

1 15A NCAC 07H .0304 is proposed for amendment as follows:

2
3 **15A NCAC 07H .0304 AECs WITHIN OCEAN HAZARD AREAS**

4 The ocean hazard AECs contain all of the following areas:

- 5 (1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion
6 and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water
7 line. The landward extent of this area is the distance landward from the ~~first line of stable and natural~~
8 vegetation line as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by
9 multiplying the long-term annual erosion rate times 90; provided that, where there has been no
10 long-term erosion or the rate is less than two feet per year, this distance shall be set at 180 feet
11 landward from the ~~first line of stable and natural vegetation.~~ vegetation line. For the purposes of this
12 Rule, the erosion rates are the long-term average based on available historical data. The current
13 long-term average erosion rate data for each segment of the North Carolina coast is depicted on
14 maps entitled "North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual
15 Erosion Rate Update Study" and approved by the Coastal Resources Commission on February 28,
16 2019 (except as such rates may be varied in individual contested cases or in declaratory or
17 interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion
18 per year. The maps are available without cost from any Local Permit Officer or the Division of
19 Coastal Management on the internet at <http://www.nccoastalmanagement.net>.
- 20 (2) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to
21 erosion, flooding, and other adverse effects of sand, wind, and water because of their proximity to
22 dynamic ocean inlets. This area extends landward from the mean low water line a distance
23 encompassing that area within which the inlet migrates, based on statistical analysis, and shall
24 consider such factors as previous inlet territory, structurally weak areas near the inlet, and external
25 influences such as jetties, terminal groins, and channelization. The areas on the maps identified as
26 Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and
27 Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J.
28 Priddy and Rick Carraway are incorporated by reference and are hereby designated as Inlet Hazard
29 Areas, except for:
- 30 (a) the location of a former inlet which has been closed for at least 15 years;
- 31 (b) inlets that due to shoreline migration, no longer include the current location of the inlet;
- 32 and
- 33 (c) inlets providing access to a State Port via a channel maintained by the United States Army
34 Corps of Engineers.

35 In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in
36 no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible
37 area. This report is available for inspection at the Department of Environmental Quality, Division

1 of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina or at the website
2 referenced in Item (1) of this Rule.

3 (3) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable and natural
4 vegetation is present may be designated as Unvegetated Beach Areas on either a permanent or
5 temporary basis as follows:

6 (a) An area appropriate for permanent designation as an Unvegetated Beach Area is a dynamic
7 area that is subject to rapid unpredictable landform change due to wind and wave action.
8 The areas in this category shall be designated following studies by the Division of Coastal
9 Management. These areas shall be designated on maps approved by the Coastal Resources
10 Commission and available without cost from any Local Permit Officer or the Division of
11 Coastal Management on the internet at the website referenced in Item (1) of this Rule.

12 (b) An area that is unvegetated as a result of a hurricane or other major storm event may be
13 designated by the Coastal Resources Commission as an Unvegetated Beach Area for a
14 specific period of time, or until the vegetation has re-established in accordance with 15A
15 NCAC 07H .0305(a)(5). At the expiration of the time specified or the re-establishment of
16 the vegetation, the area shall return to its pre-storm designation.

17 (c) The Commission designates as temporary unvegetated beach areas those oceanfront areas
18 of:

19 (i) Surf City and North Topsail Beach in which the vegetation line as shown on the
20 United States National Oceanic and Atmospheric Administration imagery dated
21 September 17, 2018 was destroyed as a result of Hurricane Florence in September
22 2018; and

23 (ii) Oak Island in which the vegetation line as shown on the United States National
24 Oceanic and Atmospheric Administration and Geological Survey imagery dated
25 August 4, 2020 was destroyed as a result of Hurricane Isaias in August 2020.

26 The designation AEC boundaries can be found on the Division's website at
27 https://files.nc.gov/ncdeq/Coastal%20Management/GIS/unvegetated_beach_aec.pdf and
28 [https://files.nc.gov/ncdeq/Coastal%20Management/GIS/unveg_beachAEC_Oak_Island.zi](https://files.nc.gov/ncdeq/Coastal%20Management/GIS/unveg_beachAEC_Oak_Island.zip)
29 p. This designation shall continue until such time as the stable and natural vegetation has
30 reestablished, or until the area is permanently designated as an unvegetated beach area
31 pursuant to Sub-Item (3)(a) of this Rule.

32 (4) State Ports Inlet Management Area. These are areas adjacent to and within Beaufort Inlet and the
33 mouth of the Cape Fear River, providing access to a State Port via a channel maintained by the
34 United States Army Corps of Engineers. These areas are unique due to the influence of federally-
35 maintained channels, and the critical nature of maintaining shipping access to North Carolina's State
36 Ports. These areas may require specific management strategies not warranted at other inlets to
37 address erosion and shoreline stabilization. State Ports Inlet Management Areas shall extend from

1 the mean low water line landward as designated on maps approved by the Coastal Resources
2 Commission and available without cost from the Division of Coastal Management, and on the
3 internet at the website at
4 https://files.nc.gov/ncdeq/Coastal%20Management/GIS/state_port_aec.pdf.

5
6 *History Note: Authority G.S. 113A-107; 113A-107.1; 113A-113; 113A-124;*
7 *Eff. September 9, 1977;*
8 *Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;*
9 *Temporary Amendment Eff. October 10, 1996;*
10 *Amended Eff. April 1, 1997;*
11 *Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*
12 *Temporary Amendment Eff. October 22, 1997;*
13 *Amended Eff. April 1, 2020; July 1, 2016; September 1, 2015; May 1, 2014; February 1, 2013;*
14 *January 1, 2010; February 1, 2006; October 1, 2004; April 1, 2004; August 1, 1998;*
15 *Readopted Eff. December 1, 2020;*
16 *Amended Eff. July 1, 2022; September 1, 2021.*

1 15A NCAC 07H .0305 is proposed for amendment as follows:

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3 **15A NCAC 07H .0305 ~~GENERAL IDENTIFICATION~~ DEFINITION AND DESCRIPTION OF**
4 **LANDFORMS**

5 (a) This Paragraph describes natural and man-made features that are found within the ocean hazard area of
6 environmental concern.

7 (1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend
8 from the mean low water line landward to a point where either:

9 (A) the growth of vegetation occurs; or

10 (B) a distinct change in slope or elevation alters the configuration of the landform, whichever
11 is farther landward.

12 (2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized
13 by dynamic changes both in space and time as a result of storms.

14 (3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches
15 having an elevation equal to the mean flood level (in a storm having a one percent chance of being
16 equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to
17 the lowest elevation in the depression behind that same mound of sand commonly referred to as the
18 "dune trough".

19 (4) Frontal Dunes. The frontal dune is the first mound of sand located landward of ocean beaches that
20 has stable and natural vegetation present.

21 (5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which
22 shall be used as the reference point for measuring oceanfront setbacks. This line represents the
23 boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides,
24 storms and wind, and the more stable upland areas. The vegetation line is generally located at or
25 immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division
26 of Coastal Management or Local Permit Officer shall determine the location of the stable and natural
27 vegetation line based on visual observations of plant composition and density. If the vegetation has
28 been planted, it may be considered stable when the majority of the plant stems are from continuous
29 rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural
30 when the majority of the plants are mature and additional species native to the region have been
31 recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally
32 occurring. In areas where there is no stable and natural vegetation present, this line may be
33 established by interpolation between the nearest adjacent stable natural vegetation by on-ground
34 observations or by aerial photographic interpretation.

35 (6) ~~Stable~~ Pre-project Vegetation Line. In areas within the boundaries of a large-scale beach fill project,
36 the vegetation line that existed within one year prior to the onset of project construction shall be
37 defined as the ~~"stable"~~ "pre-project" vegetation line". The "onset of project construction" shall be

1 defined as the date sediment placement begins, with the exception of projects completed prior to the
2 original effective date of this Rule, in which case the award of the contract date will be considered
3 the onset of construction. A ~~static~~ pre-project vegetation line shall be established in coordination
4 with the Division of Coastal Management using on-ground observation and survey or aerial imagery
5 for all areas of oceanfront that undergo a large-scale beach fill project. Once a ~~static~~ pre-project
6 vegetation line is established, and after the onset of project construction, this line shall be used as
7 the reference point for measuring oceanfront setbacks in all locations where it is landward of the
8 vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the
9 ~~static~~ pre-project vegetation line, the vegetation line shall be used as the reference point for
10 measuring oceanfront setbacks. A ~~static~~ pre-project vegetation line shall not be established where a
11 ~~static~~ pre-project vegetation line is already in place, including those established by the Division of
12 Coastal Management prior to the effective date of this Rule. A record of all ~~static~~ pre-project
13 vegetation lines, including those established by the Division of Coastal Management prior to the
14 effective date of this Rule, shall be maintained by the Division of Coastal Management for
15 determining development standards as set forth in Rule .0306 of this Section. Because the impact of
16 Hurricane Floyd in September 1999 caused significant portions of the vegetation line in the Town
17 of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position,
18 the ~~static~~ pre-project line for areas landward of the beach fill construction in the Town of Oak Island
19 and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the
20 general trend of the vegetation line established by the Division of Coastal Management from June
21 1998 aerial orthophotography.

