



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

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The District Engineer of the New England District, Corps of Engineers (“Corps”) announces the approval and signing of the In Lieu Fee (ILF) Program sponsored by the Massachusetts Department of Fish and Game (DFG) for work authorized by the Corps within Massachusetts. The Massachusetts program is now established as a result of the May 23, 2014 signing of an ILF agreement (Instrument) by DFG and the Corps.

The ILF program is for use in association with the Corps’ Regulatory Program. Its purpose and goals are to:

- To address a real need in Massachusetts for an alternative to ACOE permittee-responsible, compensatory mitigation (whether on-site or off) that will result in a broad range of enhanced coastal and inland aquatic resource restoration, preservation, establishment, and enhancement projects across the state. The goal of this ILFP is to substantially increase the scope and quality of restoration and protection of aquatic resources and their related buffers and uplands;
- To implement a compensatory mitigation strategy of prioritizing the permanent protection of priority areas containing high quality inland and in some cases coastal aquatic resources under threat of loss or adverse modification;
- To broaden the availability of the in-lieu fee mitigation option beyond the small-sized projects regulated under the ACOE’s MA GP to cover the Individual Permits (“IPs”) required for major projects by the ACOE;
- To establish an ILFP that utilizes and benefits from the existing technical expertise, the analytical tools and programmatic experience of DFG’s three divisions, and its habitat protection and restoration programs;
- To expand the geographic reach and effectiveness of ILFP compensatory mitigation projects;
- To implement a comprehensive compensatory mitigation strategy within each service area and for all resource types that is based on a detailed analysis of the loss of and threats to specific aquatic resources with consideration of other watershed-scale stressors, the identification of land preservation focus areas and ecological restoration, establishment, and enhancement priorities ;
- To establish and administer a single expendable trust account in accordance with the Office of the State Comptroller regulations that will hold and track the in-lieu fees accepted and disbursed by

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Massachusetts ILFP in a manner that will meet the objectives and requirements of the Mitigation Rule; and

- To reduce the extent of cumulative adverse impacts to aquatic resources in Massachusetts.

DFG is responsible for the management and protection of the Commonwealth's wildlife, including marine fisheries, as well as the habitats that support the state's wildlife. Acceptance of an ILF payment into the ILFP established by this Instrument is an acknowledgement by DFG that it assumes all legal responsibility for satisfying the mitigation requirements of the Corps (i.e., the implementation, performance, and long-term management and monitoring of the compensatory mitigation project(s) approved under this Instrument and subsequent Compensatory Mitigation Plans).

The MA ILF program receives its funds from applicants who agree to use the program for mitigation of impacts resulting from the Corps' Regulatory process. After the applicant avoids and minimizes the impacts to the extent possible, the Corps may approve the use of the ILF by the applicant. The Corps then determines the number of credits the applicant will need to purchase. The fees for the ILF credit(s) are paid by the permittee to the sponsor and tracked by service area. The table below shows the fees per square foot for each of the four service areas. These prices are subject to change. The service areas are shown on the following page.

| 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 |

The instrument is available on the Corps website at

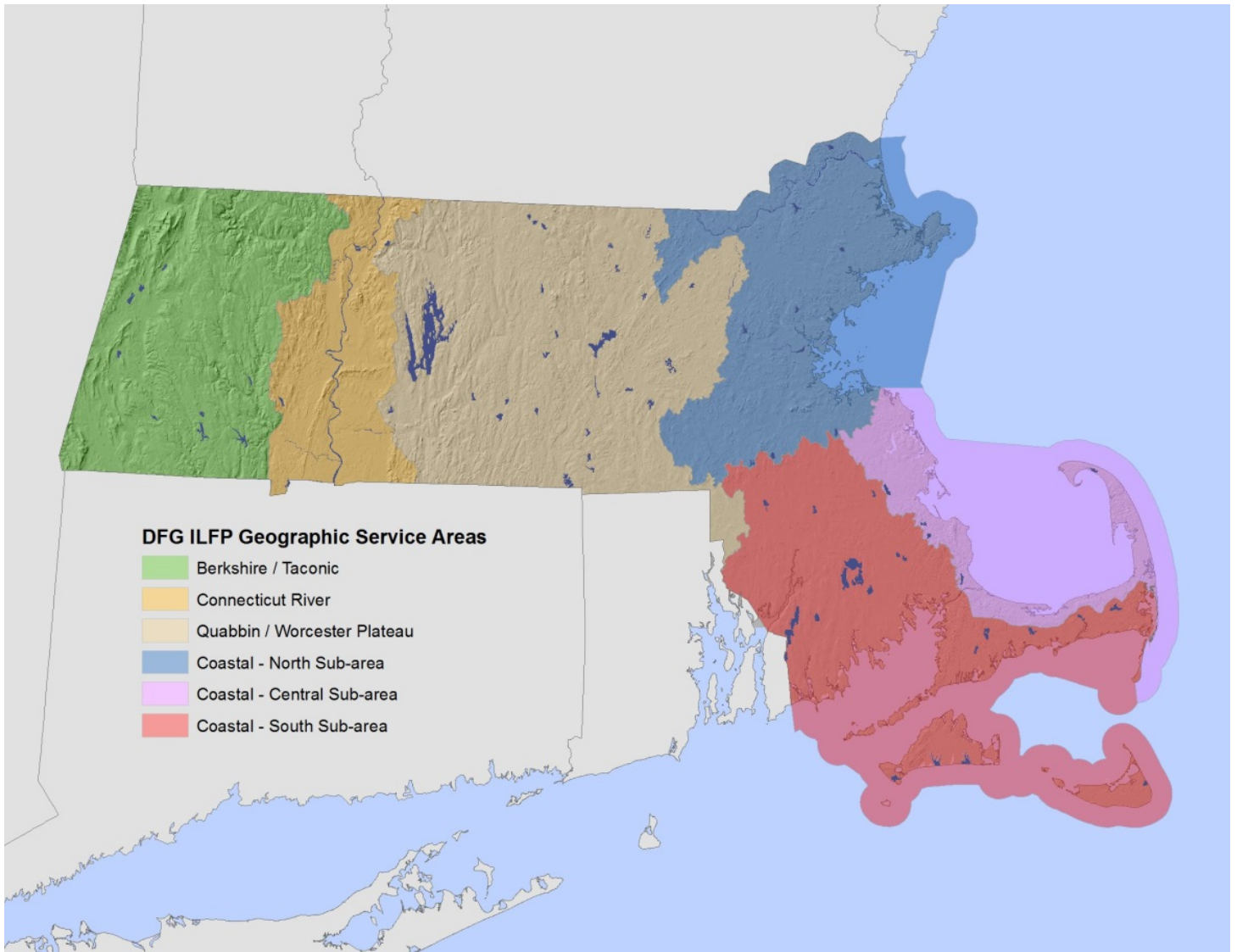
<http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/InLieuFeePrograms.aspx>.

The instrument conforms to the Corps regulations for mitigation, found at 33 CFR 332, known as the "Mitigation Rule." The Mitigation Rule was published in the Federal Register on April 10, 2008.

For more information on the New England District Corps of Engineers programs, visit our website at

<http://www.nae.usace.army.mil>.

Jennifer L. McCarthy
Chief, Regulatory Division



If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at 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.

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