

<b><i>NATIONAL MARINE FISHERIES SERVICE POLICY 03-301</i></b> Effective on: insert effective date	
To be reviewed on: April 19, 2028	
Habitat Conservation	
NMFS Policy on Mitigating of Impacts to Trust Resources	
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<b>Type of Issuance:</b> Initial	

## I. Introduction

As outlined in NOAA Administrative Order 216-123<sup>1</sup> (“NOAA Mitigation Policy”), mitigation is an important component of accomplishing NOAA’s mission. The definition of mitigation used in this Policy is derived from the Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) regulations (40 CFR 1508.1(s)). The Policy does not expand or supersede NOAA’s authorities or mission. NOAA will conduct all mitigation activities in accordance with our existing authorities, using existing processes as much as possible.

This NMFS Policy Directive adds the NOAA Mitigation Policy into the Policy Directives System to better organize subsequent NMFS’ habitat conversation policy and improve public access. When appropriate, the attached NOAA Mitigation Policy should be cited when referencing this policy.

## II. Objective

The goal of this Policy is consistent, effective, and transparent mitigation that helps to achieve the purposes and objectives of NOAA’s authorities and programs.

This Policy provides a framework for avoiding, minimizing, and compensating for impacts to species and habitats through application of the mitigation sequence; allows for flexibility appropriate to project- and resource-specific circumstances; promotes innovation and incorporates lessons learned from mitigation project successes and failures; and promotes communication and cooperation among Federal, state, and local agencies, tribal governments, project proponents, and other stakeholders.

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<sup>1</sup> NOAA Mitigation Policy for Trust Resources (NOAA Administrative Order 216-123, <https://www.noaa.gov/organization/administration/noaa-administrative-orders-chapter-216-program-management/nao-216-123-noaa-mitigation-policy-for-trust-resources>)

### III. Authorities and Responsibilities

NOAA has authorities relevant to the conservation of a broad range of fish and wildlife resources. These authorities are codified under multiple statutes that address management and conservation of natural resources, including the effects of land, water, and energy development on fish, wildlife, plants, and their habitats. Listed in section 5 of the attached NOAA Mitigation Policy for Trust Resources are the statutes that provide NOAA, directly or indirectly through delegation from the Secretary of Commerce, specific authority for conservation of these resources and give NOAA a role in recommending, requiring, or carrying out mitigation when conducted pursuant to those authorities.

The NOAA Mitigation Policy for Trust Resources outlines the principles NOAA will use to guide decisions about mitigation as we implement our programs and assist public agencies, tribes, and project proponents to avoid, minimize, and compensate for adverse impacts to resources under NOAA management or jurisdiction.

The Policy includes eight principles:

1. Apply the mitigation sequence appropriately
2. Employ the best scientific information available
3. Apply a holistic landscape and/or seascape approach
4. Promote mitigation strategies with high probability of success
5. Consider climate change and climate resilience when evaluating and developing mitigation measures
6. Implement compensatory mitigation that is proportional to impacts to NOAA trust resources and offsets those impacts to the full extent provided by NOAA authorities
7. Use preservation of intact habitat as compensation appropriately, taking into account the high risk of habitat loss in many coastal and marine landscapes and seascapes
8. Collaborate with partner agencies and stakeholders


### IV. Measuring Effectiveness

This policy will be reviewed in accordance with the NMFS Policy Directives System procedures.

### V. References

NOAA Mitigation Policy for Trust Resources (NOAA Administrative Order 216-123, <https://www.noaa.gov/organization/administration/noaa-administrative-orders-chapter-216-program-management/nao-216-123-noaa-mitigation-policy-for-trust-resources>)

Procedural directives will be issued to implement this policy, as needed.

Signed  \_\_\_\_\_  
Name Date  
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