

1 15A NCAC 07M .0201 is readopted **with changes** as published in 34:09 NCR 764 as follows:

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3

SECTION .0200 - SHORELINE EROSION POLICIES

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15A NCAC 07M .0201 DECLARATION OF GENERAL POLICY

6 It is hereby declared that the general welfare and public interest require that development along the ocean and
7 estuarine shorelines be conducted in a manner that avoids loss of life, property and amenities. It is also declared
8 that protection of the recreational use of the shorelines of the state is in the public interest. In order to accomplish
9 these public purposes, the planning of future land uses, **reasonable** rules and public expenditures **should shall** be
10 created or accomplished in a coordinated manner so as to minimize the likelihood of damage to private and
11 public resources resulting from **recognized** coastal hazards.

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13 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124; 16 U.S.C. Sec. 1453 (12);*

14

Eff. March 1, 1979;

15

RRC Objection due to lack of necessity Eff. October 17, 1991;

16

Amended Eff. March 1, 1992;

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Readopted Eff. October 1, 2023.

1 15A NCAC 07M .0202 is readopted **with changes** as published in 34:09 NCR 764 as follows:

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3 **15A NCAC 07M .0202 POLICY STATEMENTS**

4 (a) Pursuant to Section 5, Article 14 of the North Carolina Constitution, proposals for shoreline erosion response
5 projects shall avoid **losses impacts** to North Carolina's natural heritage. All means **should shall** be taken to identify
6 and develop response measures that will not adversely affect estuarine and marine productivity. The public right to
7 use and enjoy the ocean beaches **must shall** be protected. The protected uses include traditional recreational uses (such
8 as walking, swimming, surf-fishing, and sunbathing) as well as commercial fishing and emergency access for beach
9 rescue services. Private property rights to oceanfront properties including the right to protect that property in ways
10 that are consistent with public rights **should shall** be protected.

11 (b) Erosion response measures designed to minimize the loss of private and public resources to erosion should be
12 economically, socially, and environmentally justified. Preferred response measures for shoreline erosion shall include
13 **but not be limited to** AEC rules, land use planning and land classification, establishment of building setback lines,
14 building relocation, subdivision regulations and management of vegetation.

15 (c) The replenishment of sand on ocean beaches can provide storm protection and a viable alternative to allowing the
16 ocean shoreline to migrate landward threatening to degrade public beaches and cause the loss of public facilities and
17 private property. Experience in North Carolina and other states has shown that beach restoration projects can present
18 **a feasible an** alternative to the loss or massive relocation of oceanfront development. **In light of this experience, beach**
19 **Beach** restoration and sand renourishment and disposal projects may be allowed when:

- 20 (1) Erosion threatens to degrade public beaches and to damage public and private properties;
21 (2) Beach restoration, renourishment or sand disposal projects are determined to be socially and
22 economically feasible and cause no significant adverse **environmental** impacts;
23 (3) The project is determined to be consistent with state policies for shoreline erosion response and state
24 use standards for Ocean **hazard Hazard** and Public Trust Waters Areas of Environmental Concern
25 and the relevant rules and guidelines of state and federal review agencies.

26 When the conditions set forth in this Paragraph can be met, the Coastal Resources Commission supports, within
27 overall budgetary constraints, state financial participation in Beach Erosion Control and Hurricane Wave Protection
28 projects that are cost-shared with the federal government and affected local governments pursuant to the federal
29 Water Resources Development Act of 1986 and the North Carolina Water Resources Development Program (G.S.
30 143-215.70-73).

31 (d) The following are required with state involvement (funding or sponsorship) in beach restoration and sand
32 renourishment projects:

- 33 (1) The entire restored portion of the beach shall be in permanent public ownership;
34 (2) It shall be a local government responsibility to provide **adequate** parking, public access, and services
35 for public recreational use of the restored beach.

36 (e) Temporary measures to counteract erosion, such as the use of sandbags and beach **pushing, bulldozing should**
37 **may** be allowed, but only to the extent necessary to protect property for a short period of time until threatened

1 structures may be relocated or until the effects of a short-term erosion event are reversed. In all cases, temporary
2 stabilization measures must be compatible with public use and enjoyment of the beach.

