



**US Army Corps  
of Engineers**®  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Comment Period Begins:** December 20, 2022  
**Comment Period Ends:** January 20, 2023  
**File Number:** NAE-2005-01142  
**In Reply Refer To:** Mr. Taylor Bell  
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**SUBJECT:** This notice announces that the New Hampshire Aquatic Resource Mitigation Fund In-Lieu Fee (“ILF”) Program will utilize a Request for Proposals (RFP) that focuses on re-establishment, rehabilitation, establishment, and enhancement for their upcoming 2023 RFP. Specific details about the RFP will be disclosed when the New Hampshire Aquatic Resource Mitigation Fund In-Lieu Fee Program announces the RFP is open which will be in either February or March of 2023.

**ILF PROGRAM SPONSOR:** New Hampshire Department of Environmental Services  
29 Hazen Drive  
Concord, New Hampshire 03302-0095

**BACKGROUND:** The New Hampshire Department of Environmental Services is the sponsor of the New Hampshire ILF Program which serves as an alternative form of compensatory mitigation for aquatic resource impacts. The New Hampshire ILF program is authorized by the New England District, Army Corps of Engineers (the “Corps”). A copy of the signed ILF agreement entitled “New Hampshire Aquatic Resource Mitigation Fund Final In-Lieu Fee Program Instrument” dated “May 2012”, includes details about the ILF Program goals and objectives in general and can be found at the following link:  
<https://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/NHInstrument051812.pdf>.

**PURPOSE:** The New Hampshire Aquatic Resource Mitigation Fund In-Lieu Fee Program will utilize an RFP to solicit projects specific to: Re-establishment, Rehabilitation, Establishment, and Enhancement.

Re-establishment means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Establishment (creation) means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area and functions.

Enhancement means the manipulation of the physical, chemical, or biological characteristics of an

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aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**If preservation is included in the proposal, preservation must be done in conjunction with aquatic resource restoration, establishment, and/or enhancement activities.**

**GENERAL INFORMATION:** All proposed projects must address the 12 components of a Mitigation Plan pursuant to 33 CFR 332, Compensatory Mitigation for Losses of Aquatic Resources (Federal register April 10, 2008, effective June 9, 2008). Please refer to New England District Mitigation Standard Operating Procedures dated December 29, 2020 (<https://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/Compensatory-Mitigation-SOP-2020.pdf?ver=EWhCrK70ZfmPr--8x0K5Jg%3d%3d>). A template of the mitigation plan is enclosed. Please do not hesitate to call or email to discuss any potential project.

An ILF program involves the restoration, establishment, re-establishment, enhancement, rehabilitation and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for Department of the Army permits. Similar to a mitigation bank, an ILF program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the ILF program sponsor. The operation and use of an ILF program are governed by an ILF program instrument. A group of federal and state regulatory and resource agency representatives known as the Interagency Review Team (IRT) oversee the establishment and management of the program. The IRT is chaired by the U.S. Army Corps of Engineers. The primary role of the IRT is to facilitate the establishment of the ILF program through the development of an ILF Instrument. The IRT also reviews ILF mitigation proposals and provides comments to the Corps. The approval of the use of the ILF program for specific projects is the decision of the Corps pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. The Corps provides no guarantee that any particular individual or general permit proposing to use the ILF program for compensation mitigation would be authorized.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**

*Taylor Bell*

Taylor Bell  
Mitigation Program Manager  
Regulatory Division

If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

Enclosure:  
Mitigation Plan 33CFR 332(c) (2) though (14)

## Mitigation Plan 33CFR 332(c) (2) through (14)

- A. Goals and Objectives:** *[Insert a description of the resource type(s) and amount(s) that will be provided, the method of compensation (i.e., restoration, establishment, enhancement, or preservation), and the manner in which the resource functions of the compensatory mitigation project will address the needs of the watershed, ecoregion, physiographic province, or other geographic area of interest.]*
- B. Site Selection:** *[Insert a description of the factors considered during the site selection process. This should include consideration of watershed needs, onsite alternatives where applicable, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation project site. See 33 C.F.R. § 332.3(d).]*
- C. Site Protection Instrument:** *[Insert a description of the legal arrangements and instrument, including site ownership that will be used to ensure the long-term protection of the compensatory mitigation project site. See 33 C.F.R. § 332.7(a).]*
- D. Baseline Conditions:** *[Insert a description of the ecological characteristics of the proposed compensatory mitigation project site. This may include descriptions of historic and existing plant communities, historic and existing hydrology, soil conditions, a map showing the Property, the geographic coordinates, and other site characteristics appropriate to the type of resource proposed for compensatory mitigation. The baseline information should also include a delineation of Waters of the U.S. on the proposed compensatory mitigation project site.].*
- E. Determination of Credits:** *[Insert a description of the number of Credits to be provided, including a brief explanation of the rationale for this determination. The explanation shall describe the proposed mitigation approach for each wetland and stream reach within the project site that will be considered in the Mitigation Plan (establishment, re-establishment, rehabilitation, enhancement, preservation – listed separately). This description should be accompanied by a list presented in a table and organized by wetland or stream reach, area/length, proposed mitigation approach, and proposed mitigation ratio. See 33 C.F.R. § 332.3(f).]*
- F. Mitigation Work Plan:** *The mitigation work plan should contain detailed written specifications and work descriptions for the Project, including, but not limited to, the geographic boundaries of the project; construction methods, timing, and sequence; source(s) of water, including connections to existing waters and uplands; methods for establishing the desired plant community; plans to control invasive plant species; the proposed grading plan, including elevations and slopes of the substrate; soil management; and erosion control measures. For mitigation projects proposing stream restoration*