- 22 (7) Beach Fill. Beach fill refers to the placement of sediment along the oceanfront shoreline. Sediment
23 used solely to establish or strengthen dunes shall not be considered a beach fill project under this
24 Rule. A "large-scale beach fill project" shall be defined as any volume of sediment greater than
25 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of
26 Engineers.
- 27 (8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm
28 tide erosion.
- 29 (9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of
30 this Section is measured in the unvegetated beach area of environmental concern as described in
31 Rule .0304(3) of this Section. In areas designated pursuant to Rule .0304(3)(b) of this Section, the
32 Division of Coastal Management shall establish a measurement line by:
- 33 (A) determining the average distance the pre-storm vegetation line receded at the closest
34 vegetated site adjacent to the area designated by the Commission as the unvegetated beach
35 AEC; and
- 36 (B) mapping a line equal to the average recession determination in Part (A) of this
37 Subparagraph, measured in a landward direction from the first line of stable and natural

1 vegetation line on the most recent pre-storm aerial photography in the area designated as
2 an unvegetated beach AEC.

3 ~~(10) — Development Line. The line established in accordance with 15A NCAC 07J .1300 by local
4 governments representing the seaward most allowable location of oceanfront development. In areas
5 that have development lines approved by the CRC, the vegetation line or measurement line shall be
6 used as the reference point for measuring oceanfront setbacks instead of the static vegetation line,
7 subject to the provisions of Rule .0306(a)(2) of this Section.~~

8 ~~(b) For the purpose of public and administrative notice and convenience, each designated minor development permit
9 letting agency with ocean hazard areas may designate, subject to CRC approval in accordance with the local
10 implementation and enforcement plan as defined in 15A NCAC 07I .0500, an identifiable land area within which the
11 ocean hazard areas occur. This designated notice area shall include all of the land areas defined in Rule .0304 of this
12 Section. Natural or man made landmarks may be considered in delineating this area.~~

13
14 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
15 *Eff. September 9, 1977;*
16 *Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;*
17 *Temporary Amendment Eff. October 10, 1996;*
18 *Amended Eff. January 1, 1997;*
19 *Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*
20 *Temporary Amendment Eff. October 22, 1997;*
21 *Amended Eff. April 1, 2020; April 1, 2016; April 1, 2008; August 1, 2002; August 1, 1998;*
22 *Readopted Eff. December 1, 2020;*
23 *Amended Eff. July 1, 2022.*

1 15A NCAC 07H .0306 is proposed for amendment as follows:

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3 **15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS**

4 (a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or
5 elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is
6 applicable:

7 (1) The ocean hazard setback for development shall be measured in a landward direction from the
8 vegetation line, the ~~static~~ pre-project vegetation line, or the measurement line, whichever is
9 applicable.

10 ~~(2) In areas with a development line, the ocean hazard setback shall be set in accordance with~~
11 ~~Subparagraphs (a)(3) through (9) of this Rule. With the exception of those types of development~~
12 ~~defined in 15A NCAC 07J .1301(d), in no case shall new development be sited seaward of the~~
13 ~~development line. In areas with a Static Line Exception approved in accordance with 15A NCAC~~
14 ~~07J .1200 and a Development Line approved in accordance with 15A NCAC 07J .1300, the~~
15 ~~petitioner shall notify the Division of Coastal Management which one of the two approaches will~~
16 ~~be utilized and applied to the entire large scale project area as defined in 15A NCAC 07H~~
17 ~~.0305(a)(7).~~

18 ~~(3) In no case shall a development line be created or established on State owned lands or oceanward of~~
19 ~~the mean high water line or perpetual property easement line, whichever is more restrictive.~~

20 ~~(4)~~(2) The ocean hazard setback shall be determined by both the size of development and the shoreline
21 long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by
22 total floor area for structures and buildings or total area of footprint for development other than
23 structures and buildings. Total floor area includes the following:

- 24 (A) The total square footage of heated or air-conditioned living space;
25 (B) The total square footage of parking elevated above ground level; and
26 (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground
27 level, excluding attic space that is not designed to be load-bearing.

28 Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they
29 are enclosed with material other than screen mesh or are being converted into an enclosed space
30 with material other than screen mesh.

31 ~~(5)~~(3) With the exception of those types of development defined in ~~15A NCAC 07H .0309~~, 15A NCAC
32 07H .0309(a), no development, including any portion of a building or structure, shall extend
33 oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural
34 components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings
35 or footings. The ocean hazard setback shall be established based on the following criteria:

- 36 (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60
37 feet or 30 times the shoreline erosion rate, whichever is greater;

- 1 (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000
2 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate,
3 whichever is greater;
- 4 (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000
5 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate,
6 whichever is greater;
- 7 (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000
8 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate,
9 whichever is greater;
- 10 (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000
11 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate,
12 whichever is greater;
- 13 (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000
14 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate,
15 whichever is greater;
- 16 (G) A building or other structure greater than or equal to 80,000 square feet but less than
17 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline
18 erosion rate, whichever is greater;
- 19 (H) A building or other structure greater than or equal to 100,000 square feet requires a
20 minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
- 21 (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as
22 boardwalks and sidewalks, and utilities providing for the transmission of electricity, water,
23 telephone, cable television, data, storm water, and sewer requires a minimum setback of
24 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- 25 (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60
26 times the shoreline erosion rate, whichever is greater;
- 27 (K) Notwithstanding any other setback requirement of this Subparagraph, construction of a
28 new building or other structure greater than or equal to 5,000 square feet in a community
29 with a an unexpired static line exception or Beach Management Plan approved by the
30 Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120
31 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever
32 is greater. The setback shall be measured landward from either ~~the static vegetation line,~~
33 ~~the vegetation line,~~ line or measurement line, whichever is farthest landward; and
- 34 (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of
35 ~~single family or duplex residential structures with a total floor area greater than 5,000~~
36 ~~square feet, and commercial and multi family residential structures~~ a structure with a total

1 floor area no greater than 10,000 square ~~feet~~, feet shall be allowed provided that the
2 structure meets the following criteria:

- 3 (i) the structure ~~is in a community with an unexpired static line exception, Beach~~
4 Management Plan approved by the Commission, or was originally constructed
5 prior to August 11, 2009;
- 6 (ii) the structure as replaced does not exceed the original footprint or square footage;
- 7 (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean
8 hazard setback criteria required under Subparagraph (a)(5) of this Rule;
- 9 (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A)
10 of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate,
11 whichever is greater; and
- 12 (v) the structure is rebuilt as far landward on the lot as feasible.

13 ~~(6)~~(4) If a primary dune exists in the ~~AEC~~ AEC, on or landward of the lot where the development is
14 proposed, the development shall be landward of the applicable ocean hazard setback and the crest
15 of the primary ~~dune, the ocean hazard setback, or development line, whichever is farthest from~~
16 ~~vegetation line, static vegetation line, or measurement line, whichever is applicable.~~ dune. For
17 existing ~~lots, however,~~ lots where setting the development landward of the crest of the primary dune
18 would preclude any practical use of the lot, development may be located oceanward of the primary
19 dune. In such cases, the development may be located landward of the ocean hazard setback, ~~but~~ and
20 and shall not be located on or oceanward of a frontal ~~dune or the development line.~~ The words dune.
21 For the purposes of this Rule, "existing lots" in this Rule shall mean a lot or tract of land that, as of
22 June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the
23 lot or tract of land with a contiguous lot or tract of land under the same ownership.

24 ~~(7)~~(5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where
25 the development is proposed, the development shall be set landward of the frontal ~~dune,~~ dune or
26 ocean hazard setback, ~~or development line,~~ whichever is farthest from the vegetation line, ~~static pre-~~
27 project vegetation line, or measurement line, whichever is applicable.