3 (f) Efforts to permanently stabilize the location of the ocean shoreline with seawalls, groins, shoreline hardening,
4 sand trapping or similar protection devices shall not be allowed except when the project meets one of the specific
5 exceptions set out in 15A NCAC 7H .0308.

6 (g) The State of North Carolina ~~will~~ shall consider innovative institutional programs and scientific research that will
7 provide for effective management of coastal shorelines. The development of innovative measures that will lessen or
8 slow the effects of erosion while minimizing the adverse impacts on the public beach and on nearby properties is
9 encouraged.

10 (h) The planning, development, and implementation of erosion control projects will be coordinated with appropriate
11 planning agencies, affected governments and the interested public. Maximum efforts will be made by the state to
12 accommodate the interest of each interested party consistent with the project's objectives. Local, state, and federal
13 government activity in the coastal area should reflect an awareness of the natural dynamics of the ocean front.
14 Government policies ~~should shall~~ not only address existing erosion problems but ~~should shall~~ aim toward minimizing
15 future erosion problems. ~~Actions required to deal with erosion problems are very expensive.~~ In addition to the direct
16 costs of erosion abatement measures, many other costs, such as maintenance of projects, disaster relief, and
17 infrastructure repair will be borne by the public sector. Responses to the erosion ~~should shall~~ be designed to limit
18 these public costs.

19 (i) The ~~state State will~~ shall promote education of the public on the dynamic nature of the coastal zone and on effective
20 measure to cope with ~~our~~ ever changing ~~shorelines, shorelines of the coastal area.~~

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22 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124; 16 U.S.C. Sec. 1453 (12);*
23 *Eff. March 1, 1979;*
24 *Amended Eff. March 1, 1985;*
25 *RRC Objection due to lack of necessity and unclear language Eff. October 17, 1991;*
26 *Amended Eff. March 1, 1992;*
27 *RRC Objection due to ambiguity and lack of necessity Eff. March 16, 1995;*
28 *Amended Eff. May 4, 1995;*
29 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0401 is readopted as published **with changes** in 34:09 NCR 764 as follows:

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3 **SECTION .0400 - COASTAL ENERGY POLICIES**
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5 **15A NCAC 07M .0401 DECLARATION OF GENERAL POLICY**

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

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

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

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

28
29 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;*
30 *Eff. March 1, 1979;*
31 *Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;*
32 *Temporary Amendment Eff. July 8, 1999; December 22, 1998;*
33 *Amended Eff. February 1, 2011; August 1, 2000;*
34 *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 the following and for each of the following shall
7 discuss and assess any assess the effects the project will have on the use of public trust waters, adjacent lands and on
8 the coastal resources, including the effects caused by activities related to exploration or development of OCS resources
9 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; and

17 (B) If the preferred site is not located within an AEC or on a barrier island, the applicant shall
18 present evidenece an analysis to support the proposed location over an a feasible alternate
19 site; 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 by for~~ the ~~various~~ state and federal agencies and commissions
7 with jurisdiction to evaluate the consistency of the proposed project with each agency or
8 commission's applicable regulations, relevant standards and 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, described in G.S. 113A-119.2(3), which because of
23 their size, magnitude or scope of impacts, have the potential to affect may cause a significant adverse impact on any
24 land or water use or coastal resource of the coastal area. For purposes of this definition, major energy facilities shall
25 include 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

9 *History Note:* Authority G.S. 113A-102(b); 113A-107; ~~113A-119.2~~; 113A-124;

10 *Eff. March 1, 1979;*

11 *Amended Eff. October 1, 1988;*

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

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

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

15 *Readopted Eff. February 1, 2023.*

1 15A NCAC 07M .0403 is readopted as published **with changes** in 34:09 NCR 764 as follows:

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3 **15A NCAC 07M .0403 POLICY STATEMENTS**

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

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

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

25 (d) Energy facilities that do not require shorefront access shall be sited inland of the shoreline areas. **In instances**
26 **when** **When the siting of energy facilities along shorelines shoreline portions** of the coastal zone area are **necessary**
27 **necessary locations**, shoreline siting shall be acceptable only if it can be demonstrated that there are no significant
28 adverse impacts to coastal resources, public trust waters, and the public's right to access **and passage** will not be
29 **unreasonably** restricted, and all **reasonable** mitigating measures have been taken to minimize impacts to AECs.
30 **Whether restrictions or mitigating Mitigating** measures **are reasonable** shall be determined after consideration **of of,**
31 **as appropriate,** economics, technical feasibility, **aerial areal** extent of impacts, **uniqueness of and** impacted **area. area,**
32 **and other relevant factors.**

