National Caucus of Environmental Legislators

Wetlands Toolkit

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Introduction

Wetlands are among the world's most valuable and productive ecosystems, containing habitat and refuge for dense biodiversity while providing numerous benefits to humans. However, wetlands are also the most endangered ecosystems in the world. In the United States, recent federal developments have further endangered wetlands due to long-standing protections being stripped away. States and local governments have an opportunity to establish policies that will protect and restore critical systems of wetlands.

This Toolkit provides an overview of the importance of wetlands, where states stand after key Supreme Court decisions and federal rollbacks, and what policy options exist for states.

Although some of the programs described in this Toolkit may be agency regulations or policy, all could be authorized and funded by a state legislature. Key policy options are organized into three sections: **(1) Filling in Federal Gaps**, **(2) Protect and Restore Wetlands**, and **(3) Systems-Level Approaches for Conserving Wetlands**.

Defining "Wetlands"

According to regulations by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, "Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support…a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas."

The U.S. Fish and Wildlife Service identifies **five major wetland types**:

- Marine (ocean-associated)
- Estuarine (river-mouth/coastal)
- Lacustrine (lake-associated)
- Riverine (river/stream associated)
- Palustrine (inland, non-tidal marshes, swamps, bogs).

Wetlands typically do not include ditches, canals, or landscaping ponds, and can be natural, human-altered, or human-made.

State Level Definitions

States can authorize their own definitions of wetlands. Delaware, for example, considers wetlands to include all tidal and nontidal wetlands in the state, whereas Washington defines wetlands similarly to the federal EPA definition.

Federal Level Definitions

In recent decades, the scope of waters (and thus wetlands) protected under the federal Clean Water Act (CWA) has changed due to U.S. Supreme Court (SCOTUS) rulings and other federal regulatory changes. The proposed 2025 "Waters

of the United States" (WOTUS) definition only includes navigable waters or waters that have a "continuous surface connection" to other "relatively permanent" waters.

The Benefits of Wetlands

One of the World's Most Productive Ecosystems

Wetlands are one of the world's most productive ecosystems — with a global value of $39 trillion — and they provide immense benefits for humans and wildlife alike:

- **Ecological Importance:** A full 30% of all fresh water is stored in wetlands, 40% of all species live or breed in wetlands, and half of all federally threatened species are wetland dependent. (Ramsar; U.S. Fish & Wildlife Service)

- **Ecosystem Services:** Wetlands provide immense and varied ecological value, including flood control, sediment retention, groundwater storage, pollution filtration, erosion protection, carbon sequestration, wildlife habitats, and more. (EPA)

- **Economic Benefits:** Wetlands are one of the most effective nature-based tools to improve water quality, minimize flood damage, and adapt to a changing climate, with a $100 billion annual benefit to the U.S. Flood control and water quality benefits alone are valued at over $23 billion each. (Ducks Unlimited)

- **Fisheries:** Up to 95% of U.S. commercial fishery landings and up to 85% of recreational fishery landings are dependent upon coastal wetlands and estuaries. At the same time, almost 75% of wetlands in the U.S. are privately owned. (U.S. Fish & Wildlife Service)

- **Significance to Tribal Nations:** While each Tribe carries unique needs and priorities, many Tribes rely on these ecosystems for medicines, food, and maintaining important ways of life. (EPA and National Association of Wetland Managers)

Threats to Wetlands

Despite their importance, wetlands are declining and cover just 6% of the Earth's surface:

- **Global Wetland Loss:** One-half of all wetlands on Earth have been lost since the late 1700s, and globally one-third of wetlands have disappeared since just 1970. (U.N. World Wetlands Day)

- **National Wetland Loss:** The lower 48 United States have lost about 50% of their historical wetlands since the 1780s, with recent loss rates increasing by 50%. (U.S. Fish & Wildlife Service)

The Primary Drivers of Wetland Loss

Wetland loss is being driven by a collection of compounding human-caused factors. The primary threats to wetlands include:

- **Development Pressure:** Development is the largest direct threat to wetlands. With the recent narrowing of federal protections for wetlands, about half of the nation's remaining wetlands are now in danger of being filled, dredged, or drained. The requirement to obtain a CWA permit for these types of activities on wetlands no longer applies, unless wetlands are protected through regulation, voluntary measures, local or state purchase, or easements.

