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# ENVIRONMENTAL Fact Sheet

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## Aquatic Resource Mitigation

Dredging, filling and construction in wetland and surface water resources (also, “jurisdictional areas”) can result in significant impacts on the environment. Since 1967, New Hampshire has required permits for such activities. While state law requires that dredging and filling of jurisdictional areas must be avoided and impacts minimized, many permits are issued for unavoidable impacts.

To compensate for the loss of these jurisdictional areas, the Department of Environmental Services has adopted rules that require certain projects to provide mitigation for the impacts. Env-Wt 303.02 require mitigation for major impact projects and certain minor impact projects with jurisdictional impacts of 10,000 square feet or greater.

### **To what projects does compensatory mitigation apply?**

A compensatory mitigation proposal is required for minor projects with at least 10,000 square feet of impact and major impact projects, unless jurisdictional impacts are:

- ◆ Limited to temporary impacts (the ground surface of the wetland is at the same elevation as before it was disturbed).
- ◆ For a pond classified as a minor impact but with less than 10,000 square feet of jurisdictional impacts.
- ◆ Less than 10,000 square feet, and not to an exemplary natural community or a state or federally listed endangered or threatened species, its habitat, or reproduction areas.
- ◆ For bank stabilization using riprap or other methods to protect existing infrastructure such as highways, bridges, dams or buildings.
- ◆ For bank stabilization using bioengineering methods.
- ◆ For docking structures if the surface area of all new shoreline structures (for docking) totals less than 2,000 square feet.
- ◆ Limited to streams and classified as minor.

### **Where does the required mitigation have to occur?**

Compensatory mitigation sites shall be located in the same watershed, as defined by Env-Wt 101.97, as the impacted wetlands when available and practicable.

### **How does one determine the appropriate amount of mitigation necessary to offset the impacts associated with a project?**

An evaluation of a wetland to determine the functions and values it performs within the context of the broader landscape needs to be done. It is called a functional assessment.

The four types of compensatory mitigation – land preservation, restoration, creation or a payment into the aquatic resource mitigation fund – may be used singly or in combination to assemble a mitigation package that meets current mitigation rules. A clear description of each is as follows:

**Land Preservation** – The permanent protection of predominantly upland areas using legal and physical mechanisms so that the resource remains in a natural or undeveloped condition. Such protection is accomplished by placing the land under a conservation easement, which is held by a conservation organization, town or state agency. A conservation easement restricts the future use of the property in perpetuity. This practice does not make up for lost wetland functions, but protects other wetlands from degradation due to development of surrounding uplands.

**Wetland restoration** – The reestablishment of a filled, dredged or drained wetland to its historic condition, to restore lost functions. Restoration can include the removal of fill, restoration of the hydrology, or other means. Wetlands restoration often has a higher success rate, because the wetland hydrology had been present at one time.

**Wetlands creation** – The transformation of upland to wetland at a site where the upland was not created by human activity, such as by filling or water diversion. Creation typically involves the excavation of a site to achieve adequate hydrologic features, followed by the importation of wetland soils and establishment of wetlands vegetation. This is often very costly and requires significant efforts to succeed.

**Aquatic resource mitigation fund** – If the other three forms of mitigation have been examined and it has been determined that they are not feasible, this fourth option will be available. That is, payment of funds in lieu of restoration/creation/preservation that can be pooled with similar payments from other projects to fund projects within the same watershed that have greater conservation value.

### Replacement Ratios

To answer the “how much” question, ratios of mitigation area to area of wetlands loss, the following table has been developed to reach the goal of having all mitigation sites be quality sites and ensure that there is no net loss of wetlands.

**Mitigation Ratio Table 800-1**

Resource Type	Creation Ratio (resource created: size of impact)	Restoration Ratio (resource restored: size of impact)	Preservation of Upland Buffer Area (buffer area: size of impact)
Bog	N/A	2 :1	15 :1
Tidal Wetlands	3 :1	2 :1	15 :1
Forested	1.5 :1	1.5 :1	10 :1
Undeveloped Tidal Buffer Zone	N/A	2 :1	3 :1
All Other Jurisdictional Areas	1.5 :1	1 :1	10 :1

### For More Information

For more information, please contact the DES Wetlands Bureau at (603) 271-2147, [wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us), or go to [www.des.nh.gov](http://www.des.nh.gov) and choose “Wetlands” from the A to Z List.