

1 15A NCAC 07H .0507 is readopted as published **with changes** in 34:09 NCR 757 as follows:

2  
3 **15A NCAC 07H .0507 UNIQUE COASTAL GEOLOGIC FORMATIONS**

4 (a) Description. Unique coastal geologic formations are defined as sites that contain geologic formations that are  
5 unique or **otherwise** significant components of coastal systems, or that are **especially** notable examples of geologic  
6 formations or processes in the coastal area. Such areas **will shall** be evaluated by the Commission after identification  
7 by the State **Geologist, Geologist per G.S. 113A-113.**

8 (b) Significance. Unique coastal geologic areas are important educational, scientific, or scenic resources that would  
9 be jeopardized by uncontrolled or incompatible development.

10 (c) Management Objectives. The CRC's objective is to preserve unique resources of more than local significance that  
11 function as key physical components of natural systems, as important scientific and educational sites, or as valuable  
12 scenic resources. Specific objectives for each of these functions shall be related to the **following: following policy**  
13 **statements either singly or in combination:**

14 (1) To ensure that the designated geologic feature **will-shall** be able to **freely** interact with other  
15 components of the identified systems. These interactions are often the natural forces acting to  
16 maintain the unique qualities of the site. The primary concern is the relationship between the  
17 geologic feature and the accompanying biological component associated with the feature. Other  
18 interactions which may be of equal concern are those relating the geologic feature to other physical  
19 components, specifically the relationship of the geologic feature to the hydrologic elements; ground  
20 water and surface runoff.

21 (2) To ensure that the designated geologic feature or process **will-shall** be preserved for and be  
22 accessible to the scientific and educational communities for **related** study purposes.

23 (3) To protect the values of the designated geologic feature as expressed by the local government and  
24 citizenry. These values **should shall** be related to the educational and aesthetic qualities of the  
25 feature.

26 (d) Designation. The Coastal Resources Commission hereby designates Jockey's Ridge as a unique coastal geologic  
27 formation area of environmental concern. The boundaries of the area of environmental concern shall be as depicted  
28 on a map approved by the Coastal Resources Commission on December 4, 1987, and on file with the Division of  
29 Coastal **Management, Management, available at 400 Commerce Ave., Morehead City, NC 28557.** This area includes  
30 the entire rights of way of US 158 Bypass, SR 1221 (Sound Side Road), Virginia Dare Trail, and Conch Street where  
31 these roads bound this area. Jockey's Ridge is the tallest active sand dune along the Atlantic Coast of the United  
32 States. Located within the Town of Nags Head in Dare County, between US 158 and Roanoke Sound, the Ridge  
33 represents the southern extremity of a back barrier dune system which extends north along Currituck Spit into Virginia.  
34 Jockey's Ridge is an **excellent** example of a medano, a large isolated hill of sand, asymmetrical in shape and lacking  
35 vegetation. Jockey's Ridge is the largest medano in North Carolina and has been designated a National Natural  
36 Landmark by the U.S. Department of the Interior.

1 (e) Use Standards. Jockey's Ridge. Development within the Jockey's Ridge AEC shall be consistent with the  
2 following minimum use standards:

3 (1) Development which requires the removal of greater than ten cubic yards of sand per year from the  
4 area within the AEC boundary shall require a permit;

5 (2) All sand which is removed from the area within the AEC boundary in accordance with 7H  
6 .0507(e)(1) shall be deposited at locations within the Jockey's Ridge State Park designated by the  
7 Division of Coastal Management in consultation with the Division of Parks and Recreation;

8 (3) Development activities shall not significantly alter or retard the free movement of sand except when  
9 necessary for the purpose of maintaining or constructing a road, residential/commercial structure,  
10 accessway, lawn/garden, or parking area.

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12 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4)g.; 113A-124;*  
13 *Eff. September 9, 1977;*  
14 *Amended Eff. March 1, 1988;*  
15 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0508 is readopted as published with changes in 34:09 NCR 757 as follows:

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3 **15A NCAC 07H .0508 USE STANDARDS**

4 Permits for development in designated fragile coastal natural or cultural resource areas will-shall be approved upon  
5 finding that:

- 6 (1) The proposed design and location will-shall not cause no major or irreversible damage significant  
7 adverse impacts to the stated values of a particular resource. One or more of the following values  
8 must-shall be considered in making permit decision depending upon the stated significance of the  
9 resource:
- 10 (a) Development shall preserve the values of the individual resource as it functions as a critical  
11 component of a natural system.
  - 12 (b) Development shall not adversely affect cause significant adverse impacts to the values of  
13 the resource as a unique scientific, associative, or educational resource.
  - 14 (c) Development shall be consistent with the aesthetic values of a resource as identified by the  
15 local government and citizenry.
- 16 (2) No reasonable alternative sites are available outside the designated AEC.
- 17 (3) Reasonable mitigation Mitigation measures have been-shall be considered and incorporated into the  
18 project plan. These measures shall include consultation with recognized authorities and with the  
19 CRC.
- 20 (4) The project will-shall be of equal or greater public benefit than those benefits lost or damaged  
21 through development.
- 22 ~~(5) Use standards will not address farming and forestry activities that are exempted in the definition of~~  
23 ~~development (G.S. 113A-103(5)a.4).~~

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25 *History Note: Authority G.S. 113A-107(a),(b); 113A-113(b)(4e) to (b)(4h); 113A-124;*  
26 *Eff. September 9, 1977;*  
27 *Amended Eff. February 1, 1982; June 1, 1979;*  
28 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07H .0509 is readopted as published with changes in 34:09 NCR 757 as follows:

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3 **15A NCAC 07H .0509 SIGNIFICANT COASTAL ARCHAEOLOGICAL RESOURCES**

4 (a) Description. Significant coastal archaeological resources are defined as areas that contain archaeological remains  
5 (objects, features, and/or sites) that have more than local significance to history or prehistory. Such areas shall be  
6 evaluated by the Department of Natural and Cultural Resources in consultation with the Commission as part of the  
7 procedure set forth in Rule .0503 of this Section, in accordance with G.S. 113A-113.

8 (b) Significance. Significant coastal archaeological resources are important educational, scientific, or aesthetic  
9 resources. Such resources would be jeopardized by uncontrolled or incompatible development. In general, significant  
10 archaeological resources possess integrity of location, design, setting, workmanship, materials, and association and:

- 11 (1) are associated with historic events; or
- 12 (2) are associated with the lives of persons significant in history; or
- 13 (3) embody the distinctive characteristics of a type, period, or method of construction, or represent a  
14 significant and distinguishable entity whose components may lack individual distinction; or
- 15 (4) have yielded, or may yield, information important in history or prehistory.