- **Pollution and Changes to Water Flows:** Pollution and nutrient overaccumulation in wetlands come from untreated waste and runoff of fertilizers, pesticides, herbicides, and fungicides. There are also indirect impacts from hydrologic alteration: dams, ditches, groundwater extraction, and pumping. Alteration of wetlands often leads to the invasion of harmful non-native species.

- **Climate Change:** Climate change has an enormous impact on wetlands because of increased temperatures, drought, snowpack loss, flooding from extreme storms, and sea level rise. These changes are leading to the loss of biodiversity, loss of carbon stored in soils, changes in the amount and timing of water available to wetlands fed by snowmelt, more frequent drying or flooding, and saltwater intrusion into freshwater coastal wetlands.

A Note on Alaska: Alaska contains approximately 63% of the nation's wetlands, and has more area covered by wetlands than the other 49 states combined. As rollbacks erode protections, Alaska's disproportionate impacts from climate change increase the vulnerabilities of its wetlands. The EPA Supplemental Notice definitions discussed below could threaten all but 5 million acres of the 144 million acres of wetlands in the state of Alaska. That would mean losing federal protection for 96% of the state's wetlands. This Toolkit can serve as a basis for informing policy ideas; for more Alaska-specific information, legislators can contact the National Association of Wetland Managers.

Background on Federal Protections for Wetlands

Wetlands and the Clean Water Act

The Clean Water Act (CWA), as amended in 1972, is the principal law governing pollution of the nation's surface waters. The CWA protects every water and wetland considered to be "waters of the United States" (WOTUS). The CWA sections most often called upon to protect wetlands are Section 404 (regarding permitting) and Section 401 (regarding water quality certification). The federal agencies primarily responsible for implementing sections 404 and 401 are the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE).

- **Section 404 (Permitting):** Prohibits the discharge of dredged or fill material into WOTUS unless authorized by a Section 404 permit. USACE issues Section 404 permits in all states except for Michigan and New Jersey, which have assumed their own administration of the program.

- **Section 401 (Water Quality Certification):** Requires that every federal permit or license that may result in a discharge to WOTUS be certified by a state or Tribe to ensure the discharge will comply with applicable water quality standards and other water quality requirements. As a result, USACE may provide a Section 404 permit only if the state or Tribe issues a Section 401 water quality certification or waives its authority to do so.

2001-2023

Beginning in 2001, case law and federal regulations began to constrict the WOTUS definition and thus the protection provided for many wetlands. Recently, each federal Administration has promulgated new rules or provided guidance for what waters and wetlands are WOTUS. As a result, the scope of wetlands has swung back and forth between restrictive and inclusive protections.

2023 Sackett Decision

On May 23, 2023, the U.S. Supreme Court ruled in ***Sackett v. Environmental Protection Agency*** that the CWA only applies to waters that are relatively permanent. Under this ruling, the CWA applies only to wetlands that have a "continuous surface connection" to relatively permanent waters or traditional navigable waters. The Supreme Court interpretation is estimated to have reduced the extent of wetlands protected by the CWA by as much as 84%. The EPA issued a conforming rule in September 2023 that adhered the January 2023 definition of WOTUS to the *Sackett* decision.

EPA Regulation Changes

The regulatory definition of WOTUS continues to evolve. In November 2025, EPA and USACE proposed new regulations that would revise the 2023 definition of WOTUS. If finalized, the proposed definition would define WOTUS as only including waters that are "relatively permanent" (i.e., waters that are standing or continuously flowing year-round or at least during the "wet season"). In the case of wetlands, only wetlands that directly abut one of these "relatively permanent" waters with a "continuous surface connection" to that water, and contain surface water during the wet season would be WOTUS.

In September 2026, the EPA and USACE published a "Supplemental Notice of Proposed Rulemaking" on the Updated Definition of 'Waters of the United States'. EPA and the Army are seeking comments on the definitions of "perennial," "relatively permanent," and "continuous surface connection." They note that alternatives in the Supplemental Notice could significantly reduce the extent of streams and wetlands considered to be WOTUS, with significant effects anticipated in the arid West.

The Impacts on States

Where does this leave states, other than uncertain about the future scope of federal wetlands protection? It depends on their definitions of "waters of the state" (WOTS), and whether wetlands are included in the protections for WOTS or are protected separately. It also depends on whether a state has relied exclusively on permitting by the federal government. Some states have enacted legislation that either prohibits state water and other environmental protections from being more stringent than what federal law and regulations prescribe, or requires additional process such as notification of the state legislature if a state agency proposes to be more environmentally protective than federal minimums. Ultimately, states can legislate to create their own regulatory and voluntary protection provisions for WOTS, including wetlands, as the final backstop of protections while federal laws wane.