28 ~~(8)~~ ~~If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development~~
29 ~~is proposed, the structure shall be landward of the ocean hazard setback or development line,~~
30 ~~whichever is more restrictive.~~

31 ~~(9)~~(6) Structural additions or increases in the footprint or total floor area of a building or structure represent
32 expansions to the total floor area and shall meet the setback requirements established in this Rule
33 and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be
34 ~~cosmetically, but shall not be structurally,~~ cosmetically but not be structurally attached to an existing
35 structure that does not conform with current setback requirements.

36 ~~(10)~~(7) Established common law and statutory public rights of access to and use of public trust lands and
37 waters in ocean hazard areas shall not be eliminated or ~~restricted.~~ restricted, nor shall such

1 development increase the risk of damage to public trust areas. Development shall not encroach upon
2 public accessways, nor shall it limit the intended use of the accessways.

3 ~~(11)~~(8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC
4 07H .0305 shall be measured landward from the ~~static pre-project~~ vegetation line as defined in this
5 Section, unless ~~a development line~~ an unexpired static line exception or Beach Management Plan
6 approved by the Commission has been approved for the local jurisdiction by the Coastal Resources
7 Commission in accordance with ~~15A NCAC 07J .1300.~~ 15A NCAC 07J .1200.

8 ~~(12)~~(9) ~~In order to allow for development landward of the large scale beach fill project that cannot meet the~~
9 ~~setback requirements from the static vegetation line, but can or has the potential to meet the setback~~
10 ~~requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a~~ Δ
11 local government, group of local governments involved in a regional beach fill project, or qualified
12 "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations
13 of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at
14 least one mile of ocean shoreline, may petition the Coastal Resources Commission for a ~~"static line~~
15 ~~exception" in accordance with 15A NCAC 07J .1200. The static line exception shall apply to~~
16 ~~development of property that lies both within the jurisdictional boundary of the petitioner and the~~
17 ~~boundaries of the large scale beach fill project. This static line exception shall also allow~~
18 ~~development greater than 5,000 square feet to use the setback provisions defined in Part (a)(5)(K)~~
19 ~~of this Rule in areas that lie within the jurisdictional boundary of the petitioner, and the boundaries~~
20 ~~of the large scale beach fill project. approval of a "Beach Management Plan" in accordance with~~
21 15A NCAC 07J .1200. If the request for a Beach Management Plan is approved, the Coastal
22 Resources Commission shall allow development setbacks to be measured from a vegetation line that
23 is oceanward of the ~~static pre-project~~ vegetation line under the following conditions:

- 24 (A) Development meets all setback requirements from the vegetation line defined in
25 Subparagraphs (a)(1) and ~~(a)(5)~~ (a)(3) of this Rule;
- 26 (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the
27 time of permit issuance;
- 28 (C) No portion of a building or structure, including roof overhangs and elevated portions that
29 are cantilevered, knee braced, or otherwise extended beyond the support of pilings or
30 footings, extends oceanward of the landward-most adjacent habitable building or structure.
31 The alignment shall be measured from the most oceanward point of the adjacent building
32 or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one
33 that shares a boundary line with the site of the proposed development. When no adjacent
34 buildings or structures exist, or the configuration of a ~~lot~~ lot, street, or shoreline precludes
35 the placement of a building or structure in line with the landward-most adjacent building
36 or structure, an average line of construction shall be determined by the ~~Division of Coastal~~
37 Management on a case by case basis in order to determine an ocean hazard setback that is

1 ~~landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate~~
2 ~~or 60 feet, whichever is greater; Director of the Division of Coastal Management based on~~
3 ~~an approximation of the average seaward-most positions of the rooflines of adjacent~~
4 ~~structures along the same shoreline, extending 500 feet in either direction. If no structures~~
5 ~~exist within this distance, the proposed structure must meet the applicable setback from the~~
6 ~~Vegetation Line but will not be held to the landward-most adjacent structure or an average~~
7 ~~line of structures.~~

8 (D) With the exception of swimming pools, the ~~development~~ exceptions defined in Rule
9 .0309(a) of this Section shall be allowed oceanward of the ~~static vegetation line; and pre-~~
10 ~~project vegetation line.~~

11 (E) ~~Development shall not be eligible for the exception defined in Rule .0309(b) of this~~
12 ~~Section.~~

13 ~~(b) No development shall be permitted that involves the removal or relocation of primary or frontal dune sand or~~
14 ~~vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area~~
15 ~~shall not be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these~~
16 ~~other dunes shall be allowed only to the extent permitted by 15A NCAC 07H .0308(b).~~

17 ~~(e)(b)~~ Development shall not cause irreversible damage to historic architectural or archaeological resources as
18 documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or
19 the National Historical Registry.

20 ~~(d) Development shall comply with minimum lot size and set back requirements established by local regulations.~~

21 ~~(e)(c)~~ Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks
22 existing as of June 1, 1979.

23 ~~(f) Development shall comply with the general management objective for ocean hazard areas set forth in 15A NCAC~~
24 ~~07H .0303.~~

25 ~~(g) Development shall not interfere with legal access to, or use of, public resources, nor shall such development~~
26 ~~increase the risk of damage to public trust areas.~~

27 ~~(h)(d)~~ Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These
28 measures shall be implemented at the applicant's expense and may include actions that:

- 29 (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
30 (2) restore the affected environment; or
31 (3) compensate for the adverse impacts by replacing or providing substitute resources.

32 ~~(i)(c)~~ Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written
33 acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks
34 associated with development in this hazardous area and the limited suitability of this area for permanent structures.
35 The acknowledgment shall state that the Coastal Resources Commission does not guarantee the safety of the
36 development and assumes no liability for future damage to the development.

1 ~~(f)~~ All The relocation or elevation of structures shall require permit approval. ~~Structures relocated with public funds~~
2 ~~shall comply with the applicable setback line and other applicable AEC rules. Structures, including septic tanks and~~
3 ~~other essential accessories, relocated entirely with non-public funds shall be relocated the maximum feasible distance~~
4 ~~landward of the present location. Septic tanks shall not be located oceanward of the primary structure. All relocation~~
5 ~~of structures shall meet all other applicable local and state rules.~~

6 (1) Structures relocated landward with public funds shall comply with the applicable ocean hazard
7 setbacks and other applicable AEC rules.

8 (2) Structures relocated landward entirely with non-public funds that do not meet current applicable
9 ocean hazard setbacks may be relocated the maximum feasible distance landward of its present
10 location. Septic tanks shall not be relocated oceanward of the primary structure.

11 (3) Existing structures shall not be elevated if any portion of the structure is located seaward of the
12 vegetation line.

13 ~~(g)~~ Permits shall include the condition that any structure shall be relocated or dismantled when it becomes
14 imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such
15 structure shall be relocated or dismantled within ~~two~~ eight years of the time when it becomes imminently threatened,
16 and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within
17 ~~two~~ eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently
18 threatened, then it need not be relocated or ~~dismantled at that time.~~ dismantled. This permit condition shall not affect
19 the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H
20 .0308(a)(2).

21
22 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
23 *Eff. September 9, 1977;*
24 *Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985;*
25 *RRC Objection due to ambiguity Eff. January 24, 1992;*
26 *Amended Eff. March 1, 1992;*
27 *RRC Objection due to ambiguity Eff. May 21, 1992;*
28 *Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;*
29 *RRC Objection due to ambiguity Eff. May 18, 1995;*
30 *Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;*
31 *Temporary Amendment Eff. January 3, 2013;*
32 *Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;*
33 *Readopted Eff. December 1, 2020;*
34 *Amended Eff. July 1, 2022; December 1, 2021.*

1 15A NCAC 07H .0308 is proposed for amendment as follows:
2

3 **15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS**

4 (a) Ocean Shoreline Erosion Control Activities:

5 (1) Use Standards Applicable to all Erosion Control Activities:

6 (A) All oceanfront erosion response activities shall be consistent with the general policy
7 statements in 15A NCAC 07M .0200.

8 (B) Permanent erosion control structures may cause significant adverse impacts on the value
9 and enjoyment of adjacent properties or public access to and use of the ocean beach, and,
10 therefore, unless specifically authorized under the Coastal Area Management Act, are
11 prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and
12 breakwaters.

13 (C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront
14 properties without regard to the size of the structure on the property or the date of its
15 construction.

