

15A NCAC 07M .0704 POLICY STATEMENTS

(a) The following forms of mitigation are ranked in order of preference:

- (1) Enhancement of coastal resources with created or restored systems determined to be potentially more productive of the resources characteristic of unaltered North Carolina ecosystems than those destroyed.
- (2) Creation or restoration of an area of similar ecological utility and potential biological value than that destroyed or altered.
- (3) Creation or restoration of an area with a desirable but different ecological function or potential than that destroyed or altered.
- (4) The following forms of mitigation will be considered even though they do not meet the definition in 15A NCAC 7M .0702. They are actions which by themselves shall not be deemed adequate to offset habitat losses, but may be used in combination with Subparagraphs (a)(1) through (3) to achieve the stated goal of these Rules.
 - (A) Acquisition for public ownership of unique and ecologically important systems not protected by state and/or federal regulatory programs. The type of impacts to be mitigated and the quality of the area to be acquired will be considered on a case-by-case basis.
 - (B) Transfer of privately owned lands subject to state and federal regulatory control into public ownership.
 - (C) Provisions of funds for research or for management programs.
 - (D) Increased public access for recreational use.

(b) Mitigation proposals may be the basis for approval of a development which is otherwise in conflict with general or specific use standards set forth in 15A NCAC 7H .0208. If a development represents no significant loss to coastal resources, the mitigation proposal must be on-site, or proximate thereto, and must be designed to enhance the coastal environment.

(c) Mitigation proposals to offset losses associated with publicly funded projects shall be reviewed by the staff with the sponsoring agency and incorporated into project plans.

(d) Approved mitigation proposals for all categories of development shall become a part of permit conditions according to G.S. 113A-120(b) and thereby subject to enforcement authority pursuant to G.S. 113A-126 and shall be memorialized in a mitigation agreement which will constitute a contract between the applicant and the CRC.

(e) Those projects consistent with the review criteria for permit approval shall be exempt from mitigation requirements.

History Note: Authority G.S. 113A-102(b); 113A-107; 113A-113; 113A-120(a); 113A-124; 113A-126; Eff. January 1, 1984; RRC objection September 17, 2022 and rule returned to agency on October 5, 2023; Codifier determined that agency's findings of need did not meet criteria for emergency rule on December 20, 2023; Emergency Adoption January 3, 2024; Emergency Rule Exp. Eff. May 13, 2024; Returned to Code pursuant to order of Wake County Superior Court, currently under appeal, Eff. March 3, 2025.