



# DEP FACT SHEET

## Natural Resource Compensation: Methods for Restoring Lost Functions and Values

Revised: June, 2008

contact: See back page for nearest  
DEP address & phone number



Maine's Natural Resources Protection Act (NRPA) recognizes the State significance of natural resource areas including: coastal wetlands, sand dunes, freshwater wetlands, great ponds, rivers, streams and brooks, fragile mountain areas, and significant wildlife habitats, for their recreational, historical and environmental value to present and future generations. The primary intent of the NRPA is to prevent unreasonable impact to, degradation of, or destruction of these resources and to encourage their protection and enhancement. Notwithstanding this primary objective, the NRPA recognizes that there will be occasions when the loss or degradation of certain protected natural resources are unavoidable. In such instances, the property owner responsible for causing the loss or damage to the protected natural resource may be required to compensate for the loss of resource function or the overall reduction in resource value as a result of their project.

In general, all projects that require a permit pursuant to the NRPA are required to mitigate for their impact to a protected natural resource. *Mitigation is a sequential process of avoiding adverse impacts, minimizing impacts that cannot be practicably avoided, and then compensating for some of those impacts that cannot be further minimized.* Both State and federal agencies administering resource protection regulations may require appropriate and practicable compensatory mitigation as a condition of their permit approvals and authorizations.

When required, compensation must be provided that off-sets a loss of affected resource function with a function of equal or greater value. Resource compensation can be provided in one or a combination of the following forms:

- 1) **Permittee-responsible on-site compensation project:** Applicants may identify compensation options that would enhance, restore or preserve resource areas or lands directly adjacent to resource areas within the bounds of the project site. On-site compensation projects are particularly favorable when they provide a direct benefit to the affected resource or an adjacent resource and when the compensation project area connects with resource areas that are already subject to protective covenants or restrictions.
- 2) **Permittee-responsible off-site compensation project:** Applicants may identify compensation options that would enhance, restore, or preserve resource areas outside the boundaries of the project site but that are located within the same watershed as the proposed project. Priority should be given to identifying compensation locations that are under direct threat from development and/or that can be combined with resource areas that are already subject to protective covenants or restrictions.
- 3) **Purchase of credits from a mitigation bank:** The NRPA authorizes the use of mitigation banks as an acceptable means of compensating for unavoidable impacts to wetland areas. As of the printing of this fact sheet, the department has approved one State Mitigation Bank for impacts

associated with state transportation facilities. As other banks are established and approved by the department, applicants may propose to purchase credits from a mitigation bank to off-set lost wetland functions and values.

- 4) **Payment of a fee in lieu of a permittee-responsible compensation project:** The department has established an in-lieu-fee (ILF) program in accordance with the NRPA, 38 M.R.S.A. § 480-Z. The ILF program allows applicants to pay a fee rather than complete a permittee-responsible on-site or off-site compensation project. The ILF program specifies resource compensation rates and resource dependant calculation methods for determining the amount of compensation fee necessary to off-set impacts to specific protected natural resources. **The ILF compensation program was established to provide applicants with a flexible compensation option over and above traditional permittee-responsible compensation projects. The applicant may choose which method of compensation is preferred for a given project.** Additional information pertaining to the ILF program can be found in the DEP Fact Sheet: *In Lieu Fee Compensation Program*.

Permittee-responsible resource compensation projects must be designed to meet the compensation ratios outlined in the Wetland Protection Rules, Chapter, 310 and the Significant Wildlife Habitat Rules, Chapter 335. The compensation ratio varies depending upon the type of compensation methods chosen to off-set lost resource functions and values. A resource compensation plan may include any of the following methods:

- 1) **restoration**, returning a damaged natural resource as closely as possible to its original condition prior to the damage;
- 2) **enhancement**, making changes or improvements to natural resources to replace the functions or values performed by the resources lost or damaged;
- 3) **preservation**, protecting a natural resource in an adjacent area that are equivalent to the area damaged and that might otherwise be subject to an unregulated activity;
- 4) **creation**, converting a non-resource area into a resource with all of the physical and biological characteristics to replace the area lost or damaged.

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For further information please contact your nearest DEP regional office, and ask to speak to the "on-call" person in the Land & Water Bureau, Division of Land Resource Regulation.

**Central Maine Regional Office**, 17 State House Station, Augusta, ME 04333-0017; Phone: 207-287-3901 (Bureau) or toll-free 1-800-452-1942 (Department).

**Eastern Maine Regional Office**, 106 Hogan Road, Bangor, ME 0440; Phone: 207-941-4570  
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**Northern Maine Regional Office**; 1235 Central Drive, Skyway Park; Presque Isle, ME 04769;  
Phone: 207-764-0477 or toll-free 1-888-769-1053.

**Southern Maine Regional Office**, 312 Canco Road, Portland, ME 04103; Phone: 207-822-6300  
or toll-free 1-888-769-1036.