



SCDOT Mitigation Procedures

For General Permits using Mitigation
Escrow Account

Is mitigation required?

- For some projects involving impacts to RPWs and jurisdictional ditches, mitigation may not be required if there is no net loss of the functions and values provided by these systems
- Impacts need to be avoided and minimized as much as possible
- A functional assessment must be done to document the existing condition of the feature (stream functional assessment data sheets from SOP)
- If a new channel is being constructed, a functional assessment of the new feature must also be evaluated
- The project must be constructed to maintain pre construction downstream flows and hydrologic connection
- If a demonstration can be made that there is no functional loss and the project maintains pre construction downstream flows, then mitigation may not be required
- This is usually done where channelized streams or jurisdictional ditches are impacted and must be relocated



Mitigation Options

- Credit purchase from commercial bank
- Debit credits from SCDOT mitigation bank
- PRM can be done for larger projects but not cost feasible for small projects
- Escrow (only applicable to GP)

Escrow Process

- **Contact banks that service the project area to determine pricing and availability of credits**
- **Develop the modified compensatory mitigation plan to submit with the General Permit PCN**
- **The mitigation plan describes how the plan complies with 2008 rule, identifies the escrow holder, and describes how the escrow agreement will operate**
- **The amount of funds to be deposited in the account is determined by the average price for credits at the last time they were available at the closest mitigation bank to the project area.**
- **The credit price is adjusted for inflation by adding 8% and a maintenance fee of 1.5% is also added.**
- **An escrow agreement must also be submitted with the signatures of SCDOT, the escrow holder, and the Corps**
- **The escrow agreement is developed during the permit review process and is coordinated through the SCDOT and Corps legal offices.**

Modified Compensatory Mitigation Plan

- Templates are available from SCDOT permit managers
- Describes how the funding is calculated and includes the 12 requirements in the 2008 mitigation rule
- Attachment A includes a map depicting mitigation bank locations relative to the project area. This is usually a screenshot from RIBITS
- Attachment B includes a letter demonstrating why PRM is not feasible.
- Attachment C includes a stream credit price quote from phone records or email

Escrow Agreement

- A document prepared by SCDOT legal office
- Identifies the law firm that will be the escrow holder
- It is a legally binding document that describes how the escrow account is managed.
- Signed by Corps, SCDOT, and the escrow holder
- Does not need to be submitted with permit application
- Is typically completed during permit review process
- After the escrow agreement is executed and the check is deposited, the escrow holder must send letter to SCDOT verifying the deposit of funds
- This letter is forwarded to the Corps by SCDOT permit manager
- The Corps requires proof of deposit before permit can be approved