



Ohio Revised Code

Section 6111.31 Interagency review team and mitigation standards.

Effective: July 21, 2022

Legislation: House Bill 175 - 134th General Assembly

(A) As used in this section, "interagency review team" means the interagency group of federal, tribal, state, or local regulatory and resource agency representatives established pursuant to 33 C.F.R. 332.8(b) that reviews documentation for and advises the United States army corps of engineers district engineer on the establishment and management of a wetland mitigation bank, stream mitigation bank, in-lieu fee mitigation program, or permittee responsible mitigation.

(B)(1) The directors of environmental protection, the department of natural resources, and the department of transportation shall each appoint an agency designee and an alternate to serve as members of the interagency review team. Each appointed person shall have significant experience in at least one of the following:

- (a) The restoration of wetlands or streams;
- (b) The enhancement and protection of wetlands or streams;
- (c) The development of compensatory mitigation plans.

(2) At least one of the appointees shall maintain accurate and complete minutes of interagency review team meetings, including documentation of the basis for any comments or decisions of the interagency review team with respect to wetland mitigation banks, stream mitigation banks, in-lieu fee mitigation proposals, permittee responsible mitigation, approvals, credit releases, or management. Minutes kept by an appointee are a public record.

(C)(1) Not later than twenty-four months after the effective date of this amendment, the director of environmental protection shall review and adopt, in accordance with sections 106.03 and 119.03 of the Revised Code, all substantive wetland, stream, or lake mitigation standards, guidance, guidelines, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by either of the following:



- (a) The interagency review team to review documentation for and evaluate wetland mitigation bank, stream mitigation bank, in-lieu fee mitigation program, or permittee responsible mitigation;
- (b) The director of environmental protection in evaluating the adequacy of any of the following in an application for a section 401 water quality certification: a mitigation proposal, including a wetland mitigation bank proposal, stream mitigation bank proposal, in-lieu fee mitigation project proposal, or permittee responsible mitigation, the establishment of performance metrics, a request for credit release, or termination of monitoring requirements.
- (2) Beginning on the effective date of the actions taken by the director as required under division (C)(1) of this section or beginning twenty-four months after the effective date of this amendment, whichever is earlier, both of the following apply:
- (a) No such standards, guidance, guidelines, criteria, or scientific methods, processes, or other procedures or policies that are not adopted in accordance with division (C)(1) of this section have the force of law;
- (b) Any such mitigation standards, guidance, guidelines, criteria, scientific methods, processes, or other procedures or policies that are not adopted in accordance with division (C)(1) of this section that are used by or approved for use by the director or the interagency review team to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, establishment of performance metrics, request for credit release, or termination of monitoring requirements shall not be used as the basis for review of any certification or permit denial or as a standard applied to mitigation.
- (3) Actions taken by the director under division (C)(1) of this section are not subject to division (F) of section 121.95 of the Revised Code.