implementation of the 2013 MSMM, those ILF mitigation projects that are pending final approval will need to be reevaluated using the 2013 MSMM to determine the total number of stream credits generated by the proposed mitigation activities.
- Department of the Army permit evaluations that are pending authorization before the date of the public notice announcing the 2013 MSMM and where the 2007 version of the MSMM Impact Worksheet has been used to determine the debits (mitigation credits required) for the permit applicant, the evaluation will remain valid.
- Permittee-responsible mitigation plans being developed by permit condition or as part of an ongoing permit evaluation where the Corps and permittee/permit applicant have agreed upon the mitigation site and design aspects of the mitigation plan and/or discussed the potential mitigation credits generated using the 2007 version of the MSMM will remain valid at the discretion of the Regulatory project manager.
- Upon final implementation of the 2013 MSMM, permittee-responsible mitigation plans will need to be evaluated using the 2013 MSMM to determine the total number of stream credits generated by the proposed mitigation activity.

EFFECTIVE DATE: Effective the date of this notice, the MSMM has been updated. This second version of the MSMM will remain the primary tool the Corps will use for evaluating stream impacts and mitigation proposals for new permit actions within the State of Missouri. For those projects that are currently under Corps review, the Corps will determine which version of the MSMM will be utilized.

MSMM DOCUMENT: The 2013 MSMM is located on the District's webpage at <http://www.mvm.usace.army.mil/About/Offices/Regulatory.aspx> under "Regulatory Links."

PERIODIC REVIEW: The MSMM will be reviewed and updated as necessary based upon experiences during use.

ADDITIONAL INFORMATION: Additional information about the 2013 MSMM may be obtained by contacting Mr. Roger Allan, Regulatory Branch, 167 North Main Street, Room B-202, Memphis, TN 38103, at telephone (901) 544-3682 or via email at roger.s.allan@usace.army.mil.