

**Fiscal Analysis**

**Application of Erosion Rate Setback Factors**

15A NCAC 07H .0104

**AECs Within Ocean Hazard Areas**

15A NCAC 7H .0304

**General Identification and Description of Landforms**

15A NCAC 07H .0305

**General Use Standards for Ocean Hazard Areas**

15A NCAC 07H .0306

**Specific Use Standards for Ocean Hazard Areas**

15A NCAC 7H .0308

**Specific Use Standards for Inlet Hazard Areas**

15A NCAC 7H .0310

**Requesting the Static Vegetation Line Procedures**

15A NCAC 07J .1200; .1201; 1202; .1203; .1204; .1205; .1206

**Development Line Procedures**

15A NCAC 07J .1301

15A NCAC 07J .1302

15A NCAC 07J .1303

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## Basic Information

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Agency	Department of Environmental Quality, Division of Coastal Management (DCM), Coastal Resources Commission (CRC)
Title	Proposed Amendments to Static Line Exception Procedures and Amendments to Use Standards for Ocean Hazard Areas
Citation	15A NCAC 07H .0305, 15A NCAC 07H .0306, 15A NCAC 07J .1201, and 15A NCAC 07J .1301 - .1303
Description of the Proposed Rule	15A NCAC 07J .1200 (.1201 through .1206) create procedures for requesting and approving Beach Management Plans for oceanfront communities constructing large-scale beach fill projects in order to provide regulatory relief from oceanfront development setback provisions. Amendments to the General Use Standards for Ocean Hazard Areas 15A NCAC 07H .0306 are associated with the Beach Management Plan Procedures. Amendments to 15A NCAC 7H .0104; .0304; .0305; .0308; and .0309; and .0310 address inconsistencies/outdated provision within the rules and provide clarifying language.
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Authority	G.S. 113A-107; 113A-113; 113A-124
Necessity	The Coastal Resources Commission proposes the Beach Management Plan Procedures and amendments to current rules collectively to allow local government alternative management options following a large scale beach fill project.
Impact Summary	State government: Minimal Local government: Yes Substantial impact: No Federal government: No

## Summary

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The North Carolina Coastal Resources Commission (CRC) requires that oceanfront development be set back from a defined reference line that is generally either the oceanward edge of natural vegetation, or a surveyed line for communities that have completed large beach nourishment projects.

The Commission is proposing amendments to its rules that address the siting of oceanfront development. These revisions are based on the existing rule for Static Line Exceptions (15A NCAC 7J .1200), which will now incorporate provisions for CRC approved Beach Management Plans. Beach Management Plans would be considered for approval once an initial nourishment project has been completed and would be due for re-authorization every five years. These Plans would include existing elements of the Static Line Exception: a summary of beach fill projects in the jurisdiction, subsequent maintenance projects with construction dates, contract award dates, volume of sediment excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-project surveys.

In keeping with the Commission's intent to simply and clarify existing rules language, the term "Static Vegetation Line" is being changed to "Pre-Project Vegetation Line." The terminology can be confusing and seemingly vague, whereas "pre-project vegetation line" is better fitted to being self-defining. "Vegetation Line" is also used throughout the rules as it is defined as the first line of stable and natural vegetation.

The Commission is proposing other changes to streamline and simplify the oceanfront development rules. These changes include repealing 15A NCAC 7H .0104, as the provision (addressing lots created prior to 1979) are effectively the same as those in 15A NCAC 7H .0309(b) which allow for similar development of a structure no greater than 2,000 square feet. As the Commission's intent is to replace both the Static Line Exception (15A NCAC 7J .1200) and the Development Line rules with provisions for Beach Management Plans, the Development Line rules (15A NCAC 7J .1300) will also be repealed.

The proposed amendments will have modest cost impacts on local governments depending on whether they choose to apply for an approved Beach Management Plan. The benefits to local governments and private property owners are assumed to be the similar to the existing Static Line Exception, as are the associated opportunity costs.

