

ROY COOPER

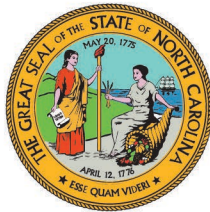
Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director



NORTH CAROLINA  
Environmental Quality

CRC-22-26

October 28, 2022

**MEMORANDUM**

**TO:** Coastal Resources Commission  
**FROM:** Mike Lopazanski  
**SUBJECT:** Proposed Amendments to 15A NCAC 7H .0309, 7H .0306, & 7J .0210 – Septic Tanks

At the September 2022 Commission meeting, Braxton Davis (DCM Director) and Dave Hallac (Superintendent, National Park Service) discussed issues related to erosion threatened oceanfront structures generally and specifically related to house collapses within the Cape Hatteras National Seashore. These issues included the debris and clean-up costs associated with the collapse of structures on the beach, the impacts to the environment and tourism, past efforts to address the problem and preliminary recommendations from a recent interagency meeting.

The discussion included the CRC's rules regarding the landward relocation of structures as well as challenges associated with on-site wastewater treatment and septic tanks. The Department of Health and Human Services, Division of Environmental Health (DEH) oversees a county's implementation of on-site wastewater treatment permits. New or replacement systems must be 50 feet from mean high water on the oceanfront. When a property owner submits a survey as part of an application, the county health department will issue a septic tank permit. According to DEH rules, septic tanks are not allowed in areas subject to tidal or storm overwash unless designed and installed to be watertight. If a tank is damaged in a way that it is no longer watertight, then it must be serviced immediately. The CRC also has rules that govern septic systems. New septic systems are subject to oceanfront construction setbacks. In the past, DEQ policy dictated that replacement of an existing septic system in the same location is usually considered repair and therefore exempt from CAMA permitting. However, the relocation of an existing septic system requires a CAMA permit but only requires that the system shall not be relocated oceanward of the primary structure.

There have been recent incidences in which septic tanks associated with houses seaward of the vegetation line have been permitted under the CRC's relocation provisions even though the house itself was not relocated. Over the past few months, oceanfront septic systems in the Rodanthe area have been repeatedly damaged during moderate storm conditions, resulting in direct discharges of sewage onto National Seashore beaches and into ocean waters.



North Carolina Department of Environmental Quality | Division of Coastal Management  
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557  
252.515.5400



NORTH CAROLINA  
*Environmental Quality*

ROY COOPER

*Governor*

ELIZABETH S. BISER

*Secretary*

BRAXTON DAVIS

*Director*

At your September meeting, DCM recommended that the Commission consider amending its rules regarding the siting of replacement or relocated septic systems, and a motion passed unanimously for staff to bring draft rule language to the November meeting.

Attached are proposed amendments to 15A NCAC 7H .0306 General Use Standards for Ocean Hazard Areas, 7H .0309 Use Standards for Ocean Hazard Areas: Exceptions and 7J .0210 Replacement of Existing Structures. First, Staff propose to amend 7H .0306(a)(3) to clarify that any new septic tank systems and components as defined in 15A NCAC 18A .1935 (DEH rules) must meet the oceanfront setback provisions associated with the primary structure. While this has always been the case, Staff believe it is prudent to clarify this in the rule.

Second, the existing provisions of 7H .0306(f) regarding the relocation of septic tanks are proposed to be amended to clarify that septic tank systems relocated with public funds must meet the applicable oceanfront setback, and that septic tank systems relocated with non-public funds are prohibited from being sited seaward of the primary structure (house) or seaward of the Vegetation Line, Pre-project Vegetation Line or Measurement Line.

Staff are also proposing that 7H .0309(a), development allowed within the oceanfront setback, be amended to add relocated or repaired septic tank systems, as the replacement or relocation of septic tank systems are currently not expressly allowed within the setback area. This amendment is necessary to align with the proposed relocation provisions of 7H .0306(f).

Finally, the Commission's rules regarding the repair (no CAMA permit required) versus replacement of existing structures (CAMA permit required) is based on whether the cost to repair exceeds 50% or the market value of a non-water dependent structure. Staff propose that 7J .0201 be amended to specifically state that septic tank systems are separate structures from the primary structures in making the "repair versus replacement" determination.

I look forward to discussing this proposal at our upcoming meeting in Beaufort.



North Carolina Department of Environmental Quality | Division of Coastal Management  
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557  
252.515.5400

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

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

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.
- (2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
  - (A) The total square footage of heated or air-conditioned living space;
  - (B) The total square footage of parking elevated above ground level; and
  - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.
- (3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a ~~building or~~ building, structure, ~~or septic tank system and associated components as defined in 15A NCAC 18A .1935~~ shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
  - (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
  - (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
  - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
  - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
  - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
  - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
  - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
  - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
  - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
  - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
  - (K) Notwithstanding any other setback requirement of this Subparagraph, construction of a new building or other structure greater than or equal to 5,000 square feet in a community with an unexpired static line exception or Beach Management Plan approved by the Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance,

whichever is greater. The setback shall be measured landward from either the vegetation line or measurement line, whichever is farthest landward; and

- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of a structure with a total floor area no greater than 10,000 square feet shall be allowed provided that the structure meets the following criteria:
  - (i) the structure is in a community with an unexpired static line exception, Beach Management Plan approved by the Commission, or was originally constructed prior to August 11, 2009;
  - (ii) the structure as replaced does not exceed the original footprint or square footage;
  - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
  - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater; and
  - (v) the structure is rebuilt as far landward on the lot as feasible.
- (4) If a primary dune exists in the AEC, on or landward of the lot where the development is proposed, the development shall be landward of the applicable ocean hazard setback and the crest of the primary dune. For existing lots where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, and shall not be located on or oceanward of a frontal dune. For the purposes of this Rule, "existing lots" shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.
- (7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.
- (9) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J .1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:
  - (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(3) of this Rule;
  - (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
  - (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or

footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.