16 (D) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that
17 sustain substantial habitat for fish and wildlife species, as identified by natural resource
18 agencies during project review, unless mitigation measures are incorporated into project
19 design, as set forth in Rule .0306(h) of this Section.

20 (E) Project construction shall be timed to minimize adverse effects on biological activity.

21 (F) Prior to completing any erosion response project, all exposed remnants of or debris from
22 failed erosion control structures must be removed by the permittee.

23 (G) Permanent erosion control structures that would otherwise be prohibited by these standards
24 may be permitted on finding by the Division that:

25 (i) the erosion control structure is necessary to protect a bridge that provides the only
26 existing road access on a barrier island, that is vital to public safety, and is
27 imminently threatened by erosion as defined in Part (a)(2)(B) of this Rule;

28 (ii) the erosion response measures of relocation, beach nourishment or temporary
29 stabilization are not adequate to protect public health and safety; and

30 (iii) the proposed erosion control structure will have no adverse impacts on adjacent
31 properties in private ownership or on public use of the beach.

32 (H) Structures that would otherwise be prohibited by these standards may also be permitted on
33 finding by the Division that:

34 (i) the structure is necessary to protect a state or federally registered historic site that
35 is imminently threatened by shoreline erosion as defined in Part (a)(2)(B) of this
36 Rule;

- 1 (ii) the erosion response measures of relocation, beach nourishment or temporary
2 stabilization are not adequate and practicable to protect the site;
- 3 (iii) the structure is limited in extent and scope to that necessary to protect the site; and
4 (iv) a permit for a structure under this Part may be issued only to a sponsoring public
5 agency for projects where the public benefits outweigh the significant adverse
6 impacts. Additionally, the permit shall include conditions providing for mitigation
7 or minimization by that agency of significant adverse impacts on adjoining
8 properties and on public access to and use of the beach.
- 9 (I) Structures that would otherwise be prohibited by these standards may also be permitted on
10 finding by the Division that:
- 11 (i) the structure is necessary to maintain an existing commercial navigation channel
12 of regional significance within federally authorized limits;
- 13 (ii) dredging alone is not practicable to maintain safe access to the affected channel;
14 (iii) the structure is limited in extent and scope to that necessary to maintain the
15 channel;
- 16 (iv) the structure shall not have significant adverse impacts on fisheries or other public
17 trust resources; and
- 18 (v) a permit for a structure under this Part may be issued only to a sponsoring public
19 agency for projects where the public benefits outweigh the significant adverse
20 impacts. Additionally, the permit shall include conditions providing for mitigation
21 or minimization by that agency of any significant adverse impacts on adjoining
22 properties and on public access to and use of the beach.
- 23 (J) The Commission may renew a permit for an erosion control structure issued pursuant to a
24 variance granted by the Commission prior to 1 July 1995. The Commission may authorize
25 the replacement of a permanent erosion control structure that was permitted by the
26 Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the
27 Commission finds that:
- 28 (i) the structure will not be enlarged beyond the dimensions set out in the permit;
29 (ii) there is no practical alternative to replacing the structure that will provide the same
30 or similar benefits; and
- 31 (iii) the replacement structure will comply with all applicable laws and with all rules,
32 other than the rule or rules with respect to which the Commission granted the
33 variance, that are in effect at the time the structure is replaced.
- 34 (K) Proposed erosion response measures using innovative technology or design shall be
35 considered as experimental and shall be evaluated on a case-by-case basis to determine
36 consistency with 15A NCAC 07M .0200 and general and specific use standards within this
37 Section.

1 (2) Temporary Erosion Control Structures:

2 (A) Permittable temporary erosion control structures shall be limited to sandbags placed
3 landward of mean high water and parallel to the shore.

4 (B) Temporary erosion control structures as defined in Part (A) of this Subparagraph may be
5 used to protect only imminently threatened roads and associated right of ways, and
6 buildings and their associated septic systems. A structure is considered imminently
7 threatened if its foundation, septic system, or right-of-way in the case of roads, is less than
8 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from
9 the erosion scarp or in areas where there is no obvious erosion scarp may also be found to
10 be imminently threatened when site conditions, such as a flat beach profile or accelerated
11 erosion, increase the risk of imminent damage to the structure.

12 (C) Temporary erosion control structures shall be used to protect only the principal structure
13 and its associated septic system, but not appurtenances such as pools, gazebos, decks or
14 any amenity that is allowed under Rule .0309 of this Section as an exception to the erosion
15 setback requirement.

16 (D) Temporary erosion control structures may be placed waterward of a septic system when
17 there is no alternative to relocate it on the same or adjoining lot so that it is landward of or
18 in line with the structure being protected.

19 (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of
20 the structure to be protected except to align with temporary erosion control structures on
21 adjacent properties, where the Division has determined that gaps between adjacent erosion
22 control structures may result in an increased risk of damage to the structure to be protected.
23 The landward side of such temporary erosion control structures shall not be located more
24 than 20 feet waterward of the structure to be protected, or the right-of-way in the case of
25 roads. If a building or road is found to be imminently threatened and at an increased risk
26 of imminent damage due to site conditions such as a flat beach profile or accelerated
27 erosion, temporary erosion control structures may be located more than 20 feet waterward
28 of the structure being protected. In cases of increased risk of imminent damage, the location
29 of the temporary erosion control structures shall be determined by the Director of the
30 Division of Coastal Management or the Director's designee in accordance with Part (A) of
31 this Subparagraph.

32 (F) Temporary erosion control structures may remain in place for up to eight years for a
33 building and its associated septic system, a bridge or a road. The property owner shall be
34 responsible for removal of any portion of the temporary erosion control structure exposed
35 above grade within 30 days of the end of the allowable time period.

36 (G) An imminently threatened structure or property may be protected only once, regardless of
37 ownership, unless the threatened structure or property is located in a community that is

1 actively pursuing a beach nourishment project, or an inlet relocation or stabilization project
2 in accordance with Part (H) of this Subparagraph. Existing temporary erosion control
3 structures may be permitted for additional eight-year periods provided that the structure or
4 property being protected is still imminently threatened, the temporary erosion control
5 structure is in compliance with requirements of this Subchapter, and the community in
6 which it is located is actively pursuing a beach nourishment or an inlet relocation or
7 stabilization project in accordance with Part (H) of this Subparagraph. In the case of a
8 building, a temporary erosion control structure may be extended, or new segments
9 constructed, if additional areas of the building become imminently threatened. Where
10 temporary structures are installed or extended incrementally, the time period for removal
11 under Part (F) or (H) of this Subparagraph shall begin at the time the initial erosion control
12 structure was installed. For the purpose of this Rule:

- 13 (i) a building and its septic system shall be considered separate structures,
- 14 (ii) a road or highway may be incrementally protected as sections become imminently
15 threatened. The time period for removal of each contiguous section of temporary
16 erosion control structure shall begin at the time that the initial section was
17 installed, in accordance with Part (F) of this Subparagraph.

18 (H) For purposes of this Rule, a community is considered to be actively pursuing a beach
19 nourishment or an inlet relocation or stabilization project in accordance with G.S. 113A-
20 115.1 if it:

- 21 (i) has been issued an active CAMA permit, where necessary, approving such
22 project; or
- 23 (ii) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment
24 Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage
25 Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of
26 Engineers and a commitment of local or federal money, when necessary; or
- 27 (iii) has received a favorable economic evaluation report on a federal project; or
- 28 (iv) is in the planning stages of a project designed by the U.S. Army Corps of
29 Engineers or persons meeting applicable State occupational licensing
30 requirements and initiated by a local government or community with a
31 commitment of local or state funds to construct the project or the identification of
32 the financial resources or funding bases necessary to fund the beach nourishment,
33 inlet relocation or stabilization project.

34 If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency
35 or community, or ceases to be actively planned for a section of shoreline, the time extension
36 is void for that section of beach or community and existing sandbags are subject to all
37 applicable time limits set forth in Part (F) of this Subparagraph.

