



DEP FACT SHEET

In Lieu Fee Compensation Program

September 1, 2020 – December 31, 2021

Mitigating adverse environmental impacts is an integral part of Maine’s Natural Resources Protection Act (NRPA) (38 M.R.S. §§ 480-A – 480-JJ), a regulatory program administered by the Maine Department of Environmental Protection (DEP). In general, mitigation is a sequential process of avoiding adverse impacts, minimizing impacts that cannot be practicably avoided, and then compensating for 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.

Compensation is required to off-set an adversely affected resource function with a function of equal or greater value. If on-site or off site ecologically appropriate permittee-responsible mitigation is not

Table 1 Resource Compensation Rates		
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County	Natural Resource Enhancement & Restoration Cost/ Sq. Ft.	Avg. Assessed Land Value/ Sq. ft.*
Androscoggin	\$4.68	\$0.17
Aroostook	\$4.22	\$0.02
Cumberland	\$4.72	\$0.73
Franklin	\$4.23	\$0.05
Hancock	\$4.23	\$0.22
Kennebec	\$4.69	\$0.16
Knox	\$4.67	\$0.34
Lincoln	\$4.69	\$0.31
Oxford	\$4.68	\$0.07
Penobscot	\$4.22	\$0.06
Piscataquis	\$4.22	\$0.03
Sagadahoc	\$4.69	\$0.27
Somerset	\$4.68	\$0.05
Waldo	\$4.68	\$0.09
Washington	\$4.22	\$0.03
York	\$4.70	\$0.49

* Figures based on 2018 MRS statistical Summary

available, practicable or otherwise wholly or in part acceptable to off-set lost resource function and value, an applicant may opt to pay a fee in lieu of (ILF) a compensation project as outlined in the Natural Resources Protection Act 38 M.R.S. § 480(Z).

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.

The methods for resource mitigation are outlined further in the DEP Fact Sheet: *Natural Resource Compensation: Methods for Restoring Lost Function and Value.*

The ILF resource compensation rates are outlined in Table 1. In August 2020, the Department completed review of the compensation rates and identified the need for a rate adjustment in order to ensure the rates reflect the actual cost of compensation. The last rate increase was in 2013. In light

of the economic uncertainty associated with the COVID-19 pandemic, the full update of the compensation rates will be achieved in two phases, with 50 percent of any increase effective for application filed September 1, 2020 or later. (See Table 1.) The remainder of the increase will be effective January 1, 2022. The Department also anticipates the resource compensation rates in effect January 1, 2022 will be re-evaluated as part of the regular two-year review and, if necessary, adjusted to reflect the actual cost of compensation and remain consistent with the requirements of Section 480-Z.

All resource compensation fees shall be calculated using the resource dependent formulas outlined below based on the rates provided in Table 1 and a resource multiplier. The resource multiplier is an adjustment factor that reflects the significance of specific resources and the Department's resource compensation ratio outlined in the Wetlands and Waterbodies Protection Rules, Chapter 310 and the Significant Wildlife Habitat Rules, Chapter 335. The resource multiplier shall be 1 except as follows:

1. A resource multiplier of 2 shall be used for:
 - a. Direct impacts to wetland areas containing at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments and areas of wetland routinely altered by anthropogenic activities such as road ditches etc;
 - b. Direct impacts to peatlands dominated by shrubs, sedges and sphagnum moss;
 - c. Direct impacts to coastal wetlands;
 - d. Direct impacts to freshwater wetland areas contained within an inland wading bird & waterfowl habitat (IWWH);
 - e. Direct & indirect impacts to a shorebird habitat and associated buffers;
 - f. Direct impacts to great ponds; and
 - g. Direct impacts to freshwater wetland areas contained within a significant vernal pool habitat.

Note: All ILF contributions received by the Department will be placed in the Maine Natural Resources Conservation Fund (MNRCF) and made available for grant awards to qualified natural resource conservation projects. The Department prefers to collect contributions into the MNRCP prior to the issuance of a Department permit; however, payment may be made a condition of a Department permit upon request by the applicant. The Department reserves the right to deny a request for conditional payment of a compensation fee based on an applicant's prior payment record.

Wetland Compensation Formula:

Wetland compensation fee

(Direct wetland impact/sq. ft. x (natural resource enhancement & restoration cost/sq. ft. + avg. assessed land valuation/sq. ft.)) x (resource multiplier)

Significant Vernal Pool Compensation Formula:

Vernal pool compensation fee

(Direct wetland impacts within the SVP habitat/sq. ft. x (natural resource enhancement & restoration cost/sq. ft. + avg. assessed land valuation/sq. ft.)) x (resource multiplier of 2)
+
(Direct non-wetland impacts within the SVP habitat/sq. ft. x avg. assessed land valuation/sq. ft.)

[Note: Projects that directly impact a portion of a significant vernal pool aquatic habitat (the pool) must compensate for the entire significant vernal pool habitat area unless otherwise determined by the Department.]

Inland Wading Bird and Waterfowl (IWWH) Compensation Formula:

IWWH compensation fee

(Direct wetland impacts within the IWWH/sq. ft. x (natural resource enhancement & restoration cost/sq. ft. + avg. assessed land valuation/sq. ft.)) x (resource multiplier of 2)
+
(Direct non-wetland impacts within the IWWH/sq. ft. x avg. assessed land valuation/sq. ft.)

Shorebird Habitat Compensation Formula:

Shorebird habitat compensation fee

(Direct shorebird habitat impacts/ sq. ft. + direct shorebird habitat buffer impacts/sq. ft. + shorebird habitat zone of influence impacts/sq. ft. x (natural resource enhancement & restoration cost/sq. ft. + avg. assessed land valuation/sq. ft.) x (resource multiplier of 2)

[*Note: The "zone of influence" includes all mapped shorebird habitat area within 300' of the proposed new pier, wharf or float. Shorebird habitat function and value is lost or highly degraded within the "zone of influence".]

All compensation fee amounts could be directly reduced by decreasing the amount of habitat degradation associated with each project.

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

Central Maine Regional Office, 17 State House Station, Augusta, ME 04333-0017; Phone: (207) 287-7688 or toll-free 1-800-452-1942.

Eastern Maine Regional Office, 106 Hogan Road, Bangor, ME 04401; Phone: (207) 941-4570 or toll-free 1-888-769-1137.

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.