



US Army Corps
of Engineers®
New England District

696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

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This public notice is soliciting comments on the proposed use of an In-Lieu Fee (ILF) program to be called the New Hampshire Aquatic Resource Mitigation Fund (ARM Fund). The program will serve as an alternative form of compensation for impacts to aquatic resources authorized by the New England District Army Corps of Engineers (Corps) and/or the State of New Hampshire Department of Environmental Services (State).

The ARM Fund will collect fees which will be used for the restoration, creation, enhancement, and preservation of riparian and wetland resources within the State of New Hampshire. This ILF program will be managed by New Hampshire Department of Environmental Services. The general goal of the program will be to provide compensation for lost aquatic resource functions and values through restoration, creation, enhancement, and preservation of resources that provide similar functions to those lost as a result of activities authorized by the Corps under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899 and/or the State.

The ILF program will be implemented by an agreement between the Corps and the State. The document is consistent with the "Federal Guidance on the Use of In-Lieu Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act" (65 FR 66914, November 7, 2000). Oversight of the ILF program will be the responsibility of the Corps and the State.

ILF mitigation occurs in circumstances where a permittee is required to compensate for the functions and values of wetlands lost as a result of the authorization after all efforts are made to avoid and minimize impacts. Recipients of permits or authorizations for projects in the State of New Hampshire may be eligible to use the program to satisfy mitigation requirements of the Corps and/or State programs. ILF is an option available to the applicant instead of completing project-specific mitigation. Use of the ILF program is contingent upon Corps and/or State approval.

The fee *in lieu* of project-specific mitigation will be determined by the Corps in consultation with the Environmental Protection Agency, U.S. Fish and Wildlife

Service, and the National Marine Fishery Service. Generally the fee established by the State will be the same at that determined by the Corps, but the Corps is not restricted from requiring a higher fee to address indirect or cumulative impacts. The permit will state amount of the fee required to be paid before the permit is valid.

The draft agreement is available on the Corps' website:
<http://www.nae.usace.army.mil> under "Regulatory/Permitting" and then "Mitigation".

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposal. Any comments received will be considered by the Corps.



ROBERT J. DESISTA
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.

NAME: _____

ADDRESS: _____