Since the Supreme Court's 2023 Sackett v. EPA decision, states have increasingly taken the lead to ensure wetlands remain protected from degradation and development. While economic pressures like housing, data center expansion, and infrastructure growth present ongoing challenges, states can deploy a comprehensive suite of statutory and regulatory options across three primary pillars:

- Filling in Federal Gaps
- Protect and Restore Wetlands
- Build Systems-Level Approaches for Conserving Wetlands

The following sections explore each policy option category in more detail.

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Section 1

Filling in Federal Gaps



Section Overview

State legislators can codify provisions to secure durable protections for wetlands by defining and strengthening standards.

A. Define "Wetlands" or "Waters of the State" (WOTS)

States can include wetlands in the definition of "Waters of the State" (WOTS) so that wetlands that are no longer covered by the CWA are protected and included in permitting and water quality standards. Specifically, states can:

- **Align With the Former Federal Definition:** After concluding that the new federal provisions removed protections for 90-95% of their surface waters, **New Mexico** SB 21 (Enacted 2025) expanded the state's Water Quality Act to protect all surface waters and wetlands no longer covered by federal law.

- **Include All Wetlands in the State Definition: Hawaii** SB 110/HB 343 (Introduced 2026) would expand water protection by including in the definition of "state waters" all wetlands and isolated wetlands under state jurisdiction, with the state's Director of Health responsible for delineating all wetlands in Hawaii.

- **Define How Wetlands are Protected in State Law: Vermont** H 507 (Introduced 2025) would determine that wetlands means: "areas…inundated by surface or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction…". Wetlands would be identified as Class I, II, or III depending on a wetland's functions and whether it is exceptional or irreplaceable.

- **Define Wetland Types of State Significance: New York** S 9479 (Introduced 2026) would define tidal wetlands as areas in the marine and coastal environment "such as, but not limited to, banks, bogs, salt marsh, swamps, meadows, flats or other lowlands subject to tidal action, including those areas now or formerly connected to tidal waters."

State Wetlands Program Plans and Coastal Protection Plans: State Wetland Program Plans (WPPs) can identify strengths and needs in a state's program and recommend specific activities and funding needs. Many WPPs were developed by state agencies to qualify them for EPA Wetland Program Development Grants (for example, Connecticut, Delaware, and North Carolina). The majority of states have WPPs that incorporate both regulatory and voluntary programs, but not all have Coastal Protection Plans. California and Washington's Coastal Protection Acts, created by SB 1319 (Enacted 2004) and HB 584 (Enacted 1971), respectively, require local governments to create Comprehensive Local Coastal Programs (CA) or Shoreline Master Plans (WA). These plans and associated updates can be authorized and funded by the legislature.

B. Establish Wetlands Water Quality Standards

One of the considerations in a CWA Section 401 analysis is whether the proposed discharge would be consistent with applicable water quality standards. As a result, to use the section effectively, states can ensure their statewide water quality standards specifically include wetlands.

Wetland water quality standards can serve other purposes, in addition to serving as a decision criterion in a Section 401 analysis. Standards can also be used to determine whether wetlands are degraded and in need of cleanup or protection.

While the CWA requires states to develop water quality standards for all "Waters of the United States" protected under the CWA, in practice, wetlands have lagged behind other types of waters in terms of water quality standards development. States have addressed this gap in different ways. Some have adjusted general state standards so that they apply to wetlands as well as other waters. Others have developed wetland-specific water quality standards, reflecting the special characteristics and needs of wetlands. Because wetlands are distinctive, standards may rely more on biological and functional measurements, such as vegetation or macroinvertebrate diversity, rather than on chemical parameters alone. A number of states have already established wetland-specific water quality standards:

- **Establish Water Quality Standards:** Wisconsin (Chapter NR 103 of Wisconsin Administrative Code) was the first state to establish overall water quality standards in 1991.

- **Include Wetlands in "WOTUS": New Mexico** SB 21 (Enacted 2025) expanded the state's Water Quality Act to protect all wetlands and surface waters no longer covered by federal law.

- **Include Wetlands in Overall Water Quality Standards:** The following states include wetlands within overall water quality standards: California, Colorado, Florida, Hawaii, Iowa, Maine, Massachusetts, Minnesota, Nebraska, North Carolina, Ohio, Washington, Wisconsin, and Wyoming.

