ILF Instrument Includes:

- Service area(s)
- Accounting procedures
- Assumption of legal responsibility
- Default and closure provisions
- Reporting protocols
- Compensation planning framework
- Advance credits
- Method for determining fees and credits
- Description of in-lieu fee program account
ILF Program Advance Credits

- Approved instrument required

- Limited number (cap) specified for each service area in the instrument

- Available for sale prior to being fulfilled in accordance with mitigation project plan

- As projects produce released credits, advance credits are fulfilled and available again
ILF project implementation

- Land acquisition and improvements must be initiated by 3rd growing season after first advance credit is secured by permittee.
ILF Program Advance Credits

- Number of advance credits based on:
  - Compensation planning framework
  - Service area size
  - Resources available to program
  - Sponsor’s past project performance
  - Financing needed for mitigation projects
  - Other considerations
How to determine the number of advance credits in a service area?

Approaches:

- No advance credits
- All advance credits
- Historic /Future demand
  - % of permitted impacts over X years
  - % of required mitigation over X years
- Existing ILFs: % of approved but not implemented projects
- Other considerations
Approach #1: No Advance Credits

- OR DSL
- MS Coastal ILF
Approach #2: All Advance Credits

- In circumstances when compensation:
  - Cannot be provided by other means
  - Requires extensive planning & coordination

- Living River Restoration Trust (VA)
- La Paz County ILF (AZ)
Approach #3: Historic/Future Demand

- VT ILF (DU)
- VA ARTF (TNC)
- NC EEP (NC)
Example: NC EEP Advance Credits Calculation

- Based on EEP projected mitigation needs for next 5 years

- Calculated by River Basin and 8-digit CU
  - NCDOT: 5-year NCDOT forecast of mitigation need (TIP and other transportation plans)
  - MOU ILF (other ILF customers): Annual average of payments over last 7 years
NC EEP Advance Credits Calculation

Stream Mitigation Projection for Cape Fear Basin

NCDOT 5 Year Forecast: 101,062
MOU ILF 7 yr Average * 5: 64,835
Subtotal: 165,897

Rounded to nearest 5000

Total Cape Fear Basin: 170,000
## NC EEP Advance Credit Allocation

<table>
<thead>
<tr>
<th>River Basin</th>
<th>Cataloging Unit</th>
<th>Advance Stream Credits</th>
<th>Advance Wetland Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cape Fear</td>
<td>TOTAL:</td>
<td>170,000</td>
<td>635</td>
</tr>
<tr>
<td>03030002</td>
<td></td>
<td>62,841</td>
<td>112</td>
</tr>
<tr>
<td>03030003</td>
<td></td>
<td>29,571</td>
<td>8</td>
</tr>
<tr>
<td>03030004</td>
<td></td>
<td>53,717</td>
<td>125</td>
</tr>
<tr>
<td>03030005</td>
<td></td>
<td>13,458</td>
<td>368</td>
</tr>
<tr>
<td>03030006</td>
<td></td>
<td>9,723</td>
<td>4</td>
</tr>
<tr>
<td>03030007</td>
<td></td>
<td>691</td>
<td>18</td>
</tr>
</tbody>
</table>
Approach #4: Existing ILFs

- % of expected credit yield from approved projects that have NOT been implemented

Example: Standing Proposals where work has NOT yet been implemented
Other Considerations

- Sponsor experience/track record
- Availability of suitable sites
- Risk of mitigation project failure
- Project costs – esp. land
Examples: Existing ILFs with released credits

- AZ GFD – Standing proposals

- VA ARTF Exceeded mitigation obligations in some service areas

  Credits meeting performance standards
  - Credits needed for program obligations

  Released credits
Project Site Credit Release Schedule

- Specified in each site’s mitigation plan
- Tied to performance-based milestones
- Reserve *significant* share of credits for release only after attainment of performance standards
- Credit release approval by DE in consultation with IRT
Credit Release Schedule:
ILF projects can mirror mitigation banks

% of total expected ILF project credits once:

1. Instrument approved
2. Project plan approved
3. ILF site has been secured
4. Financial assurances or contingency funding
5. Any other requirements set by Corps
Example: Wilmington District Credit Release Schedule for Wetlands (non-forested)

<table>
<thead>
<tr>
<th>Event</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Instrument and Plan approved</td>
<td>15%</td>
</tr>
<tr>
<td>Site secured; &amp; protected; Financial assurances</td>
<td></td>
</tr>
<tr>
<td>Initial physical &amp; bio improvements</td>
<td>15%</td>
</tr>
<tr>
<td>Meets success criteria</td>
<td>10%</td>
</tr>
<tr>
<td>Meets success criteria</td>
<td>15%</td>
</tr>
<tr>
<td>Meets success criteria</td>
<td>20%</td>
</tr>
<tr>
<td>Meets success criteria</td>
<td>10%</td>
</tr>
<tr>
<td>Meets success criteria (YR 5 Monitoring)</td>
<td>15%</td>
</tr>
</tbody>
</table>
Binder Materials

Example of Debiting and Releasing Advance Credits
Discussion?