

## Federal Policy: Developing a Fee Schedule

### 2008 Compensatory Mitigation for Losses of Aquatic Resources

#### §332.8 Mitigation banks and in-lieu fee programs

(o) *Determining credits.*

(5) *Credit costs.*

(i) The cost of compensatory mitigation credits provided by a mitigation bank or in-lieu fee program is determined by the sponsor.

(ii) For in-lieu fee programs, the cost per unit of credit must include the expected costs associated with the restoration, establishment, enhancement, and/or preservation of aquatic resources in that service area. These costs must be based on full cost accounting, and include, as appropriate, expenses such as land acquisition, project planning and design, construction, plant materials, labor, legal fees, monitoring, and remediation or adaptive management activities, as well as administration of the in-lieu fee program. The cost per unit credit must also take into account contingency costs appropriate to the stage of project planning, including uncertainties in construction and real estate expenses. The cost per unit of credit must also take into account the resources necessary for the long-term management and protection of the in-lieu fee project. In addition, the cost per unit credit must include financial assurances that are necessary to ensure successful completion of in-lieu fee projects.

### Resources: Developing a Fee Schedule

Louisville, Nashville, Huntington, and Memphis Districts, U.S. Army Corps of Engineers. November 10, 2009. "Notice announcing issuance of rate increase, and method for assessing credits, for the Kentucky in-lieu fee program." Public Notice No. LRL-1999-760. <http://www.lrl.usace.army.mil/orf/article.asp?id=2067&MyCategory=364>

### Examples: Fee Schedules

#### Mississippi Delta In-Lieu Fee Program

*Sponsor: Ducks Unlimited, Inc.*

##### *COST OF CREDITS*

The cost of each credit will be determined by DU based on expected costs of restoration, establishment, enhancement, and/or preservation of aquatic resources. Costs will be based on full costs accounting, including all appropriate expenses incurred to plan, identify, acquire, design, implement, monitor, manage and protect ILF projects, including contingencies, and the setup, operation and administration of the MSDILFP.

#### Vermont In-lieu Fee Program

*Sponsor: Ducks Unlimited, Inc.*

##### Project-specific credits and fee schedules

Fees for the DU-VT ILF Program are based on a full cost accounting analysis of the expected costs associated with the restoration, establishment, enhancement, and/or preservation of aquatic resources and associated upland buffers in the service areas described in this instrument in VT. The program costs in this analysis include land acquisition, project planning and design, construction, plant materials, labor, legal fees, monitoring, remediation or adaptive management measures, program implementation, contingency

costs over the life of the project, establishment of a long-term management and protection fund, financial assurances that are expected to ensure successful completion of the in-lieu fee project, an administrative fee, and may reflect other factors as deemed appropriate by DU. These fees will be reviewed annually by DU and will be adjusted as necessary to represent full cost accounting of project expenses. The fee schedule will be provided to the New England Corps District, Regulatory Division, Policy Analysis, and Technical Support Branch, so that Corps staff can provide the information to permit applicants. (see Appendix V for 2010 credit fee schedule)

### Appendix V: 2010 Credit Fee Schedule

<b>Resource Compensation Rates 01/0/11 - 06/30/12</b>	
<b>Service Area</b>	<b>2010 Fee for one (1) credit of wetland mitigation</b>
Connecticut River	\$110,031 (\$2.53/sf)
St. Francois	\$111,986 (\$2.57/sf)
Richelieu	\$131,549 (\$3.02/sf)
Upper Hudson	\$129,326 (\$2.97/sf)

The above credits prices per service area were developed based on the following criteria and their associated costs and fees (as noted in “Project-specific credits and fee schedules” page 17).

