

## **Fiscal Analysis**

### **North Carolina Coastal Reserve Amendments to 15A NCAC 07O**

Prepared by

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## Basic Information

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Agency	DEQ, Division of Coastal Management
Title	North Carolina Coastal Reserve
Citation	15A NCAC 07O
Description of the Proposed Rule	Subchapter 07O establishes the purpose and responsibilities of the North Carolina Coastal Reserve, including its components, advisory committees, and management.
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Authority	113-3, 113-8, 113A-129.1-3, 113-264, 143-341, 143-342, 143B-10
Impact Summary	State government: Yes Local government: Yes Substantial impact: No Private entities: Yes
Necessity	The Department of Environmental Quality is proposing rules amendments for the North Carolina Coastal Reserve. These amendments will satisfy the Legislative Periodic Review and Expiration of Existing Rules process requirements (G.S. 150B-21.3A), and address priority updates to enhance clarity of existing rules and address issues and gaps to ensure effective management of the North Carolina Coastal Reserve in accordance with G.S. 113A-129.1-3.

## Introduction and Purpose

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The North Carolina Coastal Reserve was established by the North Carolina General Assembly in 1989 when it amended the Coastal Area Management Act (G.S. 113A-129.1-3) to create the program and establish its purpose as:

*Important public purposes will be served by the preservation of certain areas in an undeveloped state. Such areas would thereafter be available for research, education, and other consistent public uses. These areas would also continue to contribute perpetually to the natural productivity and biological, economic, and aesthetic values of North Carolina's coastal area [G.S. 113A-129.1(b)].*

The reserve began with the designation of the North Carolina National Estuarine Research Reserve in 1985, a state-federal partnership program implemented by the Department of Environmental Quality's Division of Coastal Management in cooperation with the National Oceanic and Atmospheric Administration. North Carolina Administrative Code rules were adopted by the now Department of Environmental Quality for the reserve in 1986 (15A NCAC 07O). Subsequently, the state was interested in protecting additional coastal and estuarine habitats, which resulted in the establishment of the umbrella North Carolina Coastal Reserve, which includes the North Carolina National Estuarine Research Reserve per statute and rule. Today, the reserve protects more than 44,000 acres across 10 components in 8 coastal counties located along the length of North Carolina's coastline.

15A NCAC 07O has remained largely unchanged since it was first adopted in 1986. The department is proposing rule amendments during the Legislative Periodic Review and Expiration of Existing Rules (G.S. 150B-21.3A) process for 15A NCAC 07O based on staff experiences managing the North Carolina Coastal Reserve and its components, and based on feedback from the reserve's ten component local advisory committees. Since the original adoption of 15A NCAC 07O, additional components have been added to the program and use of the components has intensified and become more diverse as North Carolina's coastal population and visitation has increased. Unlike other state managed lands, the components are open access with few discrete access points (i.e., no operating hours or gates with few parking lots and trail heads) and several are only accessible by boat. Staff are stationed within the region, and are not physically present at each component on a daily basis given staffing levels and the geographic distribution of the components. The proposed amendments to 15A NCAC 07O will satisfy the periodic review and readoption requirements, and address priority updates to enhance clarity of existing rules and address issues and gaps to ensure effective management of the reserve and its components in accordance with the Coastal Area Management Act.

Per 15A NCAC 07O.0104 and G.S. 113A-129.2(b), the department sought the input of the reserve's ten component local advisory committees and the North Carolina Coastal Resources Commission for the periodic review and proposed amendments. Based on this input, 5 of the original 7 sections of the 15A NCAC 07O were determined to be "necessary with substantive public interest" by the Rules Review Commission and Joint Legislative Administrative Procedures Oversight Committee and must be readopted. These sections include 15A NCAC 07O.0101, .0103, .0104, .0201, and .0202. The remaining two sections, 15A NCAC 07O.0102 and 15A NCAC 07O.0105, were determined to be "necessary without substantive public

interest”. Input on the proposed amendments was sought from the local advisory committees in 2019 and 2020 and the North Carolina Coastal Resources Commission in 2020.

