



## A TRAINING COURSE FOR MITIGATION BANKING INTERAGENCY REVIEW TEAMS



### Reference Document 3a The Composition and Role of IRTs

#### A. The Composition of IRTs

##### Policy

##### **2008 Compensatory Mitigation for Losses of Aquatic Resources**

##### *§332.2 Definitions*

*Interagency Review Team (IRT)* means an interagency group of federal, tribal, state, and/or local regulatory and resource agency representatives that reviews documentation for, and advises the district engineer on, the establishment and management of a mitigation bank or an in-lieu fee program.

##### § 332.8 Mitigation banks and in-lieu fee programs

##### (b) *Interagency Review Team.*

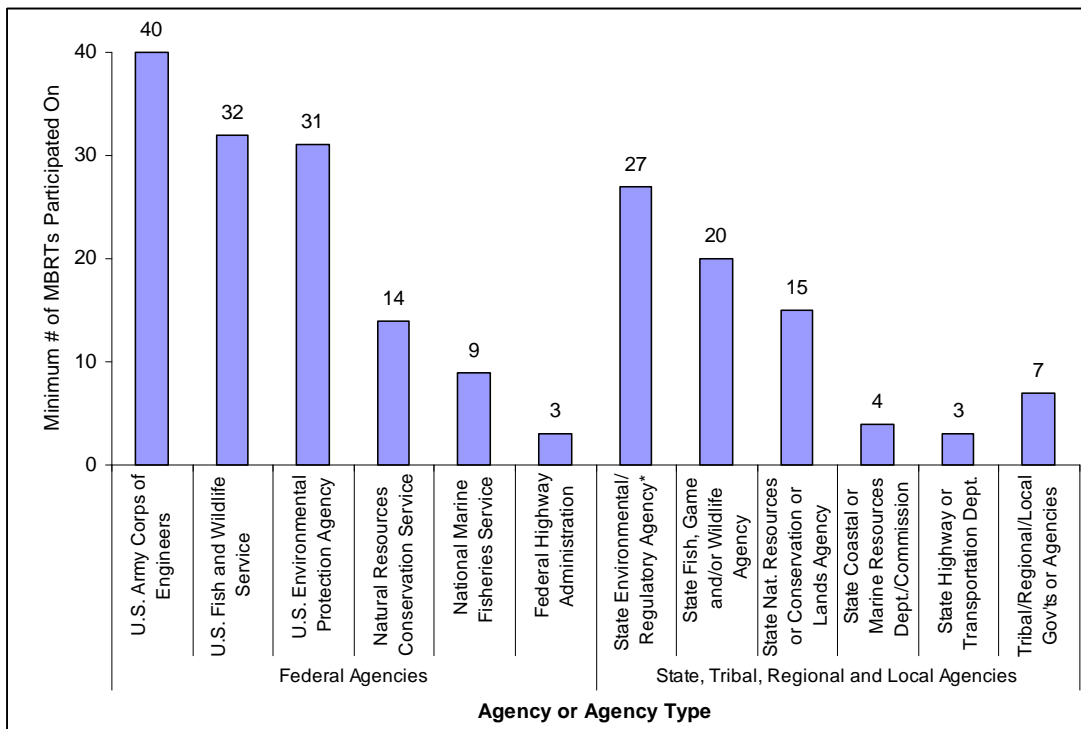
(1) The district engineer will establish an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks and in-lieu fee programs. The district engineer or his designated representative serves as Chair of the IRT. In cases where a mitigation bank or in-lieu fee program is proposed to satisfy the requirements of another federal, tribal, state, or local program, in addition to compensatory mitigation requirements of DA permits, it may be appropriate for the administering agency to serve as co- Chair of the IRT.

(2) In addition to the Corps, representatives from the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, NOAA Fisheries, the Natural Resources Conservation Service, and other federal agencies, as appropriate, may participate in the IRT. The IRT may also include representatives from tribal, state, and local regulatory and resource agencies, where such agencies have authorities and/or mandates directly affecting, or affected by, the establishment, operation, or use of the mitigation bank or in-lieu fee program. The district engineer will seek to include all public agencies with a substantive interest in the establishment of the mitigation bank or in-lieu fee program on the IRT, but retains final authority over its composition.