C. Wetland Permitting

A majority of wetlands are no longer covered by the CWA Section 404 dredged or fill material permitting program and lack protection without a state permitting program. States with broad permitting authority are less vulnerable to the changes to the federal definition of WOTUS and are positioned to ensure waters and wetlands important to the state remain protected.

"Assumption" of the CWA 404 Program

- The CWA allows states to assume the full Section 404 permit program. A state can apply to administer its own dredged or fill permit program under state law in place of the federal dredged or fill program.

- **New Jersey** and **Michigan** have assumed the Section 404 permitting program, and administer their own permit program for discharges of dredged or fill material. With a narrower scope of WOTUS, agencies may need to request funding from the legislature for staff to work on permits required to "fill the gap" in federal permitting and protections.

Charge Wetland Permitting Fees

- State permitting fees may help fund the recent additional administrative burden on states for wetland development permitting, such as in **Michigan** HB 5114 (Enacted 1998) and **Delaware** SB 9 (Enacted 2026). A majority of states have some form of wetland permitting fees.

- **Oregon** HB 2238 (Enacted 2023) authorizes the State Lands Director to adopt rules establishing tiered fees related to removal or fill permit applications, wetland delineation reports, and general authorizations.

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Section 2

Protect and Restore Wetlands



Section Overview

States can also consider policies that prevent loss, address unavoidable impacts, incentivize voluntary action, and provide the resources needed for long-term protection and restoration. Preventing development of wetlands, mitigating impacts when inevitable, and exploring creative funding mechanisms to offer voluntary buy-in are discussed below.

A. Protect Wetlands From Development

Development often involves dredging or filling in wetlands in order to create dry land for buildings or agriculture. Wetlands lost to development are often permanently removed from the landscape. There are a number of ways to protect wetlands from development. States can be creative in using some or all of the tools below.

- **Incentives To Retire Or Release Development And Water Rights: Nevada** AB 104 (Enacted 2025) established the Voluntary Water Rights Retirement Program to purchase and retire water rights, which will benefit wetlands.

- **Establish A "No Net Loss" Standard for Wetlands:** No net loss is achieved by protection, restoration, and enhancement of wetlands, and requires mitigation that avoids, minimizes, and compensates for adverse impacts. Half of the states, including **Washington**, have a standard of "no net loss" of the amount and function of wetlands (and often shoreline ecological functions), in part because of the policy established in the 1988 initiative by the federal government.

- **Establish A State Policy of "Net Gain of Wetlands": Vermont** S. 213 (Enacted 2024) requires a net gain of acreage of wetlands through mitigation, as does **Wisconsin** SB 368 (Enacted 2012).

- **Require Buffers With Minimum Standards**
  - Vermont S. 213 (Enacted 2024) requires a "buffer zone" — an area contiguous to a significant wetland that protects the wetland's functions and values.
  - **New Jersey**, via rulemaking, provides some level of buffer protection for all wetlands through state surface water quality standards. Buffers range from 50 feet (for a wetland of "intermediate value") to 150 feet (for an "exceptional resource" wetland that provides habitat for threatened or endangered species) and 300 feet (for "Special Water Protection Areas").

B. Require Mitigation

Compensatory mitigation is the restoration process required to replace the loss of wetland, stream, or other aquatic resource functions due to "unavoidable impacts."

Under the Mitigation Rule developed by USACE and EPA, compensatory mitigation is only available after proposed projects incorporate all appropriate and practicable means to avoid and minimize impact to waters. Mitigation can occur through mitigation banks, in-lieu fee programs, permittee-responsible mitigation, or conservation banking for areas with listed species. Only about half of states have formalized their own administration of wetland mitigation, whereas the rest rely on the USACE. To protect wetlands and other waters no longer considered to be WOTUS, states could consider authorizing or establishing the following mitigation programs.

- **Mitigation Banking:** Wetlands are restored or created by purchasing credits from an approved mitigation bank. For example, **Florida** SB 492 (Enacted 2025) and **Pennsylvania** HB 2296 (Introduced 2026)

- **In-Lieu Fee Mitigation:** A fee is paid to a third party for the expected loss of wetland functions. For example, **Illinois** HB 3596 (Introduced 2026).

- **Permittee-Responsible Mitigation:** Permittee compensation or mitigation can be advanced before a permitted wetland impact for expected impacts of the project. For example, **Washington** allows advance mitigation to compensate in advance for future expected impacts to wetlands, which may save money in the long run.

