

FWS January 23, 1981 Mitigation Policy

Resource Loss – change in fish and wildlife resources due to human activities that is considered adverse and: reduces the biological value of that habitat for evaluation species; reduces population numbers of evaluation species; increases populations of “nuisance species”; reduces the human use of those F&W resources; or disrupts ecosystem structure and function . (i.e., loss includes more than direct impacts)

Resource Category 1. Habitat to be impacted is of **high value** for evaluation species and is **unique and irreplaceable** on a national basis or in the ecoregion section. The mitigation goal for habitat in Resource Category 1 is **no loss of existing habitat value** (suitability).

Resource Category 2. Habitat to be impacted is of **high quality** for evaluation species and is **relatively scarce or becoming scarce** on a national basis or in the ecoregion section. The mitigation goal for habitat in Resource Category 2 is **no net loss of in-kind habitat value** (suitability).

Resource Category 3. Habitat to be impacted is of **high to medium value** for evaluation species. The mitigation goal for habitat in Resource Category 3 is **no net loss of habitat value (suitability) while minimizing loss of in-kind habitat value** (suitability).

Resource Category 4. Habitat to be impacted is of **medium to low value** for evaluation species. The mitigation goal for habitat in Resource Category 4 is **minimize loss of habitat value** (suitability).

The Mitigation Policy outlines five types of actions that can be incorporated into FWS mitigation recommendations, **to be considered in the following order**: 1) avoid the impact; 2) minimize the impact; 3) rectify the impact (repair, reclaim, etc.); 4) reduce or eliminate the impact over time (staff training, maintenance, monitor, etc.); and 5) compensate for impacts (losses) that remain after application of 1-4.

FWS Mitigation Policy revision process in initial stage (goal: final policy **covering all programs** in 1-2 years); to include Conservation Banking (currently May 2, 2003 CB Policy)

Sage-grouse Compensatory Mitigation

Currently is no formalized FWS sage-grouse compensatory mitigation policy

FWS sage-grouse compensatory mitigation framework is in conceptual stage, aggressive schedule

Some initial considerations include:

Landscape Planning	A mitigation program should be developed in conjunction with, or guided by, a landscape-level conservation plan to ensure the viability of the species and the ecosystem upon which it depends over time.
Mitigation Hierarchy	New and ongoing activities should be designed, sited and implemented to adhere to the basic hierarchy of avoidance, minimization, rehabilitation, and compensatory mitigation (also referred to as “offset”) as guided by a conservation/mitigation strategy.

Location	Compensatory mitigation actions should be sited in locations that have been identified in conservation strategies to most benefit from the types of conservation actions targeted in the mitigation program.
Additionality	Actions proposed as compensatory mitigation should provide benefits beyond those that would be achieved anyway under applicable regulations and/or land-use management plans.
Effectiveness	Actions should be measurable and proven to be reasonably likely to deliver expected conservation benefits. Monitoring and adaptive management will be important components to ensure success.
Timeliness	Mitigation actions should achieve targeted biological conditions in a timeframe commensurate with the life of the associated biological impacts.
Durability	Actions or plans proposed as mitigation should be accompanied by appropriate legal and financial assurances.
Metrics	Determining the expected impacts of actions and the measures necessary to avoid, minimize, restore and/or offset those impacts should be based solely on biological conditions/information and upon reliable and repeatable methods.
Species Benefit	Including mitigation, overall outcomes should result in no net loss to the species; a net benefit will assure overall net conservation status improvement and assist in precluding the need to list.
Applicability	Compensatory mitigation should apply regionally and consistently to each of the land-development activities that affect sage-grouse in Montana.

Some Common Issues and Questions surrounding Compensatory Mitigation

- How is the level of impact that must be mitigated for different types of development activities determined (debits)?
- How is it determined which conservation activities should count for compensatory mitigation?
- How are conservation benefits from the mitigation measured (credits)?
- How is it decided where compensatory mitigation activities should occur?
- What types of ownership (private/state/federal) are eligible to undertake compensatory mitigation?
- How is it determined whether a proposed compensatory mitigation action is additional, or is beyond business as usual practices?
- What type of agreement(s) is (are) used to ensure that the compensatory mitigation will persist?
- How long is compensatory mitigation required to last?
- How is it handled when the conservation value of compensatory mitigation is unintentionally (e.g. wildfire) or intentionally (new development) decreased?
- Who runs the mitigation program, and who is subject to it?