



Policy Resolution 2025-04

Compensatory Mitigation

A. **BACKGROUND**

Compensatory mitigation plays an important role in fish and wildlife management and conservation, and states rely on its use in developing and executing species conservation strategies. While states exercise primary management authority over fish and wildlife within their borders, habitat for fish and wildlife often spans a patchwork of land ownership types, complicating state efforts to manage and conserve species under their jurisdiction. This is particularly challenging in western states, where federal ownership constitutes a generally higher percentage of overall land ownership. As a result of this unique dynamic, it is critical that consistent policies and laws are in place to ensure the successful stewardship of fish and wildlife, as well as the stability of economic and infrastructure development in the West.

B. **GOVERNORS' POLICY STATEMENT**

1. States have the authority to establish appropriate statutes, regulations, policies, and programs to manage fish and wildlife within their borders. This authority extends to the development of compensatory mitigation standards and implementation of compensatory mitigation for species under their management purview.
2. Compensatory mitigation approaches vary from state to state, but they are designed to fully offset residual effects on habitat function and value.¹ Governors recognize that habitat functionality and value are the primary metric by which mitigation outcomes are measured. Compensatory mitigation efforts must be sufficient to fully offset direct and indirect residual impacts to habitat function at the appropriate scale necessary to meet conservation goals, recognizing that the net effects from a development project may be minimal in some locations; in those circumstances, compensatory mitigation may neither be appropriate nor necessary.
3. Where state mitigation programs or standards are in place, existing state policy and law should be the default precedent for a federal agency's development or implementation of compensatory mitigation on lands within that state's management authority or jurisdiction. Western Governors support legislation and regulatory policy that defer management to the state, particularly when a federal agency has been the primary cause of an environmental impact in need of mitigation efforts.
4. Whether or not state mitigation programs or standards are in place, federal agencies should coordinate with states in the development of federal compensatory mitigation programs and policies. Where state compensatory mitigation programs or standards exist, federal

¹ Habitat value is an assessment of the affected fish and wildlife habitat based on three attributes: scarcity, suitability and importance. Importance is the relative significance of the affected habitat, compared to other examples of a similar habitat type in a landscape context.

agencies should adopt and implement state compensatory mitigation programs and policies. Consistency between federal mitigation standards and those in state programs allows wildlife managers, state and federal regulators, and developers to use a consistent compensatory mitigation program across differing land ownership within a state.

5. Federal agencies should collaborate with the states to clearly define objectives for compensatory mitigation, acknowledge a variety of tools and measures which adhere to the mitigation hierarchy, include localized plans which recognize unknown projected risks, and account for the role of adaptive management in achieving successful mitigation outcomes.
6. Governors believe that federal mitigation policies should be developed in coordination with Governors, and the state agency officials they designate, to achieve the following objectives:
 - Provide measurable and documentable habitat and conservation values, services, and functions that are at least equal to any quantifiable lost or degraded values, services, and functions caused by the impact.
 - Incorporate adaptive management measures to account for the risk that a particular compensatory mitigation action may fail or not achieve its stated objectives. Adaptive management alternatives should be sufficient to address the uncertainty about the level and duration of estimated impacts. Federal agencies should cooperate with states to enumerate adaptive management mechanisms.
 - Compensatory mitigation projects should be sited and designed strategically to provide the most effective conservation or restoration outcomes; the effectiveness of mitigation actions should be based on the best available science and geographic location of highest benefit.
 - Provide benefits to fully compensate for any realized adverse impacts, both short and long term. Where habitat functions and values are permanently impacted, permanent mitigation is ideal.
 - Encourage the application of compensatory mitigation prior to the impact occurring to ensure no lag time occurs between impacts and offsets where such mitigation exists. If completing the mitigation prior to impact is infeasible, the mitigation shall be secured with a funding assurance such as a surety bond or irrevocable letter of credit prior to the initiation of impacts.
 - Apply regulatory processes that offer transparency and certainty to developers, regulators, and the public to the extent feasible. This necessitates early and substantive consultation with states and consistency with state-designed compensatory mitigation standards where they exist.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.

2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in December 2027. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.