- 1 (I) Once a temporary erosion control structure is determined by the Division of Coastal
2 Management to be unnecessary due to relocation or removal of the threatened structure, it
3 shall be removed to the maximum extent practicable by the property owner within 30 days
4 of official notification from the Division of Coastal Management regardless of the time
5 limit placed on the temporary erosion control structure. If the temporary erosion control
6 structure is determined by the Division of Coastal Management to be unnecessary due to
7 the completion of a storm protection project constructed by the U.S. Army Corps of
8 Engineers, a large-scale beach nourishment project, or an inlet relocation or stabilization
9 project, any portion of the temporary erosion control structure exposed above grade shall
10 be removed by the property owner within 30 days of official notification from the Division
11 of Coastal Management regardless of the time limit placed on the temporary erosion control
12 structure.
- 13 (J) Removal of temporary erosion control structures is not required if they are covered by sand.
14 Any portion of the temporary erosion control structure that becomes exposed above grade
15 after the expiration of the permitted time period shall be removed by the property owner
16 within 30 days of official notification from the Division of Coastal Management.
- 17 (K) The property owner shall be responsible for the removal of remnants of all portions of any
18 damaged temporary erosion control structure.
- 19 (L) Sandbags used to construct temporary erosion control structures shall be tan in color and
20 three to five feet wide and seven to 15 feet long when measured flat. Base width of the
21 temporary erosion control structure shall not exceed 20 feet, and the total height shall not
22 exceed six feet, as measured from the bottom of the lowest bag.
- 23 (M) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- 24 (N) Existing sandbag structures may be repaired or replaced within their originally permitted
25 dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.
- 26 (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size
27 and in accordance with Rule .0312 of this Section.
- 28 (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from
29 any point seaward of the ~~first line of stable~~ vegetation line to create a protective sand dike or to
30 obtain material for any other purpose) is development and may be permitted as an erosion response
31 if the following conditions are met:
- 32 (A) The area on which this activity is being performed shall maintain a slope of adequate grade
33 so as to not endanger the public or the public's use of the beach and shall follow the pre-
34 emergency slope as closely as possible. The movement of material utilizing a bulldozer,
35 front end loader, backhoe, scraper, or any type of earth moving or construction equipment
36 shall not exceed one foot in depth measured from the pre-activity surface elevation;

- 1 (B) The activity shall not exceed the lateral bounds of the applicant's property unless ~~he has~~
2 permission ~~of~~ is obtained from the adjoining land owner(s);
- 3 (C) Movement of material from seaward of the mean low water line will require a CAMA
4 Major Development and State Dredge and Fill Permit;
- 5 (D) The activity shall not increase erosion on neighboring properties and shall not have an
6 adverse effect on natural or cultural resources;
- 7 (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well
8 as the threatened structure's foundations.

9 (b) ~~Dune Establishment~~ Protection, Establishment, Restoration and Stabilization.

10 (1) No development shall be permitted that involves the removal or relocation of primary or frontal
11 dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes
12 within the ocean hazard area shall not be disturbed unless the development of the property is
13 otherwise impracticable. Any disturbance of these other dunes shall be allowed only to the extent
14 permitted by this Rule.

15 ~~(1)(2)~~ Any new dunes established shall be aligned to the greatest extent possible with existing adjacent
16 dune ridges and shall be of the same configuration as adjacent natural dunes.

17 ~~(2)(3)~~ Existing primary and frontal dunes shall not, except for beach nourishment and emergency
18 situations, be broadened or extended in an oceanward direction.

19 ~~(3)(4)~~ Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is
20 minimized. The filled areas shall be replanted or temporarily stabilized until planting can be
21 completed.

22 ~~(4)(5)~~ Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand
23 in the area in which it is to be placed.

24 ~~(5)(6)~~ No new dunes shall be created in inlet hazard areas. Reconstruction or repair if existing dune systems
25 ad defined in Rule .0305 of this Section and within the Inlet Hazard Area is permissible.

26 ~~(6)(7)~~ Sand held in storage in any dune, other than the frontal or primary dune, shall remain on the lot or
27 tract of land to the maximum extent practicable and may be redistributed within the Ocean Hazard
28 AEC provided that it is not placed any farther oceanward than the crest of a primary dune, if present,
29 or the crest of a frontal dune.

30 ~~(7)(8)~~ No disturbance of a dune area shall be allowed when other techniques of construction can be utilized
31 and alternative site locations exist to avoid dune impacts.

32 (c) Structural Accessways:

33 (1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed
34 and constructed in a manner that entails negligible alteration of the primary or frontal dune.
35 Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a)
36 of this Rule.

1 (2) An accessway shall be considered to entail negligible alteration of primary or frontal dunes provided
2 that:

3 (A) The accessway is exclusively for pedestrian use;

4 (B) The accessway is a maximum of six feet in width;

5 (C) Except in the case of beach matting for a local, State, or federal government's public access,
6 the accessway is raised on posts or pilings of five feet or less depth, so that wherever
7 possible only the posts or pilings touch the dune. ~~Where this is deemed by the Division of~~
8 ~~Coastal Management to be impossible due to dune, in accordance with~~ any more restrictive
9 local, State, or federal building requirements, ~~the structure shall touch the dune only to the~~
10 ~~extent necessary.~~ Requirements. Beach matting for a local, State, or federal government's
11 public access shall be installed at grade and not involve any excavation or fill of the dune;
12 and

13 (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

14 (3) An accessway that does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it
15 meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this
16 Paragraph. Public fishing piers are ~~not prohibited~~ allowed provided all other applicable standards of
17 this Rule are met.

18 (4) In order to preserve the protective nature of primary and frontal dunes a structural accessway (such
19 as a "Hatteras ramp") may be provided for off-road vehicle (ORV) or emergency vehicle access.
20 Such accessways shall be no greater than 15 feet in width and may be constructed of wooden
21 sections fastened together, or other materials approved by the Division, over the length of the
22 affected dune area. Installation of a Hatteras ramp shall be done in a manner that will preserve the
23 dune's function as a protective barrier against flooding and erosion by not reducing the volume of
24 the dune.

25 (5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the
26 frontal or primary dune, provided they do not interfere with public trust rights and emergency access
27 along the beach. Structural accessways are not restricted by the requirement to be landward of the
28 FLSNV as described in Rule .0309(a) of this Section.

29 (d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) of
30 this Section and 15A NCAC 07J .0210 shall comply with the following standards:

31 (1) In order to avoid danger to life and property, all development shall be designed and placed so as to
32 minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any
33 building constructed within the ocean hazard area shall comply with relevant sections of the North
34 Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local
35 flood damage prevention ordinance as required by the National Flood Insurance Program. If any
36 provision of the building code or a flood damage prevention ordinance is inconsistent with any of
37 the following AEC standards, the more restrictive provision shall control.

- 1 (2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if
2 round or eight inches to a side if square.
- 3 (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation
4 under the structure. For those structures so located on or seaward of the primary dune, the pilings
5 shall extend to five feet below mean sea level.
- 6 (4) All foundations shall be designed to be stable during applicable fluctuations in ground elevation and
7 wave forces during a 100-year storm. Cantilevered decks and walkways shall meet the requirements
8 of this Part or shall be designed to break-away without structural damage to the main structure.

9

10 *History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124;*
11 *Eff. June 1, 1979;*
12 *Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17,*
13 *1989;*
14 *Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989;*
15 *RRC Objection Eff. November 19, 1992 due to ambiguity;*
16 *RRC Objection Eff. January 21, 1993 due to ambiguity;*
17 *Amended Eff. March 1, 1993; December 28, 1992;*
18 *RRC Objection Eff. March 16, 1995 due to ambiguity;*
19 *Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995;*
20 *Temporary Amendment Eff. July 3, 2000; May 22, 2000;*
21 *Amended Eff. April 1, 2019; May 1, 2013; July 1, 2009; April 1, 2008; February 1, 2006; August 1,*
22 *2002;*
23 *Readopted Eff. December 1, 2020;*
24 *Amended Eff. July 1, 2022; December 1, 2021.*

1 15A NCAC 07H .0309 is proposed for amendment as follows:

2
3 **15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS**

4 (a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule
5 .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- 6 (1) campsites;
- 7 (2) driveways and parking areas with clay, packed sand, or gravel;
- 8 (3) elevated decks not exceeding a footprint of 500 square ~~feet;~~ feet. Existing decks exceeding a
9 footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions;
- 10 (4) beach accessways consistent with Rule .0308(c) of this Section;
- 11 (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- 12 (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed
13 sand or gravel, and a footprint of 200 square feet or less;
- 14 (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- 15 (8) sand fences; ~~and~~
- 16 (9) swimming ~~pools;~~ pools; and
- 17 (10) fill not associated with dune creation that is obtained from an upland source and is of the same
18 general characteristics as the sand in the area in which it is to be placed.

