

Greater Sage-Grouse
Pre-Listing Mitigation Agreements and
Mitigation Program Review
Standard Operating Procedure

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Greater Sage-Grouse Mitigation Program Review, Standard Operating Procedure

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PURPOSE and ADMINISTRATION

Purpose

The purpose of this standard operating procedure (SOP) is to establish a uniform process for the U.S. Fish and Wildlife Service (Service) to review local, state and federal mitigation agreements and programs for the Greater sage-grouse (*Centrocercus urophasianus*), including those where the Service may enter into pre-listing mitigation agreements. This document provides Service staff with tools to that translate the standards outlined in the Greater sage-grouse Range-wide Mitigation Framework (Framework) to program review criteria.

Administration

This SOP identifies a process for Service staff from the field and regional offices to review and approve local mitigation programs. Central to providing range-wide consistency is filtering the review through a regionally-represented technical mitigation review team (MRT). Team responsibilities include the following:

1. Respond to internal requests for Service review of mitigation programs
2. Analyze mitigation program methodologies and operations
3. Provide guidance to Service staff and/or program proponents so that programs can meet Service standards
4. When requested, prepare or review pre-listing mitigation agreements with mitigation program proponents and/or other agencies

Designated SharePoint sites have been established for working drafts and official documents so they are accurately captured as part of the administrative record.

Working Documents: <https://fishnet.fws.doi.net/projects/home/NSGC/Mitigation/Forms/AllItems.aspx>

Final Documents: <https://portal.doi.net/usfws/SG/SitePages/Home.aspx>

REVIEW PROCESS

Insert review process/timeline.

Thoughts/Ideas to potentially capture in process:

- Develop internal checklist for FO staff to ensure documents are complete before Team review.
- Have proponent fill out Framework Questions Guide and submit with official review request to ensure a complete package is being sent in for review; answers will also help with review
- Develop Standards Table for proponent to fill out and submit with request.
- Develop internal Team checklist based on Questions and Standards Sideboards.
- Develop template letter(s) for Service response to program review.
- Develop pre-listing mitigation agreement template or language.

Comment [SG1]: The Service considers the following general information, at a minimum, when determining if a bank agreement mitigation program package is acceptable:

- Does the proposal provide sufficient certainty that the habitat protection, enhancement, restoration, or creation will be successful and that it will provide mitigation as intended;
- Does the long-term management plan contain sufficient certainty that the management of the bank site will adaptively provide for the target species/resource needs over time; and
- Does the proposal include sufficient financial assurances to carry out any enhancement, restoration, or creation, and interim and long-term management?

SIDEBOARDS FOR MITIGATION REVIEW

Narrowing the Sideboards

The Framework provides broad guidance for mitigation program developers to follow. The following information will guide Service staff in narrowing those sideboards.

Mitigation Standards

The Framework lists five mitigation principles and six mitigation standards and states the following:

“Approaches to compensatory mitigation that follow these principles and adhere to the standards below are expected to achieve the best outcomes for conservation through effective management of the risks associated with compensatory mitigation.”

The tables that follow provide additional internal guidance for Service staff. When in doubt as the general question, “Is the method being used repeatable and would another person arrive at the same value or conclusion?”

1.	Siting	Sideboards
1.1	Program integrates landscape level plan(s) (e.g. state conservation plan, BLM regional mitigation strategy) or provides for landscape-level assessment for impacts and offsets	Yes or No
1.2	Includes habitat proximity and importance factors in siting decisions	Yes or No
1.3	Defined service area(s) based on biological and geographic factors (or justified jurisdictional factors).	Yes or No
1.4	Addresses trading of credit outside service area or jurisdictional boundaries (e.g. county, state)	Yes or No
1.5	Identifies and includes limiting habitat in siting decisions	Yes or No
1.6	Incentivizes conservation (and discourages development) in areas designated by the state F&W agency as important for sage-grouse	

Comment [LZC2]: Both, one, or neither?

Comment [LZC3]: May not need to be required, but could improve programs where included.

2.	Duration	Sideboards
2.1	Limits to length or use of term credits	> 10 (30?) year credits/agreements
2.2	Limits to length or use of dynamic credits	> 30 year credits/agreements used in succession for longer debits and/or < x% program credits dynamic
2.3		

3.	Additionality	Sideboards
3.1	Eligibility - program provides minimum eligibility criteria for credit sites (which include the potential for sage-grouse use and the ability/authorization to implement conservation actions)	Yes or No
3.2	Baseline – program uses baselines for calculating credits and debits that provide certainty of ecological benefit	Credit and debit baseline must be same unless justified
3.3	Credit Types – justifies use of preservation, enhancement and restoration as part of conservation plan	Yes or No
3.4	Public Funds – program describes how the ecological outcomes achieved using public funds will be excluded from the calculation of credits	<p><u>1. Use of public funding is excluded from credit calculation based on relative funding amounts</u></p> <p><u>2. Use of public funding is excluded based on relative ecological contribution</u></p> <p><u>A. Use of public funding is excluded during the life of the contract</u></p> <p><u>B. Use of public funding is excluded during the life of the contract and exclusions to credits sunset over time following termination of the contract</u></p>
3.5	CCAAs -	
3.6	Credit Stacking -	
3.7		

Comment [SG4]: Eligibility includes some minimum base habitat requirement to even be considered for a mitigation site. This would help to reward early actors, prevent destroying habitat to get more credit, etc.