- **Conservation Banking:** Conservation banking is available when a project will unavoidably impact federal- or state-listed species. Impacts can be mitigated by permanently protecting an area of land for habitat and selling credits to the permittee. **California** SB 1148 (Enacted 2013) has a robust conservation banking program for mitigating impacts to listed species.

C. Voluntary Protection and Restoration

States can influence voluntary restoration and protection of wetlands in several ways, including offering incentives and initiatives, authorizing conservation easements, and other means. States do not primarily lead most voluntary efforts, but state funding and authorization can be key to protection and restoration. See examples below for state legislative support.

Incentives For Voluntary Restoration

- **Washington** SB 5187 (Enacted 2024) provided $50 million for grants for voluntary riparian restoration through the Salmon Recovery Funding Board ($25 million) and the State Conservation Commission ($25 million).
- **South Dakota** SB 222 (Enacted 2026) designated $8 million of $10 million total for statewide riparian buffer initiative projects to protect and restore vegetated areas along waterways.
- **California** AB 3012 (Enacted 2018) authorized the State Coastal Conservancy to award grants to agencies and nonprofits for preservation and enhancement of coastal wetlands and conserving biodiversity and recreational opportunities.

Authorize Public-Private Partnerships

- Most states authorize public-private partnerships in enabling statutes.
- Provisions, like **Maryland's** HB 653 (Enacted 2022), can also allow for private funding and other assistance for wetlands and other projects.

Establish And Fund Citizen Science And Other Voluntary Programs

- **New Mexico** HM 31 (Enacted 2025) expands citizen science by establishing a "Citizen Science Day."
- The **Texas** Stream Team, created in 1991 by the Texas Commission on Environmental Quality, trains volunteers to do water testing and monitoring on thousands of miles of waterways, including wetlands.

Streamline Review And Permitting Of Restoration Projects

- **Washington's** Habitat Recovery Pilot Program, created by **HB 1382** (Enacted 2021), streamlines permitting for ecological restoration projects.
- **Louisiana's** HB 20 (Enacted 2016) created the Coastal Protection & Restoration Authority following Hurricane Katrina in 2005, and has streamlined restoration projects through centralized authority, planning, and designated funding.

D. Funding Mechanisms for Wetlands Conservation

State legislatures are often tasked with providing funding mechanisms for wetlands protection or restoration. Examples below show creative funding mechanisms to create sustained state funding for wetlands. See the "Resources" section for current federal funding opportunities, as of 2026, to supplement state investments.

- **Tax Credits For Wetlands Protection:** The Arkansas Wetland and Riparian Zones Tax Credit Program, established via legislation in 1995, provides a state income tax credit for approved wetland and riparian projects, up to $50,000 over ten years.

- **Tax Exemption For Wetlands: Indiana** HB 1334 (Introduced 2022) would give a 100% tax exemption for "qualified wetlands" parcels, including isolated wetlands.