16 (c) Management Objectives. The CRC's objective is to conserve coastal archaeological resources of more than local  
17 significance to history or prehistory that constitute important scientific sites, or are valuable educational, associative,  
18 or aesthetic resources. Specific objectives for each of these functions shall be related to the following: following  
19 policy statements either singly or in combination:

- 20 (1) to give the highest priority to the development of a preservation management plan to provide  
21 long term, effective long-term management of the archaeological resource; and development which  
22 shall not have significant adverse impacts on the archaeological resource.
- 23 (2) to conserve significant archaeological resources, including their spatial and structural context and  
24 characteristics through in-situ preservation or scientific study;
- 25 (3) to ensure that the designated archaeological resource be preserved for and be accessible to the  
26 scientific and educational communities for study purposes;
- 27 (4) to protect the values of the designated archaeological resource as expressed by the local government  
28 and citizenry; these values shall be related to the educational, associative, or aesthetic qualities of  
29 the resource.

30 (d) General Use Standards.

- 31 (1) Significant concentrations of archaeological material, reflecting a full range of human behavior,  
32 shall be preserved in-situ for future research by avoidance during development activities. Areas for  
33 avoidance shall be selected after archaeological investigations have been made. Subparagraph  
34 (d)(2)(B) of this Rule outlines the nature, extent, conditions and significance of the cultural deposits.  
35 Three The following avoidance measures should shall be considered: considered, preferably in  
36 combination:

- 1 (A) incorporation of "no impact" spaces in construction plans such as green spaces between  
2 lots;
- 3 (B) definition of restrictions limiting specific types of ground disturbing activities;
- 4 (C) donation of preservation easements to the State or, upon approval by the Department of  
5 Natural and Cultural Resources, a historic preservation agency or organization.
- 6 (2) Activities which would damage or destroy the contents of a designated site's surface or subsurface  
7 shall be prohibited until an archaeological investigation and resource management plan has been  
8 implemented by the applicant. The investigation and management plan shall be developed in  
9 consultation with the Department of Natural and Cultural Resources. Such archaeological  
10 investigations shall comply with the following criteria:
- 11 ~~(A) all archaeological work will~~shall ~~be conducted by an experienced professional~~  
12 ~~archaeologist; in consultation by the Department of Natural and Cultural Resources;~~
- 13 (A) initial archaeological investigations conducted as part of the permit review process  
14 will~~shall~~ be implemented in three parts: Phase I, a reconnaissance level investigation to  
15 determine the nature and extent of archaeological materials over the designated area; Phase  
16 II, an intensive level investigation which represents a direct outgrowth of Phase I findings  
17 and through systematic data recovery assesses the potential importance of identified  
18 concentrations of archaeological materials; Phase III, mitigation of significant adverse  
19 effects impacts to recognized areas of importance. Evaluations of research potential will  
20 shall be made and prioritized in order of importance, based upon the status of previous  
21 research in the area and the integrity of the remains;
- 22 (B) an archaeological research design will~~shall~~ be required for all archaeological  
23 investigations. All research designs will~~shall~~ be subject to the approval of the North  
24 Carolina Division of Archives and History Department of Natural and Cultural Resources  
25 prior to conducting the work. A research proposal must~~shall~~ allow at least 30 days for  
26 review and comment by the North Carolina Division of Archives and History; Department  
27 of Natural and Cultural Resources;
- 28 (C) data will~~shall~~ be collected and recorded accurately and systematically and artifacts will  
29 shall be curated according to accepted professional standards at an approved repository.  
30 repository in consultation with the Department of Natural and Cultural Resources.

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32 (e) Designations. The Coastal Resources Commission hereby designates Permuda Island as a significant coastal  
33 archaeological resource area of environmental concern. Permuda Island is a former barrier island located within  
34 Stump Sound in southwestern Onslow County. The island is 1.2 miles long and .1 - .25 miles wide. Archaeological  
35 evidence indicates earliest occupation from the Middle Woodland Period (300 B.C. - 800 A.D.) through the late  
36 Woodland Period (800 A.D. - 1650 A.D.) and historic occupations predating the Revolutionary War. Archaeological

1 remains on the island consist of discrete shell heaps, broad and thick layers of shell midden, prehistoric refuse pits and  
2 postholes, as well as numerous ceramic vessel fragments and well-preserved animal bone remains.

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4 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(4h); 113A-124;*

5 *Eff. June 1, 1979;*

6 *Amended Eff. October 1, 1988; January 1, 1985;*

7 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07I .0702 is readopted as published with changes in 34:09 NCR 761 as follows:

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3 **15A NCAC 07I .0702 WHEN ~~AN ACTION EXCEEDS~~ THE LOCAL ~~PERMITTING AGENCY EXCEEDS~~**  
4 **LOCAL AUTHORITY**

5 When the local permit-letting agency exceeds ~~the scope and extent of its authority;~~ authority per G.S. 113A-117 which  
6 is limited to consideration of applications proposing minor development as defined in the Coastal Area Management  
7 Act, that action shall be null, void and of no effect. The determinations of the ~~commission~~ Coastal Resources  
8 Commission shall be binding on the local permit-letting agency as to questions of such jurisdiction.

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10 *History Note:* Authority G.S. 113A-117(c); 113A-118(e); 113A-120(c); ~~113A-124(c)(5);~~

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*Eff. November 1, 1984;*

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*Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0203 is readopted as published with changes in 34:09 NCR 762 as follows:

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3 **15A NCAC 07J .0203 PREPARATION OF WORK PLATS**

4 (a) General. Project plans or work plats must shall include a top or plan view, planview, a cross-sectional view, and  
5 a location map. All plats must shall have the standard north arrow. North should shall be at the top of the plat. The  
6 prints must be neat and sufficiently clear to permit photographic reproduction. Originals are preferred as copies are  
7 often found to be unacceptable. The applicant should use as few sheets as necessary to show clearly what is proposed.  
8 Work plats must shall be accurately drawn to a scale. A scale of 1" = 200' or less is normally required in order so-that  
9 project detail can be easily understood.