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

1 (f) All energy facilities in or ~~affecting impacting~~ the use of public trust waters and adjacent lands or coastal ~~resource~~
2 ~~resources~~ shall be sited and operated so as to comply with the following criteria:

- 3 (1) Activities that ~~could may~~ result in significant adverse impacts on ~~coastal resources, resources of the~~
4 ~~coastal area,~~ including marine and estuarine resources and wildlife resources, as defined in G.S.
5 113-129, and significant adverse impacts on the use of public trust waters and adjacent lands in the
6 coastal area shall be ~~avoided avoided. unless site specific information demonstrates that each such~~
7 ~~activity will result in no significant adverse impacts on the use of public trust waters and adjacent~~
8 ~~lands or coastal resources;~~
- 9 (2) For petroleum facilities, ~~necessary~~ data and information required ~~by the state~~ for ~~state State~~ permits
10 and federal consistency reviews, pursuant to 15 CFR part 930, shall assess the risks of petroleum
11 release or spills, evaluate possible trajectories, and enumerate response and mitigation measures
12 employing the best available technology to be followed in the event of a release or spill. The
13 information ~~must shall~~ demonstrate that the potential for petroleum release or spills and ensuing
14 damage to coastal resources has been minimized and shall factor environmental conditions, currents,
15 winds, and inclement events such as northeasters and hurricanes, in trajectory scenarios. ~~For This~~
16 ~~same data and information shall be required for~~ facilities requiring an Oil Spill Response ~~Plan; Plan;~~
17 ~~this information shall be included in such a plan;~~
- 18 (3) Dredging, spoil disposal and construction of ~~related~~ structures that are likely to have significant
19 adverse impacts on the use of public trust waters and adjacent lands or coastal resources shall be
20 ~~avoided; minimized, and any unavoidable actions of this sort shall minimize damage to the marine~~
21 ~~environment;~~
- 22 (4) ~~Damage to or interference with Significant adverse impacts to~~ existing or traditional uses, such as
23 fishing, navigation and access to public trust areas, and areas with high biological or recreational
24 value such as those listed in Subparagraphs (f)(10)(A) and (H) of this Rule, shall be ~~avoided; avoided~~
25 ~~to the extent that such damage or interference is likely to have significant adverse impacts on the~~
26 ~~use of public trust waters and adjacent lands or coastal resources;~~
- 27 (5) Placement of structures in geologically unstable areas, such as unstable sediments and active faults,
28 shall be avoided ~~to the extent that damage to such structures resulting from geological phenomena~~
29 ~~is likely to if the siting of structures will~~ have significant adverse impacts on the use of public trust
30 waters, adjacent lands or coastal resources;
- 31 (6) Procedures necessary to secure an energy facility in the event of severe weather conditions, such as
32 extreme wind, currents and waves due to northeasters and hurricanes, shall be initiated ~~sufficiently~~
33 ~~in advance of the commencement of severe weather~~ to ensure that significant adverse impacts on
34 the use of public trust waters, adjacent lands and coastal ~~resources; resources shall be avoided;~~
- 35 (7) Significant adverse impacts on federally listed threatened or endangered species shall be avoided;