Comment [LZC5]: We may want a standard for what serves as justification. For example, using average habitat function over one of the CHE's service areas may have a reasonable probability of being close to the on-the-ground conditions at any specific site. Average habitat function across Management Zone 3 in Nevada is less likely to be accurate site-by-site. Does justification by land area make sense? What about methods/data?

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Comment [LZC6]: Are there methods to differentiate between the (minimum?) ecological functions delivered by CCAA actions and additional ecological functions that could be the basis for compensatory mitigation credits?

May need input from the biologists that are working on CCAAs across the range.

Comment [LZC7]: Is the sideboard for public land additionality different from private land?

It seems like demonstrating additionality on public land is more difficult than on private land, but they are held to the same standard.

Deleted: Land Ownership

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4.	Effectiveness	Sideboards
4.1	Timeliness	<ul style="list-style-type: none"> Program will provide immediate net gain Program is projected to provide net gain in the future Program may result in short-term net loss, but is projected to provide net gain in the future
4.2	Conservation Measures	

4.3	[Risk Management here? – see table below]	
4.4	Net conservation benefit measured and demonstrated	<ol style="list-style-type: none"> 1. At the project level 2. At a regional/service area level 3. At the program level
4.5	Mechanism to target credit projects where conservation is needed most?	

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5.	Durability	Sideboards
5.1	Site Agreement – binding agreement between administrator and participants that ties in assurances, management, reporting	
5.2	Real Estate	
5.3	Financial	
5.4	Management Plan	
5.5	Mechanisms to ensure durability on public land (equal to durability on private land)	Yes or No

6.	Metrics	Sideboards
6.1	Developed from a science-based transparent process	
6.2	Consider direct and indirect effects	
6.3	Verification	
6.4	Monitoring, Performance Standards	
6.5	Adaptive management plan for metric	Yes or No
6.6	Tracking system	
6.7	Sage-grouse population monitoring	Yes or No

[note: the following may fit up in individual standards, perhaps durability and/or effectiveness]

7.	Risk Management	Sideboards
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?1	Reserve, insurance, or project level plan for reversals from fire, force majeure, and intentional impact	Yes or No
?2	Credit Release Schedule or <u>criteria</u>	Yes or No
?3	Dispute Resolution Process	Yes or No
?4	Differential in mitigation ratio application to credit projects and debit projects, making it relatively harder to generate debits and relatively easier to generate debits	Yes or No

Comment [LZC8]: What criteria are we comfortable with?
Are we okay with a fraction of credits being released based on the implementation of conservation actions (as a way to encourage restoration and enhancement projects), or do we want to set the standard that credits are released only after demonstrating ecological function.

Mitigation Program Elements to Note

Ultimately, the role compensatory mitigation plays in the full mitigation hierarchy will affect sage-grouse conservation. The documents submitted by a proponent for review may or may not address how projects arrive at compensatory mitigation, and a compensatory program may still meet Service standards independent of the hierarchy. However,

1.	Avoid and Minimize	
1.1	<u>Avoidance and minimization of impacts required prior to measurement of debits</u>	<u>Yes or No</u>
1.2		
1.3		

Comment [LZC9]: Regardless of land ownership

The success of any compensatory mitigation program is dependent on how the program is managed. In many cases, the Service will not be directly involved in governance of a mitigation program. Governance will likely not affect whether a program meets Service standards, especially those required for pre-listing mitigation agreements. However, it is useful to consider program management in the larger context and, especially for those agreements to which the Service is a party, provide early input that may strengthen the program.

2.	Governance	
2.1	Program tie to regulatory mechanism	
2.2	Administrator with <u>the authority and resources needed to enforce compliance</u>	Yes or No (can be no for voluntary program)
2.3	Financial administrator and plan for program	
2.4	Program Adaptive Management triggered by sage-grouse population and habitat monitoring	Yes or No
<u>2.5</u>	<u>Agency responsible for managing the species has adequate authority in oversight of the program</u>	

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PRE-LISTING MITIGATION AGREEMENTS

Heading 2

Heading 3

Thoughts/Ideas to potentially capture:

1. Timing related to credit release and who administers reserve account, financial and real estate assurances; who will have those responsibilities if listed
2. What level/strength of data backs the metric?
3. Can we provide conditional approval?

APPENDICES

Review Process Checklist

Sideboards Checklist

Guidance for Partners

Pre-Listing Agreement Template (or language)