This proposal will have no impact on Department of Transportation projects or on DCM permit receipts.

The estimated effective date of these rules is January 1, 2021.

## Description of Proposed Actions

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Residential and commercial development sited adjacent to the ocean shoreline may be vulnerable to erosion and storm surge. Under the NC Coastal Area Management Act (CAMA), hardened erosion protection structures are generally not allowed on the ocean shoreline; therefore, local governments use beach fill (nourishment) as a means to protect oceanfront property from storm damage and to address chronic erosion issues.

While the first line of stable-natural vegetation (FLSNV) has been used as an oceanfront setback measurement line since 1979, the CRC determined that the vegetation on nourished beaches was not in a natural state and without continued maintenance projects, are prone to increased erosion. The existing vegetation on nourished beaches therefore should not be used for measuring oceanfront setbacks. In 1995 the CRC codified a method of measuring setbacks on nourished beaches that utilizes the surveyed pre-project vegetation line, which became known as the “static line.” The CRC’s static line rule was based on three primary issues: 1) evidence that nourished beaches can have higher erosion rates than natural ones, 2) no assurance that funding for future nourishment projects would be available for maintenance work as the original project erodes, and 3) structures could be more vulnerable to erosion damage since their siting was tied to an artificially forced system. The intent of the static line provisions has been to recognize that beach nourishment is an erosion response necessary to protect existing development but should not be a stimulus for new development on sites that are not otherwise suitable for building. Once a static line is established it does not expire.

Prior to 2009, a community that completed construction of a large-scale beach fill project was required to measure construction setbacks from the static line or the first line of stable-natural vegetation, whichever was more landward. Over time, the Commission found that some communities had demonstrated a long-term commitment to beach nourishment and maintenance of their nourished beaches. Due to this long-term commitment, the vegetation had become stable and migrated oceanward of the static line. In many cases, proposed development on lots within these communities could meet the required setback from the natural vegetation line but could not be permitted since they did not meet the setback from the static vegetation line.

To recognize local government efforts to address erosion through long-term beach nourishment and offer relief from the Static Vegetation Line requirements, the CRC adopted Static Vegetation Line Exception Procedures in 2009. The procedures require local communities to petition the CRC for an exception to the static line that allows property owners within that community to measure construction setbacks from the first line of stable-natural vegetation instead of the static line, under specific conditions. To qualify for the exception, communities must demonstrate that they have a source of sand and a funding mechanism to continue beach nourishment for at least 30 years. The CRC also requires communities to update this information every five years in order to maintain the exception. Currently there are eight local governments with CRC approved Static Line Exceptions and have now had them in place for up to ten years.

In 2014, the CRC created the Development Line rules as another alternative for managing the siting of oceanfront development. The Development Line allows use of the existing vegetation line for setback determinations, with local governments setting the oceanward limit of structures, subject to CRC approval. Unlike with the Static Line Exception, there is no requirement for a demonstrated long-term commitment to beach nourishment or beach management plan and structures are allowed to be constructed, replaced, or expanded to be in line with their seaward-most adjacent neighbor (as opposed to landward most adjacent neighbor under the Static Line Exception). Establishment of a Development Line requires the following:

- It is mapped by the community using an average line of construction and must be referenced in local ordinance(s).
- It is to represent the seaward-most allowable limit of oceanfront development.
- Must be approved by the CRC. Once approved, only the community can request a change.
- Development must meet the applicable setback from the vegetation line.

- No swimming pools may be permitted seaward of the static line. The subcommittee's proposal envisioned communities.

In 2019, the Commission began discussion of implementation issues related to the Development Line that presented additional management challenges, including defining the limits of development, the siting of decks and other accessory structures such as dune walkovers, gazebos, and parking areas. Additionally, local governments with approved Development Lines were also requesting Static Line Exception re-authorization. Local governments utilization of both the Static Line Exception and the Development was not contemplated by the Commission, but the corresponding rules' silence regarding a local government's ability and the Commission's intent presented further implementation issues.

