



NORTH CAROLINA
Environmental Quality

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

TANCRED MILLER

Director

CRC-24-05

April 12, 2024

MEMORANDUM

TO: Coastal Resources Commission
FROM: Jonathan Howell and Daniel Govoni
SUBJECT: Recommendations for Permanent Rulemaking

Under the periodic review of rules process under the NC Administrative Procedure Act (APA), G.S. 150B-21.3A, the NC Rules Review Commission (RRC) objected to 30 of CRC's existing rules. Subsequent legislation last year resulted in the termination of staff's efforts to satisfy those objections and those rules being returned to the CRC and removed from the NC Administrative Code. The CRC reinstated 16 of those rules through emergency rulemaking and initiated temporary rulemaking to replace the emergency rules as provided for under the APA; the RRC has objected to those proposed temporary rules and the commission will be engaging in a separate discussion about further temporary rulemaking.

Staff are proposing, for the commission's consideration, to move forward with permanent rulemaking in an effort to restore critical rules into the NC Administrative Code. The initial subset of rules listed below are staff's highest priority for meeting our statutory obligation for permitting under the Coastal Area Management Act and the Dredge and Fill Law. Staff are proposing substantial changes to these rules to satisfy the RRC's objections and are recommending these rules for permanent rulemaking in compliance with the APA. Staff's recommendations are as follows:

1. **15A NCAC 07J .0203 Standards for Work Plats**
2. **15A NCAC 07J .0204 Processing the Application**
3. **15A NCAC 07J .0207 Review of Major Development and Dredge & Fill Applications**
4. **15A NCAC 07J .0208 Permit Conditions**

These rules are essential for both environmental protection and a smooth, transparent, and predictable permitting process for applicants. These rules define the major permit application process, the information to be included in the application, public notice requirements, and how DCM reviews applications and issues permits. CAMA and the Dredge & Fill law convey the authority to the CRC to adopt these rules and define the "form and content" for the application and review process.

5. **15A NCAC 07J .0206 Public Notice Requirements**
6. **15A NCAC 07M .0703 Mitigation Projects**

These rules address, respectively, public notice requirements for major permit applications and how the division will evaluate proposed mitigation measures within a development permit application. The RRC's counsel did not recommend objection to these two rules therefore no additional changes are proposed.



7. 15A NCAC 07H .0508

Staff is proposing an amended rule to re-designate Jockey's Ridge as an Area of Environmental Concern (AEC), along with a set of use standards to protect the AEC from incompatible development and loss of sand. The rewrite of this rule seeks to satisfy the RRC's objections by limiting its content to designation of the AEC and the establishment of use standards applicable solely to this AEC. Staff also received a request from Commissioner Hennessy to prepare proposed rule language for the commission's review.

If the commission chooses to initiate permanent rulemaking on any or all of these rules, staff will proceed to prepare fiscal notes for commission approval, as required, before submitting the rules for publication, public comment, and public hearings as required by the APA.

Staff will present each of these rules to you at your April meeting and look forward to an in-depth discussion. We will present proposed rule language on the remaining rules in phases over future commission meetings.