10 (b) Details of Work Plats

11 (1) Topview Top View or Planview Plan View Plats. Such drawings must shall show existing and  
12 proposed features such as dune systems, shorelines, creeks, marshlands, docks, piers, bulkheads,  
13 excavated areas, fill areas, type and location of sewage treatment facilities and effluent outlets.  
14 Existing water depths must shall be indicated using mean low water as base or zero. These can zero  
15 and shall be shown either as contours or spot elevation. Care should be used in indicating Work  
16 plats shall indicate which features are existing and which are proposed. Property boundaries, as  
17 they appear on the deed, and the names of adjacent property owners must shall be shown on the  
18 detailed plat. The work plat must shall clearly show any areas to be excavated and the exact locality  
19 site for disposal of the excavated material. When fill material is to be placed behind a bulkhead or  
20 dike, the plan shall must be sufficiently detailed to show the exact location of such bulkheads or  
21 dikes, and the adequacy ability of the bulkhead or dike to confine the material. Drawings must shall  
22 indicate approximate mean low and mean high water lines and the presence of marsh wetlands in  
23 the area of proposed work. In areas where the difference in daily low and high tides is less than six  
24 inches, only an average water level must shall be indicated.

25 (2) Cross-Section Drawing. A cross-sectional diagram showing depth and elevation of proposed work  
26 relative to existing ground level -- mean low and mean high water line must shall be included in the  
27 plan. The mean low water must shall be the reference for water depths and land elevations (i.e.,  
28 mean low water should be depicted as "Elevation 0.0 MLW"). First floor elevations relative to mean  
29 sea level must shall be shown for any proposed buildings, structures.

30 (3) Location Map. A map of small scale showing the geographic location of the proposed work is also  
31 required. The location map must provide information to locate the project site.

32 (4) Title of Drawing. Each drawing must shall have a simple title block to identify the project or work,  
33 and shall include name of applicant, date the plat was prepared, and scale of the plat. The date of  
34 any revisions must be clearly noted. The applicant must also include the name of the person who  
35 drew the plat.

36 (c) Applications are often made for permits to authorize projects that have a portion of the development outside Areas  
37 of Environmental Concern. Some Basic information concerning plans for development outside AECs is necessary to

1 determine compatibility with the local Land Use Plan and to demonstrate be reasonably sure that such development  
2 will not adversely impact AECs. Therefore, any Any application for a CAMA or Dredge and Fill permit shall include,  
3 at a minimum, include the following information:

- 4 (1) detailed information on any development located in or directly impacting an AEC;
- 5 (2) a plat showing the entire tract of land to be developed and possible access or roadway locations;
- 6 (3) ~~maps or statements or government agency concerning identifying the location of wetlands within~~  
7 ~~the project area or indicating that there are no wetlands within the project area. to the extent that a~~  
8 ~~wetlands examination has been made by a private consultant or government agency. Each developer~~  
9 ~~of a project is urged, for his own protection and planning, to procure such information prior to~~  
10 ~~submission for a CAMA permit;~~
- 11 (4) a narrative description of the proposed development that shall include, at a minimum, the following  
12 information:
  - 13 (A) the character of the development (i.e. residential, commercial, recreational, etc.);
  - 14 (B) the maximum number of residential living units that will be permitted;
  - 15 (C) the maximum acreage that will be utilized for non-residential purposes;
  - 16 (D) a statement as to whether wastewater treatment is to be by municipal system, septic tank,  
17 or other on-site treatment system. A general description of any on-site treatment system  
18 shall be included;
  - 19 (E) ~~a statement that access, as required by all land use regulations, is available through the site~~  
20 ~~to the Area of Environmental Concern without crossing any Section +404= wetland or, if~~  
21 ~~such a crossing is required, a statement that said crossing is properly authorized. If the site~~  
22 ~~contains significant wetlands, such statement may be required from a qualified private~~  
23 ~~consultant or government agency, based on an examination of the property by such private~~  
24 ~~consultant or government agency. The CAMA permit when issued may be conditioned~~  
25 ~~upon the procurement of any required wetlands permit, if the need for such is disclosed by~~  
26 ~~such statement;~~
- 27 (5) any maps or plans that have been prepared to meet other regulatory requirements such as stormwater  
28 management and sedimentation and erosion control.

29 (d) Following review of the permit application, including the aforementioned supporting data (Subparagraphs 1-59),  
30 a permit may be issued conditioned upon compliance with the development parameters provided in the narrative  
31 statement accompanying the application. Any subsequent violation of these narrative standards as incorporated  
32 within the permit shall be a permit violation. No subsequent permit, permit modification, or other agency approval  
33 shall be required for any subsequent work performed outside the Area of Environmental Concern as long as such  
34 work is within the parameters described in the narrative statement presented with the permit, and included in the  
35 permit conditions. Any subsequent change in the development which changes the parameters of the narrative,  
36 statement shall be submitted to the staff, but no new permit or permit modification shall be required unless staff  
37 finds that the changes would have reasonable expectation of adversely affecting an Area of Environmental Concern  
38 or rendering the project inconsistent with Local Land Use Plans. Nothing in this Rule would prohibit an applicant  
39 from proceeding with work outside an AEC that cannot reasonably be determined to have a direct adverse impact on  
40 the AEC while a permit application for work in the AEC is pending provided that all other necessary local, state, and  
41 federal permits have been obtained.  
42

1 *History Note: Authority G.S. 113-229(n)(3); 113-230(a); 113A-119; 113A-124;*  
2 *Eff. March 15, 1978;*  
3 *Amended Eff. July 1, 1989;*  
4 *Readopted Eff. October 1, 2022.*

1 15A NCAC 07J .0206 is readopted with changes as published in 34:09 NCR 762 as follows:

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3 **15A NCAC 07J .0206 PUBLIC NOTICE ~~OF THE PROPOSED DEVELOPMENT~~ REQUIREMENTS**

4 ~~Within a reasonable time after receiving an application for a major development permit, a significant modification to~~  
5 ~~an application for a major permit, or an application to modify substantially a previously issued major permit, the~~  
6 ~~Division of Coastal Management shall issue public notice of the proposed development as provided in G.S.~~  
7 ~~113A-119(b). Any citizen or group will, upon request, be promptly sent a copy of the application upon payment of a~~  
8 ~~reasonable fee to cover costs of copying, handling, and posting. In accordance with G.S 113A-119(b) the Division of~~  
9 ~~Coastal Management shall issue public notice of proposed development.~~

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12 *History Note: Authority G.S. 113A-119(b);*

13 *Eff. March 15, 1978;*

14 *Amended Eff. January 1, 1990; October 1, 1988; November 1, 1983;*

15 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0207 is readopted as published in 34:09 NCR 762 as follows:

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3 **15A NCAC 07J .0207 AGENCY REVIEW OF REVIEW/COMMENTS: MAJOR**  
4 **DEVELOPMENT/DREDGE AND FILL DEVELOPMENT AND DREDGE AND**  
5 **FILL APPLICATIONS**