The Commission also began to note that recurring concerns of seaward encroachment of oceanfront structures under the Development Line rules. While the Development Line rules do not require DCM's review other than that verifying the necessary documents are contained in the local government proposal, the Commission directed Staff to develop alternatives for increased DCM involvement in Development Line approvals and limiting seaward encroachment.

The Development Line directs communities to "utilize an adjacent neighbor sight-line approach, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the petitioner may determine an average line of construction on a case-by-case basis." As the seaward edge of existing development is not usually linear and may vary by tens of feet between adjacent structures, approved Development Lines can allow large numbers of structures to be moved oceanward, sometimes significantly, following renourishment projects where vegetation is established seaward of the Static Vegetation Line. The Commission Expressed their intent that large-scale oceanward redevelopment should not be facilitated under the Development Line rules and contrasted this with redevelopment under the Static Line Exception which limits oceanward encroachment to no farther seaward than the landward-most adjacent neighbor.

To address these implementation issues, the Commission assigned a subcommittee to discuss alternatives that included amending existing rules or drafting a new strategy for siting oceanfront development. In discussing the alternatives, the Commission supported for the following:

- The State should retain oversight in areas where beach nourishment projects are installed;
- In order to gain regulatory flexibility for construction setbacks, beach communities should demonstrate a local commitment to maintaining beach nourishment projects;
- Beach nourishment projects should not be used as a stimulus for new development in areas that would otherwise not be suitable;
- Alternatives should not encourage seaward encroachment of new or expanded structures;
- Limitation on seaward encroachment of structures is preferred through the landward-most adjacent neighbor rule rather than a new oceanward-most adjacent neighbor policy, but there is a need for flexibility in addressing unique circumstances (curved shorelines, development around cul-de-sacs, or peculiar lot configurations) utilizing a sight-line or average line of construction approach.

In November 2020, the Commission began development of a strategy for the development of local and subregional Beach Management Plans to replace both the Development Line and the Static Line Exception. Also included were additional provisions for regulatory relief associated with CRC-approved beach management plans and further streamlining and simplification of the Ocean Hazard AEC rules.

### Beach Management Plans

The Commission has incorporated the provisions from the subcommittee into its rules that address the siting of oceanfront development. Part of the revisions are based on the existing rule for Static Line Exceptions (15A NCAC 7J .1200), which will now incorporate provisions for CRC approved Beach Management Plans. Beach Management Plans would be considered for approval once an initial nourishment project has been completed and would be due for re-authorization every five years. These Plans would include existing elements of the Static Line Exception: a summary of beach fill projects in the jurisdiction, subsequent maintenance projects with construction dates, contract award dates, volume of sediment excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-project surveys. In addition to the past documentation required for a Static Line Exception, Beach Management Plans will also include historic and projected volumetric losses due to erosion and storm events, anticipated maintenance event triggers and schedules, long-term volumetric sand needs and annual monitoring protocols, and planned maintenance needed to achieve a design life providing 30 years of shore protection. Requirements for the identification of financial resources are also expanded to include specific information such as the dedicated percentage or occupancy taxes, special tax districts and anticipated federal funding.

### Enhanced Exceptions

The Commission has proposed amendments so that areas with approved Beach Management Plans include the existing Static Line Exception provision granting graduated setback relief to large structures. Under this provision, structures greater than 5,000 square feet require a minimum setback of 120 feet or 60 times the erosion rate.

The existing provisions allowing the replacement of oceanfront structures that do not meet current setbacks (original dimensions, minimum 60-foot setback, as far landward as practicable) is currently limited to single family and duplex residential structures and commercial and multifamily residential structures up to 10,000 square feet and constructed prior to August 2009. Staff is proposing to allow all structures to take advantage of this replacement provision if located in an area with an approved Beach Management Plan. The Commission is also proposing to remove the references to residential or commercial structures generally, as the Commission has moved away from the use distinctions since 2009.

