**Section 1090.40 Agency Action Plans and Memorandums of Agreement**

a) State agencies represented on the Interagency Wetlands Committee shall comply through the development and implementation of their Agency Action Plan (AAPs).

b) State agencies who are not members of the Interagency Wetlands Committee may comply with the Act by:

1) Development of a Memorandum of Agreement with the Department that is consistent with the minimum provisions required for Agency Action Plans; or

2) Development of an Agency Action Plan.

c) The State agency or unit of State government that funds, administers pass-through funding, provides or supports any construction, land management, land acquisition, land transfer or other activity that will result in an adverse impact to a wetland shall be responsible to ensure that the unit receiving the assistance complies with the provisions of this Part. The State agency or unit of State government providing assistance may require the agency or applicant receiving assistance to furnish all information and perform all compliance tasks as defined in this Part.

d) Agency Action Plans and Memorandums of Agreement shall be valid for a period of 4 years. During that period, the agency shall submit a biennial report to the Department on or before June 30 describing actions taken to implement the AAP or Memorandum of Agreement. Renewal of the Agency Action Plan shall be initiated by a letter from the Department to the agency. The agency may request that an Agency Action Plan be renewed with no modifications or with modifications.

1) If no modifications are requested or required, the Agency Action Plan or Memorandum of Agreement shall be automatically renewed for 4 years by the Department, provided that biennial reports are timely and complete and that the Agency has not had a change in legislative authority that would alter the terms of the AAP.

2) If modifications are requested or required the agency and Department shall initiate discussions to modify the Agency Action Plan or Memorandum of Agreement and it shall follow the same review and approval process as provided in the Act.

e) All Agency Action Plans shall include provisions indicating that the agency shall use or require the use of technical procedures adopted in accordance with Section 1090.80 of this Part.