6 (a) In order to determine the impact of the proposed project, the Department shall prepare a field report on each major  
7 development and/or dredge and fill permit application accepted for processing. Such report shall be prepared after an  
8 on-site investigation is made, preferably in the presence of the applicant or his agent. The report ~~will shall~~ include  
9 ~~such topics as~~ project location, environmental setting, project description and probable environmental ~~impact, impact~~  
10 ~~but will not include recommendations of the office.~~

11 (b) ~~In order to comply with G.S. 113A-120(a)(4). The the~~ Department ~~will shall~~ circulate major development permit  
12 applications to the ~~several state State~~ review agencies having expertise in the criteria enumerated in ~~G.S. 113A-120.~~  
13 ~~G.S. 113A-113(b)(1-9).~~

14 (c) ~~In order to comply with G.S. 113A-120(a)(2), the The~~ Department ~~will shall~~ circulate dredge and fill permit  
15 applications to the several state review agencies having expertise in those matters enumerated in ~~G.S. 113-229(e)~~  
16 ~~(1)-(5). G.S. 113-229(e)(1-5).~~

17 (d) Each reviewing agency may make an independent analysis of the application and submit recommendations and  
18 comments to the Department. Such recommendations and comments ~~will shall~~ be considered by the Department in  
19 taking action on a permit application.

20 (e) Each reviewing agency may request additional information ~~(including Stormwater Management Plans) related to~~  
21 ~~the scale and scope of the projects, such as Stormwater Management Plans,~~ from the applicant through the Division  
22 of Coastal Management if such information is deemed necessary for a ~~thorough and~~ complete review of the  
23 application. The applicant ~~will shall~~ be notified of the requirement for additional information and permit processing  
24 will be suspended according to 15A NCAC 7J .0204(d).

25 (f) The Division of Coastal Management is one of the ~~state State~~ agencies that comments on dredge and fill project  
26 applications. In its role as a commenting agency the Division ~~will shall~~ use criteria in 15A NCAC 7H and local land  
27 use plans to assess whether to recommend permit issuance, permit issuance with conditions, or permit denial. ~~Other~~  
28 ~~commenting state agencies will make assessments, in accordance with Paragraph (c) of this Rule.~~

29  
30 *History Note: Authority G.S. 113-229; 113A-124(a)(1); ~~113A-127;~~*  
31 *Eff. March 15, 1978;*  
32 *Amended Eff. July 1, 1989; October 1, 1988; September 1, 1985; November 1, 1984;*  
33 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07J .0208 is readopted with changes as published in 34:09 NCR 762 as follows:

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3 **15A NCAC 07J .0208 PERMIT CONDITIONS**

4 (a) ~~In compliance with G.S. 113A-120(a)(4) and G.S. 113A-120(a)(2). Each each~~ of the ~~several state review State,~~  
5 ~~federal and local reviewing~~ agencies may submit specific recommendations regarding the manner in which the  
6 ~~requested work proposed development~~ should be ~~carried out accomplished~~ and ~~suggest reasonable including~~  
7 limitations on the ~~work development~~ in order to protect the public interest with respect to the factors enumerated in in  
8 ~~G.S. 113A-113(b)(1-9) and 113-229(e)(1-5). G.S. 113A-120 and/or G.S. 113-229(e).~~ The ~~several state review State,~~  
9 ~~federal and local reviewing~~ agencies also may submit specific recommendations regarding limitations to be placed on  
10 the operation ~~and/or and~~ maintenance of the completed project, ~~as necessary~~ to ensure continued protection of the  
11 public interest with respect to those factors. Such limitations may be ~~recommended by the Department or commission~~  
12 ~~to be~~ imposed ~~by the Department~~ on the project in the form of "permit conditions". Upon the failure of the applicant  
13 to appeal a permit condition, the applicant ~~will shall~~ be deemed to have amended his permit to conform to the  
14 conditions imposed by the Department. Compliance with operational ~~and/or and~~ maintenance conditions ~~must shall~~  
15 continue for the life of the project.

16 (b) The local permit officer may condition a minor development permit upon amendment of the proposed project to  
17 ~~take whatever measures may be reasonably necessary to~~ protect the public interest with respect to the factors  
18 enumerated in G.S. 113A-120. The applicant ~~must shall~~ sign the conditioned ~~grant permit~~ as an indication of  
19 amendment of the proposed project in a manner consistent with the conditions set out by the local permit officer before  
20 the permit shall become effective.

21 (c) Failure to comply with permit conditions constitutes a violation of an order of the Commission under G.S.  
22 113A-126.

23  
24 *History Note: Authority G.S. 113-229; 113A-120(b); 113A-124(a)(1); ~~113A-124(e)(5); 113A-127~~;*  
25 *Eff. March 15, 1978;*  
26 *Amended Eff. March 1, 1985; November 1, 1984.*  
27 *Readopted Eff. January 1, 2023.*

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**SECTION .0400 - COASTAL ENERGY DEVELOPMENT – GENERAL POLICIES**

**15A NCAC 07M .0401 DECLARATION OF GENERAL POLICY**

(a) The policy statements in this section are enforceable and shall be considered by local governments and DCM when issuing permits and implementing the coastal management program under this Subchapter, and commenting on federal permits and activities pursuant to Section 307 of the federal Coastal Zone Management Act.

(b) It is hereby declared that the general welfare and public interest require that reliable sources of energy be made available to the citizens of North Carolina. It is further declared that the development of energy facilities and energy resources within the state and in offshore waters can serve important regional and national interests. However, unwise development of energy facilities or energy resources can conflict with the recognized and equally important public interest that rests in conserving and protecting the land and water resources of the state and nation, particularly coastal lands and waters. Therefore, in order to balance the public benefits of energy development with the need to:

- (1) protect coastal resources; and
- (2) preserve access to and utilization of public trust resources, the planning of future uses affecting both land and public trust resources,

the exercise of regulatory authority, and determinations of consistency with the North Carolina Coastal Management Program shall assure that the development of energy facilities and energy resources shall avoid significant adverse impact upon coastal resources or uses, public trust areas and public access rights.

(c) Exploration for the development of offshore and Outer Continental Shelf (OCS) energy resources has the potential to affect coastal resources. The Federal Coastal Zone Management Act of 1972, as amended, requires that leasing actions of the federal government be consistent to the maximum extent practicable with the enforceable policies of the federally approved North Carolina Coastal Management Program, and that exploration, development and production activities associated with such leases comply with those enforceable policies. Enforceable policies applicable to OCS activities include all the provisions of this Subchapter as well as any other federally approved components of the North Carolina Coastal Management Program. All permit applications, plans and assessments related to exploration or development of OCS resources and other energy facilities shall contain information to allow analysis of the consistency of all proposed activities with these Rules.