With regard to approving Beach Management Plans, the Commission is proposing to require that local governments present their Beach Management Plans to the Commission rather than DCM summarizing the Plans as it is more appropriate for DCM to focus on its recommendations on whether a Plan meets the Commission's criteria for approval. Also proposed for deletion are provisions incorporating written or oral comments from third parties regarding Plan approval requests. The Commission is incorporating a public comment requirements for local government that will address third party concerns.

### Setback Related Nomenclature

In keeping with the Commission's intent to simply and clarify existing rules language, the term "Static Vegetation Line" is being changed to "Pre-Project Vegetation Line." The terminology can be confusing and seemingly vague, whereas "pre-project vegetation line" is better fitted to being self-defining. "Vegetation Line" is also used throughout the rules as it is defined as the first line of stable and natural vegetation.

## Implementation

There are 24 oceanfront communities (~86%) that currently have static vegetation lines. Eight of these communities already have a CRC-approved Static Line Exception and four also have a Development Line. To address transitional issues, the Commission is proposing that these communities continue to utilize the Static Line Exception provisions until they expire, at which point they will be eligible to petition for a CRC approved Beach Management Plan. These communities will also be able to apply for an approved Beach Management Plan by supplementing the information previously provided for the Static Line Exception to address missing criteria for Beach Management Plans rather than starting new plans.

## Other Proposed Changes

The Commission is proposing other changes to streamline and simplify the oceanfront development rules. These changes include repealing 15A NCAC 7H .0104, as the provision (addressing lots created prior to 1979) are effectively the same as those in 15A NCAC 7H .0309(b) which allow for similar development of a structure no greater than 2,000 square feet.

- Clarifying and simplify rule language related to the siting of structures in relation to primary and frontal dunes.
- Consolidating rules related to dune alteration in 15A NCAC 7H .0308(b)(1).
- Amending the required permit condition that requires structures to be relocated or removed within two years of becoming imminently threatened to eight years. This change mirrors provisions for the management of temporary erosion control structures (sandbags).
- Removing provisions allowing for the use of erosion rates at the time the lot was platted in determining setbacks. While seldom used, this language has caused confusion for the Division and Local Permitting Officers.
- Removing or consolidating redundant rule language.

## **Summary of Rule Changes**

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### **Beach Management Plans**

#### 15A NCAC 7H .1200 & .1202 Beach Management Plan Approval Procedures

- Replaces/improves Static Line Exception Process
- Eligible for approval after initial beach fill project
- Covers all pre-project vegetation lines within jurisdiction of plan
- Provides Commission with a summary of past and future beach nourishment plans
- Historic & projected volumetric losses from erosion/storms (NEW)
- Anticipated maintenance triggers (NEW)
- Long-term volumetric sand needs (NEW)
- Annual monitoring protocols (NEW)
- Additional identification of financial resources specifics (NEW)
- Opportunity for public input on plan at local level, for consideration by CRC (NEW)

#### 15A NCAC 7J .1202 Review of Beach Management Plan Approval Request

- Petitioner to provide a summary of the beach management plan to CRC (NEW)
- DCM will provide the CRC a review and recommendation to grant or deny the request (NEW)

#### 15A NCAC 7J .1203 Procedures for Approving A Beach Management Plan

- Remove provision for third parties to provide written/oral comments on the request at the CRC meeting (NEW)

#### 15A NCAC 7J .1204 Review of Beach Management Plans

- Same provision for five-year review and reauthorization of beach management plans as Static Line Exception.
- The five-year progress report is prepared and presented to CRC by the local government (NEW)
- DCM will review and provide CRC with a recommendation on the reauthorization request (NEW)
- Remove provision for third parties to written/oral comments on the request at the CRC meeting (NEW)
- Local governments with a previously approved, unexpired Static Line Exception to petition the Commission for approval of a Beach Management Plan by supplementing information required under the Static Line Exception to be compliant with the provisions of 7J .1200. (NEW)

#### 15A NCAC 7J .1205 Revocation and Expiration of Beach Management Plan Approval

- Delete reference to Static Line Exception expiration.