*(rehabilitation or reestablishment), the mitigation work plan should also include: planform geometry, channel form (e.g., typical channel cross-sections), watershed size, design discharge, riparian area plantings, and other relevant information].*

**G. Maintenance Plan:** *[Insert a description and schedule of maintenance requirements to ensure the continued viability of the resource once initial construction is completed].*

**H. Performance Standards:** *Appropriate Performance Standards are ecologically-based standards that will be used to determine whether the mitigation project is achieving its objectives. Performance Standards should relate to the objectives of the mitigation project, so the project can be objectively evaluated to determine if it is developing into the desired resource type, providing expected functions, and attaining any other applicable metrics (e.g. acres). Performance Standards must be based on attributes that are objective and verifiable. Ecological Performance Standards must be based on the best available science that can be measured or assessed in a practicable manner. Performance Standards may be based on variables or measures of functional capacity described in functional assessment methodologies, measurements of hydrology or other aquatic resource characteristics, and/or comparisons to reference aquatic resources of similar type and landscape position. The use of reference aquatic resources to establish Performance Standards will help ensure that those Performance Standards are reasonably achievable, by reflecting the range of variability exhibited by the regional class of aquatic resources as a result of natural processes and anthropogenic disturbances. Performance Standards based on measurements of hydrology should take into consideration the hydrologic variability exhibited by reference aquatic resources, especially wetlands. Where practicable, Performance Standards should take into account the expected stages of the aquatic resource development process, in order to allow early identification of potential problems and appropriate Adaptive Management. In general, Performance Standards should be SMART (Specific, Measureable, Attainable, Reasonable (Practicable), Trackable). See 33 C.F.R. § 332.5.]*

**I. Monitoring Requirements:** *[Monitoring the Project is necessary to determine if the Project is meeting its Performance Standards and if measures are necessary to ensure the Project is accomplishing its objectives. The submission of monitoring reports to assess the development and condition of the compensatory mitigation project is required, but the content and level of detail for those monitoring reports must be commensurate with the scale and scope of the mitigation project, as well as the mitigation type. The Mitigation Plan must address the monitoring requirements for the Project, including the parameters to be monitored, the length of the Monitoring Period, the party responsible for conducting the monitoring, the frequency for submitting monitoring reports to USACE and the IRT, and the party responsible for submitting those monitoring reports to USACE and the IRT. See 33 C.F.R. § 332.6.]*

**i. Monitoring Methods:** *In general, compensatory mitigation monitoring methods should include quantitative sampling methods following established, scientific protocols. Sampling documentation, as part of monitoring reports, should include maps and coordinates (also shapefiles, if available) showing locations of sampling*

*points, transects, quadrats, etc. In addition, permanent photo stations should be established coincident with sampling locations. Additionally, where structures are placed in Waters of the U.S. and/or State, photo stations should be established that capture the structures and any consequent effect on channel morphology.*

*Monitoring reports shall be prepared in accordance with **RGL 08-03**, which identifies specific contents and formatting of the report. Monitoring reports shall include the data collected from all applicable sections of this guidance; however, not all monitoring reports will include the same information (e.g., for five monitoring periods, monitoring reports submitted in years two and four typically will not include vegetation plot data). Performance Standards, as provided in the Mitigation Plan or in the permit conditions, must be restated verbatim in the monitoring report. Additionally, each monitoring report shall include baseline data and data from preceding monitoring years presented in both graphic and tabular forms.*

*Stream mitigation Projects with in-channel modifications, high levels of complexity and scale shall provide As-Built surveys that include at minimum the following information: photo documentation at all cross-sections and structures, a plan view survey, a longitudinal profile, and vegetation information (type, number and location of species planted).*

*As-Built Plan surveys for wetland mitigation projects shall be completed immediately following the completion of construction to document post-construction conditions. Projects provide As-Built Plan surveys that include the following: photo documentation at permanent documented photo points with bearing and azimuth, a plan view diagram, baseline location and in-situ soil profile descriptions at well locations, and vegetation information (type, number of species planted). Also, any special permit condition relating to signage or Deed Restriction should be submitted. These projects shall also provide location data including coordinates and shapefiles, if available, of all monitoring activities (permanent vegetation plots, wells, piezometers, pressure transducer gages, surface water gauges, crest gauges, stream cross-sections, **bank** pins, water quality and aquatic biota sampling points, etc.).]*

**J. Long-Term Management Plan:** *[Provide a description of how the mitigation project will be managed after Performance Standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for Long-Term Management. Long-Term Management activities may include, but are not limited to: Maintenance of Signage, Conservation Easement Enforcement, Access/Gate Maintenance, Fencing, Non-Native Invasive Species Management, Tax Payments, Maintenance of Property Insurance, Reporting, and other project-specific items as listed in the Long-Term Management Plan. See 33 C.F.R. § 332.7(d).]*

**K. Adaptive Management Plan:** *[Provide a management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation project,*

*including the party or parties responsible for implementing Adaptive Management. The Adaptive Management Plan will guide decisions for revising compensatory mitigation plans and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. See 33 C.F.R. § 332.7(c).]*

**L. Financial Assurances:** *[Provide a description of Financial Assurances that will be provided and how they are sufficient to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with its Performance Standards. See 33 C.F.R. § 332.3(n).]*