The proposed effective date of these amendments is November 1, 2021.

## **Description of Rule Amendments**

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Subchapter 15A NCAC 07O are rules of the Department of Environmental Quality and establish the purpose and responsibilities of the North Carolina Coastal Reserve, including its components, advisory committees, and management. The proposed amendments to 15A NCAC 07O and the intent of the changes to each section are outlined below.

### SUBCHAPTER 7O – North Carolina Coastal Reserve

#### All sections in Subchapter 07O

- The Coastal Area Management Act, the Coastal Reserve’s authorizing state statute (G.S. 113A-129.1-3), is added as an authority to all rule sections.

#### 15A NCAC 07O.0101 Statement of Purpose

- Item (4) is revised to focus on traditional uses and other uses for two reasons:
  - Clarify that “traditional uses” are public trust uses as defined in G.S. 1-45.1 and referenced in the Coastal Area Management Act (G.S. 113A-129.1-2). Both statutes list public trust uses as fishing, hunting, navigation, and recreation. “Traditional uses” is now defined in 15A NCAC 07O.0102 (4) and lists those four uses, including recreation and fishing.
  - Remove the phrase “traditional recreational uses” in this section and 15A NCAC 07O.0202 which was not defined, and staff, users, and local advisory committees found challenging to interpret consistently over time, to focus on “traditional uses” as described above.

This language revision does not change the type of uses that are currently allowed to occur at reserve components.

#### 15A NCAC 07O.0102 Definitions as used in this Subchapter

- Definitions of “Coastal Reserve” (item 1) and “Research Reserve” (item 3, strikethrough) are consolidated into item (1), as the term “Research Reserve” does not appear elsewhere in the subchapter. The term “recreation” in item (1) is replaced with “traditional uses,” which is defined in new item (4) and includes recreation. This revision promotes consistency with changes in 15A NCAC 07O.0101 (4) and is more inclusive.
- The term “traditional uses” is added as new item (4) to provide clarity to existing and revised language in 15A NCAC 07O.0101 (4).

#### 15A NCAC 07O.0103 Responsibilities: Duties of the Coastal Reserve Program

- No substantial changes are proposed for this section.

#### 15A NCAC 07O.0104 State and Local Coastal Reserve Advisory Committees

- Minor technical corrections are proposed and “partner agencies and organizations” is added to the list of committee members to reflect committee composition more accurately.

#### 15A NCAC 07O.0105 Reserve Components

- No changes are proposed for this section.

#### 15A NCAC 07O.0201 Management Plan

- “Natural resource management” is added as a topic that the management plan shall include policies for.
- The local advisory committees, North Carolina Coastal Resources Commission, and public are included as parties the division shall seek input from on revisions to the reserve management plan.
- Minor technical corrections are also proposed.

#### 15A NCAC 07O.0202 Reserve Use Requirements

A number of changes are proposed to 15A NCAC 07O.0202 to enhance clarity and address rule issues and gaps. Technical corrections and minor clarifications are proposed throughout the section.

