

Appendix A – Mitigation Proposal Evaluation Factors

1. Landowner Rights

R.S. 49:214.41 states: “The owner of the land on which a permitted activity is to occur shall have the option of requiring on-site or off-site compensatory mitigation on his property ... provided that the secretary determines that the proposed mitigation is acceptable and sufficient.” Within **20 days** of the date of this letter, the applicant shall submit to the Office of Coastal Management a written compensatory mitigation proposal which has been coordinated with the affected landowner(s). If an affected landowner wishes to waive his right to compensatory mitigation done on his property, the permitting process may be expedited by the landowner notifying OCM of those wishes in writing as early in the process as possible. The landowner must submit his/her/their intent regarding mitigation options within 30 days of the date of this letter. Please see *Attachment 2, Landowner Mitigation Intent Form*.

2. Prioritized Location Factors

The location of compensatory mitigation shall be selected according to the following prioritized criteria:

1. must have a positive impact on the ecological value of the Louisiana Coastal Zone.
2. Should be on-site if the opportunity exists and would contribute to the wetland health of the hydrologic basin.
3. should be located on the landowner’s property.
4. shall be in the same hydrologic basin as the proposed impact.
5. shall be located in the same habitat type.

3. Interagency Coordination

The Office of Coastal Management considers the recommendations and comments of those state, federal and the affected local program (if the parish has an approved local program) which demonstrated an interest, during permit processing, in participating in the selection of appropriate compensatory mitigation. For this reason prior to executing your mitigation plan you must submit your mitigation proposal for review and approval.

A. Should the landowner require compensatory mitigation and/or the affected parish demonstrates interest, mitigation may be accomplished through one or more of the following prioritized options and the proposed mitigation plan must be submitted within 30 days of landowner notification (Louisiana Administrative Code, Title 43, Chapter 7, Part 1, §724.J):

1. the acquisition of mitigation credits from the affected landowner’s mitigation bank if the landowner has an approved mitigation bank.
2. the use or purchase of advanced mitigation credits if the affected landowner has an approved advanced mitigation project.
3. monetary contribution¹ to the affected landowner or affected parish (with an approved Local Coastal Program) to implement a **pre-approved** compensatory mitigation plan if the impacts are 5 acres or less.
4. implementation of an individual compensatory mitigation proposal on the landowner’s property, see *Attachment 1*.

B. Should the landowner forfeit his/her/their right to “require” compensatory mitigation and the affected Local Coastal Program has not demonstrated interest, mitigation shall be accomplished in one or more of the following prioritized options (Louisiana Administrative Code, Title 43, Chapter 7, Part 1, §724.J):

1. the purchase of mitigation credits from an approved mitigation bank or area² (Louisiana Administrative Code, Title 43, Chapter 7, Part 1, §724.F),
2. the use or purchase of mitigation credits from an approved advanced mitigation area (§724.G),
3. implementation of an individual mitigation measure (§724.H), *see Attachment 1*
4. monetary contribution³ to the Louisiana Wetlands Conservation and Restoration Fund (§724.I) (**NOTE: In accordance with R.S. 214.42.D., the department may accept payment to the Coastal Mitigation Account [in the Louisiana Wetlands Conservation and Restoration Fund] in lieu of compensatory mitigation ONLY when the permittee is unable to provide mitigation through an individual project or through a mitigation bank or area located in the Louisiana Coastal Zone**),
5. other options determined to be appropriate by the secretary.

¹ If you wish to propose a monetary contribution to the affected landowner, parish or the Louisiana Wetlands Conservation and Restoration Fund and you meet the requirements described above, a letter stating such must be submitted to OCM **within 15 days** of the date of this letter (**do not send a monetary contribution until OCM has approved that option**). If the affected landowner or parish does not have a permitted compensatory mitigation plan, you may purchase a letter of credit or a surety bond pursuant to §724. I. 10. a. - d. and §724.I. 11. a. - d., respectively, in the amount specified by OCM, provided that a conceptual mitigation plan submitted by the affected landowner or parish has been approved. The letter of credit or surety bond will be held in abeyance until the final compensatory mitigation obligation is met.

² Generally, it is preferred that the purchase of in-kind mitigation credits be done at a mitigation bank/area located in the same hydrologic basin as the permitted impacts. If there is no mitigation bank/area with the appropriate habitat credits located in that hydrologic basin, then the mitigation bank/area with the appropriate habitat credits located nearest the permitted impacts is preferred. Please contact the Office of Coastal Management for the appropriate mitigation bank/area. **The purchase of credits or the signing of any intent to purchase credits from a mitigation bank/area should not be done until OCM has approved that option.**

³ The monetary contribution option applies if the proposed activity would qualify for authorization under a general permit or if the proposed activity would directly impact 5.0 acres or less. For impacts greater than 5.0 acres but no more than 10.0 acres, the monetary contribution option will be considered on a case per case basis provided that all other options have been eliminated. Pursuant to §724.J.5.f, monetary contributions shall not be considered for activities that would directly impact more than 10.0 acres.