

Mitigation Program State and Name:**Reviewer(s):****Date of Review:**

#	Description	Framework Q's	Relevant Info from Proponent's Answers to Framework Q's or other Correspondence	Discussion – How Program Addresses this Standard	Standard Met?
A.	Avoidance, Minimization, and Rectification Preferably, documents submitted by a proponent for review will address how projects arrive at compensatory mitigation, i.e. how avoidance and minimization is first addressed. Third party mitigation providers may not have direct control over this, however. The Service should exercise caution in providing regulatory predictability through prelisting mitigation agreements if there is uncertainty that projects acquiring credits did not go through an adequate avoidance and minimization filter. At a minimum, the BLM standards for avoidance and minimization may be used as a frame of reference.				
a.1	To obtain regulatory certainty from the Service and ensure conservation of sage-grouse, avoidance and minimization of impacts should be ensured prior to transfer of credits from a mitigation program. Methods to ensure adequate application of the mitigation hierarchy (in order of strength): <ol style="list-style-type: none"> Mitigation program is integrated into regulatory mechanism(s) that have avoidance and minimization requirements (e.g. Oregon mitigation program) Regulatory mechanisms provide adequate avoidance and minimization requirements (e.g. BLM; Wyoming core area strategy) Regulatory agencies are party to the mitigation agreement which contains language requiring avoidance and 	I.1 IV.A-B			

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	<p>minimization before credit transfer</p> <p>iv. Language in program operational documents clarifies that only projects providing proof that avoidance and minimization were employed are accepted (this should be in any program)</p>				
a.2	<p>If the program will offer term (i.e. not permanently protected) credits, the Service should have confidence that impacts those credits compensate for will be fully rectified by the end of their identified term. Preference is always for use of permanent credits (perhaps at a discount) to offset term impacts.</p> <p>Methods to ensure adequate rectification of term impacts:</p> <ul style="list-style-type: none"> i. Regulating agency issues a term (i.e. defined length of time) permit which requires complete rectification and verification of the site to pre-project levels within the permit timeframe ii. Permits are not definitive in length but can be renewed, however, the regulatory agency can assess potential new impacts and can require additional mitigation <p>Additional (untested and less preferable) methods to consider:</p> <ul style="list-style-type: none"> iii. Mitigation program administrator has legal ability to confirm rectification has occurred and to request additional 	<p>II.6</p> <p>IV.C</p>			

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	compensation, if necessary iv. Mitigation provider requires an up-front financial obligation (used as a contingency fund) to cover potential shortfalls using term credits				
B.	Mitigation Goal After avoiding and minimizing project impacts to the maximum extent practicable, compensatory mitigation should provide a net conservation gain or benefit. The overall program design, and specifically the metrics (see 6) and application of risk management tools (see 4), should provide the Service confidence that a net conservation benefit can be achieved.				
b.1	The mitigation program can demonstrate how net conservation benefit will be measured at three potential levels: <ul style="list-style-type: none"> • Project level (while no net loss is the minimum required at this level net benefit is preferable) • Regional or service area level • Mitigation program level 	I.1 IV.D.c.2			
b.2	To ensure the mitigation goal can be tracked and is attainable, the following components, at minimum, should be part of the mitigation program: <ul style="list-style-type: none"> • Adaptive program management plan (see c.6) • Transparent tracking system (see 6.6) • Reporting requirements (see c.8) • One or more of the following mechanisms:* <ol style="list-style-type: none"> i. A retirement account, separate from any risk management credit reserve account, that consists of credits never be used to offset debits; ii. Applying a mitigation ratio (e.g. need 	III.8 III.10 III.11			

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	<p>credits equaling 1.5x the number of debits to offset);</p> <p>iii. A credit reserve account with built-in thresholds to ensure reserve credits never fall below a certain amount (dropping below a certain threshold could be grounds for the Service to suspend an agreement</p> <p>iv. A high enough project level contribution to ensure a credit reserve account will never be completely exhausted;</p> <p>v. Use of adjustment factors tied to qualitative habitat features that make it relatively easier to generate debits and harder to generate credits;</p> <p>vi. Requirement for credits to have a longer duration than the impacts they offset (e.g. 20-year credit project to offset 10-years of disturbance).</p> <p><i>*Note: All mechanisms assume credits and debits are equivalent, robust, and any uncertainties are mitigated through risk management tools.</i></p>				
C.	<p>Governance</p> <p>The success of any compensatory mitigation program is dependent on how the program is managed. In most cases, the Service will not be directly involved in governance of a mitigation program so understanding the checks and balances of a governance structure is key to providing certainty a program will be successful.</p>				
c.1	A mechanism (agreement, legislation, etc.) identifies responsible parties for managing the program.	III.3			