- i) Site identification
- ii) Land acquisition (i.e., land purchase, legal fees, land taxes, etc.)
- iii) Project Design and Planning (i.e., mitigation plan, surveys, wetland design plans, permitting, cultural resource assessment, etc).
- iv) Wetland Construction (i.e., planting plan, contractor, surveys, over-site, water control structure, etc).
- v) Protection, Conservation Easements (i.e., title work, primary property investigation, baseline documentation report (BDR), legal administration, etc.)
- vi) Endowment Fee
- vii) Monitoring (5 year period)
- viii) Contingency Measure/Adaptive management
- ix) Financial Assurances
- x) 15% Administration Fee

## **Coastal Mississippi In-Lieu Fee Program**

***Sponsor: Land Trust for the Mississippi Coastal Plain***

### **3.2 Generation of Credits**

In accordance with 33 CFR 332.8 (0)(5), the cost per unit of credit will be based on all the costs associated with the restoration, establishment, enhancement and/or preservation of wetlands or aquatic resources in that service area including, but not limited to, expenses for land acquisition, project planning and design, construction, plant materials, labor, legal fees, monitoring, remediation or adaptive management strategies, as well as administration of the ILF Program. The cost per unit credit will also take into account contingency costs appropriate to the stage of project planning, including uncertainties in construction and real estate expenses as well as the resources necessary for the long-term management and protection of the proposed project. Finally, the cost per unit credit will include financial assurances that are necessary to ensure successful completion of proposed projects.

## **North Carolina Ecosystem Enhancement Program**

***Sponsored by: North Carolina Department of Environment and Natural Resources***

<http://portal.ncdenr.org/web/eep/stream-wetland-buffer-fee-info>

EEP uses a fee schedule to determine the payment amount required for EEP to fulfill compensatory-mitigation requirements. Fees are based on the amounts and types of compensatory mitigation specified in the approved certifications or permits issued by the N.C. Division of Water Quality, as well as permits or authorizations issued by the U.S. Army Corps of Engineers and the N.C. Division of Coastal Management, as applicable.

The Environmental Management Commission approved a two-fee system delineated by eight-digit hydrologic units (as defined by the U. S. Geological Survey). One fee has been set at a higher rate to reflect the parts of the state where project costs are increased because of factors such as urban constraints, higher land costs and limited restoration opportunities. The second fee is considered a standard fee for mitigation in areas that are not subject to the characteristics exhibited in higher fee watersheds.

See:

<http://www.nceep.net/pages/pdfs/EEP%20SCCHEDULE%20OF%20FEES%20map%20page.pdf>

**Table: Statewide Stream, Wetland & Riparian Buffer Fees**

Fee Category	Credit Unit	Fee per Unit <u>(Higher Fee HUs)</u>	Fee per Unit <u>(Lower Fee HUs)</u>
Riparian Buffer	square foot	\$0.96	\$0.96
Stream	linear	\$349	\$264
Non-riparian Wetland	acre	\$46,230	\$23,774
Riparian Wetland	acre	\$64,077	\$36,228
Coastal Wetland	acre	\$157,627	\$157,627

Note that fees for wetlands are calculated in increments of 0.25 acres as required by state rules. There is a flat fee for each increment of 0.25 acres; as such, credits less than 0.25 acres are invoiced at the quarter-acre fee; credits between 0.25 and 0.50 acres are invoiced at the half-acre fee.

## Oregon Statewide Fee-in-Lieu

***Sponsor: Oregon Department of State Lands***

### ***C. COST OF CREDITS***

The cost of each credit will be determined by DSL annually as the average cost of credits available from all active mitigation banks in the state, per Oregon statute, ORS 196.643.

**For Release 06/07/2011**

Price Change for In-Lieu Mitigation

[http://www.oregon.gov/DSL/PERMITS/ptp\\_mitigation\\_increase.shtml](http://www.oregon.gov/DSL/PERMITS/ptp_mitigation_increase.shtml)

The Department of State Lands requires compensatory wetland mitigation to replace wetland functions lost by regulated activities. Two options available for mitigation (in-lieu fee credit purchase, and payment in-lieu mitigation) involve payment into the Oregon

Removal-Fill Mitigation Fund.

Effective for all complete applications received on or after July 1, 2011, the rate for payment to the Fund will be \$75,500 per acre.

According to statute, the rate set by DSL “shall be equal to the average cost of credits available from all active mitigation banks in the state” (ORS 196.643). This rate is determined annually.

The prices reported to us this year by the 17 active mitigation banks ranged from \$54,450 to \$225,000 per full acre. Prices were weighted by the number of credits available from each bank and averaged to arrive at the Fund price.