

(3) IN CASES WHERE THE APPLICANT HAS REJECTED ALTERNATIVES TO THE PROJECT AS PROPOSED DUE TO CONSTRAINTS SUCH AS INADEQUATE ZONING, INFRASTRUCTURE, OR PARCEL SIZE, WHETHER THE APPLICANT HAS MADE REASONABLE ATTEMPTS TO REMOVE OR ACCOMMODATE THESE CONSTRAINTS; AND

(4) THE ECONOMIC VALUE OF THE PROPOSED REGULATED ACTIVITY IS ESSENTIAL TO IN MEETING A DEMONSTRATED PUBLIC NEED IN THE AREA AND THE ECOLOGICAL AND ECONOMIC VALUE ASSOCIATED WITH THE NONTIDAL WETLAND.

8-1208.

IN COOPERATION WITH OTHER STATE, LOCAL, AND FEDERAL AGENCIES, THE DEPARTMENT MAY PREPARE COMPREHENSIVE WATERSHED MANAGEMENT PLANS WHICH ADDRESS NONTIDAL WETLAND PROTECTION, CREATION, AND RESTORATION, CUMULATIVE IMPACTS, FLOOD PROTECTION, AND WATER SUPPLY CONCERNS. COMPLETED WATERSHED MANAGEMENT PLANS WILL BE USED AS THE BASIS FOR CONSISTENT PERMITTING DECISIONS AND CREATING AND RESTORING NONTIDAL WETLANDS.

8-1209.

(A) AN APPLICANT SHALL TAKE ALL NECESSARY STEPS TO FIRST AVOID SIGNIFICANT IMPAIRMENT AND THEN MINIMIZE LOSSES OF NONTIDAL WETLANDS. IF THE APPLICANT DEMONSTRATES TO THE DEPARTMENT'S SATISFACTION THAT ALL NECESSARY STEPS WERE TAKEN AND LOSSES OR SIGNIFICANT IMPAIRMENT OF NONTIDAL WETLANDS ARE UNAVOIDABLE, THE DEPARTMENT SHALL REQUIRE THE APPLICANT TO ADOPT MITIGATION PRACTICES.

(B) (1) BY DECEMBER 31, 1989, THE DEPARTMENT SHALL, CONSISTENT WITH THE GOALS ESTABLISHED IN § 8-1202 OF THIS SUBTITLE, ADOPT BY REGULATION STANDARDS AND PROCEDURES FOR MITIGATION OF NONTIDAL WETLANDS LOSSES, INCLUDING PRACTICES FOR NONTIDAL WETLAND CREATION, RESTORATION, ENHANCEMENT, OR MONETARY COMPENSATION.

(2) THE DEPARTMENT MAY ACCEPT MONETARY COMPENSATION ONLY IF IT IS DETERMINED THAT CREATION, RESTORATION, OR ENHANCEMENT OF NONTIDAL WETLANDS ARE NOT FEASIBLE ALTERNATIVES. MONETARY COMPENSATION MAY NOT BE A SUBSTITUTE FOR THE REQUIREMENT TO AVOID AND MINIMIZE NONTIDAL WETLAND LOSSES.

(C) (1) THERE IS A NONTIDAL WETLAND COMPENSATION FUND IN THE DEPARTMENT.

(2) THE FOLLOWING MONEY SHALL BE DEPOSITED IN THE FUND:

(I) ANY MONETARY COMPENSATION PAID BY AN APPLICANT INSTEAD OF ENGAGING IN THE CREATION, RESTORATION, OR ENHANCEMENT OF A NONTIDAL WETLAND; AND