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c.2	The agency responsible for managing the species has adequate authority or input in the program, especially in the processes for valuation and prioritization of habitat. If the agency does not have direct authority, participation on a program's scientific and oversight committees may be acceptable.	III.2			
c.3	Roles of the parties are clearly defined, including any role of the Service. At least one party should be linked to landscape-level planning processes for sage-grouse.	III.1 III.12 III.2 III.13 III.4 III.14			
c.4	The program administrator has the authority and resources needed to enforce compliance.	III.2 III.3			
c.5	The program identifies at least two transparent financial systems with two separate accounts: one for program operations and one for mitigation funds collected or dispersed. Monies for long-term stewardship, such as endowments, should reside with a third party and not the mitigation program.	III.5 III.7			
c.6	The program includes an adaptive management plan identifying specific thresholds which trigger program review or modification of program components and a process for review and adoption of modifications. Where appropriate, thresholds should be tied to biological triggers (related to sage-grouse population and habitat monitoring) either directly through program monitoring or in	III.8 IV.D.c.6 IV.D.d.24			

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	conjunction with state monitoring efforts.				
c.7	A dispute resolution process is identified in any agreement and in program operational documents.	III.4			
c.8	<p>The program includes reporting requirements for who receives what information and at what frequency. If the Service is party to the agreement, the Service should receive at least annual reports. Parties should be able to evaluate the effectiveness of mitigation in relation to the species and the program. Reports should clearly demonstrate how the mitigation goal is being met.</p> <p>Minimum components include: registry items (the when and where of debits and credits); credit reserve account information; funding information (showing separation of operational funds, credit transfers, and project-level financial mechanisms); credit stacking (for other resources, CCAAs); proposed/completed program modifications; summary of compliance of projects; adaptive management considerations.</p>	III.1 III.9 III.10 III.11 IV.D.d.23			
1.	Siting The mitigation sequencing hierarchy should be applied in the context of conservation objectives derived by a landscape-scale approach. Compensatory mitigation actions should be sited in locations that have been identified in conservation plans to most likely successfully and fully compensate losses to sage-grouse.				
1.1	Program integrates landscape level plan(s) such as a county or state conservation plan or BLM regional mitigation strategy.	III.4 IV.A.2 IV.A.5			

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	<i>or, in the absence/inadequacy of such plans,</i> Program includes planning or decision support tools to facilitate smart siting of development and conservation actions.	IV.D.c.8 IV.D.c.10 IV.D.d.1 IV.D.d.2			
1.2	Program incentivizes conservation of and discourages development in areas designated by a conservation strategy or other planning tool as important for sage-grouse. Provisions for when, if ever, on-site mitigation is appropriate are included.	IV.D.d.1 IV.D.d.6 IV.D.d.16			
1.3	Service area(s) are defined and are based primarily on biological factors (e.g. PACs, populations). Jurisdictional factors (e.g. political boundaries) are justified if they are used.	IV.D.c.8			
1.4	Program addresses trading of credit outside service area or jurisdictional boundaries (e.g. across state lines). <i>or</i> Program provides for adjustment of service areas through an adaptive management process.	IV.D.c.9 IV.D.c.10			
1.5	Scale-appropriate factors, including habitat proximity, importance, and limited/rare habitat are included in impact assessment and mitigation siting decisions.	IV.D.a.2 IV.D.a.4,5 IV.D.b.2 IV.D.c.5 IV.D.d.1			
1.6	The program identifies eligibility criteria for mitigation sites based on development risk factors. Sites with existing permits or going through permit process should not be eligible. Sites with potential future	IV.D.d.1 IV.D.d.3			