- Text is added to clarify that 15A NCAC 07O.0202 applies to the lands and waters within the boundaries of the reserve components in the introductory sentence. Similar language in the individual items contained herein was removed as a result.
- Changes are proposed to item (2) to remove the phrase “traditional recreational uses” and inconsistencies within the first two sentences of the section, and to promote consistency with proposed revisions in 15A NCAC 07O.0101 (4). Rule language previously in (2)(d) is now addressed in the new item (11)(b), and the previous (2)(e) is now addressed in the new item (8).
- Language in item (4) is streamlined and the camping duration unit changed from hours to nights to provide additional flexibility.
- Item (5) is added to address fires.
- Trapping is added to item (6) to address that use. Fungi and cultural resources are also added to the list of items it is prohibited to disturb or remove.
- Language in item (7) is added to include how to seek authorization.
- A sentence is added to item (9) to account for the disposal of dredge spoil materials within existing U.S. Army Corps of Engineers easements at reserve components.
- Item (10) is added to address littering, dumping, deposition, and pollution. The item clarifies and consolidates strikethrough items (5) and (8) and includes vessels, litter, and dumping to address rule gaps. The timeline for removal of vessels in item (10)(b) is consistent with Session Law 2020-74, Section 4.
- Item (11) is added to include vehicles and parking to address rule gaps.
- Item (12) is added to provide clarity that division and its staff are exempt from this rule when engaged in component management activities.

## 15A NCAC 07O.0203 Special Activity Authorization

- This section is added to address requests received by the division for special activities - organized events, commercial activities, or other special activities or uses at reserve components that are not included in the primary uses of research, education, and compatible traditional uses. The section describes the processes to request a special activity authorization and the division will use to review requests. This section addresses a significant gap in the existing rules. No fees are required to apply for or receive a special activity authorization.

## **Fiscal Impacts**

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The proposed amendments to the 15A NCAC 07O affect the implementation of the North Carolina Coastal Reserve and how its components may be used by the citizens of and visitors to North Carolina. These amendments are primarily administrative in nature and are not expected to have significant fiscal impact on private entities, and local and state governments.

### Private Entities:

Amendments to 15A NCAC 07O.0202 Reserve Use Requirements clarify and address allowed and prohibited activities within the boundaries of the reserve components to ensure the purposes of the program and components are met. These amendments are not expected to have a fiscal impact on the visitors to reserve components as use of the components for compatible traditional activities is maintained. Adjacent private property owners to reserve components are also unlikely to be directly affected by these amendments as the amendments apply to the lands and waters contained within the component boundaries and not beyond.

The addition of 15A NCAC 07O.0203 Special Activity Authorization outlines a process that a private entity will need to follow if it is interested in conducting an organized event, commercial activity, or other special activity not included in the primary uses of research, education, and compatible traditional uses. This amendment is not expected to have a fiscal impact on private entities as there is no cost associated with making a request for a special activity authorization.

### Local Government:

The reserve components are located in local government jurisdictions and the program often partners with these entities on mutually beneficial projects at the components and in the communities. This includes local government enforcement of local ordinances and 15A NCAC 07O at the reserve components where jurisdictional authority exists and when needed; the proposed amendments will streamline enforcement assistance when needed as the rules are updated to enhance clarity and address issues and gaps. Minor time savings for local government staff may result as the proposed rule amendments will be more straightforward to communicate and enforce, requiring less conflict resolution and administrative time.

### State Government:

The amendments are not expected to have a significant fiscal impact on the Division of Coastal Management as they are administrative in nature. Once adopted, the division will communicate the rule amendments related to how its components may be used by the citizens of and visitors to

North Carolina via updated signs, brochures, and electronic means (e.g., website, social media). The division will accommodate these needs through its annual operating budget.

Minor to moderate time savings for division staff may result as the proposed rule amendments will be more straightforward to communicate and enforce, requiring less conflict resolution, administrative time, and coordination with local governments.

Minor to moderate additional administrative staff time may be needed to process the special activity authorization requests depending on the number of requests received; a significant increase in special activity requests is not anticipated given the nature of and access to the components. The proposed special activity authorization rule amendment outlines the application and review processes which will streamline request review, and promote transparency for staff and applicants. Potential minor to moderate additional staff time needed will be accommodated through existing staffing levels.

