

Attachment to the DOT/DNR Cooperative Agreement

Memorandum of Understanding

by and between the

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

and the

WISCONSIN DEPARTMENT OF TRANSPORTATION

on

**COMPENSATORY MITIGATION FOR UNAVOIDABLE WETLAND  
LOSSES RESULTING FROM STATE TRANSPORTATION ACTIVITIES**

**A. Purpose**

The purpose of this document is to provide mutual departmental procedures for compensatory mitigation for unavoidable wetland losses resulting from State transportation activities.

**B. Applicability**

This memorandum of understanding applies to any transportation activity subject to the DOT/DNR Cooperative Agreement (COA) which establishes interagency liaison procedures in accordance with Chapter 30.12(4), Wis. Stats.

**C. Liaison Procedures for Wetland Compensatory Mitigation**

1. After wetland impacts related to the proposed transportation project have been avoided and minimized to the maximum extent practicable, compensation for all unavoidable wetland losses shall occur.
2. Compensation for wetland acres lost shall be based on an evaluation of primary (or direct) impacts, but may also include secondary (or indirect) impacts. Secondary impacts are those effects which are caused by the project, but occur later in time and are reasonably foreseeable (for example, drainage changes resulting from the project). Adjacent private land use developments are not secondary impacts under this policy.
3. Compensatory mitigation should be accomplished in concert with, or prior to, the construction of the transportation project.
4. First consideration will be given to on-site compensatory mitigation opportunities, generally within the highway right-of-way or near the location of wetland loss.
5. Second consideration will be given to near-site opportunities for wetland compensation, generally those within 2.5 miles of either side of the alignment

6. For localized wetland loss, generally involving smaller projects where the wetland loss is one acre or less, a near-site search under #5 above for compensation may not be necessary (see Appendix E of the *Wetland Mitigation Banking Technical Guideline*).
7. If on-site or near-site compensation is not feasible or practical, compensation shall occur off-site or at a mitigation bank site. The process and requirements for banking shall follow the *Wetland Mitigation Banking Technical Guideline* (as amended).
8. Certain wetland types, such as aquatic bed, deep marsh, shallow marsh and mudflats, are considered hazardous wildlife attractants when positioned near airports. Consideration should be given to the vicinity of airports when wetland compensation sites are being selected within 5,000 feet of an airport serving piston-powered aircraft or 10,000 feet of an airport serving turbine-powered aircraft. According to guidance from the Federal Aviation Administration (FAA), these distances are measured from aircraft movement areas which include all runways and taxiways. Coordination on such potential sites will be initiated by the DOT Bureau of Environment and Aeronautics. Further coordination with wildlife damage management biologists (U.S. Department of Agriculture/ Wildlife Services) may be necessary. Palustrine wetland types with no open water, such as wet meadow and shrub swamp may be acceptable within the siting criteria recommended by FAA.
9. As a general rule, compensatory mitigation should be planned based on replacement of the acreage of the impacted wetlands at the following ratios (replacement acreage: acreage lost):
  - **1.0 : 1.0** where wetland acreage losses are applied to an existing mitigation bank site for which DNR and DOT agree that credits are available at the time of wetland loss. This ratio may be increased based on factors considered using Appendix C of the *Wetland Mitigation Banking Technical Guideline*.
  - **1.5 : 1.0** where wetland acreage losses are compensated as part of a concurrent transportation project design. This ratio applies to project specific compensation located either on-site, near-site or off-site.
10. Preference shall be given to compensatory mitigation that restores former or degraded wetlands.
11. DOT will develop a mitigation plan for each planned wetland compensatory mitigation site. The mitigation plan should be developed in accordance with the outline in Appendix B Section 2 of the *Wetland Mitigation Banking Technical Guideline*. DOT and DNR will work together to come to mutual agreement on a mitigation plan. At a minimum, the agencies should agree to a preliminary mitigation plan prior to DNR final concurrence on the transportation project.
12. In formulating a mitigation plan, preference should be given for techniques that result in low operation and maintenance costs.
13. Provisions for long-term protection must be made for all compensation sites, including who will own the mitigation site, and who will be responsible for long-term management.
14. The mitigation plan shall include a monitoring plan that will allow an evaluation of the mitigation effort. The extent of monitoring necessary should be based on the criteria set forth in Appendix B Section 4 of the *Wetland Mitigation Banking Technical Guideline*.
15. Any compensatory mitigation proposal shall include coordination with US Fish and Wildlife Service, US Environmental Protection Agency, US Army Corps of Engineers, and Federal Highway Administration to facilitate interagency coordination and participation (refer to the *Wetland Mitigation Banking Technical Guideline*).

16. This memorandum of understanding shall supersede the 1990 version entitled: "Compensatory Mitigation Policy for Unavoidable Wetland Losses Resulting from State Transportation Activities: an amendment to the Interagency Cooperative Agreement."

[Redacted Signature]

Darrell Bazzell, Secretary  
Wisconsin Department of Natural Resources

9/11/01  
Date

[Redacted Signature]

Terry Mulcahy, Secretary  
Wisconsin Department of Transportation

9/21/01  
Date