

Topic:	State Land Use Law; Wetlands & Watercourse Protection
Resource Type:	Regulations
State:	North Carolina
Jurisdiction Type:	State
Municipality:	N/A
Year (adopted, written, etc.):	2004
Community Type – applicable to:	Urban; Suburban; Rural
Title:	State of North Carolina Wetlands Protection Ordinance
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Abstract

Cities and counties have a fairly limited role in wetlands protection. The provisions for North Carolina's Wetlands Restoration Program are found at §§ 143-214.8 to 214.13 within Article 21 of Chapter 143. It is a statewide, non-regulatory program established within and operated by the North Carolina Department of Environment and Natural Resources (DENR) for the purposes of restoring wetlands and replacing critical wetlands functions. § 143-214.8, § 143-214.9. As part of the program, DENR manages a Wetlands Restoration Fund, through which local governments may procure funding to purchase conservation easements for wetlands protection. § 143-241.12. Local governments are required to grant any such easements to DENR, although DENR may then convey the interest back to the local government. § 143-214.12(a1).

Resource

§ 143-214.8. Wetlands Restoration Program: established

The Wetlands Restoration Program is established within the Department of Environment and Natural Resources. The Wetlands Restoration Program shall be developed by the Department as a nonregulatory statewide wetlands restoration program for the acquisition, maintenance, restoration, enhancement, and creation of wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities. The Wetlands Restoration Program shall consist of the following components:

- (1) Restoration and perpetual maintenance of wetlands.
- (2) Development of restoration plans.
- (3) Landowner contact and land acquisition.

- (4) Evaluation of site plans and engineering studies.
- (5) Oversight of construction and monitoring of restoration sites.
- (6) Land ownership and management.
- (7) Mapping, site identification, and assessment of wetlands functions.
- (8) Oversight of private wetland mitigation banks to facilitate the components of the Wetlands Restoration Program.

§ 143-214.9. Wetlands Restoration Program: purposes

The purposes of the program are as follows:

(1) To restore wetlands functions and values across the State to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts. It is not the policy of the State to destroy upland habitats unless it would further the purposes of the Wetlands Restoration Program.

(2) To provide a consistent and simplified approach to address mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344.

(3) To streamline the wetlands permitting process, minimize delays in permit decisions, and decrease the burden of permit applicants of planning and performing compensatory mitigation for wetlands losses.

(4) To increase the ecological effectiveness of compensatory mitigation.

(5) To achieve a net increase in wetland acres, functions, and values in each major river basin.

(6) To foster a comprehensive approach to environmental protection.

§ 143-214.12. Wetlands Restoration Program: Wetlands Restoration Fund

(a) Wetlands Restoration Fund. -- The Wetlands Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance,

enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition.

(a1) The Department may distribute funds from the Wetlands Restoration Fund directly to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. A recipient of funds under this subsection shall grant a conservation easement in the real property or interest in real property acquired with the funds to the Department in a form that is acceptable to the Department. The Department may convey real property or an interest in real property that has been acquired under the Wetlands Restoration Program to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. A grantee of real property or an interest in real property under this subsection shall grant a conservation easement in the real property or interest in real property to the Department in a form that is acceptable to the Department.

(b) Authorized Methods of Payment. -- A person subject to a permit or authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344, may contribute to the Wetlands Restoration Program, to comply with conditions to, or terms of, the permit or authorization, if participation in the Wetlands Restoration Program will meet the mitigation requirements of the United States Army Corps of Engineers. The Department shall, at the discretion of the applicant, accept payment into the Wetlands Restoration Fund in lieu of other compensatory mitigation requirements of any authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the United States Army Corps of Engineers. Payment may be made in the form of monetary contributions according to a fee schedule established by the Environmental Management Commission or in the form of donations of real property provided that the property is approved by the Department as a suitable site consistent with the basinwide wetlands restoration plan.

(c) Accounting of Payments. -- The Department shall provide an itemized statement that accounts for each payment into the Fund. The statement shall include the expenses and activities financed by the payment.