



Justifying the Use of Preservation and Non-Aquatic Resource Credits

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A wide-angle landscape photograph of a large body of water, likely a lake or bay, with numerous forested islands and peninsulas. The foreground is dominated by the dark, silhouetted tops of evergreen trees. The sky is filled with heavy, layered clouds, with a bright sun breaking through near the horizon, creating a dramatic play of light and shadow. The overall mood is serene and majestic.

PRESERVATION-ONLY

33 CFR 332.3(h) Preservation

- (1) All the following criteria must be met:
 - (i) Resources provide **important physical, chemical, or biological functions** for watershed;
 - (ii) Resources contribute significantly to **ecological sustainability** of watershed.
 - (iii) Preservation is determined **appropriate and practicable** by DE;
 - (iv) The resources are **under threat**; and
 - (v) Will be **permanently protected**.

- (2) To extent **appropriate** and **practicable**, preservation shall be done in conjunction with aquatic resource restoration, establishment, and/or enhancement.

Requirement **may be waived** by DE where preservation has been **identified as a high priority using a watershed approach**, but compensation ratios shall be higher.

Conditions Conducive to Preservation

- Lack of **sustainable** restoration (re-establishment) or enhancement (rehabilitation) opportunities
- Resistance from states to use limited ag lands
- Huge pressures (threats) from development, forestry, etc.
- Many established land trusts

A scenic landscape of a lake or bay with forested islands under a dramatic, cloudy sky at sunrise or sunset. The sun is low on the horizon, casting a warm glow and creating rays of light through the clouds. The water is calm, reflecting the light from the sky. The islands are covered in dense green forest. The overall mood is peaceful and natural.

PRESERVATION OF NON- AQUATIC RESOURCES

33 CFR 332.2 Definitions

- *Buffer* means an **upland**, wetland, and/or **riparian area** that **protects** and/or enhances **aquatic resource functions** associated with wetlands, rivers, streams, lakes, marine, and estuarine systems **from disturbances associated with adjacent land uses**.

33 CFR 332.3(i) Buffers

- DE may require ... preservation, as well as the maintenance, of riparian areas and/or buffers around aquatic resources where necessary **to ensure the long-term viability** of those resources.
- Buffers may also provide habitat or **corridors necessary for the ecological functioning** of aquatic resources.

33 CFR 332.8(o)(7)

- *Credits provided by riparian areas, buffers, and uplands.* ...Non-aquatic resources can only be used as compensatory mitigation for impacts to aquatic resources authorized by DA permits when those resources are essential to maintaining the ecological viability of adjoining aquatic resources. ...and are the most appropriate compensation for the authorized impacts.

Credits for Preservation

- New England District Mitigation Guidance:
15:1 (upland and wetland)



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