## **Cost/Benefits Summary**

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### Private Entities:

Reserve visitors, adjacent private property owners, and those seeking to conduct special activities on the components have an interest in what uses are allowed on the components. The proposed amendments enhance the clarity regarding uses; yet it is unlikely that these amendments will have a fiscal impact on private entities for reasons described above in the fiscal impacts section. The proposed rule amendments may have unquantified benefits and costs to private entities in order to balance ecosystem protection and compatible traditional uses by visitors through rule clarifications, including modifications and restrictions, and the addition of the special activity authorization. The amendments are not expected to significantly increase or decrease visitation and continue to protect ecosystems and minimize ecological impacts at the components.

Community members, who represent private entities, are appointed to reserve component local advisory committees, and participated throughout the periodic review process, including review of the proposed amendments.

### Local Government:

Local governments have an interest in how the reserve components are used and how the uses may impact activities within their jurisdictions. The proposed amendments are expected to benefit local governments as they enhance the clarity of existing rules and address issues and gaps regarding how reserve components may be used. Local governments are appointed to reserve component local advisory committees and participated throughout the periodic review process, including review of the proposed amendments.

### State Government:

The proposed amendments are expected to overall benefit the Division of Coastal Management as they enhance the clarity of existing rules and address issues and gaps regarding implementation of the North Carolina Coastal Reserve and how its components may be used. These unquantified benefits include balancing ecosystem protection and compatible traditional uses by visitors through rule clarifications, including modifications and restrictions, and the addition of the special activity authorization. The amendments are not expected to significantly increase or decrease visitation and continue to protect ecosystems and minimize ecological

impacts at the components. Minor to moderate additional administrative time and updates to communication mechanisms are costs to the division that are outweighed by these overall benefits.



## SUBCHAPTER 70 - NORTH CAROLINA COASTAL RESERVE

### SECTION .0100 - GENERAL PROVISIONS

#### 15A NCAC 070 .0101 STATEMENT OF PURPOSE

The principal purposes of the North Carolina Coastal Reserve and supporting programs are to:

- (1) preserve coastal ecosystems representative of the various biogeographic regions and typologies in North Carolina and to make them available for continuous future study of the processes, functions, and influences which shape and sustain the coastal ecosystems;
- (2) provide new information on coastal ecosystem processes to decisionmakers as a basis for the promotion of sound management of coastal resources;
- (3) provide a focal point for educational activities that increase the public awareness and understanding of coastal ecosystems, effects of ~~humans man~~ on them, and the importance of ~~the~~ coastal systems to the state and the Nation;
- (4) accommodate traditional ~~recreational activities uses, commercial fishing,~~ and other uses of the Reserve as long as they do not disturb the Reserve environment and are compatible with the research and educational activities within the Reserve components taking place there.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. April 1, 1988.*

#### 15A NCAC 070 .0102 DEFINITIONS AS USED IN THIS SUBCHAPTER

Definitions as used in this Subchapter are:

- (1) "Coastal Reserve" means those coastal land and water areas, which include land and water portions of an estuary and adjacent transitional areas and uplands, set aside as a natural field laboratory and classroom to be maintained in their natural state to provide for long-term opportunities for research, education and compatible traditional uses recreation and enjoyment of natural and scenic beauty. The Coastal Reserve includes the North Carolina National Estuarine Research Reserve.
- (2) "Estuary" means that part of a river or stream or body of water having unimpaired connection with the open sea, where sea water is measurably diluted with fresh water derived from land drainage.
- (3) ~~"Research Reserve" means a group of areas or components, each of which may include all or the key land and water portion of an estuary and adjacent transitional areas and uplands, constituting to the extent feasible a natural unit, set aside as a natural field laboratory to provide long term opportunities for research, education, and interpretation of the ecological relationships within the area. The Coastal Reserve includes the North Carolina National Estuarine Research Reserve.~~
- (43) "Reserve" means any area designated pursuant to this Subchapter.
- (54) "Traditional uses" means public trust uses as defined in G.S. 1-45.1, including fishing, hunting, navigation, and recreation.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. April 1, 1988.*

