

Reclamation Manual  
Policy

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**Subject:** Wetlands Mitigation and Enhancement

**Purpose:** To establish policy for Reclamation to use in determining appropriate mitigation for all actions affecting wetlands. Encourage activities protecting, preserving, and enhancing wetlands.

**Authority:** Executive Order 11990 (May 24, 1977), Protection of Wetlands; Clean Water Act (P.L. 92-500, as amended); National Environmental Policy Act (P.L. 91-190, as amended); Fish and Wildlife Coordination Act (P.L. 85-624); and their implementing regulations.

**Contact:** Environmental and Planning Coordination, D-5100

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1. **Goal.** The goal of this policy is to protect, restore, and enhance wetlands and ensure no overall net loss of wetlands.
2. **Mitigation.** Reclamation, acting through the appropriate Regional Director and Area Manager, will when practicable and appropriate, mitigate for existing wetland functions and values adversely affected by its activities, including but not limited to construction, water conservation, loans and grants, operating and maintenance (O&M) activities, and special programs. Mitigation may include, but is not limited to restoration, creation, improvement, the use of wetland mitigation banking, and in special circumstances, preservation of wetlands. Identification of the most appropriate and practicable mitigation alternative should be made on a case-by-case basis; however, when appropriate and practicable, in-kind mitigation via wetland restoration is the preferred method. The likelihood of successful wetland restoration and creation measures will be considered when determining appropriate mitigation needs, monitoring responsibilities, and performance assurances. When using mitigation banking as an option, Reclamation will follow the Federal guidelines on the Establishment, Use, and Operation of Mitigation Banks, 60 Federal Register 58605 (November 28, 1995).
  - A. Mitigation will be consistent with regulations implementing the National Environmental Policy Act (40 CFR 1508.20). The first priority is to use all appropriate and practicable means to avoid adverse impacts. Where adverse impacts cannot be avoided, all appropriate and practicable means will be used to minimize adverse impacts. After all appropriate and practicable efforts to avoid and minimize effects have been undertaken, appropriate and practicable mitigation will be determined.
  - B. Reclamation, acting through the Regional Director and Area Manager, will develop appropriate mitigation strategies in accordance with applicable laws. In evaluating whether or not mitigation is appropriate and practicable, Reclamation will consider all

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applicable authorities, as well as economic, environmental, and other pertinent factors. These considerations should be reflected in applicable documents for compliance with the Clean Water Act and/or the National Environmental Policy Act. Then Reclamation will consider 40 CFR 230 *Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material* and the memorandum of agreement between the Environmental Protection Agency and Department of the Army, dated February 6, 1990. Reclamation will assess the quality and quantity of the wetland affected; the impact on the functions and values of the wetland; and the cost, appropriateness, feasibility, and practicability of mitigation alternatives.

- (1) Impact assessment will consider all aspects of identified existing wetland functions, as well as the duration of the effect and its direct, indirect, and cumulative effects. The assessment may also consider the effects to the wetland over the O&M cycle, including the beneficial aspects created by or between O&M events and the duration and extent of adverse effects.
  - (2) Wetland functions should be determined by regional functional assessment models (i.e., those using a hydrogeomorphic approach currently being developed by the Corps of Engineers and the Natural Resources Conservation Service). If a regional functional assessment model is not yet available or not appropriate, other commonly accepted assessment models or techniques (such as Habitat Evaluation Procedure or Wetland Evaluation Technique II) may be used to identify compensation requirements and alternatives.
- C. For actions requiring a Clean Water Act Section 404 permit for placement of dredged or fill material into waters of the United States (which includes wetlands), the Corps of Engineers (or a delegated State agency) is ultimately responsible for final decisions regarding compliance, including any mitigation requirements that may stem from compliance. For projects on private lands that require a permit from the Corps *and* where Reclamation may also have some review or approval capacity, Reclamation does not envision that it will require additional mitigation beyond what is otherwise required by the Corps. In those situations where Reclamation is seeking an exemption from the Section 404 permit process pursuant to Section 404(r) of the Clean Water Act, Reclamation will include in its environmental impact statement a Section 404(b)(1) evaluation that reflects the appropriate and practicable mitigation commitments Reclamation is prepared to make.
3. **Enhancement.** Reclamation should seek opportunities to participate in enhancement of wetland functions, when its actions affect wetlands in the course of carrying out its responsibilities for acquiring, managing, and disposing of Federal lands and facilities; providing Federally undertaken, financed, or assisted construction and improvements; or

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conducting Federal activities and programs affecting land use or water management. In this context, enhancement refers to measures above and beyond Reclamation's mitigation requirements or commitments.

4. **Partnerships.** Reclamation should seek partnerships with any interested parties to defray costs of enhancement measures, with a goal of 50-percent cost-sharing consisting of cash or other contributions. Guidance for crediting non-Reclamation expenditures as cost-sharing may be found in the December 6, 1994, Denver Program Analysis Office memorandum, *Criteria and Procedures for Reviewing Cost-Share Agreements on Reclamation Projects*.
5. **Coordination.** Reclamation should consult appropriate agencies on functional assessment or evaluation and delineation methodologies, project impacts, and mitigation plans including any necessary monitoring. Due to the distinct types of wetland functions, appropriate agencies include, but are not necessarily limited to, Federal, State, and/or tribal agencies with jurisdiction by law or special expertise in ground water, water quality, floodplain management, and fish and wildlife habitat.
6. **Exceptional Situations.** There may be a situation when this policy is not appropriate. In such cases, an explanation of the divergence from this policy will be documented and submitted to the Director, Program Analysis, attention: D-5100. This will provide justification for the action(s) taken and the basis for any needed future revisions to the directives.