Wetland Mitigation

What is mitigation?
Wetland mitigation provides compensation for acres, functions and values when a wetland is converted. There are three types of mitigation that the NRCS considers:
- **Restoration**: The re-establishment of wetland conditions to approximate the original wetland functions that existed on an area where a wetland had previously existed.
- **Enhancement**: The alteration of an existing wetland, or establishing wetland functions other than those that originally existed on a former wetland, to increase specific functions.
- **Creation**: The development a wetland where a wetland had not previously existed. Cannot create on a hydric soil.

What is required to mitigate?
- Mitigation cannot occur at the expense of the Federal government.
- Mitigated wetlands must be in the same local watershed (as determined by the NRCS) as the wetlands you wish to convert.
- The landowner must grant an easement that remains in effect as long as the original wetlands remains converted and in agricultural production. Note: If the converted wetland is converted to non-agriculture use, mitigation is not required to be maintained for the producer to remain in compliance. The easement must be recorded on public land records.
- A mitigation plan must be completed and approved by NRCS before any wetland conversions can occur for the producer to remain in compliance and eligible for USDA program participation.” Note: Mitigation can be done after the fact to restore program eligibility.
- In most instances, compensation must be achieved by mitigating wetlands with similar functions. For example, a temporarily ponded, depression-type wetland must be compensated by the restoration, enhancement, or creation of a depressional wetland.

What is the mitigation process?
I. The producer or consultant finds a suitable site to develop the mitigated wetland based on similar functions, and size of the wetland being destroyed. The NRCS must approve the mitigation site.
II. The producer or consultant must conduct a wetland functional assessment, using the NRCS approved model on the converted and mitigated wetlands.
III. The producer or consultant must develop a plan specifying what functions and acres are lost by destroying the wetland(s) and outline how to compensate for the lost functions and acres.
IV. A wetland mitigation agreement is required which the NRCS will help the producer prepare. Practices used to restore, enhance, or create wetlands must meet NRCS standards and specifications.
V. A legal survey and description with access easement is required for the mitigation site.
VI. The producer must have control of the entire destroyed wetland and mitigation site or have written agreement from the other landowners.
VII. A Warranty Easement Deed (WED) is required. The NRCS provides a WED template.
VIII. The assigned NRCS specialist forwards all producer/consultant-provided information to the NRCS State Office. The State Office will perform technical review and prepare the WED and Mitigation Agreement.
IX. If the proposed mitigation paperwork is approved, NRCS will contact the producer to request Title Commitment with United States of America as the insured party.
X. If the NRCS State Office provides technical concurrence, the paperwork is forwarded to the Office of General Counsel for concurrence and filing instructions.
XI. The producer is required to file the WED and attachments at the local courthouse and provide proof of the WED filing to the DC. Destruction or construction should not commence until the WED is duly filed. The producer is required to pay all costs associated with the mitigation plan, design, WED, and land survey.