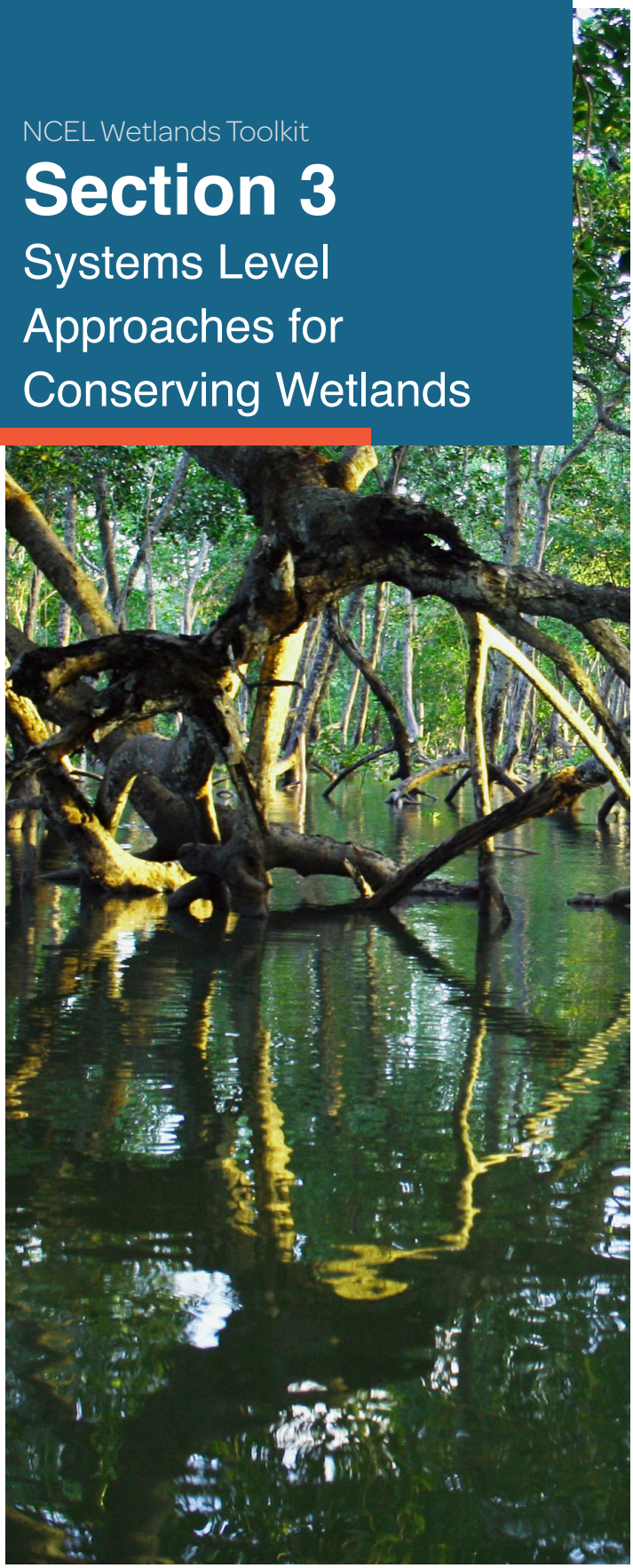
- **Fund Riparian Plant Propagation:** In **Washington**, $1.3 million was provided via the state budget (Enacted 2023) to develop a riparian native tree and shrub propagation program at free or reduced cost for restoration projects.

- **State Funding for Wetland Restoration Projects: North Carolina** SB 555 (Introduced 2025) would allocate $15 million for wetland restoration and volunteer activities.

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Section 3

Systems Level Approaches for Conserving Wetlands



Section Overview

State policies that take a systems-level approach to conserving wetlands start with sound science and data. Mapping, monitoring and assessment (M&A), and integrating wetlands policies into other state priorities are meaningful ways to ensure wetlands remain central to decisions beyond those concerning land and water directly. Finally, strong legislative alliances like water caucuses, and public messaging to build support for wetlands policies, can be impactful.

A. Mapping

Wetland mapping is critical to land management, conservation efforts, and policymaking. It is a key first step toward effective wetland monitoring and assessment. State agencies need funding to accomplish effective wetland mapping. These maps must be kept up to date to track wetland changes and loss.

- **Massachusetts** HB 4835 (Enacted 2017) provided funding for GIS wetlands mapping under the Massachusetts Wetlands Protection Act.

- A majority of states (e.g., Washington) have an online wetland map portal.

B. Monitoring and Assessment (M&A)

A well-designed and implemented wetland monitoring and assessment program can be a critical tool for states to plan, manage, and protect their wetland resources. Effective wetland monitoring and assessment (M&A) requires expertise, careful planning, and adequate funding. However, M&A is an important component of virtually all state programs to protect wetlands. This is a growing area of wetlands management, and many methods support M&A.

- **Utah** HB 0509 (Enacted 2026) directs a comprehensive study on the status of wetlands, assessing how wetlands have changed, and evaluating the impacts of those changes.

- Certain states, such as **Minnesota** HF 1 (Enacted 1991), have a formal M&A program for wetlands.

- The EPA has three tiers for M&A: GIS data, rapid assessments, and intensive site assessments. **Montana** and at least 25 other states have done level III M&A, or intensive site assessments that are derived from research and measure how well a wetland functions.

C. Integrate Wetlands Policy into Other Programs

Many state agencies' work overlaps with wetlands management, but usually indirectly. Interagency coordination, especially when directed by the legislature, helps wetland protection and restoration. **Illinois'** Interagency Wetland Policy Act of 1989 requires all state agencies to "preserve, enhance, and create wetlands where possible and avoid adverse impacts to wetlands." State agencies also generally consider wetlands in these programs:

- **State Wildlife Action Plans (SWAPs):** SWAPs often integrate wetlands policy because of the number of at-risk wetland-dependent species. **Oregon** HB 4134 (Enacted 2026) provides substantial funding for its SWAP.