- 1 (8) Major energy facilities are not appropriate uses in fragile or historic areas, and other areas containing
2 environmental or natural resources of more than local significance, as defined in G.S. 113A-
3 113(b)(4), such as parks, recreation areas, wildlife refuges, and historic sites;
- 4 (9) ~~No energy~~ Energy facilities shall ~~not~~ be sited in areas where they pose a threat to the integrity of the
5 facility and surrounding areas, such as ocean front areas with high erosion rates, areas having a
6 history of overwash or inlet formation, and ~~areas in the vicinity of existing inlets;~~ Inlet Hazard Areas
7 identified in 15A NCAC 07H .0304;
- 8 (10) In the siting of energy facilities and related structures, significant adverse impacts to the following
9 areas shall be avoided:
- 10 (A) areas of high biological significance, including offshore reefs, rock outcrops, hard bottom
11 areas, sea turtle nesting beaches, coastal wetlands, primary or secondary nursery areas or
12 spawning areas and essential fish habitat areas of particular concern as designated by the
13 appropriate fisheries management agency, oyster sanctuaries, submerged aquatic
14 vegetation as defined by the Marine Fisheries Commission, colonial bird nesting areas, and
15 migratory bird routes;
- 16 (B) tracts of maritime forest in excess of 12 contiguous acres and areas identified as eligible
17 for registration or dedication by the North Carolina Natural Heritage Program;
- 18 (C) crossings of streams, rivers, and lakes except for existing readily accessible corridors;
- 19 (D) anchorage areas and port areas;
- 20 (E) artificial reefs, shipwrecks, and submerged archaeological resources;
- 21 (F) ~~dump sites;~~ Ocean Dredged Material Disposal Sites;
- 22 (G) primary dunes and frontal dunes;
- 23 (H) established recreation or wilderness areas, such as federal, state State and local parks,
24 forests, wildlife refuges; ~~refuges and other areas used in a like manner;~~
- 25 (I) military air space, training or target area and transit lanes;
- 26 (J) cultural or historic sites of more than local significance; and
- 27 (K) segments of Wild and Scenic River System.
- 28 (11) Construction of energy facilities shall occur only during periods of lowest biological vulnerability.
29 Nesting and spawning periods shall be avoided; and
- 30 (12) If facilities located in the coastal area are abandoned, habitat of value equal to or greater than that
31 existing prior to construction shall be restored as soon as practicable following abandonment. For
32 abandoned facilities outside the coastal area, habitat in the areas shall be restored to its
33 preconstruction state and functions as soon as practicable if the abandonment of the structure is
34 likely to have significant adverse impacts on the use of public trust waters, adjacent lands or coastal
35 resources.
- 36

37 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124;*

1 *Eff. March 1, 1979;*
2 *Amended Eff. April 1, 1992;*
3 *Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997;*
4 *Temporary Amendment Eff. July 8, 1999; December 22, 1998;*
5 *Amended Eff. February 1, 2011; August 1, 2000;*
6 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0701 is readopted as published **with changes** in 34:09 NCR 764 as follows:

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

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

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

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

18
19 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-113; 113A-120(a); 113A-124;*
20 *Eff. January 1, 1984;*
21 *Amended Eff. September 1, 1985;*
22 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .0703 is readopted as published with changes in 34:09 NCR 764 as follows:

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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.

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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:

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3 **15A NCAC 07M .0704 POLICY STATEMENTS**

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

6 (1) Enhancement of coastal resources with created or restored systems determined to be potentially
7 more consistent with productive of the resources characteristic of unaltered North Carolina
8 ecosystems described in G.S. 113A-102(a) than those destroyed.

9 (2) Creation or restoration of an area of similar ecological utility and potential biological value based
10 on goals in G.S. 113A-102(b) than that destroyed or altered.

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

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

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

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

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

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

27 (b) Mitigation proposals may be the basis for approval of a development which is otherwise in conflict with general
28 or specific use standards set forth in 15A NCAC 7H 07H .0208 if the proposal meets the criteria established in
29 Paragraph (a) of this Rule. If a development represents no significant loss to coastal resources, If feasible, the
30 mitigation proposal must be on-site, or proximate thereto, thereto, and must be designed to enhance the coastal
31 environment.

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

35 (d) Approved mitigation proposals for all categories of development shall become a part of permit conditions
36 according to G.S. 113A-120(b) and thereby subject to enforcement authority pursuant to G.S. 113A 126. G.S.