## Composition of MBRTs

In a survey of readily available reference materials conducted in May 2007, ELI identified 40 distinct MBRTs in the U.S. These 40 MBRTs cover part or all of 36 Corps districts and 32 states. Available data about the membership on these MBRTs is summarized in Figure 1.<sup>1</sup>

**Figure 1. MBRT Membership.** This figure shows the federal and state agencies representatives that serve on the identified 40 MBRTs. In addition to the agencies identified in this figure, a handful of state agencies and at least one conservation group participate on only one MBRT and do not readily fit into any of the categories outlined below.<sup>2</sup>



\*The State Environmental/Regulatory Agency category includes joint state agencies that include both the regulatory agency and natural resource agency.

<sup>1</sup> *Note on data sources:* These data are drawn from a variety of disparate sources, including federal and state agency websites and third-party studies. These sources provide varying amounts of information about the composition of particular MBRTs. ELI has synthesized these data to generate information about each MBRT that is as complete as possible but, as a result of these data limitations, the statistics presented in Figure 1 show only the **minimum** number of the 40 sampled MBRTs that each agency or type of agency participates on. It is likely that many of these agencies or types of agencies participate on more of these MBRTs than are shown in Figure 1.

<sup>2</sup> Agencies that also participate on an MBRT but that do not fit into one of the categories in figure 1 include: South Carolina Department of Archives and History (Charleston District MBRT); New Jersey Mitigation Council (New Jersey Meadowlands Interagency Mitigation Advisory Committee); Colorado Department of Health (Sacramento District MBRT for Colorado); The Nature Conservancy (Sacramento District MBRT for Utah); North Carolina Ecosystem Enhancement Program (Wilmington District MBRT).



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### Reference Document 3a The Composition and Role of IRTs

#### B. The Role of IRTs

##### **2008 Compensatory Mitigation for Losses of Aquatic Resources**

###### *§332.2 Definitions*

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###### *§ 332.8 Mitigation banks and in-lieu fee programs*

###### *(b) Interagency Review Team.*

(1) The district engineer will establish an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks and in-lieu fee programs. The district engineer or his designated representative serves as Chair of the IRT. In cases where a mitigation bank or in-lieu fee program is proposed to satisfy the requirements of another federal, tribal, state, or local program, in addition to compensatory mitigation requirements of DA permits, it may be appropriate for the administering agency to serve as co- Chair of the IRT.

(3) The primary role of the IRT is to facilitate the establishment of mitigation banks or in-lieu fee programs through the development of mitigation banking or in-lieu fee program instruments. The IRT will review the prospectus, instrument, and other appropriate documents and provide comments to the district engineer. The district engineer and the IRT should use a watershed approach to the extent practicable in reviewing proposed mitigation banks and in-lieu fee programs. Members of the IRT may also sign the instrument, if they so choose. By signing the instrument, the IRT members indicate their agreement with the terms of the instrument. As an alternative, a member of the IRT may submit a letter expressing concurrence with the instrument. The IRT will also advise the district engineer in assessing monitoring reports, recommending remedial or adaptive management measures, approving credit releases, and approving modifications to an instrument. In order to ensure timely processing of instruments and other documentation, comments from IRT members must be received by the district engineer within the time limits specified in this section. Comments received after these deadlines will only be considered at the discretion of the district engineer to the extent that doing so does not jeopardize the deadlines for district engineer action.

(4) The district engineer will give full consideration to any timely comments and advice of the IRT. The district engineer alone retains final authority for approval of the instrument in cases where the mitigation bank or in-lieu fee program is used to satisfy compensatory mitigation requirements of DA permits.



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#### C. Bibliography of IRT Procedures

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Institute for Water Resources, U.S. Army Corps of Engineers. "National Wetland Mitigation Banking Study: Technical and Procedural Support to Mitigation Banking Guidance." December 1995. IWR Technical Paper WMB-TP-2. (Contains general guidance for how MBRTs should function.)

<http://www.iwr.usace.army.mil/inside/products/pub/iwrreports/WMB-TP-2.pdf>

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