19 In all cases, this development shall be permitted only if it is landward of the vegetation line or ~~static pre-project~~
20 ~~vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would~~
21 ~~compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any~~
22 ~~existing dunes; is not essential to the continued existence or use of an associated principal development; is not required~~
23 ~~to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback~~
24 requirements of this Subchapter.

25 (b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Section would preclude
26 placement of ~~permanent substantial structures on lots~~ a structure on a lot existing as of June 1, 1979, ~~buildings~~ the
27 structure shall be permitted seaward of the applicable setback line in ~~ocean erodible areas and~~ Ocean Erodible Areas,
28 State Ports Inlet Management Areas, and Inlet Hazard Areas, but not ~~inlet hazard areas or unvegetated beach areas,~~
29 Unvegetated Beach Areas if each of the following conditions are met:

- 30 (1) The development is set back from the ocean the maximum feasible distance possible on the existing
31 lot and the development is designed to minimize encroachment into the setback area;
- 32 (2) The development is at least 60 feet landward of the vegetation ~~line or static vegetation~~ line,
33 measurement line, or pre-project vegetation line whichever is applicable;
- 34 (3) The development is not located on or ~~in front~~ oceanward of a frontal dune, but is entirely behind
35 the landward toe of the frontal dune;
- 36 (4) The development incorporates each of the following design standards, which are in addition to those
37 required by Rule .0308(d) of this Section.

1 (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea
2 level;

3 (B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor
4 area of the structure shall be no more than 2,000 square feet. For the purpose of this Section,
5 roof-covered decks and porches that are structurally attached shall be included in the
6 calculation of footprint;

7 (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in
8 those cases where the development does not abut the ocean and is located landward of a
9 paved public street or highway currently in use. In those ~~cases concrete, asphalt, or~~
10 ~~turfstone may also~~ cases, other material may be used;

11 (D) No portion of a building's total floor area, including elevated portions that are cantilevered,
12 knee braced or otherwise extended beyond the support of pilings or footings, may extend
13 oceanward of the total floor area of the landward-most ~~adjacent building.~~ Habitable
14 building or structure. The alignment shall be measured from the most oceanward point of
15 the adjacent building or structure's roof line, including roofed decks, if applicable. An
16 "adjacent" property is one that shares a boundary line with the site of the proposed
17 development. When no adjacent building or structure exists, or the geometry or orientation
18 of a lot or shoreline precludes the placement of a building in line with the landward most
19 adjacent structure of similar use, an average line of construction shall be determined by the
20 Division of Coastal Management on a case by case basis in order to determine an only by
21 the Director of the Division of Coastal Management based on an approximation of the
22 average seaward-most positions of the rooflines of adjacent structures along the same
23 shoreline, extending 500 feet in either direction. If no structures exist within this distance,
24 the proposed structure must meet the applicable setback from the Vegetation Line but will
25 not be held to the landward-most adjacent structure or an average line of structures. The
26 ocean hazard setback that is shall extend landward of the vegetation line, static vegetation
27 line or measurement line, whichever is applicable, a distance no less than 60 feet.

28 (5) All other provisions of this Subchapter and other state and local regulations are met. If the
29 development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such
30 a system shall be submitted as part of the CAMA permit application.

31 (c) The following types of water dependent development shall be permitted seaward of the oceanfront setback
32 requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local
33 regulations are met:

34 (1) piers providing public access; and

35 (2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to
36 such bridges.

1 (d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the
2 following conditions is met:

- 3 (1) The ocean pier provides public access for fishing and other recreational purposes whether on a
4 commercial, public, or nonprofit basis;
- 5 (2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited
6 to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;
- 7 (3) The pier house shall be limited to a maximum of two stories;
- 8 (4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of
9 mean high water;
- 10 (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of
11 5,000 square feet, whichever is larger;
- 12 (6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and
- 13 (7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier
14 house shall be permitted only if the pier is being replaced and returned to its original function.

15 (e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development
16 that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and
17 small scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted ~~on~~
18 ~~those non-oceanfront~~ in the Ocean Hazard Area along those portions of shoreline that exhibit features characteristic
19 of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and
20 erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set
21 out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are
22 eligible for authorization under 15A NCAC 07H .1100, .1200 and 15A NCAC 07K .0203.

23 (f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted
24 provided that each of the following conditions is met:

- 25 (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal
26 dunes, all as defined in Rule .0305 of this Section, in such a manner so as to ensure that the
27 placement of the transmission lines involves no alteration or removal of the primary or frontal dunes;
28 and
- 29 (2) The design and placement of the transmission lines shall be performed in a manner so as not to
30 endanger the public or the public's use of the beach.

31 (g) Existing stormwater outfalls as of the last amended date of this rule within the Ocean Hazard AEC that are owned
32 or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained
33 within 15A NCAC 07J .0200. Outfalls may be extended below mean low water and may be maintained in accordance
34 with 15A NCAC 07K .0103. Shortening or lengthening of outfall structures within the authorized dimensions, in
35 response to changes in beach width, is considered maintenance under 15A NCAC 07K .0103. Outfall extensions may
36 be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not
37 apply to existing stormwater outfalls that are not owned or maintained by a State agency or local government.

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History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124; Eff. February 2, 1981; Amended Eff. April 1, 2020; June 1, 2010; February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987; Readopted Eff. December 1, 2020; Amended Eff. July 1, 2022.

1 15A NCAC 07H .0310 is proposed for amendment as follows:

2
3 **15A NCAC 07H .0310 USE STANDARDS FOR INLET HAZARD AREAS**

4 (a) Inlet Hazard Areas of Environmental Concern as defined by Rule .0304 of this Section are subject to inlet
5 migration, rapid and severe changes in watercourses, flooding and strong tides. Due to ~~this~~ the extremely hazardous
6 nature of the Inlet Hazard Areas, all development within these areas shall be permitted in accordance with the
7 following standards:

- 8 (1) All development in the inlet hazard area shall be set back from the ~~first line of stable natural~~
9 vegetation line a distance equal to the setback required in the adjacent ocean hazard area;
- 10 (2) Permanent structures shall be permitted at a density of no more than one commercial or residential
11 unit per 15,000 square feet of land area on lots subdivided or created after July 23, 1981;
- 12 (3) Only residential structures of four units or less or non-residential structures of less than 5,000 square
13 feet total floor area shall be allowed within the inlet hazard area, except that access roads to those
14 areas and maintenance and replacement of existing bridges shall be allowed;
- 15 (4) Established common-law and statutory public rights of access to the public trust lands and waters
16 in Inlet Hazard Areas shall not be eliminated or restricted. Development shall not encroach upon
17 public accessways nor shall it limit the intended use of the accessways;
- 18 (5) All other rules in this Subchapter pertaining to development in the ocean hazard areas shall be
19 applied to development within the Inlet Hazard Areas.

20 (b) The inlet hazard area setback requirements shall not apply to the types of development exempted from the ocean
21 setback rules in 15A NCAC 07H .0309(a), nor, to the types of development listed in 15A NCAC 07H .0309(c).

22 (c) In addition to the types of development excepted under Rule .0309 of this Section, small scale development that
23 does not induce further growth in the Inlet Hazard Area, such as the construction of single-family piers and small scale
24 erosion control measures that do not interfere with natural inlet movement, may be permitted on those portions of
25 shoreline within a designated Inlet Hazard Area that exhibit features characteristic of Estuarine Shoreline. Such
26 features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining
27 Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this
28 Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization
29 under 15A NCAC 07H .1100, .1200 and 07K .0203.