#### 15A NCAC 070 .0103 RESPONSIBILITIES: DUTIES OF THE COASTAL RESERVE PROGRAM

The Coastal Reserve Program of the Division of Coastal Management shall be responsible for managing and protecting the North Carolina Coastal Reserve; ~~for~~ promoting and coordinating research and educational programs at the components while allowing for compatible traditional uses; ~~for~~ maintaining a management plan for the Reserve; ~~for~~ maintaining cooperative agreements with scientific, educational, and resource management agencies and private citizens that will assist in the management of the Reserve; and ~~for~~ providing new information on coastal processes to coastal management decisionmakers.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. April 1, 1988.*

**15A NCAC 070 .0104 STATE AND LOCAL COASTAL RESERVE ADVISORY COMMITTEES**

Advisory committees shall be established for each ~~individual~~ Reserve component. ~~The committees and~~ shall advise ~~the~~ Reserve ~~staff coordinator~~. Members of the committees shall include researchers, educators, managers, partner agencies and organizations, and citizens that use or are affected by the Reserve and its components. The committees shall be appointed by the Secretary of the Department of Environmental Quality, Health, and Natural Resources.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. May 1, 1990; April 1, 1988.*

**15A NCAC 070 .0105 RESERVE COMPONENTS**

(a) The North Carolina Coastal Reserve includes the following components:

- (1) Zeke's Island;
- (2) Rachel Carson;
- (3) Currituck Banks;
- (4) Masonboro Island;
- (5) Permuda Island;
- (6) Buxton Woods;
- (7) Bald Head Woods;
- (8) Kitty Hawk Woods;
- (9) Bird Island; and
- (10) Emily and Richardson Preyer Buckridge.

The North Carolina National Estuarine Research Reserve includes components in Subparagraphs (1) - (4) of this Rule.

(b) Detailed boundary maps for each component are maintained and available for inspection at the Division of Coastal Management, 400 Commerce Avenue, Morehead City NC 28557.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. February 1, 2006; April 1, 1999; August 1, 1991; April 1, 1988.*

## SECTION .0200 - MANAGEMENT: USE AND PROTECTION OF THE NORTH CAROLINA COASTAL RESERVE

### 15A NCAC 070 .0201 MANAGEMENT PLAN

The Division of Coastal Management shall prepare a management plan for the Reserve. The management plan shall contain specific policies for research, education, natural resource management, and traditional uses at each component. The Secretary of the Department of Environmental ~~Quality, Health, and Natural Resources~~ shall approve the management plan and its revisions. The Division of Coastal Management shall seek input from the local advisory committees, the Coastal Resources Commission, and the public on revisions to the management plan. The Division of Coastal Management shall monitor and manage ~~the~~ Reserve components and report to the Secretary violations of the approved plan and any other situations that may be harmful to the natural resources of the Reserve.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 143-341; 143-342; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. May 1, 1990; April 1, 1988.*

### 15A NCAC 070 .0202 RESERVE USE REQUIREMENTS

The following use requirements shall apply to ~~all~~ the lands and waters within the boundaries of the components of the Reserve:

