



## 521 FW 1

### *Eligibility Standards for Wildlife Restoration*

FWM#:380 (Supersedes 521 FW 1,12/17/92,  
FWM 059)

Date: October 10, 2001

Series: State Grant Programs

Part 521: Federal Aid Program Eligibility

Originating Office: Division of Federal Aid

[PDF Version](#)

---

**1.1 What is the purpose of this chapter?** This chapter provides eligibility standards for the Federal Aid in Wildlife Restoration Program. As used in this chapter, the term "we" refers to the Fish and Wildlife Service and the term "State" refers to State fish and wildlife agencies and other entities eligible to participate.

#### **1.2 What is the authority for this program?**

A. Federal Aid in Wildlife Restoration Act of 1937, as amended, ([16 U.S.C. 669-669j](#)) authorizes the Secretary of the Interior ". . . to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects as hereinafter set forth . . . ." Section 1 concludes with ". . . all projects shall conform to the standards fixed by the Secretary of the Interior."

B. 50 CFR 80.

C. 43 CFR 12.

#### **1.3 Who administers this program?**

A. The Director, Fish and Wildlife Service, is the Secretary's representative in matters relating to the administration and execution of the Federal Aid In Wildlife Restoration Program (50 CFR 80).

B. The Assistant Director--Migratory Birds and State Programs provides national oversight for the program.

C. Regional Directors will administer the Federal Aid in Wildlife Restoration Program within their Region, to include approving grant proposals, monitoring performance of projects within an approved grant, and monitoring compliance with applicable Federal laws and regulations.

**1.4 Who can participate in this program?** State fish and wildlife agencies [WR Act Sec 1] and the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands [WR Act Sec 8A].

**1.5 What are the requirements to participate?** To be eligible, States must have assented to the provisions of the Act and passed laws for the conservation of wildlife that include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of the State fish and game department [[50 CFR 80.3](#)]. Each year within 60 days of the

apportionment notice, States must notify the Secretary of the Interior that they want to participate in the program for the year [[50 CFR 80.9](#)].

**1.6 Does a grant recipient have to comply with any laws or regulations?** Grantees must comply with all applicable Federal laws and regulations, as a condition of acceptance of Federal funds [[50 CFR 80.21](#)]. In addition to the laws and regulations specific to the grant program, there are numerous other compliance requirements for Federal grant programs. Those that are generally applicable to all Federal grant programs are "assurances," since grantees must provide assurance that they will comply with applicable provisions. [522 FW 1](#) provides an assurances checklist for construction and nonconstruction grants that States may use in developing a Grant Proposal. (See [522 FW 1](#) and [523 FW 1](#).)

**1.7 For what purposes can States use Wildlife Restoration funds?** The following are eligible purposes under the Federal Aid in Wildlife Restoration Program. [Part 522](#) contains additional information on eligible grant purposes.

**A.** Restoration, conservation, management, and enhancement of wild birds and wild mammals, and providing for public use and benefit from these resources [WR Act Sec 2 and [50 CFR 80.5\(a\)\(1\)](#)].

**B.** Educating responsible hunters and archers in skills, knowledge, and attitudes [WR Act Sec 8(b) and [50 CFR 80.5\(a\)\(2\)](#)].

**1.8 What are ineligible activities?** The Federal Aid in Wildlife Restoration Act prohibits using Federal Aid funds for certain purposes. In addition, the rules and policies (50 CFR 80) specify certain other purposes or activities that are not consistent with the grant program purposes and are also ineligible. The following is a summary of ineligible activities:

**A.** Public relations activities that promote organizations or agencies and that do not apply to educational, technical assistance, or outreach activities specifically related to accomplishment of Federal Aid grants or programs [[50 CFR 80.6\(b\)](#)].

**B.** Activities whose purpose is producing revenue. This includes all processes and procedures directly related to the printing, distribution, issuance, or sale of licenses, permits, etc., imposed by law or regulation. It also includes the acquisition of real or personal property for the purpose of rental, lease, sale, or other commercial purposes [50 CFR 80.14(c)].

(1) The activities and associated costs of the development and maintenance of an automated licensing system are eligible for Federal Aid funding to the degree that it supports development of databases for storing State management information, or that would improve the States' license certification process [50 CFR 80.10]. In such cases, the grant proposal must contain an allocation of costs between eligible and ineligible activities [50 CFR 80.15(c)].

(2) The production of income that results from otherwise eligible activities, incidental to these activities, is not prohibited. Examples are sale of surplus commodities, collection of user fees, etc. [50 CFR 80.14(c)]

**C.** Providing services or property of material value to individuals or groups for commercial purposes or to benefit such individuals or groups [[50 CFR 80.5\(a\)\(1\)](#), [50 CFR 80.14\(c\)](#)]. This does not prohibit providing technical assistance to a private landowner or operator where a public benefit will be served [[50 CFR 80.5\(a\)\(1\)](#)] (see [522 FW 14](#)).