*History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;  
Eff. March 1, 1979;  
Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;  
Temporary Amendment Eff. July 8, 1999; December 22, 1998;  
Amended Eff. February 1, 2011; August 1, 2000;  
Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0402 is readopted as published with changes in 34:09 NCR 764 as follows:

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3 **15A NCAC 07M .0402 DEFINITIONS**

4 (a) "Impact Assessment" is an analysis which discusses of the potential environmental, economic economic, and  
5 social consequences, including cumulative and secondary impacts, of a proposed major energy facility. At a  
6 minimum, the An Impact Assessment assessment shall include includes the following and for each of the following  
7 shall discuss and assess any assess the effects the project will have on the use of public trust waters, adjacent lands  
8 and on the coastal resources, including the effects caused by activities related to exploration or development of OCS  
9 resources and other energy facilities outside the coastal area:

10 (1) a discussion an analysis of the preferred sites for those elements of the project affecting the use of  
11 public trust waters, adjacent lands and the coastal resources:

12 (A) In all cases where the preferred site is located within an area of environmental concern  
13 (AEC) or on a barrier island, the applicant shall identify alternative sites considered and  
14 present a full discussion analysis [in terms of Subparagraphs (a)(2) through (9) of this Rule]  
15 of the reasons why the chosen location was deemed more suitable than another feasible  
16 alternate site;

17 (B) If the preferred site is not located within an AEC or on a barrier island, the applicant shall  
18 present evidence an analysis to support the proposed location over an a feasible alternate  
19 site;

20 ~~(C) In those cases where an applicant chooses a site previously identified by the state as suitable~~  
21 ~~for such development and the site is outside an AEC or not on a barrier island, alternative~~  
22 ~~site considerations shall not be required as part of this assessment procedure;~~

23 (2) a discussion an analysis of the economic impacts, both positive and negative, of the proposed  
24 project. This discussion The analysis shall focus on economic impacts to the public, not on matters  
25 that are purely internal to the corporate operation of the applicant. No proprietary or confidential  
26 economic data shall be required. This discussion analysis shall include analysis of likely potential  
27 adverse impacts upon the ability of any governmental unit to furnish necessary services or facilities  
28 as well as other secondary impacts. impacts of significance;

29 (3) a discussion an analysis of potential adverse impacts on coastal resources, including marine and  
30 estuarine resources and wildlife resources, as defined in G.S. 113-129;

31 (4) a discussion an analysis of potential adverse impacts on existing industry and potential limitations  
32 on the availability of, and accessibility to, coastal resources, including beach compatible sand and  
33 water, for future use or development;

34 (5) a discussion an analysis of potential significant adverse impacts on recreational uses and scenic,  
35 archaeological and historic resources;

36 (6) a discussion an analysis of potential risks to human life or property;

- 1 (7) ~~a discussion~~ an analysis of the impacts on the human environment including noise, vibration and
- 2 visual impacts;
- 3 (8) ~~a discussion~~ an analysis of the procedures and time needed to secure an energy facility in the event
- 4 of severe weather conditions, such as extreme wind, currents and waves due to northeasters and
- 5 hurricanes;
- 6 (9) other specific data necessary required for the various state and federal agencies and commissions
- 7 with jurisdiction to evaluate the consistency of the proposed project with relevant standards and
- 8 guidelines;
- 9 (10) a plan regarding the action to be taken upon the decommissioning and removal of the facility and
- 10 related structures. The plan shall include an estimate of the cost to decommission and remove the
- 11 energy facility including a discussion of the financial instrument(s) used to provide for the
- 12 decommissioning and the removal of the structures that comprise the energy facility. The plan shall
- 13 also include a proposed description of the condition of the site once the energy facility has been
- 14 decommissioned and removed.
- 15 (11) ~~a specific demonstration~~ an analysis that the proposed project is consistent with relevant local land
- 16 use ~~plans. plans and with guidelines governing land uses in AECs.~~

17 Any An impact ~~assessment~~ analysis for a proposed major energy facility shall include ~~a discussion~~ of the items

18 described in Subparagraphs (a)(1) through (11) of this Rule for the associated energy exploration or development

19 activities related to exploration or development of OCS resources and other energy facilities. including all foreseeable

20 assessments of resource potential, including the gathering of scientific data, exploration wells, and any delineation

21 activities that are likely to follow development, production, maintenance and decommissioning.

22 (b) "Major energy facilities" are those energy ~~facilities~~ facilities, including those described in G.S. 113A-119.2(3),

23 which because of their size, magnitude or scope of impacts, have the potential to ~~affect~~ negatively impact any land or

24 water use or coastal resource of the coastal area. For purposes of this definition, major energy facilities shall include

25 include, but are not necessarily limited to, the following:

- 26 (1) Any facility ~~capable of~~ refining petroleum ~~products; consistent with G.S. 143-215.77;~~
- 27 (2) Any terminals (and associated facilities) capable of handling, processing, or storing petroleum
- 28 products or synthetic gas gas; as defined in G.S 143-215.96;
- 29 (3) Any petroleum storage facility that is capable of storing 15 million gallons or more on a single site;
- 30 (4) Gas, coal, oil or nuclear electric generating facilities 300 MGW or larger;
- 31 (5) Wind energy facilities, including turbines, accessory buildings, transmission facilities and other
- 32 equipment necessary for the operation of a wind generating facility that cumulatively, with any other
- 33 wind energy facility whose turbines are located within one-half mile of one another, are capable of
- 34 generating three megawatts or larger;
- 35 (6) Thermal energy generation;
- 36 (7) Major pipelines Pipelines 12 inches or more in diameter that carry petroleum products or synthetic
- 37 gas;

- 1 (8) Structures, including drillships and floating platforms ~~and structures relocated from other states or~~  
2 ~~countries~~, located in offshore waters for the purposes of energy exploration, development or  
3 production; and  
4 (9) Onshore support or staging facilities related to offshore energy exploration, development or  
5 production.

6 (c) "Offshore waters" are those waters seaward of the state's three-mile offshore jurisdictional boundary in which  
7 development activities may impact any land or water use or natural resource of the state's coastal area.

8 (d) "Adverse impact," "adverse impacts," "adverse effects," or similar formulations, are defined as an effect or impact  
9 that is opposed or antagonistic to the goals of the Coastal Area Management Act as found in G.S. 113A-102(b)  
10 and with the provisions of G.S. 113-229(3).