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	development risk (e.g. those under split estate ownership or located in energy zones or rights of way) should be carefully considered under risk management tools (see 5.2 and 5.5)				
2.	Duration Compensatory mitigation actions should achieve targeted biological conditions in a timeframe commensurate and proportional with the biological impacts to be offset.				
2.1	Credit project duration must meet or exceed duration of the impact, accounting for any time lags, uncertainty, and remediation.	IV.C IV.D.a.3 IV.D.b.3 IV.D.b.4 IV.D.c.3 IV.D.c.4 IV.D.d.7			
2.2	Term credits are limited to no less than 10 years.* <i>For example:</i> a “5 year” impact is offset using a 10 year or more term credit.				
2.3	Dynamic credits (credits purchased in sequence over time to offset a longer-term impact) are limited to no less than 30 years and in 30 year increments.* <i>For example:</i> a “50 year” impact would be offset using two 30 year dynamic (sequential) credits (or a ≥50 year credit).				
2.4	[Preference] Dynamic credits are programmatically restricted.* <i>For example:</i> Only 25% or less of program funds or credits in a given year may be used for dynamic credits.				
3.	Additionality Actions proposed as compensatory mitigation should provide benefits beyond those that would be achieved if the mitigation actions had not taken place and should exceed what is otherwise required by federal, state, and local regulations.				

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3.1	Eligibility - program outlines minimum eligibility criteria for credit sites which include the potential for sage-grouse use, the landowner's ability/authorization to implement conservation actions, and minimum habitat functionality that should exist before accruing credit.	IV.D.d.1-3 IV.D.d.5 IV.D.d.10			
3.2	Baseline – program uses the same baseline for calculating credits and debits both pre- and post-project and baselines provide certainty of ecological benefit. If different baselines are used, a biologically-based justification is given. Baseline measures should have an identified timeframe for use (e.g. a pre-project baseline calculation must be redone if >3 years old or if significant habitat alterations, such as from fire or development, has occurred).	IV.D.a.4 IV.D.b.2			
3.3	Credit Types – program balances use of preservation and enhancement/restoration projects based on threats and local needs of sage-grouse (ideally as determined by a conservation plan).	IV.D.d.12			
3.4	Regulatory Requirements – the program ensures that eligible sites must exceed existing regulatory or policy obligations, including designation as conservation lands.	IV.D.d.10			
3.5	Public Funds – program describes how ecological outcomes achieved using public funds in active contracts will be separate and excluded from credit calculations.	IV.D.d.17			
3.6	CCAAs [<i>if program may overlap with</i>	IV.D.d.5			

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	CCAAs] - program explains if or when it is appropriate to have mitigation agreements on lands covered under a CCAA. If deemed appropriate, the program provides clear direction on how conservation measures in CCAAs and mitigation site-level agreements will be separately tracked and reported.				
3.7	Credit Stacking [<i>if credit stacking may apply</i>] - program addresses any possible credit stacking of other resources and clarifies how to account for sage-grouse credit to ensure additionality.	II.4 IV.D.d.18			
4.	Effectiveness (and Managing Risk) Compensatory mitigation programs should be reasonably likely to deliver expected conservation benefits and should target those actions that will provide the greatest benefit to sage-grouse, be measurable, and be commensurate with the degree of risk and uncertainty associated with predicted effects.				
4.1	The program requires credits are verified and available before impacts occur. <i>or</i> The program is structured to account for time lags between impacts and offsets through metrics and/or transfer of additional credits, reserve accounts, or other risk management tools. <i>For example:</i> An in lieu fee mitigation program typically does not have credits available before an impact but is structured to account for time lags in credit availability.	IV.D.a.6 IV.D.b.5 IV.D.c.3 IV.D.c.4 IV.D.d.14			
4.2	Conservation measures/actions are supported by science and time lags in restoration actions are appropriately	IV.D.b.3 IV.D.d.12			

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	considered.				
4.3	Credit for preservation is proportionate to the magnitude and likelihood of existing and future threats to the habitat and/or the value of the site to conservation of the species (ideally as recommended in a plan - see also 3.3).	IV.D.b.2 IV.D.d.9			
4.4	The program requires monitoring of specific performance standards to ensure continued compliance of credit sites. [Preference for a priori identification of site specific performance standards].	IV.D.d.13 IV.D.d.20-22 IV.D.d.24			
4.5	The program outlines a monitoring plan for credit sites based on performance standards, proportional to the type of credit projects (e.g. preservation projects may require less monitoring than restoration projects). Monitoring should tie into program adaptive management triggers (see also 6.5).	III.11 IV.D.d.21 IV.D.d.23			
4.6	A credit release schedule is identified that limits release of credits to only when specific administrative and ecological performance criteria are achieved. <ul style="list-style-type: none"> i. A minimum level of ecological performance of the site should be identified before any credits can be released (e.g. for restoration projects a site should be functioning at x% before first credit release). ii. Minimum administrative criteria for the first credit release should include: site agreement and management plan 	IV.D.d.4 IV.D.d.13 IV.D.d.15			