#### 15A NCAC 7J .1206 Local Govts and Communities with Approved Beach Management Plans

- No significant changes

### **Enhanced Exceptions**

#### 15A NCAC 7J .0306 General Use Standards for Ocean Hazard Areas

- Structures 5,000 square feet or greater require a minimum setback of 120 feet or 60 times the erosion rate. (Already a benefit of Static Line Exception)
- Replacement of all structures 10,000 square feet or less require minimum setback of 30 times the erosion rate, with conditions (NEW)
- Replacement of structures 10,000 sf or less (with conditions) now allowed for structures built after 2009 in communities with a CRC-approved beach management plan (NEW)
- Under CRC-approved beach plan, an exception for small structures would be allowed where proposed structures cannot meet graduated setback from the Vegetation Line.

### **Other Proposed Changes**

#### 15A NCAC 7H .0104 Application of Erosion Rate Setback Factors

- Proposed for **repeal** as the provision (addressing lots created prior to 1979) are effectively the same as those in 15A NCAC 7H .0309(b) which allow for similar development of a structure no greater than 2,000 square feet.
- Repeal will remove provisions allowing for the use of erosion rates at the time the lot was platted in determining setbacks. While seldom used, this language has caused confusion for the Division and Local Permitting Officers.

#### 15A NCAC 7H .0304 AECs Within Ocean Hazard Areas

- “First Line of Stable and Natural Vegetation” changed to “Vegetation Line”

#### 15A NCAC 7H .0305 Definition and Description of Landforms



- “Static Vegetation Line” changed to “Pre-Project Vegetation Line”

15A NCAC 7H .0306(a)(6)

- Static Vegetation Line” changed to “Pre-Project Vegetation Line”

15A NCAC 7H .0306(b)

- Consolidating rules (moved) related to dune alteration in 15A NCAC 7H .0308(b)(1).

15A NCAC 7H .0306(k)

- Amending the required permit condition that requires structures to be relocated or removed within two years of becoming imminently threatened to eight years. This change mirrors provisions for the management of temporary erosion control structures (sandbags).

15A NCAC 7H .0308 Specific Use Standards for Ocean Hazard Areas

- “First Line of Stable and Natural Vegetation” changed to “Vegetation Line”
- Relocated 15A NCAC 7H .0306(b)

15A NCAC 7H .0309 Use Standards for Ocean Hazard Areas: Exceptions

- Allow existing decks greater than 500 square feet to be replaced for safety reasons. Per previous CRC approval.
- Allow fill not associated with dune creation per previous CRAC discussion and CRC approval.
- Allow application of pre-1979 lot provisions for small structure exceptions to apply in Inlet Hazard and Unvegetated Beach AECs (15A NCAC 07H.0309(b))
- “Static Vegetation Line” changed to “Pre-Project Vegetation Line”

15A NCAC 7H .0310 Use Standards for Inlet Hazard Areas

- “First Line of Stable and Natural Vegetation” changed to “Vegetation Line”

15A NCAC 7J .1300 Development Line Procedures

- Repeal

**Anticipated Impacts**

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Local Governments:

As with a Development Line or Static Vegetation Line Exception, requesting approval of a Beach Management Plan is voluntary for communities; therefore, these new rules do not require local governments to incur any additional expenditures unless they choose to do so. Currently, there are 16 communities with static vegetation lines. Of those, eight have CRC-approved Static Vegetation Line Exceptions (Ocean Isle, Carolina Beach, Wrightsville Beach, Emerald Isle, Indian Beach, Salter Path, Pine Knoll Shores, and Atlantic Beach) and four (Carolina Beach, Figure Eight Island, Kure Beach and Oak Island) have Development Lines. In the course of developing the Beach Management Plan rules, the Division reached out to local governments and reviewed available beach nourishment plans and documentation. The Division has determined that the majority of the remaining 15 oceanfront communities either already have a beach and/or inlet management plan, or have the information needed that can be used to create a plan with minimal effort and cost. Additionally, these communities also perform regular surveys to

monitor beach sediment losses and gains. According to the Division's research, 60% have identified reliable funding sources; 60% have identified sand source(s); and 60% perform annual beach monitoring.

