Wrap-Up and Synthesis

Mitigation Stakeholder Forum
May 10-11, 2006
Washington, DC
Kudos:

- Participants
- Environmental Law Institute
- George Washington University
- Co-sponsors
  - FHWA
  - NOAA – NMFS
  - USFWS
Major Themes: Proposed Rule

• Positive feedback:
  – Affirming “sequence”, Raising standards, increasing accountability, ensuring efficiency and improving success rates

• Constructive criticism:
  – Ensuring “equivalency”, role of state programs, scale of watershed/service area, should vs. shall, definitions, much more...
Major Themes: Proposed Rule

• Third-party compensation:
  – Timelines
  – Passionate response to proposed phase-out of traditional ILF
    • Right thing to do in order to ensure equivalent effective standards
    • Consider retaining ILF but implement significant reforms such as:
      – Hard preference for “in ground” compensation
      – Set ILF fee schedules significantly higher than bank credit prices
      – Require ILFs to incorporate an RFP process that incorporates private-sector efficiencies
Submit Public Comments

- New deadline: June 30, 2006
- Instructions are in March 28, 2006 Federal Register Notice
- Recommended method of submission:
  - www.Regulations.gov (Public Docket)
    - Electronic submission
    - View all other comment submissions
Watershed Approach

- General endorsement of Watershed Approach
- Concern regarding practical implementation
  - Availability/quality/nature of plans
  - Influencing existing planning
  - Encouraging planning by other agencies (e.g., NRCS)
- Approach without a plan
  - Quality/depth of assessment necessary
  - Minimum information requirements? Or not?
- Case by case vs. holistic
Tracking/Compliance

- Partner with states on database issues to ensure inter-operability, data sharing, public access
- Leveraging geospatial data (e.g. JDs)
- Compensatory mitigation compliance concerns – GAO
- Constructive response and actions underway
Current/Future Issues

- # of Banks increasing, ILF decreasing
- Regional variations in use
- Problems with creation
- Need more consideration of soil metrics
- Studies that look at:
  - impacts vs compensation sites
  - type of mitigation provider (motivation)
  - Soil organic matter, bulk density
- Better information dissemination (and training) and better management/use of grey lit.