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31 *History Note:*

32 *Authority G.S. 113A-107; 113A-113(b); 113A-124;*

33 *Eff. December 1, 1981;*

34 *Emergency Rule Eff. September 11, 1981, for a period of 120 days to expire on January 8, 1982;*

35 *Temporary Amendment Eff. October 30, 1981, for a period of 70 days to expire on January 8, 1982;*

36 *Amended Eff. April 1, 1999; April 1, 1996; December 1, 1992; December 1, 1991; March 1, 1988;*

37 *Readopted Eff. December 1, 2020;*

1 15A NCAC 07J .1201 is proposed for amendment as follows:

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3 **SECTION .1200 – ~~STATIC AND VEGETATION LINE EXCEPTION~~ BEACH MANAGEMENT PLAN**
4 **APPROVAL PROCEDURES**

5
6 **15A NCAC 07J .1201 ~~REQUESTING THE STATIC LINE EXCEPTION~~ BEACH MANAGEMENT**
7 **PLAN APPROVAL**

8 (a) A petitioner subject to a ~~static pre-project~~ vegetation line pursuant to 15A NCAC 07H .0305 may petition the
9 Coastal Resources Commission ~~for an exception to the static vegetation line~~ to approve a Beach Management Plan in
10 accordance with the provisions of this Section. A "petitioner" shall be defined as:

- 11 (1) Any local government;
- 12 (2) Any group of local governments involved in a regional beach fill ~~project;~~ project; or
- 13 (3) Any qualified homeowner's association defined in G.S. 47F-1-103(3) that has the authority to
14 approve the locations of structures on lots within the territorial jurisdiction of the association, and
15 has jurisdiction over at least one mile of ocean ~~shoreline;~~ or shoreline.
- 16 (4) ~~A permit holder of a large scale beach fill project.~~

17 (b) A petitioner shall be eligible to submit a request ~~for a static vegetation line exception~~ to approve a Beach
18 Management Plan after the completion of construction of the initial large-scale beach fill project(s) as defined in 15A
19 NCAC 07H .0305 that required the creation of a ~~static pre-project~~ vegetation line(s). For a ~~static pre-project~~ vegetation
20 line in existence prior to the effective date of this Rule, the award-of-contract date of the initial large-scale beach fill
21 project, or the date of the aerial photography or other survey data used to define the ~~static pre-project~~ vegetation line,
22 whichever is most recent, shall be used in lieu of the completion of construction date.

23 (c) ~~A static vegetation line exception request applies to the entire static vegetation line within the jurisdiction of the~~
24 ~~petitioner, including segments of a static vegetation line that are associated with the same large scale beach fill project.~~
25 ~~If multiple static vegetation lines within the jurisdiction of the petitioner are associated with different large scale beach~~
26 ~~fill projects, then the static vegetation line exception in accordance with 15A NCAC 07H .0306 and the procedures~~
27 ~~outlined in this Section shall be considered separately for each large scale beach fill project. A Beach Management~~
28 Plan applies to all pre-project vegetation lines within the Ocean Hazard Area of the petitioner's jurisdiction.

29 (d) ~~A static vegetation line exception request shall be made in writing by the petitioner. A complete static vegetation~~
30 ~~line exception request shall include the following: A complete Beach Management Plan shall consist of a~~
31 comprehensive document with supporting appendices and data that includes the following:

- 32 (1) A ~~summary review~~ summary review of all beach fill projects in the area ~~for which the exception is being requested~~
33 of the Beach Management Plan including the initial large-scale beach fill project associated with the
34 ~~static pre-project~~ vegetation line, subsequent maintenance of the initial large-scale projects(s) and
35 beach fill projects occurring prior to the initial large-scale projects(s). To the extent historical data
36 allows, the summary shall include construction dates, contract award dates, volume of sediment

1 excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-
2 project surveys and a project footprint;

- 3 (2) ~~Plans and related materials including reports, maps, tables and diagrams for the design and~~
4 ~~construction of the initial large scale beach fill project that required the static vegetation line,~~
5 ~~subsequent maintenance that has occurred, and planned maintenance needed to achieve a design life~~
6 ~~providing no less than 30 years of shore protection from the date of the static line exception request.~~
7 A review of the maintenance needed to achieve a design life of no less than 30 years of shore
8 protection. The plan shall include anticipated maintenance event volume triggers and schedules,
9 long-term volumetric sand needs, annual monitoring protocols, an analysis of the impacts or any
10 erosion control structures, and any relevant maps, tables, diagrams, studies or reports. The plans and
11 related materials shall be designed and prepared by the U.S. Army Corps of Engineers or persons
12 meeting applicable State occupational licensing requirements for said work;
- 13 (3) Documentation, including maps, geophysical, and geological data, to delineate the planned location
14 and volume of compatible sediment as defined in 15A NCAC 07H .0312 necessary to construct and
15 maintain the large-scale beach fill project defined in Subparagraph (d)(2) of this Rule over its design
16 life. This documentation shall be designed and prepared by the U.S. Army Corps of Engineers or
17 persons meeting applicable State occupational licensing requirements for said work; and
- 18 (4) Identification of the financial resources or funding sources necessary to fund the large-scale beach
19 fill ~~project over its design life.~~ project, over the project design life, such as a dedicated percentage
20 of occupancy taxes, special tax districts, or anticipated federal funding.

21 (e) Public Comment Requirements. The local jurisdiction shall provide an opportunity for public comments on the
22 Beach Management Plan prior to submission to the Coastal Resources Commission for approval. Written comments
23 on the Beach Management Plan shall be submitted by the local jurisdiction to the Division along with the request to
24 approve the Beach Management Plan.

25 ~~(e) (f) A static vegetation line exception request~~ A request to approve a Beach Management Plan shall be submitted
26 to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. Written
27 acknowledgement of the receipt of a completed ~~static vegetation line exception request~~, including notification of the
28 date of the meeting at which the request will be considered by the Coastal Resources Commission, shall be provided
29 to the petitioner by the Division of Coastal Management.

30 ~~(f) (g)~~ The Coastal Resources Commission shall consider a ~~static vegetation line exception request~~ request to approve
31 a Beach Management Plan no later than the second scheduled meeting following the date of receipt of a complete
32 request by the Division of Coastal Management, except when the petitioner and the Division of Coastal Management
33 agree upon a later date.

34
35 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
36 *Eff. March 23, 2009;*
37 *Amended Eff. April 1, 2016;*

1 *Readopted Eff. September 1, 2021;*
2 *Amended Eff. July 1, 2022.*

1 15A NCAC 07J .1202 is proposed for amendment as follows:

2

3 **15A NCAC 07J .1202 REVIEW OF THE ~~STATIC LINE EXCEPTION~~ BEACH MANAGEMENT PLAN**
4 **APPROVAL REQUEST**

5 (a) ~~The Division of Coastal Management shall prepare a written report of the static line exception request.~~ Petitioner
6 shall provide a summary of the Beach Management Plan to be presented to the Coastal Resources Commission. This
7 report shall include: This summary shall include all of the elements required in 15ANCAC 07J .1201.

- 8 (1) ~~A description of the area affected by the static line exception request;~~
9 (2) ~~A summary of the large scale beach fill project that required the static vegetation line as well as the~~
10 ~~completed and planned maintenance of the project(s);~~
11 (3) ~~A summary of the evidence required for a static line exception; and~~
12 (4) ~~A recommendation to grant or deny the static line exception.~~

13 (b) The Division of Coastal Management shall provide the Commission a review of the Beach Management Plan
14 including a recommendation to grant or deny the request. The Division shall provide the petitioner requesting the
15 static line exception approval of a Beach Management Plan an opportunity to review the report recommendation
16 prepared by the Division of Coastal Management no less than 10 days prior to the meeting at which it is to be
17 considered by the Coastal Resources Commission.

18

19 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
20 *Eff. March 23, 2009;*
21 *Readopted Eff. September 1, 2021;*
22 *Amended Eff. July 1, 2022.*

1 15A NCAC 07J .1203 is proposed for amendment as follows:

2
3 **15A NCAC 07J .1203 PROCEDURES FOR APPROVING ~~THE STATIC LINE EXCEPTION~~ A BEACH**
4 **MANAGEMENT PLAN**

5 (a) At the meeting at which ~~the static line exception~~ approval of a Beach Management Plan is considered by the
6 Coastal Resources Commission, the following shall occur:

7 (1) ~~The Division of Coastal Management~~ Petitioner shall orally present ~~the report~~ a summary of the
8 Beach Management Plan described in 15A NCAC 07J .1202.

9 (2) ~~A representative for the petitioner may provide written or oral comments about the static line~~
10 ~~exception request. The Chairman of the Coastal Resources Commission may limit the time allowed~~
11 ~~for oral comments in open session based upon the number of speakers wishing to speak. The~~
12 Division of Coastal Management shall orally present its review of the Beach Management Plan and
13 its recommendation to grant or deny the approval request.

14 (3) ~~Additional parties may provide written or oral comments about the static line exception request. The~~
15 ~~Chairman of the Coastal Resources Commission may limit the time allowed for oral comments in~~
16 ~~open session based upon the number of speakers wishing to speak.~~

17 (b) The Coastal Resources Commission shall ~~authorize a static line exception request~~ approve a Beach Management
18 Plan if the request contains the information required and meets the criteria presented in 15A NCAC 07J .1201(d)(1)
19 through ~~(d)(4).~~ (d)(4), the Division of Coastal Management recommendation, and public comments on the Beach
20 Management Plan submitted with the request to approve the Beach Management Plan. The final decision of the Coastal
21 Resources Commission shall be made at the meeting at which the matter is heard or in no case later than the next
22 scheduled meeting. The final decision shall be transmitted to the petitioner by registered mail within 10 business days
23 following the meeting at which the decision is reached.

