

## **SERVICE AREAS FOR MITIGATION BANKS IN ALABAMA AND MISSISSIPPI (MOBILE CORPS DISTRICT)**

**Federal Guidance:** The Federal Guidance regarding wetland mitigation banks specifically addresses the topic of service areas. The Federal Guidance indicates that the service area boundary should be defined according to hydrological and ecological functions. Additionally, the Federal Guidance encourages flexibility as long as that flexibility is scientifically based. The Federal Guidance also suggests a combination of using hydrologic cataloging units that have been mapped by the United States Geologic Survey (USGS) and “Ecoregions of the United States”, by either James M. Omernik or Robert G. Bailey, as a guide. The Federal Guidance permits the option of using other classification systems developed at a state or regional level.

**HUCs and Ecoregions:** In Alabama and Mississippi, watersheds have been mapped using the 8-digit USGS Hydrologic Unit Code (HUC) (See **Appendix F**) and underlain with the 1995 USFS Ecoregions (See **Appendix G**). Actual service areas for banks will be clearly defined and mapped in mitigation banking instruments. The individual agency concurrence signature on the mitigation banking instrument will reflect the general acceptance of the service area.

**The mitigation service area (MSA) for a bank is based on the area within which adverse impacts could reasonably be expected to be offset by the mitigation bank.** The MBRT will determine the appropriate basin for the MSA. As suggested by the Federal Guidance, the MBRT will be flexible in determining the extent of the service area as long as it has a basis in natural science and is not based on economic considerations or political boundaries. Within the MSA, the Proximity Factor described in **Appendix I** will apply. As the methods of defining service areas for mitigation banks in Alabama and Mississippi are further refined, they will be considered by the MBRT throughout the states and applied as appropriate.

**Use of bank outside of designated service area:** Use of a mitigation bank to compensate for impacts beyond the designated service area may be authorized on a case-by-case basis. The MBRT believes exceptional circumstances are required to mitigate for impacts outside of the service area. An out-of-basin multiplier in addition to the proximity factor will apply in the event a bank is approved to compensate for impacts beyond its designated service area (See **Appendix I**). In addition, other State and Federal permitting criteria may limit the use of a mitigation bank, even within the designated service area.

**In-kind versus out-of-kind mitigation determinations:** In the interest of achieving functional replacement, in-kind compensation of aquatic resource impacts should generally be required. Out-of-kind compensation may be acceptable if it is determined to be environmentally preferable to in-kind compensation (e.g., of greater ecological value

to a particular region). Out-of-kind compensation may be acceptable if it offsets functions provided by wetlands that are lost due to regulated activities. However, non-tidal wetland should typically not be used to compensate for the loss or degradation of tidal wetlands. Decisions regarding out-of-kind mitigation are typically made on a case-by-case basis during the permit evaluation process. The mitigation banking instrument may identify circumstances in which it is environmentally desirable to allow out-of-kind compensation within the context of a particular mitigation bank (e.g., for banks restoring a complex of associated wetland types). Mitigation banks developed as part of an area-wide management plan to address a specific resource objective (e.g., restoration of a particularly vulnerable or valuable wetland habitat type) may be such an example. Out-of-kind compensation will be subject to a proximity factor.