



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration


National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

May 25, 2004

MEMORANDUM FOR: F/HC2 - Susan-Marie Stedman

FROM: F/AKR4 - Jon Kurland 

SUBJECT: Draft Federal Guidance on Difficult to Replace/Restore Wetlands
Under Section 404 of the Clean Water Act

The Habitat Conservation Division of the Alaska Region reviewed the above referenced Draft Guidance on Difficult to Replace/Restore (DTR) Wetlands. We support the collaborative efforts undertaken by the interagency group and appreciate the opportunity to provide comments. Please contact Jeanne Hanson at (907) 271-3029 if you have questions or comments.

General Comments

The first goal of NOAA's current strategic plan is to protect, restore and manage the use of coastal and ocean resources through ecosystem-based management. Our participation in the development of this document supports NOAA's current strategic plan by providing guidance to help restore and sustain the long-term health, productivity and biological diversity of marine ecosystems for the greatest benefit to the nation.

The document is well written and does a nice job in giving a broad overview of the Corps of Engineers' (Corps) Regulatory program and the need for compensatory mitigation. However, actual implementation of this guidance will take place at the Regional/District level. While the document lays out how this guidance relates to other guidance that has been developed, or is currently under development as a result of the Mitigation Action Plan (MAP), it does little to specify how the Regions or Districts should work collaboratively at the local level to implement the guidance. Local implementation procedures may be needed for several of the MAP products.

Also, while the MAP and associated guidance is being developed on a national level, the Corps and the Environmental Protection Agency have guidance, in the form of several separate memos, on how mitigation is implemented in Alaska. The inclusion of such information directly or by reference would not only be helpful to Regional staff, but useful as part of a complete administrative record.

Specific Comments

Section IV. C. - The previous section references that as part of the MAP the agencies plan to publish guidance regarding making compensatory mitigation decisions in a watershed context. Presumably, this guidance will have more information on how to develop a watershed plan than



footnote number 4 of this document. This will be key for a region like Alaska where very few watershed plans exist.

Section IV. D. - This section assumes that Corps Districts believe that they have DTR wetlands in their District and need to consult with the other agencies to designate them. We recommend adding a provision for the formation of regional interagency teams, local operations agreements, and a time frame for implementation of the guidance.

Section IV. E. - Some of the programmatic tools described that can be used to facilitate the identification and protection of DTR wetlands are also used as tools in a watershed context. In addition to the example of how DTR wetlands benefit from additional protection from the issuance of Nationwide permits, this section should address the use of these other tools in relationship to the holistic watershed approach.

Section V. General - In the past the Corps has unilaterally revised memoranda of agreement (e.g. the last Section 404 q MOA). Given the reference in the MAP to the conclusion by the National Academy of Science, such an action would be contrary to the goals of the Clean Water Act. Therefore, we recommend that this section contain language that recognizes that all agencies signatory to this guidance must review and agree upon any changes prior to implementation by regional/district staff.