- (1) ~~The essential~~ natural character of the Reserve shall be maintained.
- (2) Traditional ~~recreational~~ uses within each component shall be allowed to continue as long as the activities are consistent with 15A NCAC 070.0101(4). ~~do not disrupt the natural integrity of the Reserve or any research or educational projects.~~ Incompatible traditional uses are prohibited and shall include:
  - (a) fishing, hunting, or trapping activities not allowed by federal, state, and local rules;
  - (b) target shooting; and
  - (c) mechanical hydraulic-clam dredging, within Reserve boundaries;
  - (d) ~~use of vehicles off designated corridors at components where vehicles are allowed for upland transportation according to the management plan; and~~
  - (e) ~~production of noise disruptive to local wildlife and the aesthetic enjoyment of the Reserve as a natural area.~~
- (3) ~~No user shall~~ It is prohibited to disturb a ~~an~~ authorized research or natural resource monitoring project or research equipment in place at the Reserve.
- (4) Camping or any form of habitation, ~~whether~~ on the uplands, or wetlands of the Reserve is prohibited, or waters within Reserve boundaries, shall not be allowed unless written permission is posted by the Division of Coastal Management except on the uplands at the Masonboro Island Reserve, where camping is allowed for no more than two consecutive nights.
- (5) ~~Fires are prohibited except at the Masonboro Island Reserve on open sand and away from vegetation.~~
- (5) ~~Personal property not authorized by the management agency may not be placed within the boundaries of the Reserve for more than two consecutive days.~~
- (6) ~~Users of the Reserve shall not~~ It is prohibited to disturb or remove any live animals, except those allowed by local or state hunting, trapping, and fishing rules as they apply to the Reserve, or vegetation, fungi, or cultural resources within the Reserve unless such action is part of a research or educational project approved authorized by the management agency Division of Coastal Management.
- (7) Persons wishing to engage in scientific research and monitoring, or collection of natural and cultural materials for scientific purposes within the Reserve shall first secure written ~~permission~~ authorization from the management agency Division of Coastal Management prior to beginning said activity. Written authorization does not eliminate the need to obtain any other federal, state, or local authorization, nor to abide by regulations adopted by any federal, state, or local agency. Application for authorization shall be made by contacting Reserve staff at the Division of Coastal Management.
- (8) ~~No activity shall be allowed which might pollute any stream or body of water in the Reserve. Acts of pollution shall include:~~
  - (a) ~~Deposition of solid materials not indigenous to the local coastal ecosystem; and~~
  - (b) ~~Discharge of liquids other than uncontaminated estuarine water.~~
- (8) It is prohibited to produce noise disruptive to local wildlife or the aesthetic enjoyment of the Reserve as a natural area.
- (9) ~~No other~~ It is prohibited to conduct or engage in acts or uses which are detrimental to the maintenance of

the Reserve property in its natural condition shall be allowed including, but not limited to, disturbances of the soil, mining, commercial or industrial uses, timber harvesting, ditching and draining, and deposition of waste materials. Disposal of dredge spoil materials within existing U.S. Army Corps of Engineers easements at Reserve components may be allowed with authorization from the U.S. Army Corps of Engineers and N.C. Department of Administration, in consultation with the Division.

- (10) The following requirements pertain to littering, dumping, deposition, and pollution:
- (a) It is prohibited to leave any personal property unattended within the boundaries of any Reserve component longer than 24 hours, at which point it shall be considered litter in accordance with G.S. 14-399 and subject to removal at the owner's expense and/or prosecution.
  - (b) It is prohibited to abandon or allow to be abandoned any vessels of any kind within the boundaries of any Reserve component. Vessels not removed within 30 days will be considered litter in accordance with G.S. 14-399 and subject to removal at the owner's expense and/or prosecution.
  - (c) It is prohibited to dispose of any litter, as described in G.S. 14-399, within the boundaries of any Reserve component.
  - (d) It is prohibited to dump, deposit, place, or allow to be abandoned any autos, appliances, trash, debris, garbage, shell or discarded material(s) of any kind within the boundaries of any Reserve component.
  - (e) It is prohibited to conduct or engage in activities that pollute any land, wetland, stream, creek or other body of water within the boundaries of any Reserve component, in accordance with G.S. 75A-10, 76-40.
- (11) The following requirements pertain to vehicles and parking:
- (a) Motorized vehicles as defined in G.S. 20-4.01 (23) are prohibited within the boundaries of any Reserve component while not actively engaged in a Reserve-based activity, Reserve business, or an activity authorized by the Division of Coastal Management.
  - (b) Motorized vehicles are prohibited outside of designated corridors within the boundaries of Reserve components where vehicles are allowed for upland transportation according to the management plan.
  - (c) It is prohibited to allow a motorized vehicle to block traffic, gates, driveways or emergency vehicle access.
  - (d) It is prohibited to park a motorized vehicle within the boundaries of any Reserve component overnight, or allow a motorized vehicle to remain anywhere within the boundaries of any Reserve component unattended or abandoned for longer than 12 hours except at the Currituck Banks Reserve parking lot where there is a 2 hour limit.
  - (e) The Division or its agents may immobilize or tow any motorized vehicle that is in violation of this rule at the owner's expense.
  - (f) Non-motorized vehicles are prohibited where the use of the vehicle will damage natural resources, on pedestrian trails not designated for this use, and in any areas of Reserve components not customarily used for such purpose.
- (12) The Division staff and its authorized agents are exempt from this rule when engaged in management activities, such as incorporation of natural materials, beneficial use of dredged materials, or other engineering practices that protect, restore, or enhance the natural character of the Reserve.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 113-264; 143B-10;  
Eff. July 1, 1986;  
Amended Eff. April 1, 1999; December 1, 1991; April 1, 1988.*