1 ~~113A-126~~ and shall be memorialized in a mitigation agreement which will constitute a contract between the applicant
2 and the ~~Division of Coastal Management, CRC,~~

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

5
6 *History Note: Authority G.S. 113A-102(b); 113A-107; 113A-113; 113A-120(a); 113A-124; 113A-126;*
7 *Eff. January 1, 1984;*
8 *Readopted Eff. February 1, 2023.*

1 15A NCAC 07M .1001 is readopted as published **with changes** in 34:09 NCR 764 as follows:

2

3 **SECTION .1000 - POLICIES ON WATER AND WETLAND BASED TARGET AREAS FOR MILITARY**
4 **TRAINING ACTIVITIES**

5

6 **15A NCAC 07M .1001 DECLARATION OF GENERAL POLICY**

7 The use of water and wetland-based target areas for military training purposes may result in adverse impacts on coastal
8 resources and on the exercise of public trust rights. The public interest requires that, to the maximum extent
9 practicable, use of such targets not infringe on public trust rights, cause damage to public trust **and coastal** resources,
10 violate **existing** water quality standards or result in public safety hazards.

11

12 *History Note: Authority G.S. 113A-102(b); 113A-107;*

13

Eff. March 1, 1990;

14

Readopted Eff. January 1, 2023.

1 15A NCAC 07M .1002 is readopted as published **with changes** in 34:09 NCR 764 as follows:

2

3 **15A NCAC 07M .1002 POLICY STATEMENTS**

4 (a) It is the policy of the State of North Carolina that all public trust waters subject to surface water restrictions
5 pursuant to 33 USCS 3 for use in military training shall be opened to commercial fishing at established times
6 **appropriate** for harvest of the fisheries resources **consistent with state and federal regulations** within those areas.

7 (b) Where laser weaponry is used, the area of restricted surface waters shall be at least as large as the recommended
8 laser safety **zone-zone under 33 USCS 3.**

9 (c) Water quality shall be tested periodically in the surface water restricted areas surrounding such targets and results
10 of such testing shall be reported to the ~~Department.~~ **Department of Environmental Quality.**

11

12 *History Note:* Authority G.S. 113A-102(b); 113A-107; **113A-124;**

13 *Eff. March 1, 1990;*

14 *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 - POLICIES ON BENEFICIAL USE AND AVAILABILITY OF MATERIALS**
4 **RESULTING FROM THE EXCAVATION OR MAINTENANCE OF NAVIGATIONAL CHANNELS**

5
6 **15A NCAC 07M .1101 DECLARATION OF GENERAL POLICY**

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

15
16 *History Note: Authority G.S. 113A-107; **113-229;***
17 *Eff. October 1, 1992;*
18 *Readopted Eff. January 1, 2023.*

1 15A NCAC 07M .1102 is readopted as published with changes in 34:09 NCR 765 as follows:

2

3 **15A NCAC 07M .1102 POLICY STATEMENTS**

4 (a) Clean, beach quality material that meets the criteria set forth in Rule 15A NCAC 07H .0312 dredged from
5 navigation channels within the active nearshore, nearshore or ocean beach as defined in 15A NCAC 07H .0305 or
6 inlet hazard area as defined in 15A NCAC 07H .0304(2) shoal systems must shall not be removed permanently from
7 the active nearshore, beach or inlet hazard area shoal system unless the Director of the Division of Coastal
8 Management determines that no practicable alternative exists pursuant to the criteria in G.S. 113A-120(a)(9).
9 Preferably, this dredged material will be disposed of on the ocean beach or shallow active nearshore area where
10 environmentally acceptable and compatible with other uses of the beach.

11 ~~(b) Research on the beneficial use of dredged material, particularly poorly sorted or fine grained materials, and on~~
12 ~~innovative ways to dispose of this material so that it is more readily accessible for beneficial use is encouraged.~~

13 ~~(b)(e) The Division of Coastal Management shall grant proposals for the use of dredged material Material~~ in disposal
14 sites not privately owned shall be available by to anyone proposing placement in or on the active nearshore, ocean
15 beach, or inlet hazard area in a manner a beneficial use not inconsistent with Paragraph (a) of this Rule based on the
16 availability of dredged material, priority of the requests, and consideration of the criteria in G.S. 113A-120(a).

17 ~~(d) Restoration of estuarine waters and public trust areas adversely impacted by existing disposal sites or practices is~~
18 ~~in the public interest and shall be encouraged at every opportunity.~~

19

20 *History Note: Authority G.S. 113A-107; 113A-118(f); 113-229*

21 *Eff. October 1, 1992;*

22 *Readopted Eff. February 1, 2022.*