North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Beverly Eaves Perdue
Governor

James H. Gregson
Director

Dee Freeman
Secretary

October 19, 2010

MEMORANDUM

CRC-10-38

TO: Coastal Resources Commission

FROM: Jim Gregson

SUBJECT: Draft Rule Language 15A NCAC 07K .0214
Installation and Maintenance of Regulatory Signs and Markers Exempt

At the September CRC Meeting I briefly explained a problematic issue the Division is having with the installation of regulatory signs and trail markers. There have been inconsistencies in how these structures have been treated over the years with respect to the size and type of sign (commercial vs. governmental) and whether they triggered the permitting requirement.

There is clear indication in the existing rule language, 15A NCAC .07H.0209 (d)(10) (Coastal Shoreline Buffer Exceptions), that the Commission considers the installation of signs to be development. Staff recognizes that there are certain types of signs, such as commercial advertisements (real estate signs), that should be subject to the CAMA permitting process when located within an AEC as they are a private use in a public trust area. There are other types of signs, however, that because of their regulatory or informational nature, may be appropriate in any AEC. Some examples of these types of signs would be signs or markers that are used for interpretive purposes, property boundary delineation, regulation posting, trail marking, or other similar purpose. It is Staff's position that the use of regulatory / informational signs and markers by State, federal and local government agencies is an activity that is: 1) occurring on a regular and customary basis; 2) has little to no resource impact; and 3) in many cases, need to be installed expeditiously. It is staff's position that in order to expedite the installation of these types of signs and markers, they should be exempted by rule from the CAMA Permit requirements. This is an approach that is similar to the one the Commission took with respect to sand fencing.

Please find the attached draft rule language that specifies the types of signs, purpose of use, and criteria that must be met to qualify for the exemption. These criteria are intended to prevent sign and marker installation in areas or in a manner that would impact public trust rights, emergency vehicle access to the beach or navigation. Signs and markers not meeting these criteria would be subject to the CAMA Permit requirements. A concern was raised at the September meeting that the rule would not apply in situations where Towns were providing signage for private individuals, such as "keep off the dune" signs. This issue has been addressed in the opening paragraph of the draft rule.

Staff is recommending that the draft rule language be approved for public hearing.

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15A NCAC 07K .0214 INSTALLATION AND MAINTENANCE OF REGULATORY SIGNS AND MARKERS EXEMPTED

Post and pile supported signs and markers that are installed and maintained for informational or regulatory purposes by State, federal or local government agencies, or by individuals acting on behalf of said agencies, are exempt from the permit requirements of the Coastal Area Management Act subject to the following criteria:

(1) Signs and markers may be used for interpretive purposes, property boundary delineation, regulation posting, trail marking, or other similar purpose.

(2) Signs and markers shall not impede public access to the beach, recreational use of the beach or emergency vehicle access. Signs shall not be installed in a manner that impedes or restricts established common law and statutory rights of public access and use of public trust lands and waters.

(3) Non-functioning, damaged, or unsecured, signs and markers shall be immediately repaired or removed by the State, federal or local government agencies responsible for their installation.

(4) There shall be no interference with navigation or use of the waters by the public by the existence of the sign or marker.

(5) Excavation or filling activities shall be limited to the minimum necessary for the placement of the post or pile. This exemption does not authorize the construction or placement of footings.