- **State Transportation Plans:** While State Departments of Transportation typically do not consider wetlands, there are opportunities for them to do so. For example, Minnesota enacted the Local Government Wetland Replacement Program via HF 787 in 1996, which provides wetland mitigation for local road repair or replacement.

- **Departments of Natural Resources, Ecology, and Environmental Protection:** Some departments' priorities, such as in **Massachusetts**, may overlap with wetlands management through general work on stormwater management, flood and hazard control programs, watershed management, and forest management.

- **Integrated Coastal Protection:** For example, **Louisiana** SR 7 (Enacted 2026) approves the state's annual integrated coastal protection plan proposed by the Coastal Protection and Restoration Authority.

Delaware SB 9 (Enacted 2026): A Comprehensive Wetlands Bill

Delaware's SB 9 is a comprehensive bill that addresses the most critical provisions for wetlands protection. In particular, the bill includes the following:

- **Statewide Permitting Program:** Creates a unified state regulatory program for both tidal and non-tidal wetlands.
- **No Net Loss Mandate:** The Department of Natural Resources and Environmental Control (DNREC) is to enforce rules that prevent any net loss of wetland acreage or ecological function, while striving for a net resource gain.
- **Exceptional Value Wetlands:** Introduces definitions and high-level protections for "exceptional value wetlands."
- **Exemptions:** Exempts normal agricultural and food production activities, ongoing forestry, and small-scale residential gardens or disturbances.
- **Predictability & Tools:** A Delaware Wetland Screening Tool will help identify regulated areas and establish standardized state permitting timelines.
- **Advisory Committee:** A Wetlands Regulatory Advisory Committee of agricultural, business, scientific, and conservation stakeholders will guide DNREC in finalizing rules.

D. Wetlands as a Nature-Based Solution

Nature-based solutions use natural features and processes to protect, restore, and manage ecosystems. Wetlands are often nicknamed "nature's kidneys" since their vegetation structure provides climate adaptation solutions such as nutrient filtration, flood and sediment control, stormwater management, and coastal resiliency. State legislatures can direct agencies to consider wetlands as a robust nature-based solution within those management activities.

- **Florida** SB 302 (Enacted 2026) in part requires development of guidelines and standards for nature-based coastal resilience methods such as mangrove forests, which are highly protective of coastal wetlands.

- **Wisconsin** SB 222 (Enacted 2024) established a pre-flood flood resilience grant program for the purpose of identifying flood vulnerabilities, identifying options to improve flood resiliency, and restoring hydrology in order to reduce flood risk and damages in flood-prone communities.

- **Iowa** HF 2511 (Introduced 2026) requires a 30-year plan for flood resiliency, including natural resilience projects such as wetlands restoration. Also under a former federal HUD disaster assistance grant, Iowa landowners could receive up to 90% funding for flood resilience projects, including wetlands/riparian restoration and buffer strips.

- **New Hampshire** publishes computer models on the capacity of wetlands to function as stormwater flow regulation.

- **Statewide beaver management plans:** Beavers can restore floodplains and wetlands while providing natural climate solutions for hazards including wildfires, drought, and flooding. See examples in California, Colorado, Montana, Oregon, Pennsylvania, Utah, and Wisconsin.

E. Indirect Wetland Management

Wetlands are directly impacted by groundwater management and provisions for instream flow in streams and rivers. State policies on water, groundwater, habitat, and infrastructure such as waste management can also require that wetland protection be considered within those policies.

- **Instream Flow and Minimum Flow Requirements:** The majority of states have instream or minimum flow requirements, which benefit wetlands by ensuring that rivers continue to flow despite the uses and stresses that people put on them.

- **Partnerships in State Conservation Planning:** Conservation planning can indirectly protect wetlands. Colorado's Natural Heritage Program identifies "potential conservation areas" for protection that include many wetland-related habitats.

- **Establish Groundwater Withdrawal Restrictions or Fees:** Groundwater levels can have a profound impact on wetlands. **Arizona's** Aquifer Permit Program requires permits for any water discharges, specifically including wetlands designed and constructed to treat municipal and domestic wastewater for underground storage. **Arizona** SB 1447 (Passed Senate 2026) levies groundwater withdrawal fees per acre.