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	approved, site protections/real estate instrument secured, and establishment of financial assurances. iii. Additional credit releases occur from meeting ecological milestones (determined through monitoring of performance standards - see 4.4) and/or for meeting financial milestones (see 5.3).				
4.7	The program includes provisions for dealing with site level credit variability (e.g. due to annual variations) and contingency or remedial actions when credit values fall outside the program's credit variability threshold.	IV.D.b.3 IV.D.b.4 IV.D.d.14			
4.8	Research and education are not used as compensatory mitigation. Research is encouraged on mitigation sites and additional fees may be collected for these purposes, but only after full compensation for impacts is ensured.	IV.D.d.12			
4.9	The program identifies a mechanism which documents credit transfers to buyers and which ensures credits are for unavoidable impacts, are acquired in advance of impacts, and are appropriate types and location for the specific impacts.	III.10 IV.D.d.16			
5.	Durability Actions or plans proposed as compensatory mitigation must be accompanied by management, legal, and financial assurances that ensure the action or plan will be in place and effective for the intended duration. Assurances should address unintentional and intentional losses of compensatory mitigation actions.				
5.1	Site Agreement – program requires a	IV.D.d.11			

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	binding agreement between administrator and participants that ties in assurances, management, and reporting.	IV.D.d.15 IV.D.d.19			
5.2	Real Estate – the program will require site protection instruments for participating lands, including federal lands and lands with split estates, for the full duration of the project's life. Mechanisms should ensure durability on public land is commensurate to those of private land.	IV.D.d.11 IV.D.d.19			
5.3	Financial – the mitigation program requires sufficient financial assurances connected to each project to ensure mitigation will be successfully completed in accordance with performance standards and for the full duration of the project's life.	IV.D.d.19 IV.D.d.20			
5.4	Management Plan – the program requires each site to have a customized management plan that prescribes the management, monitoring, and reporting activities to be conducted and provides for the continued adaptive management of a site.	IV.D.d.11 IV.D.d.15 IV.D.d.19			
5.5	A plan or structure is in place to replace any potential reversals in credit projects from natural or anthropogenic disturbances. <i>For example:</i> One programmatic tool for reversals is a reserve credit account. Each site sets aside a percentage of credits based on the amount of risk (e.g. from fire or split estate issues) to potential reversals. This pool of credits is never to be used for mitigation.	IV.D.d.22			

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6.	Metrics Determinations of the expected impacts of actions and the measures necessary to avoid, minimize, or compensate for those impacts should be based on biological conditions and upon reliable, repeatable, and quantitative science-based methods.				
6.1	Metrics are developed from a science-based and transparent process and result in reliable, consistent, and repeatable methods to determine debits and credits. [Preference] The metric system is peer reviewed.	IV.D.a IV.D.b IV.D.c.1			
6.2	The metrics take into consideration both direct and indirect effects for all of the potential covered impact activities.	IV.D.a.5 IV.D.b IV.D.c.1			
6.3	The metrics consider habitat quality, quantity, and scale. The three major sage-grouse habitat categories (breeding, summer/foraging, and wintering habitat) are included and (preferably) tracked.	IV.D.a IV.D.b IV.D.c.1 IV.D.d.16			
6.4	A verification process is identified that will confirm program rules are followed and that credits are ecologically available to be released for use on a given site.	IV.D.a.6 IV.D.b.5 IV.D.d.14 IV.D.d.15			
6.5	The program establishes clear thresholds to trigger future adjustments to metrics. Criteria and processes for making adjustments in a way that will not undermine existing credits or mitigation agreements are identified.	IV.D.c.6 IV.D.c.7			
6.6	A robust accounting system to track credits (and debits, if applicable) is defined. The accounting system should foster transparency, accountability, and	III.10 IV.D.d.14 IV.D.d.15			

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	credibility; be accessible to parties to the agreement; and information from the system should be included in monitoring reports.				

PreListing Mitigation Agreement: