

NC COASTAL RESOURCES COMMISSION

July 11, 2013

NOAA/NCNERR Administration Building

Beaufort, NC

The State Government Ethics Act mandates that at the beginning of any meeting the Chair remind all the members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or potential conflict, please state so at this time.

Thursday, July 11th

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| 9:30 EXECUTIVE COMMITTEE MEETING (Auditorium) | Bob Emory, Chair |
| 10:00 COMMISSION CALL TO ORDER* (Auditorium) | Bob Emory, Chair |
| <ul style="list-style-type: none">• Roll Call• Approval of May 9, 2013 Meeting Minutes• Executive Secretary's Report (<i>CRC-13-21</i>)• Chairman's Comments• Town of Beaufort - Welcome | Braxton Davis Bob Emory Richard L. Stanley, Mayor |
| 10:30 Legislative Update | Braxton Davis |
| 10:45 Beach Management | |
| <ul style="list-style-type: none">• USF&W Service's Proposed Designation of Critical Habitat for the Sea Turtle – Update (<i>CRC Information Item</i>)• Progress on Cape Fear River AEC Study (<i>CRC-13-22</i>)• Regional Planning and Permitting of Beach Nourishment Projects (<i>CRC-13-23</i>) | Braxton Davis Heather Coats Matt Slagel |
| 11:30 PUBLIC INPUT AND COMMENT | Bob Emory, Chair |
| 11:45 CLOSED SESSION – Litigation | Bob Emory, Chair |
| 12:15 LUNCH | |
| 1:30 Land Use Planning | |
| <ul style="list-style-type: none">• Characterization of Land Use Plans – Assessment Update (<i>CRC-13-28</i>)• Currituck County LUP Implementation Status Report (<i>CRC-13-29</i>) | John Thayer |
| 2:00 ACTION ITEMS | |
| CRC Rule Development | |
| <ul style="list-style-type: none">• Adopt 15A NCAC 7H .0312 Technical Standards for Beach Fill Projects (<i>CRC-13-31</i>)• Adopt 15 A NCAC 7H .0306(a)(2) General Use Standards for Ocean Hazard Areas – Single Family/Duplex Structures Setback (<i>CRC-13-24</i>)• Amendments to 15A NCAC 7H .1200 GP for Construction of Piers and Docking Facilities (<i>CRC-13-25</i>)• Amendments to 15A NCAC 7H. .0312 Technical Standards for Beach Fill Projects (<i>CRC-13-26</i>)• Continued Discussion of 15A 7J .0210 Replacement of Existing Structures | Tancred Miller Mike Lopazanski David Moye Matt Slagel Frank Jennings |
| 3:45 CRC Science Panel Updates | |
| <ul style="list-style-type: none">• Science Panel Member Appointments | Mike Lopazanski |
| OLD/NEW BUSINESS | Bob Emory, Chair |

4:00 ADJOURN

Executive Order 34 mandates that in transacting Commission business, each person appointed by the governor shall act always in the best interest of the public without regard for his or her financial interests. To this end, each appointee must recuse himself or herself from voting on any matter on which the appointee has a financial interest. Commissioners having a question about a conflict of interest or potential conflict should consult with the Chairman or legal counsel.

** Times indicated are only for guidance. The Commission will proceed through the agenda until completed.*



N.C. Division of Coastal Management
www.nccoastalmanagement.net

Next Meeting:
September 25-27, 2013

NC COASTAL RESOURCES COMMISSION (CRC)

May 9, 2013

NOAA/NCNERR Auditorium

Beaufort, NC

Present CRC Members

Bob Emory, Chair

Joan Weld, Vice Chair

Lee Wynns

Pat Joyce

Renee Cahoon

David Webster

Jerry Old

Joseph Hester

Ed Mitchell

Jamin Simmons

Scott Cutler

Larry Baldwin

Gwen Baker

Present Attorney General's Office Members

Mary Lucasse

Christine Goebel

CALL TO ORDER/ROLL CALL

Bob Emory called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. No conflicts were reported. Bill Peele was absent. Based upon this roll call, Chairman Emory declared a quorum.

Gwen Baker and Scott Cutler read their Evaluations of Statement of Economic Interest from the State Ethics Commission which indicated they did not find an actual conflict, but did find the potential for a conflict of interest. The potential conflicts identified do not prohibit service.

MINUTES

Ed Mitchell made a motion to approve the minutes of the February 2013 Coastal Resources Commission meeting. Renee Cahoon seconded the motion. The motion passed unanimously (Weld, Wynns, Joyce, Cahoon, Hester, Webster, Mitchell, Simmons, Cutler, Baldwin, Baker) (Old abstained).

EXECUTIVE SECRETARY'S REPORT

DCM Director Braxton Davis gave the following report.

It is good to see all of you again, and welcome to Commissioner Baker. We had the opportunity to meet and discuss the program a few months ago in Washington, DC. Please let us know if we can help you in any way as you get up to speed. You should have before you the DCM Update Memo that covers the Division of Coastal Management's recent permitting, enforcement, rule development, planning and Coastal Reserve activities since the last meeting. As you'll see, permit numbers are up pretty much across the board. We had several notable major permits this quarter, including two significant permits to the DOT to address short and long-term needs for highway 12 on the Outer Banks: an emergency CAMA permit for a temporary renourishment project at the S-turns of NC-12 near Rodanthe; and a CAMA major permit for the DOT to construct a bridge over the breach on Pea Island. Our Policy and Planning Section is continuing to review our CAMA land use planning program, and we recently met with representatives of the Business Alliance for a Sound Economy and the Coastal Federation to begin engaging outside partners in this effort. With their help, we will be planning a regional workshop for late summer to discuss the future of the planning program with local governments and stakeholders down in Wilmington. We will plan to hold a second regional workshop to engage our more northeastern counties later this fall. On another note, planning staff have been reviewing the 33 public shoreline access grant proposals received under this year's RFP, and will be sending out invitations for final proposals soon. We anticipate awarding close to \$1.5M in this cycle.

We worked with the Executive Committee to develop today's agenda, and I will just highlight a few items. First, we are again starting your meeting off with a "Local Issues Forum." We really appreciate today's participation of Mayor Trace Cooper from Atlantic Beach and Greg "Rudi" Rudolph with the Carteret Co. Shore Protection Office, and we look forward to hearing about how the Town and County are approaching coastal issues and interacting with the Division of Coastal Management. We also have Steve Trowell from the Division's Washington District Office here to follow up on the November Commission meeting where we heard about agricultural drainage issues in Hyde County.

This afternoon we will focus on several rule changes that the Commission has discussed in prior meetings. First, Mike Lopazanski will present relatively minor corrections and updates for rules in 7I related to the Minor Permitting program. Next, Ted Tyndall and staff from the Regulatory section will walk you through a series of proposed rule changes that we hope will reduce unnecessary regulatory burdens and improve customer service at DCM. These are ideas that were presented and discussed at the February meeting, and staff have now drafted rule language that we are asking you to approve for public hearings and for the development of draft fiscal analyses. Frank Jennings will also be discussing recent challenges to the Division's interpretation of rules related to beachfront structures, and the Division's resulting change in our interpretation of 7J.0210.

After the break this afternoon, we'll have a follow-up discussion on the Commission's Science Panel on Coastal Hazards. This is something that was discussed at length at the February meeting, and based on your feedback, staff have worked with the Panel to develop a final draft charge and nominations process to help clarify how the Panel should operate, as well as how the Commission appoints members in general and for specific studies in the future. This is especially important as we are proceeding with the various studies under S.L. 2012-202, which requires the Science Panel

to revisit its past sea level rise study and the subject of inlet hazard areas, and to develop new reports for the Administration and General Assembly on these subjects.

Finally, we are planning for the next Commission meeting to be held here in Beaufort again in July for budgetary reasons, but hope to move the September meeting back to Jeanette's Pier in Nags Head.

CHAIRMAN'S COMMENTS

Bob Emory stated the Commission will be reviewing some rule changes and rule interpretations. One of those involves combining houses and septic tanks as one structure for the purpose of placement calculations. There is on-going litigation on this topic and as we discuss it, please refrain from mentioning any specific properties that you may be aware of that might be part of the litigation. There has been some newspaper coverage about the plans for filling Science Panel vacancies. The article gave the impression that decisions had already been made, but the process is in the meeting materials and no decisions have been made.

LEGISLATIVE UPDATE

Braxton Davis gave an overview of legislative bills that have implications for the coast, the Commission and the Division.

HB1011 surfaced yesterday and goes back to SB10. This bill makes changes to several state boards and commissions including the CRC and CRAC. It would end the terms of the current members, reduces the CRC to 13 members, reduces the CRAC membership to 20, and changes the way appointments are done. The House originally passed its version of the bill March 5 and the Senate did not concur. It went to Conference Committee. There is now a new version of the bill. This version keeps four members of the CRC until June 2014 (Wynns, Simmons, Emory, Cahoon).

SB612 has provisions that would require cities and counties to repeal any rule that is stricter than state or federal law. It would require environmental oversight boards and agencies, including the CRC, to repeal or rewrite any state rule that is stricter than a federal regulation. This bill passed the Senate on May 2 and is waiting on a vote in the House.

SB32/HB74 would amend the Administrative Procedures Act and calls for the periodic review and expiration of all environmental rules including those of the CRC unless the rules are readopted prior to December 31, 2017 or within ten years of a rule's most recent amendment. On May 7, the Senate bill received a favorable report. HB74 was originally identical to the Senate Bill, but a substitute was introduced two days ago that changed the House version to require that agency's review their current rules and determine which of three categories they fall into. The analysis has to be published on our website and OAH's website and has to lay out a categorization for every rule and receive public comment on the analysis for 60 days. Agencies then have to prepare a response to the public comments. RRC has the authority to determine the timeline of this process. This bill now goes to the House floor.

SB127 is a study bill that looks at customer service, economic development and transportation and establishes geographical administrative regions for the state that would look at conforming regional divisions of the Department, Department of Transportation, and the Department of Commerce within new regions. This bill has been referred to the Senate Commerce Committee.

SB151 gives local governments the authority to enforce public trust rights on ocean beaches seaward of the mean high water mark. This bill has been referred to the Senate Agriculture/Environment and Natural Resources Committee. HB300 gives cities and towns the right to enforce local ordinances on ocean beaches. This bill has been referred to the House Judiciary Subcommittee.

HB484/SB491 are related to the permitting of wind energy facilities. It establishes a permitting program for the siting and operation of wind energy facilities. This has been passed out of the Senate Agriculture/Environment and Natural Resources Committee. This is a centralized new permitting program within DENR for wind energy facilities which includes provisions which require a CAMA permit.

HB755 relates to the Department's electronic notice. This bill removes the requirement to publish public notices of certain permits, including CAMA Major Permits, in local newspapers. It allows the publication of these notices online on the Department's website or via email to interested parties. This bill was on the House Calendar but has been postponed to May 15. Crossover is May 16. Annually the Division is spending over \$25,000 on newspaper publications for Major Permits. The Division also spends \$7,000 on Minor Permit publications.

SB112 is in Committee today. This bill is something we put together based on one of the six priorities that DCM talked to the CRC about at the February meeting. This would eliminate the requirement for newspaper publication of CAMA Minor Permits. This would help local governments keep the fees associated with Minor Permits and standardize the type of notification for Minor and General Permits. The public notice in the newspaper eats up most of the fee that local governments get for Minor Permits. We also proposed an amendment to the Dredge and Fill law which would allow signed statements of no objection by adjacent property owners to be considered as an acceptable alternative to what is currently required to have a certified mail receipt for adjacent property owner notification and then a 30-day comment period. This will help expedite CAMA Major Permits as well and reduce costs associated with certified mail.

PRESENTATIONS

Town of Atlantic Beach – Welcome Trace Cooper, Mayor

Trace Cooper stated public service is not an easy thing. People tend to not like government these days. There is a presumption that if the government is doing something then it must be bad. In Atlantic Beach we have a neighborhood in town that was developed 40-50 years ago and the original developers did not have any kind of stormwater controls in place at the time. There are no outlets, ponds, or swales. This is a low-lying area and it floods a lot. Since Hurricane Irene when it flooded heavily we have looked for a solution to retrofit the neighborhood. Through working with some engineers and a helpful property owner who has given us access to use 30-feet of his soundfront yard we came up with a solution that will address the problem, that is cost-effective and meets all of the applicable and appropriate regulations. Then I got a call from the adjacent property owner who said he had some concerns about what we were doing. I spoke with him to try to address his concerns and he said he didn't need to know what we are trying to do to know that he is against it. The US Congress has a 9% approval rating. Senators send out more negative press releases about their opponents than they do about things they are trying to achieve. They spend more time celebrating their opponent's defeats than working to make solutions that make our country better. I understand the frustrations. At the state and local level we get painted with the

same brush. It is my job to sit down with this citizen and make sure he understands that not everything we are doing is bad. If there are sincere concerns then we will address them and make them work. It is part of the job. Everyone in this room either works for or with government and understands that. I have discovered that there is another group of people who seem not to like government very much, the North Carolina General Assembly. I am not here to lobby against any particular bills and there are a few out there that affect local government. The Regulatory Reform Bill was mentioned and my take on that is the General Assembly thinks that they are in a better position to make decisions that affect the citizens of Atlantic Beach than the citizens of Atlantic Beach are. This will all get worked out. I have a lot more confidence in the General Assembly than I do in the federal government. I want to remind everyone that there are regulatory frameworks that are jointly administered and they work pretty well. It can serve as a model for making these changes. CAMA is state dictated regulation but it is administered both state and locally. From the ground perspective it works very well. If there is significant development then it deserves more scrutiny at the state level and they have the resources to do it. If it is more routine development then our people on the ground can issue permits and enforce them in a way that makes a lot of sense. It is cost efficient and it maintains the protections that we need for the coast and gives great customer service to our citizens. As we are going through a new Administration, I hope that we don't always feel that we have to reinvent the wheel. There are some things that we have been doing for a long time that work and we should keep those in mind as we go forward. I want to thank the Morehead City DCM office for being such good partners and providing good service to our citizens and practicing good government.

Follow Up from November 2012 Meeting: Hyde County Drainage Issues (CRC 13-10)
Steve Trowell

Steve Trowell stated there are two issues with agricultural drainage that the Division gets involved with in trying to improve or maintain drainage. The first is clearing of snagging and the other is maintenance excavation. There is a clearing of snags exemption. There are BMPs that were developed through the coordination of different resource agencies within the Department. If the BMPs are followed then the Division of Coastal Management does not require a permit. Clearing of snags is the removal of wooden debris that finds itself in streams or other drainage features that slows the flow and impedes drainage. It entails the removal of blown over trees leaning into the water. The main BMPs that are to be followed are to clear the center half of the stream leaving the other vegetation and habitat that is created by the fallen trees in the banks. There is no bank disturbance allowed under the exemption. You must coordinate with the appropriate fisheries resource agency to make sure that we observe any moratoriums in effect. Clearing of snag work is typically done from small boats using chainsaws or other tools to cut the logs and limbs. The second drainage issue the Division is involved in is maintenance excavation. Maintenance excavation entails the physical removal of sediments from the channelized stream or manmade canal. As long as the project proposal adheres to a certain set of conditions, the main ones being the requirement of high ground disposal of the spoil material and the project cannot exceed one thousand cubic yards. These can be issued through the General Permit process. Along with drainage issues, salt water intrusion was another major issue in Hyde County. Structures, such as electric drainage pumps, are put in place to help drainage. There are low lying lands, relative to sea level, so when you dig a ditch the bottom of the ditch is at or below sea level and then the sound is slightly above sea level. It is difficult to get gravity to flow. Another feature is the flap gate that is placed on the sound side of the pipe to prevent salt water from passing through the pipe and into the ditches and fields upstream. In most cases we work with the farmers to keep them out of a permit situation. If possible, farmers like to use the road since the roadbed is higher than adjacent lands.

The roadbed can serve as a dike. Earthen dikes are another feature that can be used. We have discussed within the Division to get together with Hyde County and Washington County Soil and Water Boards as well as Natural Resource Conservation staff and see what we can do to develop a survey that we can submit to the area farming community to see what their issues are and see how DCM fits in and what we can do to improve the situation.

At this time Chairman Emory, on behalf of the Coastal Resources Commission, recognized Allen Jernigan of the Attorney General's Office. Mr. Jernigan retired from state service on May 1, 2013 and has represented the Division of Coastal Management and the Coastal Resources Commission in several major court cases through the years. Chairman Emory presented Mr. Jernigan with the Eure Gardner Award

Carteret County Beach Commission Greg "Rudi" Rudolph, Shore Protection Office

Rudi Rudolph stated most towns and counties operate through a Town Council and a Town Manager. There are a lot of commissions, boards and authorities. Some of them are purely advisory in nature. About ten years ago the Shore Protection Office and the Beach Commission started an offspring of the County bed tax. It is 5%. Basically the Bill stipulates that two of the five percent is for the sole purpose of beach nourishment. A lot of local bills have a little more breakdown of the bed tax. The Carteret County Tax Bill mandates the members of the Beach Commission. The Beach Commission is advisory but also has a funding source. The Bill says that the County Board must abide by the Beach Commission's decisions. The Beach Commission cannot contract for themselves only the County Board can contract. This brings a lot of people to the table when decisions need to be made. I am a county employee. The County Manager hires and fires my position. The Beach Commission makes the decisions, but the Towns get the phone calls from the public.

The beach shape and location are a function of storm activity. The sand supply changes with sea level. This added with the underlying framework causes erosion or accretion. A lot of the sand that we see on the beaches is re-worked sand from capes and inlets. For a long time we have been concerned about the dredging impacts at the Morehead Harbor because there is no new sand coming into the system. There is a sand deficit. There are also two different types of shorelines. This is important for us because Bogue Banks is a 25 mile long island. We have a large oceanfront and there are inlets. Inlets are more driven by orientation and require a different management approach. There were a lot of sandbags on Bogue Inlet and if those sandbags were not in place it would have looked very different. There is no amount of sand that we could have put in the channel that would have fixed it. Here we needed to move the channel. The resources the Commission and General Assembly have used, such as sandbags and terminal groins, are good tools for the inlet shoreline that would not work on the oceanfront shoreline. In the 1990s we had some major hurricanes. This is when the occupancy tax went into effect to get the dedicated funding needed to get the Beach Commission and Shoreline Protection Office to manage the entire island. We also set up a dense profile network which could quantify what happened to our beaches during these storms. At first, our general philosophy was to take volumetric measurements. When we did that we saw that Atlantic Beach had more sand in the system than other towns. Our nourishment philosophy was to pump the sand to our target and then after a hurricane we will be good. Over the past ten years the total cost has been about 90 million dollars to place about 11 million cubic yards of sand on the 25 miles of beach. Of the 90 million dollars, over half was paid by the federal government, about 35% was paid locally, and the rest was paid by the state. Currently, on the eastern side of the island we

have engaged the Corps of Engineers into some legal action on how they manage the inlet. The Corps agreed to lead how the inlet is dredged and maintained and that document will be called the Dredge Management Plan. The idea is that it will provide the eastern side of the island with the appropriate amount of sand that would mimic the sand budget. The other half of the island would be under our master plan. We are working with DCM on this. We are doing a fifty year plan. Under the static line exception plan, each town had to show the CRC the plan and monetary resources. Our master plan will be similar. With the static line exception we can take advantage of the real vegetation line. The funding aspect is interesting. Our funding model is for the next 25 years of nourishment. It will cost 187 million dollars to do all 25 miles of Bogue Banks. We can use half of the County funds from occupancy tax, 25% will be local (Town) funds, and a state match of 25%. The state match is becoming problematic. This creates a 50 million dollar hole that we are trying to plug.

Update on DCM Beach and Inlet Management Activities (CRC 13-12)

Matt Slagel

Today's presentation will be about a couple of different efforts that the Division has been pursuing related to beach and inlet management, specifically sediment management. Sediment compatibility is one of the primary considerations as we are planning and permitting projects. The lack of sediment compatibility can have an effect on the local erosion rate. If the sediment is finer than the native beach then the erosion rate can increase and the quality of the fill plays a role in the longevity of the project which has financial implications. Sediment compatibility is also important for biological communities, recreation and aesthetics. Prior to the current sediment criteria rule (7H .0312), the rules were limited to 7H .0308 which stated that nourishment sediment shall be compatible with existing grain size and type. There was no more information on what compatible meant or any quantifiable measure. In recognizing that potential negative impacts could occur, in 2002 the CRC asked the Science Panel for recommendations. Some of their recommendations led to the existing rule that we have in 7H .0312 which became effective in 2007. The rules took the previous language and provided quantifiable measures, defined compatible, specified the types of data, and the process for collecting the data. There is a two-fold data collection effort. The first is characterizing the native beach where the fill is proposed to be placed. The second part is characterizing sediment in the borrow area. For the recipient beach a beach profile is required which helps calculate volumes. Along those profiles sediment sampling must occur at each profile to characterize the native grain size and mineralogy. In addition to these things, an applicant must calculate the number of sediments and shells that are greater than three inches in diameter. In the borrow areas it gets a little more technical. Swath bathymetry is required. This is data that is collected from a ship that tells you what the depth of the sea floor is. Sidescan sonar is an acoustic image that is collected which will help to know the softness or hardness of the bottom material. Geophysical imaging helps you to know what is beneath the seafloor. Vibracores are cylindrical cores that are sent through the sediment and brought to the surface to perform grain size analysis. All of these data are now specified in the current rule. The goal is to meet the sediment criteria thresholds to ensure that beach material being placed on the beach matches with the native beach. Currently there are a couple of rule changes that are ongoing. Changes in the rule will reduce sampling requirements for Offshore Dredged Material Disposal Sites and all maintained navigation channels. The public comment period for this proposed change ends June 14. A public hearing was held on May 2 and no public comments were received. This rule change has an anticipated effective date of September 1. The Division is also considering additional changes. We want to balance minimizing the risks of incompatible sediment and ensuring that rules are not overly burdensome or expensive for permittees. We have held discussions with coastal engineers,

geologists and local sand managers. These discussions have revealed general support for the sediment criteria rules. They have also revealed a few suggestions. Draft rule language for the Commission's review should be ready for the July meeting. There are four general changes under consideration. The first is to allow single-beam bathymetry with adequate line spacing rather than requiring 100% coverage with swath bathymetry for borrow sites. This would reduce costs. However, for the cost of swath bathymetry the applicant gets more certainty about the resource and the swath allows backscatter data to be collected at the same time. Another change under consideration is to allow more flexibility in vibracore plans, especially for smaller borrow areas. Currently, for each borrow site, the rules require no less than ten evenly spaced cores or one core per 23 acres, whichever is greater. The third change is to expand the granular "native = 5%" criteria to allow slightly more coarse sand sediment to be placed on the beach. The last change being considered is to allow excavation depths to exceed the maximum core depths, only where geophysical sub-bottom data or other information clearly indicates the sediment below the maximum core depth is beach compatible.

There is inconsistent federal and state funding for shallow-draft inlet dredging. Many dredging projects in the state have not been funded in a presidential budget since 2005. Hurricane Sandy provided some federal relief funds for Lockwood's Folly inlet, Carolina Beach inlet and Oregon Inlet. There are uncertainties surrounding the Corp's side-cast dredge "Merritt" which has been used extensively in the state for maintenance of these shallow-draft inlets. The Division has partnered with the Division of Water Resources to draft a request for proposals for a permitting cost study. The goal of the cost study would be to determine the costs in both time and money of obtaining federal and state permits at the local level to dredge to current authorized dimensions or for deeper authorizations. The inlets that would be considered in this cost study would include Bogue, New Topsail, Carolina Beach, Lockwoods Folly, and Shallotte. The Division will assist with identifying existing resource data that are available. The estimated cost for this study is about \$30,000 total which will be split 50/50 between state and local funding. The USACE Regional Sediment Management Program is a national program where the different districts around the country can apply for competitive funding for projects that seek to implement the regional sediment management concept. This option will also be explored.

There are a few bills in the Legislature that have been introduced that pertain to dredging. SB58 would increase vessel registration fees to support shallow-draft inlet dredging. It would also contribute 1/6 of 1% of the gas taxes for dredging. This bill has passed the Senate, passed the first reading in the House, and has been referred to the Committee on Commerce and Job Development. Estimates indicate that this would raise six million dollars annually. HB983 would use 1/2 of 1% of the Highway Fund from gas taxes on shallow-draft inlet dredging. This bill has been referred to the House Committee on Commerce and Job Development. HB707 would require a dredging permitting cost study in line with the study described earlier and require DENR to assist local governments with obtaining USACE dredging permits. This bill has passed the House and has been referred to the Senate Committee on Agriculture/Environment/Natural Resources.

PUBLIC INPUT AND COMMENT

Cliff Ogburn, Town Manager for the Town of Nags Head, stated I am here to speak to you about an item on your afternoon agenda which is of great concern to the Town. The item is the discussion of 15A NCAC .0210, Replacement of Existing Structures. I want to thank Frank Jennings for meeting with the Town on Monday to discuss this issue. What I understand is that DENR's primary mission is to protect North Carolina's environment and natural resources. The Division of Coastal Management works to protect, conserve and manage North Carolina's coastal resources through an

integrative program of planning, permitting, education and research. Coastal Management is part of the Department of Environment and Natural Resources which is responsible for keeping the state's environment healthy. When you choose to build or buy on the oceanfront you take risks. Those risks may come in the form of dramatic storms, nor'easters, or hurricanes that can destroy a home in a matter of hours. The risk may develop more gradually caused by the daily forces of wind, waves and tides. These forces cause North Carolina's beaches to shift and a beach may lose or gain sand. Erosion tends to occur faster in some areas than in others, especially near inlets and capes where sand shifts rapidly. An eroding beach may lose several feet of sand per year. All of this comes from the Department's website. I also understand that under North Carolina's Constitution Article 14 Section 5 that it shall be the policy of the state to conserve and protect its land and waters for the benefits of all its citizenry. To this end it shall be a proper function in the state of North Carolina and its political subdivisions to acquire and preserve park, recreation, scenic areas and to control and limit the pollution of air and water, to control excessive noise as part of the common heritage of this state's forests, wetlands, estuaries, beaches, historical sites, open lands and places of beauty. I also understand that under the Administrative Code 15A NCAC 7H .1705 that an imminently threatened structure may be protected only once regardless of ownership unless the threatened structure is part of an inlet hazard area or community that is actively pursuing nourishment. For the purposes of this rule a building and septic system shall be considered as separate structures. I also know that the Town of Nags Head recently completed a locally funded, 35-million dollar beach nourishment project, but before that we spent nearly 5 years and a million and a half dollars obtaining permits that would ensure that we would not harm the environment in our efforts to protect our shoreline. It was a very long, expensive process. What I don't understand is why now after all these years the rule is being interpreted in direct conflict with everything that I just read to you. How can you allow something seaward of the static line, seaward of the dunes, on the beach to be permitted? How is allowing a structure, in this case a septic tank, seaward of the static vegetation line and on the beach a good idea and in unison with protecting the North Carolina Coast? By treating houses and septic systems as one unit this is exactly what will happen. This is not something that you have to do. The court has not ruled that you have been interpreting the rule wrong since the inception of DCM or CAMA. Let the courts decide. Don't cave from potential threats and challenges. Don't run for legal sake and allow the continuance of these structures. That is in direct conflict with public safety and enjoyment of our state's beaches. This seems to me to reflect a policy decision for political purposes. Unfortunately this policy is not consistent with the purpose of CAMA, the CRC or DENR. It is not consistent with the best interest of the public. I am not sure what action you are being requested to take today, but I hope that it will be one that is taken to protect North Carolina's beaches and coasts. I have a letter prepared from Mayor Bob Oakes that I would like to read for you:

Members of the Coastal Resources Commission,

Sometimes small changes have large implications. The recent Coastal Management decision to change how septic tank replacement and repair costs are calculated has bad consequences for the beach, specifically South Nags Head. The end results of state sandbag policy and septic tank policy are in South Nags Head. It's not a pretty picture. Broken septic tanks were scattered for months on the beach, and private homes continue to block the public beach. Do any of you think it's good for a septic tank to be laid east of the first line of vegetation and the frontal dune line? We've found that these tanks get washed out by the ocean. This happens more slowly if they are armored behind sandbags. But ultimately, the ocean washes over the bags and destroys the tank, frequently leaking sewage. We have had broken septic tanks laying on the public trust land for months at a time. Recently, a state court ruled that the Town had no jurisdiction over the public trust area commonly known as the public beach. We are dependent on the State to protect the beach. I have always considered the NC Division of Coastal Management and the Coastal Resources Commission to be

one of the strongest protectors of the coast and the beach. Making it easier to place a septic tank on the public trust area is bad public policy, and that will be the direct result of this change in interpretation. Please consider a rule that prohibits replacement of septic tanks east of the first line of vegetation and the frontal dune. Warm regards, Bob Oakes, Mayor.

Bill Price stated I have recently seen a copy of the structure of the Science Panel. As I look through it, it appears to me that it is directed towards providing a single consensus opinion for presentations to the Commission. I look back at long ago history and it's like it was in the dark ages. I believe that it might be better to have a variety of opinions or at least all opinions including a minority opinion so the Commission can see the ideas and the facts as they are presented and make a decision based on that. In the February 2011 CRC meeting I asked three questions about sea level rise and I still haven't gotten an answer. I watched a copy of the video of the Science Panel and I don't expect I will get an answer. I guess I was very disappointed with the Science Panel's reaction to questions from the public. The 2011 accretion/erosion report had numerous errors and was misleading. The Director indicated that it would be corrected and I think that is good. There are at least seven theories of what causes beach erosion. DCM produced a report some time ago. We don't have a comprehensive report. We don't have a report of beach erosion of the coast of North Carolina that shows the potential problems of dredging and any evaluation of along-shore current by the latest technology. It is being done elsewhere and I was told by folks in the state of North Carolina that it could be done, but it just never has been. It seems to me that as critical as beach erosion is to the state of North Carolina that at some point somebody will do a comprehensive study. The port at Palm Beach Florida uses sand transfer pipes to move sand across the inlet and I can't understand why the CRC has outlawed them. It is more cost effective and is certainly less environmentally damaging than the dredging process they use.

Rudi Rudolph, Carteret County, stated I want to talk about the US Fish and Wildlife Service's recent critical habitat designation and how it may impact us. The loggerhead turtle was first listed as threatened in 1978. A critical habitat designation has not been proposed until now. It is apparent that this is an off shoot of a bunch of legal decisions that started in 2007. The first area where it came into play, the US Fish and Wildlife Service and the National Marine Fisheries Service had to do a reassessment of the stock. The group of loggerhead turtle that lives near us is still threatened. Further legal proceedings happened. Critical habitat will require another layer of review on all federal actions. For this reason alone, Carteret County is against it. The published rule also disclosed that special management considerations will be necessitated to address 12 threats. I don't know what the special considerations are. What is even more frustrating is a lot is done for turtles already. We are against this. This critical habitat designation has been placed on state beaches so what impact will it have on the CRC's rules?

CRAC REPORT

Ray Sturza stated we discussed the ramifications of what had been known as SB10 and is now HB1011. This is probably the last meeting for this particular composition of the Coastal Resources Commission as it stands. In our discussion of that we touched on a few points that we want to impart to those of you who will remain, based on the proposed legislation. We would like to remind everybody that the Coastal Area Management Act was a partnership between local government and state government. The creation of the Coastal Resources Advisory Council was a compromise that sprung the legislation through the General Assembly in 1974. I hope you and your successors will recognize the regional and geographical balance of the Advisory Council as it pertains to some unique characteristics of the coast. The northern portions of the coast are

significantly different than the central and southern portions. We also want to emphasize the importance of the ancillary agencies that seem to have taken a majority of the hits as far as the re-creation of the Council goes, in particular the Department of Transportation and NC Sea Grant.

ACTION ITEMS

Adopt 15A NCAC 7I .0401 & 7I .0406 – Minor Permit Program

Mike Lopazanski

Mike Lopazanski stated these rules are related to the Minor Permit program which is a local implementation and enforcement program established by CAMA for the expeditious processing of permit applications. Local governments administer these permits for the Division. These rules relate to reimbursement to local governments for participating in training workshops as well as a reference to the Minor Permit fee. Since 1983 we have been reimbursing local governments \$200 per LPO for up to three LPOs from a single local government. In accordance with RMIP we noticed the amount of reimbursement had not been updated in the rule. The Minor Permit fee is \$100 (7J .0204) and it was authorized by the CRC in 2000. However, there was an old reference to the Minor Permit fee in 7I .0406 that states that the fee is \$25. The two actions requested are to adopt these changes to correct the rules. A public hearing was held at the February CRC meeting and no comments were received.

Jerry Old made a motion to adopt 15A NCAC 07I .0401. Larry Baldwin seconded the motion. The motion passed unanimously (Simmons, Old, Mitchell, Cutler, Webster, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester).

Scott Cutler made a motion to adopt 15A NCAC 07I .0406. Renee Cahoon seconded the motion. The motion passed unanimously (Simmons, Old, Mitchell, Cutler, Webster, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester).

Rule Change Overview, Proposed Changes to CAMA, Dredge & Fill Regarding Notifications (CRC 13-13) Ted Tyndall

Ted Tyndall stated Braxton discussed at the February meeting the Division's initiative to perform a comprehensive review of its rules. We have prioritized several rules. The first is to provide greater flexibility in the use of the General Permit for docks and piers. The staff has looked at this and we are still working on rule language. The second priority was to simplify the use and lower the cost of the General Permit for boat ramps and associated structures. David Moye will present the proposed changes today. The third is to expand the use of the General Permit for wetland, stream and buffer mitigation. This is on the agenda today for the Commission to review draft rule language. The fourth is to reduce the regulatory burden related to beachfill projects. This was presented by Matt Slagel today and there is some good dialogue going on with stakeholders and we are moving in the right direction to have proposed rule changes in the near future. The fifth priority is to streamline the public notice and adjacent property owner notifications. Braxton talked about this in his opening remarks. One of the goals is to expedite the Minor Permitting while allowing the local government to keep more of the fee that they get. The public notice publication can eat up the entire fee.

Amendments to 7H .2600 Wetland, Stream and Buffer Mitigation Permit (CRC 13-14)
Doug Huggett

****Bob Emory stated his employer is attempting to get into the mitigation bank business in North Carolina and already is in other states. There may not be a real conflict, but recused himself from the discussion and turned the meeting over to Vice-Chair Joan Weld.****

Doug Huggett stated during 2003-2004 DCM staff brought the CRC a new General Permit to allow for mitigation sites that were under the authority of the Ecosystem Enhancement Program (EEP). The EEP was formed to try and reinvent the way North Carolina was dealing with compensatory wetland mitigation projects. Its goal was to try to do mitigation more on an ecosystem basis rather than small mitigation sites. Another benefit to the EEP model would be that applicants that may need compensatory wetland mitigation could utilize the EEP's mitigation and take the mitigation out of the permit process. If DOT was building a new road that needed mitigation, part of the plan and permit would have to include the wetland mitigation component which leads to delays in permit acquisition. The EEP concept takes the mitigation out of the individual permit stage and puts it in the hands of a DENR agency with assurances that it will be done in the proper way. There is a large amount of oversight that was built into the EEP mitigation process. Between 2004 and today quite a bit has happened in the compensatory mitigation world. In 2008, the EPA developed a new set of standards that deal with mitigation banks. Staff is recommending that we modify the General Permit language to broaden its scope and allow it to apply to all mitigation banks.

Jerry Old made a motion to approve the proposed amendments to 15A NCAC 07H .2600 for public hearing. Ed Mitchell seconded the motion. The motion passed unanimously (Simmons, Old, Mitchell, Cutler, Webster, Wynns, Simmons, Cahoon, Baldwin, Joyce, Hester).

Amendments to 7H .1300
GP to Maintain, Repair and Construct Boat Ramps – Expanded Activities (CRC 13-15)
David Moyer

David Moyer stated over the years when an applicant asks for a boat ramp permit two things accompany that. The first is that they want a small access dock to go along with it. The second is a way to stabilize the sides of the ramp to keep it from scouring over time. Routinely we have seen small groins constructed on either side of the boat ramp to keep it in place. Within the CRC's rules there are General Permits for docks/piers, a General Permit for boat ramps, and a General Permit for groins. These are all independent General Permits. Currently an applicant would have to have three permits for the dock, boat ramp, and groins. There is a \$200 fee for each and this costs the applicant \$600 for a relatively simple project that does not have a large impact. In an effort to streamline the process, DCM staff is recommending approving proposed amendments to revise 7H.1300.

Jamin Simmons made a motion to approve the proposed amendments to 15A NCAC 07H .1300 for public hearing. Pat Joyce seconded the motion. The motion passed unanimously (Simmons, Mitchell, Cutler, Webster, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester) (Old absent for vote).

Discussion of 15A NCAC 7J .0210 Replacement of Existing Structures (CRC 13-20)

Frank Jennings

****Renee Cahoon stated she spoke with the Town attorney to see if she could participate in this discussion. He issued his opinion which Commissioner Cahoon shared with the CRC Chair and counsel. Commissioner Cahoon made the following statement, "As Commissioner for the Town of Nags Head I am aware that there is currently litigation pending between the Town and some homeowners relating to DCM's interpretation of this rule. I have requested an opinion from Nags Head's attorney and Commission counsel on whether I should abstain or be recused from consideration from CRC 13-20. Neither attorney advised me to abstain based on the facts. The facts are that I do not reasonably foresee in the foreseeable future to have a financial benefit from the matter under consideration, it does not appear that the Town or any person with whom I am associated will incur a reasonably foreseeable benefit from a change in how the rule is interpreted, the rule interpretation was not requested by the Town and will not single out the Town of Nags Head for special treatment, the interpretation of this rule will be applied to all the CAMA counties. I have consulted with counsel and been advised that there is no reason for me to abstain and it is my intention to participate in this discussion.****

Frank Jennings stated the Commission's rules for the repair of existing structures within an AEC allows repairs to be made without a permit if the cost to do the work does not exceed 50% of the market value of the structure immediately prior to the time of the damage or the time of the request. DCM regulatory staff have been applying this rule in such a manner that septic systems servicing oceanfront structures were viewed as individual or separate structures; that is, a damaged septic system could not be repaired without a permit if the cost of the repairs exceeded 50% of its market value. Recently, the Division was challenged after determining that a damaged septic system could not be repaired because the estimated costs to repair the system exceeded 50% of the value of the system. As a result, the Division, Department, and members of the Attorney General's staff undertook a review of the Commission's rules and the Division's policies on this matter. The Division, the Department, and the members of the Attorney General's staff agree that the Commission's rules regarding repair/replacement, and the Ocean Hazard Areas of Environmental Concern, do not clearly state whether septic systems and houses should be treated as one structure for the purpose of the repair/replacement rule, or as separate structures. As a result of this review, the Division will now consider an oceanfront structure and its septic system as a single structure for the purposes of repair vs. replacement determinations.

Joan Weld stated that if the rule does not clearly state whether the septic system is separate then we need to clarify the rule. Lee Wynns stated he is opposed to having septic tanks on the public beach and wants to clarify the rule language so the Division can continue to enforce this rule as it has in the past. Renee Cahoon compared placing septic tanks on the beach to swimming in sewage and asked Commissioners how they would feel if a child fell into an open septic tank that has been there for months. We don't know that staff's interpretation for the past 14 years has been wrong and the courts have not ruled on this. This new interpretation is not the way we need to go.

After discussion, Joan Weld made a motion for staff to bring back rule language examples showing proposed options and rationale for each that clarifies whether a house and its associated septic tank should be considered as one structure or separate structures. Structures on the beach should be addressed. Consequences, even unintended, should be shown for these options. David Webster seconded the motion. The motion passed unanimously (Simmons,

Mitchell, Cutler, Webster, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester) (Old absent for vote).

LAND USE PLAN CERTIFICATIONS AND AMENDMENTS

Town of Swansboro Land Use Plan Amendment (CRC 13-16)

John Thayer

John Thayer stated there are two items on the agenda, but only one is an action item. An updated memo was provided today at the meeting for the Town of Swansboro Land Use Plan Amendment. This is the third amendment by the Town and it is a simple change from one designation to another on the Future Land Use Plan Map. There is an associated change in a chart related to acreages. Staff has reviewed the request and found that it has met the substantive requirements of the 7B guidelines and there are no conflicts with the State's rules. Staff recommends certification.

Pat Joyce made a motion to certify the Town of Swansboro Land Use Plan Amendment. Joan Weld seconded the motion. The motion passed unanimously (Simmons, Cutler, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester) (Old, Mitchell, Webster absent for vote).

The second item listed on the agenda is the Town of Nags Head's Land Use Plan Implementation Status Report. The Plans that are prepared or updated for using state grant money are required to provide the CRC with Implementation Status Reports which note the progress of their plan.

CRC SCIENCE PANEL UPDATES

Draft Science Panel Charge from CRC (CRC 13-18)

Mike Lopazanski

Mike Lopazanski stated at the February meeting the CRC saw a revised charge to the Science Panel that attempted to establish more formality and structure in terms of how they operate, how information comes back to the CRC, and how Panel members are chosen. There was also a presentation on the origin of the Science Panel. As part of the discussion, there was discussion about science and its role in policy as well as how science has been a part of the Commission's proceedings and factoring into decision making. The Commission reiterated their support for what the Science Panel brings to the Commission's discussions, particularly the more technical aspects of coastal processes and considerations for coastal hazards. The focus of the discussion about the draft charge was primarily on the membership of the Panel. We also talked about the use of ad hoc members to fill specific needs as they relate to a deficiency in a certain field. When we talked about the nominations of new members, the CRC wanted to see that the CRC, CRAC, DCM and Science Panel members would make nominations at the CRC meetings. There was discussion about the review of expertise and credentials and having that done in consultation with the Science Panel. There was some preference given towards peer-reviewed publications as a possible criteria used in determining the expertise and credentials of nominees. The CRC was interested in seeing staggered four-year terms. In order to have staggered terms it would necessitate splitting the current Science Panel into two and four-year terms to start. We have worked this into the charge. There was discussion about the replacement of Science Panel members due to non-participation at the discretion of the CRC Chair. These are all aspects that we have worked into the charge since February. There was some question about how information would be disseminated. The CRC wants to see documents before they are distributed for public comment and we have made that change. The CRC also wanted to add two additional members. There are 11 current members and

there will be four open seats. The new members' terms will be for four years. We took the CRC's suggestions to the Science Panel to get their feedback. They agreed that there needs to be a basis for evaluating credentials of nominees. The members felt that there are a lot of practicing coastal geologists and engineers that may not be published and should not be disqualified from being members on the Panel. They recommended not focusing on peer-reviewed publication, but a better way to evaluate potential nominees would be to look at their expertise and experience related to coastal hazards. They also felt that it was important to maintain a balance between coastal engineers and coastal geologists. There was some discussion about whether or not an economist would be useful on the Panel as a permanent member. They felt that the degree to which their assignments from the CRC and the context for those assignments that if there were a need for an economist then they could bring one in on an ad hoc basis rather than as a standing member. They also talked about the report format. In the current charge it is a more formal report format, but there are some aspects of their assignments where they would be looking at engineering technologies that would be more suitable as a memo to the Commission. They want to have the option of shorter recommendations for simpler assignments. In order to initiate staggered terms we polled the Panel members on who would be willing to start with a two year or four year term. It worked out evenly.

