

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

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3 **15A NCAC 07H .0305 DEFINITION AND DESCRIPTION OF LANDFORMS**

4 This Rule describes natural and man-made features that are found within the ocean hazard area of environmental
5 concern.

- 6 (1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend
7 from the mean low water line landward to a point where either:
8 (a) the growth of vegetation occurs; or
9 (b) a distinct change in slope or elevation alters the configuration of the landform, whichever
10 is farther landward.
- 11 (2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized
12 by dynamic changes both in space and time as a result of storms.
- 13 (3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches
14 having an elevation equal to the mean flood level (in a storm having a one percent chance of being
15 equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to
16 the lowest elevation in the depression behind that same mound of sand commonly referred to as the
17 "dune trough".
- 18 (4) Frontal Dunes. The frontal dune is the first mound of sand located landward of ocean beaches that
19 has stable and natural vegetation present.
- 20 (5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which
21 shall be used as the reference point for measuring oceanfront setbacks. This line represents the
22 boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides,
23 storms and wind, and the more stable upland areas. The vegetation line is generally located at or
24 immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division
25 of Coastal Management or Local Permit Officer shall determine the location of the stable and natural
26 vegetation line based on visual observations of plant composition and density. If the vegetation has
27 been planted, it may be considered stable when the majority of the plant stems are from continuous
28 rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural
29 when the majority of the plants are mature and additional species native to the region have been
30 recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally
31 occurring. In areas where there is no stable and natural vegetation present, this line may be
32 established by interpolation between the nearest adjacent stable natural vegetation by on-ground
33 observations or by aerial photographic interpretation.
- 34 (6) Pre-project Vegetation Line. In areas within the boundaries of a large-scale beach fill project, the
35 vegetation line that existed within one year prior to the onset of project construction shall be defined
36 as the "pre-project vegetation line". The "onset of project construction" shall be defined as the date
37 sediment placement begins, with the exception of projects completed prior to the original effective

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

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

1 environmental concern pursuant to 15A NCAC 07H .0304(3)(c) of this Section, a
2 measurement line shall be established that represents the location of the first line of stable
3 and natural vegetation that is covered by the dune building and beach planting project. The
4 measurement line shall be established in coordination with the Division of Coastal
5 Management using on ground observation and survey or aerial imagery and is applicable
6 for a period of no less than two years from the completion of the dune building and beach
7 planting project.

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9 *History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*
10 *Eff. September 9, 1977;*
11 *Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;*
12 *Temporary Amendment Eff. October 10, 1996;*
13 *Amended Eff. January 1, 1997;*
14 *Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;*
15 *Temporary Amendment Eff. October 22, 1997;*
16 *Amended Eff. April 1, 2020; April 1, 2016; April 1, 2008; August 1, 2002; August 1, 1998;*
17 *Readopted Eff. December 1, 2020;*
18 *Amended Eff. August 1, 2022;*
19 *Temporary Amendment Eff. November 13, 2024.*