11 (e) "Significant" as used in this section includes consideration of both context and intensity. Context means that the  
12 significance of an adverse impact or effect must be analyzed from several perspectives that include society as a  
13 whole (human, national), the affected subregion of the North Carolina coast, the local area and all directly and  
14 indirectly affected parties. Both short-and long-term effects are relevant. b) Intensity refers to the severity of  
15 impact or effect. The following shall be considered in evaluating intensity:

16 (1) both beneficial and adverse impacts;

17 (2) the degree to which the proposed action affects public health or safety;

18 (3) unique characteristics of the geographic area;

19 (4) the degree to which the effects on the quality of the human environment are likely to be controversial;

20 (5) the degree to which the possible effects on the environment are uncertain or involve unique or  
21 unknown risks;

22 (6) the degree to which the action may establish a precedent for future actions;

23 (7) the degree to which the action is related to other actions with individually insignificant but  
24 cumulatively significant impacts. Significance cannot be avoided by terming an action temporary or  
25 by breaking it down into small component parts;

26 (8) the degree to which the action may cause the loss or destruction of scientific, cultural, historical, and  
27 environmental resources and;

28 (9) the impact is more than de minimus, that is, large enough to make a difference.

29  
30  
31 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-119.2; 113A-124;*

32 *Eff. March 1, 1979;*

33 *Amended Eff. October 1, 1988;*

34 *Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;*

35 *Temporary Amendment Eff. July 8, 1999; December 22, 1998;*

36 *Amended Eff. March 1, 2011; August 1, 2000;*

37 *Readopted Eff. October 1, 2022.*

1 15A NCAC 07M .0403 is adopted as emergency rule as follows:

2  
3 **15A NCAC 07M .0403 COASTAL ENERGY DEVELOPMENT - SPECIFIC POLICY STATEMENTS**

4 (a) The policy statements in this section are enforceable and shall be considered by local governments and DCM  
5 when issuing permits and implementing the coastal management program under this Subchapter, and commenting on  
6 federal permits and activities pursuant to Section 307 of the federal Coastal Zone Management Act.

7 (b) The **siting** and operations of major energy facilities **impacting** the use of public trust waters and adjacent lands or  
8 coastal resources of North Carolina shall be done in a manner that allows for protection of the environment and local  
9 and regional socio-economic goals as set forth in the local land-use plan(s) and in 15A NCAC 07H and 07M. The  
10 placement and operation of such facilities shall be consistent with state rules and statutory standards and shall comply  
11 with local land use plans and with use standards for development within AECs, as set forth in 15A NCAC 07H.

12 (c) Proposals, plans and permit applications for major energy facilities to be **sited** in or **impacting** any land or water  
13 use or coastal resource of the North Carolina coastal area shall include a disclosure of all costs and benefits associated  
14 with the project. This disclosure shall be prepared in the form of an impact assessment as defined in 15A NCAC 07M  
15 .0402 prepared by the applicant. If environmental documents are prepared and reviewed under the provisions of the  
16 National Environmental Policy Act (NEPA) or the North Carolina Environmental Policy Act (NCEPA), this review  
17 **shall** satisfy the definition of "impact assessment" if all issues listed in this Rule are addressed and these documents  
18 are submitted to review state permit applications for the project or consistency determinations.

19 (d) Local governments shall not restrict the development of energy facilities; however, they may develop siting  
20 measures that will minimize impacts to local resources and to identify potential sites suitable for energy facilities.  
21 This section shall not limit the ability of a city or county to plan for and regulate the siting of a wind energy facility  
22 in accordance with land-use regulations authorized under Chapter 160A and Chapter 153A of the General Statutes.  
23 Wind energy facilities constructed within the planning jurisdiction of a city or county shall demonstrate compliance  
24 with any local ordinance concerning land use and any applicable permitting process.

25 (e) Energy facilities that do not require shorefront access shall be sited inland of the shoreline areas. **When the siting**  
26 **of energy facilities along shorelines** of the coastal zone area are **necessary**, shoreline siting shall be acceptable only if  
27 it can be demonstrated that there are no significant adverse impacts to coastal resources, public trust waters, and the  
28 public's right to access will not be restricted, and all mitigating measures have been taken to minimize impacts to  
29 AECs. **Mitigating** measures shall be determined after consideration **of** economics, technical feasibility, **areal** extent  
30 of impacts **and** impacted **area**.

31 (f) The scenic and visual qualities of coastal areas shall be considered and protected as public **resources consistent**  
32 **with G.S. 113A-1-2(b)(4)(a)**. Energy development shall be sited and designed to provide maximum protection of  
33 views to and along the ocean, sounds and scenic coastal areas, and to minimize the alteration of natural landforms.

34 (g) All energy facilities in or **impacting** the use of public trust waters and adjacent lands or coastal **resources** shall be  
35 sited and operated so as to comply with the following criteria:

- 36 (1) Activities that **may** result in significant adverse impacts on **coastal resources**, including marine and  
37 estuarine resources and wildlife resources, as defined in G.S. 113-129, and significant adverse

1 impacts on the use of public trust waters and adjacent lands in the coastal area shall be avoided.  
2 ~~unless site specific information demonstrates that each such activity will result in no significant~~  
3 ~~adverse impacts on the use of public trust waters and adjacent lands or coastal resources;~~

- 4 (2) For petroleum facilities, data and information required for State permits and federal consistency  
5 reviews, pursuant to 15 CFR part 930, shall assess the risks of petroleum release or spills, evaluate  
6 possible trajectories, and enumerate response and mitigation measures employing the best available  
7 technology to be followed in the event of a release or spill. The information shall demonstrate that  
8 the potential for petroleum release or spills and ensuing damage to coastal resources has been  
9 minimized and shall factor environmental conditions, currents, winds, and inclement events such as  
10 northeasters and hurricanes, in trajectory scenarios. This same data and information shall be  
11 required for facilities requiring an Oil Spill Response Plan;
- 12 (3) Dredging, spoil disposal and construction of structures that are likely to have significant adverse  
13 impacts on the use of public trust waters and adjacent lands or coastal resources shall be avoided;  
14 ~~minimized, and any unavoidable actions of this sort shall minimize damage to the marine~~  
15 ~~environment;~~
- 16 (4) Significant adverse impacts to existing or traditional uses, such as fishing, navigation and access to  
17 public trust areas, and areas with high biological or recreational value such as those listed in  
18 Subparagraphs (f)(10)(A) and (H) of this Rule, shall be avoided; ~~avoided to the extent that such~~  
19 ~~damage or interference is likely to have significant adverse impacts on the use of public trust waters~~  
20 ~~and adjacent lands or coastal resources;~~
- 21 (5) Placement of structures in geologically unstable areas, such as unstable sediments and active faults,  
22 shall be avoided ~~to the extent that damage to such structures resulting from geological phenomena~~  
23 ~~is likely to~~ if the siting of structures will have significant adverse impacts on the use of public trust  
24 waters, adjacent lands or coastal resources;
- 25 (6) Procedures necessary to secure an energy facility in the event of severe weather conditions, such as  
26 extreme wind, currents and waves due to northeasters and hurricanes, shall be initiated to ensure  
27 that significant adverse impacts on the use of public trust waters, adjacent lands and coastal  
28 resources;
- 29 (7) Significant adverse impacts on federally listed threatened or endangered species shall be avoided;
- 30 (8) Major energy facilities are not appropriate uses in fragile or historic areas, and other areas containing  
31 environmental or natural resources of more than local significance, as defined in G.S. 113A-  
32 113(b)(4), such as parks, recreation areas, wildlife refuges, and historic sites;
- 33 (9) Energy facilities shall not be sited in areas where they pose a threat to the integrity of the facility  
34 and surrounding areas, such as ocean front areas with high erosion rates, areas having a history of  
35 overwash or inlet formation, and Inlet Hazard Areas identified in 15A NCAC 07H .0304;
- 36 (10) In the siting of energy facilities and related structures, significant adverse impacts to the following  
37 areas shall be avoided:

