



**US Army Corps
of Engineers** ®
Nashville District



Standard Operating Procedure - Assessing Temporal Loss for Compensatory Mitigation Provided After Impacts to Aquatic Resources Have Occurred

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I. Introduction

Temporal loss is the time lag between the loss of aquatic resource functions caused by the permitted impacts (permanent or temporary), and the replacement of aquatic resource functions at the compensatory mitigation site. To address the temporal loss of aquatic resource functions that can occur through permitted impacts, the Federal Mitigation Rule specifies that to the extent appropriate and practicable, additional compensatory mitigation can be required to offset temporal losses (33 C.F.R. §332.3 (m)). Below outlines the applicability and procedures on when and how to assess temporal loss for permits requiring compensatory mitigation. Temporal loss assessments may include both temporary and permanent permitted impacts. The Nashville Regulatory Division reserves the right to deviate from the SOP on a case-by-case basis based on project specific considerations.

II. Temporal Loss Assessment Applicability and Procedures

Implementation of the compensatory mitigation project shall be, to the maximum extent practicable, in advance of or concurrent with the activity causing the authorized impacts.

When the compensatory mitigation project is initiated prior to, or concurrent with, the permitted impacts, the district engineer may determine that compensation for temporal loss is not necessary, unless the resource has a long development time (33 C.F.R. §332.3 (f)).

For every permit action requiring compensatory mitigation, in which the applicant proposes to use In-Lieu Fee (ILF) Program Advance Credits, or provide permittee-responsible mitigation (PRM) after the permitted impacts have occurred, the permittee shall offset temporal loss by adding a 3% per year multiplier to the required mitigation amount.

ILF: If impacts are proposed to be offset through the purchase of advanced credits from an ILF Program provider, the temporal loss multiplier would be assessed at 12%, as ILF Programs have three full growing seasons to implement the initial physical and biological improvements on a project once the first credit is sold, plus one year for the site to begin providing functions post construction. If the permittee is purchasing credits from an ILF that is exceeding the standard timeframe to implement the initial physical and biological improvements, the permittee will be required to provide a commensurate temporal loss multiplier. For example, if the average time for an ILF to implement a mitigation project is four years, plus one year for the site to begin providing functions post construction, the temporal loss multiplier would be 15%.

PRM: If PRM is determined appropriate to compensate for permitted losses, an additional 3% per year temporal loss multiplier would be assessed for PRM projects constructed after the permitted impacts occurred. The same practice would apply for PRM projects that are unsuccessful, and a time lag has occurred between impact and mitigation construction to replace loss functions.