24 (c) The decision to ~~authorize or deny a static line exception~~ approve or deny a Beach Management Plan is a final
25 agency decision and is subject to judicial review in accordance with G.S. 113A-123.

26
27 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
28 *Eff. March 23, 2009;*
29 *Readopted Eff. September 1, 2021;*
30 *Amended Eff. July 1, 2022.*

1 15A NCAC 07J .1204 is proposed for amendment as follows:

2
3 **15A NCAC 07J .1204 REVIEW OF ~~THE LARGE SCALE BEACH FILL PROJECT AND APPROVED~~**
4 **STATIC LINE EXCEPTIONS BEACH MANAGEMENT PLANS**

5 (a) Progress Reports. The petitioner that received ~~the static line exception~~ a Beach Management Plan approval shall
6 provide a progress report to the Coastal Resources Commission every five years from date the ~~static line exception is~~
7 ~~authorized.~~ Beach Management Plan is approved. The progress report shall address the criteria defined in 15A NCAC
8 07J .1201(d)(1) through (d)(4) and be submitted in writing to the Director of the Division of Coastal Management,
9 400 Commerce Avenue, Morehead City, NC 28557. The Division of Coastal Management shall provide the petitioner
10 with written acknowledgement of the receipt of a completed progress report, including notification of the meeting date
11 at which the report will be presented to the Coastal Resources Commission.

12 (b) The Coastal Resources Commission shall review a ~~static line exception authorized~~ Beach Management Plan
13 approved under 15A NCAC 07J .1203 every five years from the initial authorization in order to renew its findings for
14 the conditions defined in ~~15A NCAC 07J .1201(d)(2) through (d)(4).~~ 15A NCAC 07J .1201(d) through €. The Coastal
15 Resources Commission shall also consider the following conditions:

- 16 (1) ~~Design changes to the initial large scale beach fill project defined in 15A NCAC 07J .1201(d)(1)~~
17 Updates to the Beach Management Plan, including performance of past projects and maintenance
18 events, changes in conditions, and design changes to future projects, provided that the changes are
19 designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State
20 occupational licensing requirements for the work;
- 21 (2) Design changes to the location and volume of compatible sediment, as defined by 15A NCAC 07H
22 .0312, necessary to construct and maintain the large-scale beach fill project defined in 15A NCAC
23 07J .1201(d)(2), including design changes defined in this Rule provided that the changes have been
24 designed and prepared by the U.S. Army Corps of Engineers or persons meeting applicable State
25 occupational licensing requirements for the work; and
- 26 (3) Changes in the financial resources or funding sources necessary to fund the large-scale beach fill
27 project(s) defined in 15A NCAC 07J .1201(d)(2). If the project has been amended to include design
28 changes defined in this Rule, then the Coastal Resources Commission shall consider the financial
29 resources or funding sources necessary to fund the changes.
- 30 (4) Local governments with an unexpired Static Line Exception approved by the Commission may
31 petition the Commission for approval of a Beach Management Plan by supplementing information
32 required under the Static Line Exception to be compliant with the provisions of 7J .1200 prior to or
33 upon the expiration of the previously approved Static Line Exception.

34 (c) ~~The Division of Coastal Management shall prepare a written~~ Petitioner shall orally present a summary of the
35 progress report ~~and present it to~~ the Coastal Resources Commission no later than the second scheduled meeting
36 following the date the report was received, except when a later meeting is agreed upon by the local government or
37 community submitting the progress report and the Division of Coastal Management. ~~This written summary~~ The

1 Division of Coastal Management shall include a recommendation from the Division of Coastal Management provide
2 the Coastal Resources Commission with a review and recommendation of the progress report on whether the
3 conditions defined in 15A NCAC 07J .1201(d)(1) through (d)(4) have been met. The petitioner submitting the progress
4 report shall be provided an opportunity to review the ~~written summary- recommendation~~ prepared by the Division of
5 Coastal Management no less than 10 days prior to the meeting at which it is to be considered by the Coastal Resources
6 Commission.

7 ~~(d) The following shall occur at the meeting at which the Coastal Resources Commission reviews the static line~~
8 ~~exception progress report:~~

9 (1) ~~— The Division of Coastal Management shall orally present the written summary of the progress report~~
10 ~~as defined in this Rule.~~

11 (2) ~~— A representative for the petitioner may provide written or oral comments relevant to the static line~~
12 ~~exception progress report. The Chairman of the Coastal Resources Commission may limit the time~~
13 ~~allowed for oral comments in open session based upon the number of speakers wishing to speak.~~

14 (3) ~~— Additional parties may provide written or oral comments relevant to the static line exception~~
15 ~~progress report. The Chairman of the Coastal Resources Commission may limit the time allowed~~
16 ~~for oral comments in open session based upon the number of speakers wishing to speak.~~

17
18 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
19 *Eff. March 23, 2009;*
20 *Readopted Eff. September 1, 2021;*
21 *Amended Eff. July 1, 2022.*

1 15A NCAC 07J .1205 is proposed for amendment as follows:

2

3 **15A NCAC 07J .1205 REVOCATION AND EXPIRATION OF ~~THE STATIC LINE EXCEPTION~~**
4 **BEACH MANAGEMENT PLAN APPROVAL**

5 (a) ~~The static line exception~~ Beach Management Plan approval shall be revoked if the Coastal Resources Commission
6 determines, after the review of the petitioner's progress report identified in 15A NCAC 07J .1204, that any of the
7 criteria under which the ~~static line exception~~ Beach Management Plan is authorized, as defined in ~~15A NCAC 07J~~
8 ~~.1201(d)(2)~~ 15A NCAC 07J .1201(d)(1) through (d)(4), are not being met.

9 ~~(b) The static line exception shall expire at the end of the design life of the large scale beach fill project defined in~~
10 ~~15A NCAC 07J .1201(d)(2), including subsequent design changes to the project as defined in 15A NCAC 07J~~
11 ~~.1204(b).~~

12 ~~(c)~~ (b) In the event a progress report is not received by the Division of Coastal Management five years from either the
13 ~~static line exception~~ initial approval of the Beach Management Plan or the previous progress report, ~~the static line~~
14 ~~exception~~ the Beach Management Plan approval shall be revoked automatically at the end of the five-year interval
15 defined in 15A NCAC 07J .1204(b) for which the progress report was not received.

16 ~~(d)~~ (c) The revocation or expiration of a ~~static line exception~~ Beach Management Plan approval shall be a final agency
17 decision and is subject to judicial review in accordance with G.S. 113A-123.

18

19 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
20 *Eff. March 23, 2009;*
21 *Readopted Eff. September 1, 2021;*
22 *Amended Eff. July 1, 2022.*

1 15A NCAC 07J .1206 is proposed for amendment as follows:

2

3 **15A NCAC 07J .1206 LOCAL GOVERNMENTS AND COMMUNITIES WITH ~~STATIC VEGETATION~~**
4 **~~LINES AND STATIC LINE EXCEPTIONS~~ APPROVED BEACH MANAGEMENT**
5 **PLANS**

6 A list of ~~static vegetation lines in place for petitioners~~ CRC approved Beach Management Plans and the conditions
7 under which the ~~static pre-project~~ vegetation lines exist, including the date(s) the static pre-project vegetation line was
8 defined, shall be maintained by the Division of Coastal Management. A list of static line exceptions in place for
9 ~~petitioners~~ CRC approved Beach Management Plans and the conditions under which the ~~exceptions~~ Plans exist,
10 including the date the ~~exception was granted,~~ Plan was approved, the dates the progress reports were received, the
11 design life of the large-scale beach fill project and the potential expiration dates for the ~~static line exception,~~ Beach
12 Management Plans shall be maintained by the Division of Coastal Management. Both the ~~static pre-project~~ vegetation
13 line list and the static line exception CRC approved Beach Management Plan list shall be available for inspection at
14 the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557.

15

16 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*

17 *Eff. March 23, 2009;*

18 *Readopted Eff. September 1, 2021;*

19 *Amended Eff. July 1, 2022.*