#### **15A NCAC 070.0203 SPECIAL ACTIVITY AUTHORIZATION**

- (1) Written authorization is required for organized events, commercial activities and other special activities or uses within the boundaries of any Reserve component not included in the primary uses of research, education, and compatible traditional uses.
- (2) A request for written authorization shall be made by contacting Reserve staff at the Division of Coastal Management. Written authorization does not eliminate the need to obtain any other federal, state, or local authorization, nor to abide by regulations adopted by any federal, state, or local agency.
- (3) A request for written authorization shall be made a minimum of 30 days prior to and up to one year in advance of the activity or use. The request shall include the name, address and phone number of the applicant; the name of the organization (if any); the name, address and phone number of a contact person; the date, time, duration, nature and location of the proposed activity or use; the estimated number of persons

- expected to participate; the equipment to be used during the activity; and other information necessary to allow for evaluation of an application.
- (4) The Reserve Manager or designee shall provide written authorization unless one or more of the following apply:
- (a) A prior request for a written authorization for a similar activity or use has been made and granted; and the activities or uses authorized by the written authorization do not allow multiple activities or uses of that location during the same timeframe;
  - (b) The activity or use will threaten the health, safety and welfare of persons using the Reserve;
  - (c) The activity or use is of such a nature or duration that it cannot be conducted or performed in the location due to: (i) the potential for damage to the Reserve or facilities; (ii) interference with research or education programs, or site management activities of the Reserve; (iii) disturbance of wildlife, habitats, or other natural features of the Reserve; or (iv) burden placed on public agencies by the activity;
  - (d) The activity or use conflicts with the principal purposes of the Reserve as defined in 15A NCAC O70.0101; or
  - (e) The activity or use does not comply with the Reserve use requirements found in section 15A NCAC O70.0202 or dedicated nature preserve letters of allocation under G.S. 143B Article 2 Part 42 Nature Preserves Act or would constitute a violation of other applicable law or regulation.
- (5) The written authorization may contain conditions consistent with protection and use of the Reserve for the purposes for which it is operated.
- (6) The authorized user shall not transfer or assign authorization, or grant any part of an authorized use, to any person not indicated on the written authorization request.
- (7) If a request is denied, the applicant shall be informed in writing, with the reason(s) for the denial.
- (8) Participants engaged in activities authorized under this rule shall also be subject to Reserve rules.
- (9) A written authorization only authorizes uses or activities that conform to the terms contained in the authorization or in applicable federal, state, and local rules and existing laws. Violation of the terms and conditions of a written authorization, including engaging in any activities or uses not expressly authorized, shall result in revocation of the authorization by the Division of Coastal Management. Violations shall be subject to any other civil and/or criminal penalties prescribed by law.

*History Note: Authority G.S. 113-3; 113-8; 113A-129.1-3; 133-264; 143B-10;*