The Division has also reviewed the Bogue Banks Beach Master Nourishment Plan for the oceanfront municipalities of Carteret County. The multidecadal Plan was developed using several parameters to monitor the beaches and trigger future maintenance for the entire 25-mile long island of Bogue Banks. As a regional plan, the Bogue Banks Master Plan has been considered a model in beach nourishment planning and the Division worked with the County on a streamlined permitting process to facilitate implementation of the Master Plan.

Under the proposed amendments, local governments will have two oceanfront development setback options:

- 1) Continue to measure setbacks from the Pre-project Vegetation Line or Vegetation Line, whichever is applicable; or
- 2) Request an approve Beach Management Plan from the CRC, utilize the existing vegetation line for the siting of oceanfront structures and be eligible for the provisions granting regulatory relief from graduated oceanfront setbacks.
- 3) Local jurisdictions with unexpired Static Line Exceptions will continue to be able to utilize the existing vegetation line for the siting of oceanfront structures and be eligible for the provisions granting regulatory relief from graduated oceanfront setbacks until their Static Line Exceptions expire. Once the Static Line Exception expires, local jurisdiction may choose between the first two options. However, if they seek an approved Beach Management Plan, they will only need to bring their existing plans up to date according to the 15A NCAC 7J .1200 Beach Management Plans rather than start a new plan.

The proposed Beach Management Plan rule amendments are based on the Static Line Exception providing a voluntary option to local governments wanting to utilize the existing first line of stable and natural vegetation instead of the pre-project static vegetation line for the siting of new oceanfront development. Therefore, the impact of this proposal to local governments is a result of choosing between different options:

- a) If a community chooses not to do anything different than what current rules allow, they would incur no impact;
- b) If one of the eight communities that currently has a Static Line Exception chooses to opt for an approved Beach Management Plan, they will need to bring information related to the Static Line Exception up to date with the standards associated with 15A NCAC 7J .1200 which will be a reduced cost relative to initiating a new Beach Management Plan.
- c) If a community currently has a Static Vegetation Line and does not have a Static Line Exception, they may find it beneficial to incur the cost of developing a Beach Management Plan, average of \$12,144 (see Table 1), if the additional value to property owners outweighs that cost (see discussion of impact on property owners below).

**Table 1. Estimated Cost of Beach Management Plan Development**

Location (shoreline miles)	Estimated Beach Management Plan Cost		
	2010 Initial SVL Exception	2015 SL Exception 5-Year Reauthorization	Initial Cost or Re-authorization Adjusted for Inflation
Sunset Beach (2)	N/A	N/A	\$12,144
Ocean Isle (5.3)*	\$300	\$159	\$165
Holden Beach (7.9)	N/A	N/A	\$12,144
Oak Island (8.6)	N/A	N/A	\$12,144
Caswell Beach (2.8)	N/A	N/A	\$12,144
Bald Head Island (4.2)	N/A	N/A	\$12,144
Kure Beach (2.9)	N/A	N/A	\$12,144
<b>Carolina Beach (3.5)</b>	\$13,250	\$0	\$2,798
<b>Wrightsville Beach (4.0)</b>	\$13,250	\$2,320	\$2,798
Figure Eight Island (4.3)	N/A	N/A	\$12,144
Topsail Beach (4.4)	N/A	N/A	\$12,144
Surf City (5.9)	N/A	N/A	\$12,144
North Topsail Beach (11)	N/A	N/A	\$12,144
<b>Emerald Isle (11)</b>	\$13,775	\$5,120	\$6,175
<b>Indian Beach (1.2)</b>	\$5,800	\$5,120	\$6,175
<b>Salter Path (1.3)</b>	\$5,800	\$5,120	\$6,175
<b>Pine Knoll Shores (4.8)</b>	\$11,600	\$5,120	\$6,175
<b>Atlantic Beach (4.6)</b>	\$7,000	\$5,120	\$6,175
Hatteras (2)	N/A	N/A	\$12,144
Frisco (3.7)	N/A	N/A	\$12,144
Buxton (4.6)	N/A	N/A	\$12,144
Avon (4)	N/A	N/A	\$12,144
Rodanthe (Mirlo Beach) (5.5)	N/A	N/A	\$12,144
Nags Head (12)	N/A	N/A	\$12,144
Kill Devil Hills (4.7)	N/A	N/A	\$12,144
Kitty Hawk (3.5)	N/A	N/A	\$12,144
Southern Shores (3.7)	N/A	N/A	\$12,144
Duck (6)	N/A	N/A	\$12,144
Corrolla/Currituck Co. (11.6)	N/A	N/A	\$12,144
<b>Sum</b>	<b>\$70,775</b>	<b>\$27,920</b>	<b>\$291,660</b>
<b>Average</b>	<b>\$10,068</b>	<b>\$3,989</b>	<b>\$10,058</b>

