

**AMENDMENT No. 1 TO THE
MASSACHUSETTS IN-LIEU FEE PROGRAM INSTRUMENT**

WHEREAS, the approved Commonwealth of Massachusetts Final In-lieu Fee Program (“MAILF”) Instrument (hereinafter “Instrument”), was signed by Massachusetts Department of Fish and Game (hereinafter “DFG”) and the U.S. Army Corps of Engineers, New England District (hereinafter “Corps”), on May 23, 2014;

NOW THEREFORE, the Corps and DFG hereby amend the Instrument to make the following modification to the Instrument:

Section I (“Introduction”) of the Instrument is amended by adding the following paragraph after the third paragraph:

“Corps approval of this Instrument constitutes the regulatory approval required for the MAILF program to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 C.F.R. 332.8(a)(1). This Instrument is not a contract between the Commonwealth and the Corps or any other agency of the federal government. Any dispute arising under this Instrument will not give rise to any claim by the Commonwealth for monetary damages. This provision is controlling notwithstanding any other provision or statement in the Instrument to the contrary.”

IN WITNESS WHEREOF, the undersigned authorized representatives of DFG and the Corps have caused this Amendment No. 1 to be duly executed, effective on the date of the last signature.



Ronald S. Amidon
Commissioner
Massachusetts Department of Fish and Game

Jennifer L. McCarthy
Chief, Regulatory Division
New England District Corps of Engineers