**D.** Enforcement of game and fish laws and regulations. This includes routine patrol, investigations, and law enforcement training [[50 CFR 80.6\(a\)](#)]. This does not prohibit activities necessary to accomplish Federal Aid grant purposes, or to protect Federal Aid assets, such as control of public entry. Nor does it prohibit activities to ensure public health and safety on Federal Aid areas [[50 CFR 80.5\(a\)\(1\)](#)].

**E.** Establishment, publication, and dissemination of regulations issued by a State pertaining to the protection and utilization of fish and wildlife resources. Includes laws, orders, seasonal regulations, bag limits, creel limits, license fees, etc. [[50 CFR 80.6\(a\)](#)] This does not prohibit the scientific collection of information needed to support management recommendations [WR Act Sec 2].

**F.** Stocking of game animals for the purpose of providing hunting of the animals stocked without objectives for restoration or establishment of self-sustaining populations [WR Act Sec 2, [50 CFR 80.5\(a\)\(1\)](#)].

**G.** Furnishing public facilities, equipment, or services in excess of the minimum required to meet grant purposes or health and safety standards [[50 CFR 80.13\(d\)](#), WR Act Sec 1].

**H.** Wildlife damage management activities.

**(1)** Wildlife damage management activities, including removal or control of predatory, nuisance, or depredating animals; purchase or application of repellants or toxicants; installation of control pipes, culverts, fences, or other barrier or exclusion structures; or compensation for damage caused by predatory or depredating animals, if one or more of the following conditions apply:

**(a)** State prohibits or restricts conservation measures, such as hunting and trapping, for the species causing damage to a level that compromises the ability of the State fish and wildlife agency to reasonably attain its wildlife management objectives (excepting circumstances where firearms, archery, or trapping restrictions for valid public safety reasons as verified by the agency preclude hunting or trapping, or the restrictions are the result of Federal primary legal authority).

**(b)** State has specifically delegated management authority for the animals in question to an agency or entity other than the State fish and wildlife agency.

**(c)** State fish and wildlife agency does not have control and expenditure authority over use of license fees for wildlife damage management.

**(d)** The primary purpose of the wildlife damage management activity is not an eligible activity in the Wildlife Restoration Program.

(2) If conditions (a), (b), (c), or (d) apply, a State fish and wildlife agency may still use Federal Aid funds to monitor wildlife damage and provide technical guidance, exclusive of actual management activities, if the Federal Aid grant documents and approves the activity. Payments for wildlife damages are not an eligible use of Federal Aid funds.

**1.9 Are there instances when a State could use license fees for wildlife damage management?** We allow the use of license fees for wildlife damage management (including predator control) or damage compensation that helps achieve fish and wildlife management goals if the State fish and wildlife agency has:

A. Control and expenditure authority over these funds, and

B. Management authority over the animals in question.

**1.10 When would a diversion of funds occur?**

A. A diversion of funds under 50 CFR 80.4 would occur if a State uses license funds for wildlife damage management where one or more of the following conditions apply:

(1) State prohibits or restricts conservation measures, such as hunting and trapping, for the species causing damage to a level that compromises the ability of the State fish and wildlife agency to reasonably attain its wildlife management objectives (excepting circumstances where firearms, archery, or trapping restrictions for valid public safety reasons as verified by the agency preclude hunting or trapping, or the restrictions are the result of Federal primary legal authority).

(2) State has specifically delegated management authority for the animals in question to an agency or entity other than the State fish and wildlife agency.

(3) State fish and wildlife agency does not have control and expenditure authority over use of license fees for wildlife damage management.

B. Even if one or more of the conditions in subparagraph A apply, State fish and wildlife agencies would not be in diversion if they use license fees to provide technical guidance, consultation, permitting, and monitoring of wildlife damage, exclusive of actual management activities, such as removal of animals. We allow the use of fees for control of exotic species not under authority of the State fish and wildlife agency if necessary to restore or maintain populations of species under the State agency's authority.

C. If a diversion of license revenues occurs, the State becomes ineligible to participate under the Wildlife Restoration Act from the date we declare the diversion until the State satisfies the requirements of 50 CFR 80.4(d).

**1.11 Where can I find additional guidance?** [Part 522](#) contains general administrative requirements and program standards for documentation and execution of the Federal Aid in Wildlife Restoration Program. We intend the guidance to be thorough and current; however, grantees should not rely on it as a sole source. Regional Offices will answer specific questions.

---

***For additional information regarding this Web page, contact [Krista Bibb](#), in the Division of Policy and Directives Management. For information on the specific content of this chapter, contact the Division of Federal Assistance.***

---

[Directives Home](#)

PDM Web sites: [Centralized Library of Servicewide Policies](#) | [FWS Forms](#) | [PDM Services](#)

[Privacy, Disclaimer and Copyright Information](#) | [Information Quality Act](#)

[U.S. Fish and Wildlife Service Home Page](#) | [Department of the Interior](#) | [USA.gov](#) |  
[About the U.S. Fish and Wildlife Service](#) | [Accessibility](#) | [Privacy](#) | [Notices](#) | [Disclaimer](#) | [FOIA](#)