\*Ocean Isle is not included in the average since the cost is low and considered an outlier.

**Assumptions:**

Static Line Exception costs are real expenditures reported by communities with Static Line Exceptions (Table 1) and are used for the following assumptions to estimate costs for those communities without an exception.

- As stated earlier, Carteret County and the municipalities of Bogue Banks (Atlantic Beach, Pine Knoll Shores, Salter Path, Indian Beach and Emerald Isle) are considered the model

for development of beach management plans. The municipalities of New Hanover County (Carolina Beach and Wrightsville Beach) have similarly developed beach management plans to a high standard. The cost associated with the development of these plans has been averaged based both on initial development and the five-year update. Costs have been adjusted for inflation.

- Communities without an Exception can anticipate an average first-time cost of approximately \$12,144 to assemble required information to be submitted to the CRC for an approval based on current information.
- Communities choosing to seek an approved Beach Management Plan after expiration of their Static Line Exception can anticipate average costs to be approximately \$6,175.
- Based on these estimates, it is assumed that costs will remain constant over the next few years.
- The Static Line Exception and Beach Management Plan address non-conforming lots similarly, in that each have to meet construction setbacks measured from the first line of stable and natural vegetation.
- Local governments interested in Static Line Exceptions, Development Lines and Beach Management Plans are already undertaking beach fill projects and in some cases already assume the costs of long-term commitments to beach nourishment.
- Currently, 16 out of 34 oceanfront communities have Static Vegetation Lines. Since 1996, at least one oceanfront community has installed a large-scale beach nourishment project once every five years; thus qualifying them for a Static Vegetation Line. Based on this historic trend, it can be assumed that the number of communities with a Static Vegetation Line is unlikely to change much in the next five to ten years.

Public infrastructure (e.g., parking lots and public utilities) has a minimum setback factor of sixty (60) feet or thirty (30) times the shoreline erosion rate (whichever is greater) as defined by 07H.0306(a)(2)(I). In the event that local governments need to replace or rebuild public infrastructure within an Ocean Hazard AEC, the proposed amendments will not change the CRC's approach to permitting that activity.

#### Private Property Owners:

The static vegetation rules apply only when oceanfront property owners are seeking a Coastal Area Management Act (CAMA) permit for the purpose of development. Development includes construction of new a structure, or replacement of an existing structure defined as requiring more than fifty percent (50%) repair or re-construction.

To the extent that a community is more likely to apply for a Beach Management Plan under the proposed rules than it would have for a Static Vegetation Line Exception under the current rules is uncertain. In terms of property value, any potential benefits gained would be the same for both the Static Line Exception and Beach Management Plan alternatives. Each allow for construction setbacks to be measured from First Line of Stable and Natural Vegetation instead of the potentially more restrictive Static Vegetation Line; thus resulting in a net impact of zero.

