



**US Army Corps
of Engineers®**
New England District

Fact Sheet on Massachusetts In-Lieu Fee Program Fees May 2014

Background

The U.S. Army Corps of Engineers (the “Corps”) has approved the Department of Fish and Game (DFG) to be the sponsor of a state-wide program that would provide in-lieu fee compensatory mitigation associated with Corps permits under §404 of the Clean Water Act and/or 10 of the Rivers and Harbors Act of 1899 and related federal rule at 33 C.F.R. Part 332 (the federal Mitigation Rule). On May 23, 2014 the Corps and DFG signed an Instrument developed by DFG that sets forth a comprehensive description of how DFG will administer this in-lieu fee program (ILFP) in Massachusetts. DFG’s ILFP and the related fee schedule are summarized below.

The ILFP allows Corps permittees, as compensation for their project impacts to aquatic resources of the U.S. in Massachusetts, to make a monetary payment *in-lieu of* doing the permittee-required mitigation. These in-lieu fee payments are made to the ILFP administered by DFG. As the ILFP sponsor, DFG, in turn, assumes legal responsibility for implementing the required mitigation, which it will accomplish by aggregating and expending the in-lieu funds received from Corps permittees for mitigation projects. DFG’s state-wide ILFP covers impacts to all types of aquatic resources from both small-sized projects authorized under the General Permit and larger projects that require an individual permit from the Corps.

DFG’s ILFP will implement mitigation projects that permanently protect aquatic resources and upland buffers and/or restore impacted aquatic resources within four (4) identified bio-regions covering the state (called “service areas”; see map below). DFG will select ILFP mitigation projects through its application of detailed prioritization criteria in the ILFP Instrument, which includes consideration of a potential project’s ability to achieve multiple mitigation objectives and its support or compatibility with broader conservation or management initiatives.

Description of the Basis of DFG’s Proposed ILFP Fees

When a Corps permittee chooses to purchase credit(s) from DFG’s ILFP in lieu of being responsible for implementing the required mitigation, the Corps will specify the corresponding number of credit(s) in their permit.

The fees established by DFG for its ILFP mitigation credits are based on the full cost of restoring a unit of aquatic resource, which is expressed in terms of a cost per square foot or cost per linear foot, depending on the resource type. This “full cost accounting” approach factors in all land

acquisitions costs, engineering, permitting, construction, long term monitoring, administrative costs and a contingency amount to provide for any necessary corrective actions.

Based on its analysis of the full cost accounting factors, DFG established its fees for purchasing credit(s), or a portion thereof, from DFG’s ILFP. DFG’s ILFP fee schedule is set forth in the table below. As stated in its ILFP Instrument, DFG intends to periodically review the fees to determine whether any adjustments are appropriate to reflect changes in mitigation cost factors and to account for the full cost of administering the ILFP.

Service Area	\$/sq ft	\$/linear foot
Berkshire	\$13.68 / s.f.	\$100.00
Connecticut River	\$13.70 / s.f.	\$100.00
Worcester	\$13.73 / s.f.	\$100.00
Coastal	\$14.26 / s.f.	\$200.00
Statewide Average	\$13.84 / s.f.	\$125.00