- 1 (A) areas of high biological significance, including offshore reefs, rock outcrops, hard bottom  
2 areas, sea turtle nesting beaches, coastal wetlands, primary or secondary nursery areas or  
3 spawning areas and essential fish habitat areas of particular concern as designated by the  
4 appropriate fisheries management agency, oyster sanctuaries, submerged aquatic  
5 vegetation as defined by the Marine Fisheries Commission, colonial bird nesting areas, and  
6 migratory bird routes;
- 7 (B) tracts of maritime forest in excess of 12 contiguous acres and areas identified as eligible  
8 for registration or dedication by the North Carolina Natural Heritage Program;
- 9 (C) crossings of streams, rivers, and lakes except for existing corridors;
- 10 (D) anchorage areas and port areas;
- 11 (E) artificial reefs, shipwrecks, and submerged archaeological resources;
- 12 (F) **Ocean Dredged Material Disposal Sites;**
- 13 (G) primary dunes and frontal dunes;
- 14 (H) established recreation or wilderness areas, such as federal, **State** and local parks, forests,  
15 wildlife **refuges;**
- 16 (I) military air space, training or target area and transit lanes;
- 17 (J) cultural or historic sites of more than local significance; and
- 18 (K) segments of Wild and Scenic River System.
- 19 (11) Construction of energy facilities shall occur only during periods of lowest biological vulnerability.  
20 Nesting and spawning periods shall be avoided; and
- 21 (12) If facilities located in the coastal area are abandoned, habitat of value equal to or greater than that  
22 existing prior to construction shall be restored following abandonment. For abandoned facilities  
23 outside the coastal area, habitat in the areas shall be restored to its preconstruction state and functions  
24 if the abandonment of the structure is likely to have significant adverse impacts on the use of public  
25 trust waters, adjacent lands or coastal resources.

26

27 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;*  
28 *Eff. March 1, 1979;*  
29 *Amended Eff. April 1, 1992;*  
30 *Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;*  
31 *Temporary Amendment Eff. July 8, 1999; December 22, 1998;*  
32 *Amended Eff. February 1, 2011; August 1, 2000;*  
33 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0701 is adopted as emergency rule as follows:

2  
3 **SECTION .0700 – MITIGATION - GERNAL POLICY**

4  
5 **15A NCAC 07M .0701 DECLARATION OF GENERAL POLICY**

6 **(a) The policy statements in this section are enforceable and shall be considered by local governments and DCM**  
7 **when issuing permits and implementing the coastal management program under this Subchapter, and commenting on**  
8 **federal permits and activities pursuant to Section 307 of the federal Coastal Zone Management Act.**

9 **(a)(b)** It is the policy of the **State of North Carolina Coastal Resources Commission** to require that adverse impacts  
10 to coastal lands and waters be mitigated or minimized through **proper** planning, site selection, compliance with  
11 **Commission's** standards for development, and creation or restoration of coastal resources. Coastal ecosystems shall  
12 be protected and maintained as complete and functional systems by mitigating the adverse impacts of development **as**  
13 **much as feasible** by **enehancing, enhancing,** creating, or restoring areas with the goal of improving or maintaining  
14 ecosystem function and areal proportion.

15 **(b)(c)** The CRC shall apply mitigation requirements as defined in this Section consistent with the goals, policies and  
16 objectives set forth in **the Coastal Area Management Act G.S. 113A-102** for coastal resource management and  
17 development. Mitigation shall be used to enhance coastal resources and offset any potential losses occurring from  
18 **approved permitted** and **unauthorized unpermitted** development. Proposals to mitigate losses of coastal resources  
19 shall be considered only for **those projects development** shown to be in the public interest, as defined by the standards  
20 in **15A NCAC 07M .0703, 15A NCAC 7M .0703, and only after all other reasonable means of avoiding or minimizing**  
21 **such losses have been exhausted.**

22  
23 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-113; 113A-120(a); 113A-124; 113-229*  
24 *Eff. January 1, 1984;*  
25 *Amended Eff. September 1, 1985;*  
26 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0703 is adopted as emergency rule as follows:

2  
3 **15A NCAC 07M .0703 MITIGATION CANDIDACY PROJECTS**

4 (a) ~~Before the The~~ CRC may approve a development project for mitigation ~~candidacy~~ if the applicant ~~shall can~~  
5 demonstrate that all of the following criteria ~~can be are~~ met:

6 (1) there is no ~~reasonable or prudent~~ alternate design or location for the project that would avoid the  
7 losses to be mitigated;

8 (2) the entire project for which the permit is requested is dependent upon being located within or in  
9 ~~close~~ proximity to public trust waters and coastal wetlands;

10 (3) benefits to the public interest will ~~clearly~~ outweigh ~~the long range~~ adverse ~~impacts effects~~ to the  
11 environment. A benefit to the public interest may be established by a project which has been ~~clearly~~  
12 shown to be the least damaging alternative and which:

13 (A) if publicly ~~funded funded~~ creates benefits of national or state importance. This category  
14 may include ~~but is not limited to~~ public roadways, navigation projects, state ports, and  
15 projects designed to provide public access to ~~the water; public trust waters;~~

16 (B) if privately ~~funded funded~~ provides increased access opportunities ~~to public trust resources~~  
17 ~~available~~ to the general public for free or for a nominal fee, or provides ~~significant~~  
18 economic benefits to the state or community ~~in accord and is consistent~~ with the local land  
19 use ~~plan; plan.~~