Private property owners may experience some unquantified increase in the value of their property, or opportunity cost, if the community in which their property is located has a Static Vegetation Line and chooses to apply for a Beach Management Plan. If a community does not apply for an approved Beach Management Plan, should vegetation growth occur oceanward of the Static Vegetation Line, property owners would still be required to measure oceanfront setbacks from the more restrictive Static Vegetation Line, potentially keeping more properties in a non-conforming status, negatively affecting their property values and limiting development options. Based on past discussions with coastal NC realtors, it is difficult to determine how much loss would be avoided by opting for a Static Line Exception when a structure is considered non-conforming since resale value is influenced by a wide range of factors, such as; amenities, location, proximity to sandbag structures, and the overall willingness of the buyer to take risks. The logic would apply to Beach Management Plans as well.

These proposed amendments to the Static Line Exception to Beach Management Plans will similarly benefit oceanfront property owners by allowing the potential utilization of a more favorable measurement line for new construction or re-development. These potential benefits are tied to complex factors, like amenities and the presence of sandbags, that drive local, regional, national, and global real estate markets, and any attempt to estimate them would be speculative on the part of the Division.

In assessing the impacts to private property owners associated with the repeal of the Development Line as compared to being located in an area with a CRC approved Beach Management Plan, it should be noted that both scenarios allow for the use of the existing vegetation line as point from oceanfront development setbacks are to be measured. The primary difference between the two is that under the Development Line the seaward limit on the siting of structures is determined by an average line of existing construction. Whereas under the Static Line Exception and now proposed Beach Management Plan scenarios, this limit is the landward most adjacent structure. Under both scenarios, the siting of new construction is influenced by location of surrounding development.

Given the uneven nature of development along oceanfront shoreline, approved Development Lines can allow large numbers of structures to be moved oceanward, sometimes significantly, following renourishment projects where vegetation is established seaward of the Static Vegetation Line. The proposed repeal of the Development Line corrects this unintended outcome and prevents large-scale oceanward redevelopment. Without having contextual historic property value data available, the ability to evaluate and quantify potential long-term life and property protection benefits, beach recreation-related benefits, and property value losses by repeal of the Development Line is not possible at this time. Quantifying this impact is also complicated by the variables associated with real estate markets as discussed above and site-specific erosion factors and long-term management practices.

#### NC Department of Transportation (DOT):

Pursuant to G.S. 150B-21.4, no impacts to NCDOT permitting are anticipated from the proposed amendments. The new and amended rules do not create any new procedures or restrictions that would affect NCDOT permits. Development such as roads, parking lots, and other public infrastructure such as utilities continue to have a minimum setback factor of sixty feet (60) or thirty (30) times the shoreline erosion rate (whichever is greater) as defined by 07H.0306(a)(2)(I). In the event NCDOT needs to build or maintain a road located within an Ocean Hazard AEC, the proposed amendments will not change the CRC's approach to permitting that activity.

### Division of Coastal Management:

The Division of Coastal Management's permit review process will not be changed by these amendments and DCM does not anticipate changes in permitting receipts due to the proposed action. There would be no increased cost for staff's time as a direct result of the proposed rules and amendments.

### **Cost/Benefit Summary**

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The proposed amendments address implementation issues with current rules for siting oceanfront development. Beach Management Plans will replace both the Development Line and the Static Line Exceptions. The amendments aim to prevent seaward encroachment and potential large-scale oceanward redevelopment after a beach nourishment project. Also included are additional provisions for regulatory relief for communities that demonstrate a local commitment to maintaining beach nourishment projects and further streamlining and simplification of the Ocean Hazard AEC rules.

The proposed amendments will have modest cost impacts on local governments depending on whether they choose to apply for an approved Beach Management Plan. The benefits to local governments and private property owners are assumed to be the similar to the existing Static Line Exception, as are the associated opportunity costs.

- Based costs associate with development of Static Line Exception request, an approved Beach Management Plan would require an average initial cost of \$12,144 and an average five-year recurring cost of \$6,175 to maintain.