- **Establish a State Legislative Water Caucus:** The **Oregon** Legislature's Water Caucus is a bipartisan, bicameral group of state legislators and staff committed to fostering a secure and resilient water future for all. The Caucus works by actively coordinating on funding needs, water modernization, water investment needs, and responsive legislation.

F. Education and Outreach

Education and outreach, as well as training and technical assistance, can be important for landowners who may be subject to state protections for wetlands or endangered species, or who want to restore or protect wetlands on their property. Educating the public—who often are not familiar with the benefits of wetlands and riparian protection but experience the impacts of wetland destruction firsthand—is also important.

- **Washington** funded a program to educate the public and landowners on the value of riparian buffers and how to protect them.

- **Rhode Island** published a landowner education toolkit for protecting and restoring freshwater wetlands.

- **Texas** has a Wetlands Assistance Guide for Landowners as part of Texas Parks and Wildlife's Private Lands and Habitat Program.

- **Georgia** has operated an "Adopt-A-Stream" program since 2001, previously named "Adopt-A-Wetland," which educates the public and trains citizens to monitor and protect wetlands.



Although wetlands are critical to water supply, pollution filtration, and flood control, they are disappearing rapidly across the U.S. and the world. Changes in federal policies on WOTUS and wetlands in particular may motivate state action to regulate, protect, and restore wetlands.

Key Takeaways

The Toolkit provides a framework for state legislators to address many aspects of wetland protection and restoration:

1. **Fill In Federal Gaps:** State legislators can replace federal rollbacks by including wetlands in the definition of "waters of the state," as well as include wetlands in water quality standards, and can ensure permitting and regulation of projects impacting wetlands.

2. **Protect and Restore Wetlands:** Legislatures can establish buffers, set a no net loss or net gain standard for wetland alteration, require mitigation, and fund and/or partner to fund restoration and protection.

3. **Take a Systems-Level Approach for Conserving Wetlands:** States can require interagency cooperation and coordination regarding wetlands, and integration of wetlands policy into other programs. Legislators can also promote and provide incentives and programs for volunteer involvement, education and outreach, and training.

Resources

- **Filling the Gaps: Strategies for States/Tribes for Protection of Non-WOTUS Waters I Environmental Law Institute**
  - An examination of strategies that states and Tribes can use to fill the gaps in federal protection of WOTUS.
- **Tribal, State, and Territory Wetlands Program Core Element Framework I EPA Office of Water**
  - Description of the four core elements that the EPA requires for wetland program development grants, as well as case studies.
- **Wetland Program Development Grants Case Studies I EPA**
  - The Wetland Program Development Grants (WPDGs) are the primary mechanism through which EPA supports state and Tribal efforts to build programs that protect valuable wetland resources.
- **Participatory Science for Environmental Protection I EPA**
  - A guide for how to use "participatory science."
- **Wetlands Dashboard I Lawyers For Good Government**
  - Dashboard of existing water and wetland protections at the state level for all 50 states as well as the District of Columbia and Puerto Rico to catalog and evaluate what state-level protections exist for wetlands and what state-level protections are missing.
- **Status and Trends Report on State Wetland Programs in the United States I National Association of Wetland Managers**
  - Overview of the four core elements that the EPA requires for wetland program development grants, as well as case studies.
- **States With Wetlands and Water Quality Standards I National Association of Wetland Managers**
  - Listing and description of the states with existing wetlands and water quality standards
- **Wetlands Program Plans Handbook I National Association of Wetland Managers**
  - 2026 report and resource for states to develop comprehensive wetland programs, with examples of the various elements.
- **Status and Trends of Wetlands in the Conterminous US 2009-2019 I U.S. Fish and Wildlife Service**
  - Decadal Congressional report on wetland status and trends in terms of areas and changes. This report covers 2009 to 2019.

Federal Funding Resources

- **Conservation Reserve Program I U.S. Department of Agriculture**
  - The USDA Natural Resources Conservation Service, or NRCS, provides yearly federal rental payments for farmers to remove environmentally sensitive land from production, such as wetlands and riparian buffers, through the Reserve program.

- **EPA Programs and Funding for Wetlands I EPA**
  - Outlines the various sources of funding that can be used to support state and Tribal programs, as well as voluntary restoration.

- **Clean Water and Drinking Water State Revolving Funds: Resource Guide for Wetland Applications I EPA**
  - A guide intended to increase awareness about the availability of the two national State Revolving Fund programs – the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF) – to finance wetland projects.

NOTES

Wetlands Toolkit

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