20 ~~(4) all reasonable means and measures to lessen the impacts of the project have been incorporated into~~  
21 ~~the project design.~~

22 (b) Mitigation may also be the basis for CRC approval for projects which cannot meet all the criteria of 15A NCAC  
23 ~~7M .07M~~ .0703(a) if the CRC determines that public benefits of the project and enhancement and protection of the  
24 environment ~~overwhelmingly~~ outweigh environmental losses ~~based on the criteria set out in 15A NCAC 07M~~  
25 ~~.0703(d).~~

26 (c) Mitigation ~~candidacy projects~~ may be considered by the CRC during the permit processing time prescribed in 15A  
27 NCAC 7J .0204, in accordance with the procedures set out in 15A NCAC 7J .0600 concerning declaratory rulings.  
28 The applicant may request a declaratory ruling on the applicability of the mitigation policy as set forth in 15A NCAC  
29 7M .0703(a) provided that the applicant agrees that the permit processing time period ~~set out in 15A NCAC 07J .0600~~  
30 will not run during the pendency of the declaratory ruling consideration. If a declaratory ruling is to be issued pursuant  
31 to the applicant's request, a public meeting will be held to discuss the proposed project and to assist the Commission  
32 in obtaining the information necessary to make the declaratory ruling, and to receive comments from the public prior  
33 to presenting the ruling request to the Commission. Information concerning the proposed mitigation may also be  
34 introduced at the meeting. CRC approval of the mitigation ~~candidacy project~~ is binding on the Commission and the  
35 ~~person applicant requesting it,~~ in accordance with 15A NCAC ~~7J-07J~~ .0603(e).

36 ~~(d) In determining whether to approve an application for development for which mitigation is proposed, the Division~~  
37 ~~of Coastal Management shall consider the scope of the project, the site of the proposed mitigation, the amount of~~

1 mitigation proposed, the historic uses of the development site and mitigation site, the public trust, and significant  
2 adverse impacts.

3  
4 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-113; 113A-120(a); 113A-124; 113-229;*  
5 *Eff. January 1, 1984;*  
6 *Amended Eff. September 1, 1985;*  
7 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0704 is readopted as published with changes in 34:09 NCR 764 as follows:

2  
3 **15A NCAC 07M .0704 POLICY STATEMENTS-MITIGATION - SPECIFIC POLICIES**

4 (a) The policy statements in this section are enforceable and shall be considered by local governments and DCM  
5 when issuing permits and implementing the coastal management program under this Subchapter, and commenting on  
6 federal permits and activities pursuant to Section 307 of the federal Coastal Zone Management Act.

7 (a)(b) The Division of Coastal Management shall consider following forms of mitigation requests based on the  
8 following are ranked in order of preference:

9 (1) Enhancement of coastal resources with created or restored systems determined to be potentially  
10 more productive of the resources characteristic of unaltered North Carolina ecosystems than those  
11 destroyed.

12 (2) Creation or restoration of an area of similar ecological utility and potential biological value than that  
13 destroyed or altered.

14 (3) Creation or restoration of an area with a desirable but different ecological function or potential than  
15 that destroyed or altered.

16 (4) The following forms of mitigation will shall be considered by the Division of Coastal Management  
17 even though they do not meet the definition in 15A NCAC 7M .0702. They are actions which by  
18 themselves shall not be deemed adequate to offset habitat losses, but and may be used in  
19 combination with Subparagraphs (a) (1) through (3) to achieve the stated goal set forth in 15A  
20 NCAC 07M .0703(d) of these Rules.

21 (A) Acquisition for public ownership of unique and ecologically important systems not  
22 protected by state and/or or federal regulatory programs. The type of impacts to be  
23 mitigated and the quality of the area to be acquired will be considered on a case-by-case  
24 basis.

25 (B) Transfer of privately owned lands subject to state and federal regulatory control regulation  
26 into public ownership.

27 (C) Provisions of funds for State, federal or accredited institution research or for management  
28 programs.

29 (D) Increased public access to public trust resources for recreational use.

30 (b)(c) Mitigation proposals may be the basis for approval of a development which is otherwise in conflict with general  
31 or specific use standards set forth in 15A NCAC 7H 07H .0208. If a development represents no significant loss to  
32 coastal resources, the mitigation proposal must be on site, or proximate thereto, and must be designed to enhance the  
33 coastal environment.

34 (e)(d) Mitigation proposals to offset losses of coastal resources associated with due to publicly funded projects shall  
35 be reviewed by the staff Division of Coastal Management with the sponsoring agency and incorporated into the project  
36 plans, by the State or federal agency.

1 ~~(d)~~(e) Approved mitigation proposals for all categories of development shall become a part of permit conditions  
2 according to G.S. 113A-120(b) and thereby subject to enforcement authority pursuant to G.S. 113A-126. G.S.  
3 113A-126 and shall be memorialized in a mitigation agreement which will constitute a contract between the applicant  
4 and the CRC.

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

7  
8 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-113; 113A-120(a); 113A-124; 113A-126.*

9 *Eff. January 1, 1984;*

10 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .1101 is readopted as published **with changes** in 34:09 NCR 764 as follows:

2  
3 **SECTION .1100 - BENEFICIAL USE OF DREDGED MATERIALS FROM NAVIGATIONAL CHANNEL**  
4 **MAINTENANCE AND EXCAVATION – GENERAL POLICIES**

5 **15A NCAC 07M .1101 DECLARATION OF GENERAL POLICY**

6 (a) The policy statements in this section are enforceable and shall be considered by local governments and DCM  
7 when issuing permits and implementing the coastal management program under this Subchapter, and commenting  
8 on federal permits and activities pursuant to Section 307 of the federal Coastal Zone Management Act.

9 **(b) Dredged** material disposal practices may result in removal of material important to the sediment budget of  
10 ocean and inlet beaches. This **activity may** adversely impact natural beach functions especially during storm  
11 events and may increase long term erosion rates. Ongoing channel maintenance requirements throughout the  
12 coastal area also lead to the need to construct new or expanded disposal sites as existing sites fill. In addition,  
13 new sites for disposal are increasingly harder to find **due to** competition from development interests for suitable  
14 sites. Therefore, it is the policy of the State of North Carolina that material resulting from the excavation or  
15 maintenance of navigation channels be used in a beneficial way wherever practicable.

16  
17 *History Note: Authority G.S. 113A-107; **113-229**;*  
18 *Eff. October 1, 1992;*  
19 *Readopted Eff. January 1, 2023.*