(D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.

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

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

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

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

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

(f) The relocation or elevation of structures shall require permit approval.

- (1) ~~Structures~~ Structures, including septic tank systems and their components as defined in 15A NCAC 18A .1935, relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.
- (2) Structures relocated landward entirely with non-public funds that do not meet current applicable ocean hazard setbacks may be relocated the maximum feasible distance landward of its present location. Septic ~~tanks~~ tank systems and their components as defined in 15A NCAC 18A .1935 shall not be relocated oceanward of the primary ~~structure, structure or seaward of the existing Vegetation Line, Pre-project Vegetation Line, or Measurement Line as defined in 15A NCAC 07H .0305.~~
- (3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

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

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977; Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985; RRC Objection due to ambiguity Eff. January 24, 1992; Amended Eff. March 1, 1992; RRC Objection due to ambiguity Eff. May 21, 1992; Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992; RRC Objection due to ambiguity Eff. May 18, 1995; Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;*

*Temporary Amendment Eff. January 3, 2013;  
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;  
Readopted Eff. December 1, 2020;  
Amended Eff. August 1, 2022; December 1, 2021.*

*Proposed Amendments to 15A NCAC 07H .0309 Use Standards for Ocean Hazard Areas – Septic Tank Systems  
October 28, 2022*

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

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

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet. Existing decks exceeding a footprint of 500 square feet may be replaced with no enlargement beyond their original dimensions;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences;
- (9) swimming pools; and
- (10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.
- (11) **Relocated or replaced septic tank systems and components as defined in 15A NCAC 18A .1935.**

In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Section would preclude placement of a structure on a lot existing as of June 1, 1979, the structure shall be permitted seaward of the applicable setback line in Ocean Erodible Areas, State Ports Inlet Management Areas, and Inlet Hazard Areas, but not Unvegetated Beach Areas if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line, measurement line, or pre-project vegetation line, whichever is applicable;
- (3) The development is not located on or oceanward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section:
  - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
  - (B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
  - (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases, other material may be used; and
  - (D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks. An "adjacent" property is one that shares a

boundary line with the site of the proposed development. When no adjacent building or structure exists, or the geometry or orientation of a lot or shoreline precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure shall meet the applicable setback from the Vegetation Line but shall not be held to the landward-most adjacent structure or an average line of structures. The ocean hazard setback shall extend landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

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

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

- (1) piers providing public access; and
- (2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to such bridges.

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

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

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

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

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

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

*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. August 1, 2022.*

*Proposed Amendments to 15A NCAC 07J .0210 Replacement of Existing Structures – Septic Tank Systems  
October 28, 2022*

**15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES**

Replacement of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits. Replacement of structures shall be permitted if the **replacements replacement** is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits. **For the purposes of this Rule, a building, and its associated septic tank system, are considered separate structures and shall be evaluated independently. A septic tank system includes all components as defined in 15A NCAC 18A .1935.** The CRC shall use the following criteria to determine whether proposed work is considered repair or replacement.

- (1) NON-WATER DEPENDENT STRUCTURES. Proposed work is considered replacement if the cost to do the work exceeds 50 percent of the market value of an existing structure immediately prior to the time of damage or the time of request. Market value and costs are determined as follows:
  - (a) Market value of the structure does not include the value of the land, value resulting from the location of the property, value of accessory structures, or value of other improvements located on the property. Market value of the structure shall be determined by the Division based upon information provided by the applicant using any of the following methods:
    - (i) appraisal;
    - (ii) replacement cost with depreciation for age of the structure and quality of construction; or
    - (iii) tax assessed value.
  - (b) The cost to do the work is the cost to return the structure to its pre-damaged condition, using labor and materials obtained at market prices, regardless of the actual cost incurred by the owner to restore the structure. It shall include the costs of construction necessary to comply with local and state building codes and any improvements that the owner chooses to construct. The cost shall be determined by the Division utilizing any or all of the following:
    - (i) an estimate provided by a North Carolina licensed contractor qualified by license to provide an estimate or bid with respect to the proposed work;
    - (ii) an insurance company's report itemizing the cost, excluding contents and accessory structures; or
    - (iii) an estimate provided by the local building inspections office.
- (2) WATER DEPENDENT STRUCTURES. The proposed work is considered replacement if it enlarges the existing structure. The proposed work is also considered replacement if:
  - (a) in the case of fixed docks, piers, platforms, boathouses, boatlifts, and free standing moorings, more than 50 percent of the framing and structural components (beams,



girders, joists, stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage condition. Water dependent structures that are structurally independent from the principal pier or dock, such as boatlifts or boathouses, are considered as separate structures for the purpose of this Rule;

- (b) in the case of boat ramps and floating structures such as docks, piers, platforms, and modular floating systems, more than 50 percent of the square feet area of the structure must be rebuilt in order to restore the structure to its pre-damage condition;
- (c) in the case of bulkheads, seawalls, groins, breakwaters, and revetments, more than 50 percent of the linear footage of the structure must be rebuilt in order to restore the structure to its pre-damage condition.

*History Note: Authority G.S. 113A-103(5)b.5.; 113A-107(a),(b); Eff. July 1, 1990; Amended Eff. August 1, 2007.*