Joe Hester made a motion to adopt the Charge to the Science Panel. Joan Weld seconded the motion. The motion passed unanimously (Simmons, Mitchell, Cutler, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester) (Old, Webster absent for vote).

Science Panel Member Nominations Process

-Reappointments, Vacancies, Ad Hoc Committee, Nominations Committee (CRC 13-19)

Mike Lopazanski

Mike Lopazanski stated nominations will come from the Advisory Council, the Commission, and the Science Panel. Once nominations come in they would be reviewed for relevant expertise and credentials by the CRC Subcommittee. The CRC Chair will then appoint them for a four year term. Ad hoc members may be added to extend the expertise of the Panel if a specific study calls for it. In order to handle nominations we anticipate having two calls for nominations. The first will be to fill Science Panel vacancies and the second will be for an ad hoc membership for the Sea Level Rise Assessment Report. Our intention is to do it shortly after this meeting. Letters will go out to the CRC, CRAC, and Science Panel asking for nominations for a specific seat. We would request that the nominator approach the nominee to be sure that they are interested in serving on the Panel. The nomination packet will be sent to the Division Director that would include a resume or CV that demonstrates the relevant expertise or credentials in coastal hazard processes. Nominations will be accepted for at least 30 days. We propose that the subcommittee review the nominations made up of the CRC Executive Committee and Science Panel Chair. This subcommittee will make recommendations to the CRC Chair for appointment. The Science Panel will also look at the nominees and make their recommendation to the Science Panel Chair. We could then have the CRC Chair announce the appointments at the July meeting. We would like to reappoint the existing Science Panel members at this meeting.

Jamin Simmons made a motion to approve the Science Panel nomination process. Joe Hester seconded the motion. The motion passed unanimously (Simmons, Mitchell, Cutler, Wynns, Weld, Baker, Cahoon, Baldwin, Joyce, Hester) (Old, Webster absent for vote).

Joan Weld made a motion to reappoint the current Science Panel members. Joe Hester seconded the motion. The motion failed with three votes in favor (Cutler, Weld, Hester) and seven opposed (Simmons, Mitchell, Wynns, Baker, Cahoon, Baldwin, Joyce) (Old, Webster absent for vote).

Ed Mitchell made a motion that the CRC Chair meet with the Executive Committee and the CRC Chair can reappoint the current members of the Science Panel. Renee Cahoon seconded the motion. The motion passed with seven votes (Simmons, Mitchell, Wynns, Baker, Cahoon, Baldwin, Joyce) and three opposed (Cutler, Weld, Hester) (Old, Webster absent for vote).

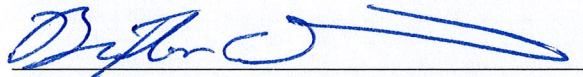
OLD/NEW BUSINESS

Ed Mitchell asked for clarification on the public comment period for the Critical Habitat Designation. Braxton Davis stated that comments have been requested from other state agencies with experience with the sea turtle issue. A letter will be drafted from the Secretary of the Department and the Department will likely express concerns about the lack of federal consistency review. There are also some concerns about the implications of the designation. The letter will highlight the programs and policies that are currently in place in North Carolina related to sea turtle conservation. The public comment period ends May 24.

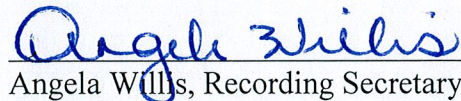
Larry Baldwin made a motion to approve the CRC Chair to formulate a letter of concern about the Sea Turtle Critical Habitat Designation. Ed Mitchell seconded the motion. The motion passed unanimously (Simmons, Mitchell, Cutler, Wynns, Baker, Cahoon, Baldwin, Joyce, Hester) (Weld abstained) (Old, Webster absent for vote).

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Wills, Recording Secretary



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

July 11, 2013

MEMORANDUM

TO: Coastal Resources Commission

FROM: Braxton Davis

SUBJECT: DCM Update

Regulatory Update

For the second quarter of 2013, the Division processed 41 major permit actions (33 new major permits, 6 major modifications and 2 denials), which is equal to the number of permit actions from the previous three-month period, with an average processing time of 78.7 days. In addition, regulatory staff from the four District offices issued a total of 430 general permits (again, a number similar to the preceding three-month period). Through the Local Permitting Officer (LPO) program, local governments issued 204 minor permits. Overall, permit activity is up from the last fiscal year. As a result, receipts for the quarter totaled \$170,230, an increase of 22.5% over the amount taken in for the same quarter last year.

Notable Permitting Actions: DCM issued a Major Permit on May 8th, authorizing the Ruddy Duck restaurant in Morehead City to expand its waterfront docking facility. This permit was expedited (issued in 29 days) to allow the restaurant to construct the docking facility expansion before the beginning of the summer tourist season.

Compliance & Enforcement Accomplishments: From January 1, 2013 through May 31, 2013, staff performed 888 inspections for permit monitoring, compliance assistance, complaint investigations, violation investigations and/or restoration, and follow-up site visits. During this same period, the average life span of a typical violation case was approximately 32 days. Staff initiated 19 new enforcement actions and closed out 18 cases overall. \$11,020 in penalties was assessed (including cases from prior years) and \$15,499 collected (including cases from prior years). Staff flew 22 compliance & monitoring flights (a total of 54 hours) during the '12-'13 fiscal year.

Policy and Planning

Beach and Inlet Management Plan: The Division is continuing efforts to develop a Guidance Document to promote Regional Sediment Management. The Guidance Document will provide strategies for local governments to address a range of anticipated beach nourishment activities that could be incorporated into a regional plan. These plans could help coordinate Atlantic Intracoastal Waterway dredging with concurrent beach fill, other beneficial use dredging projects, inlet channel realignment projects, FEMA reimbursement projects, and other beach management projects. DCM

staff previously met with municipalities on Bogue Banks to assess past and planned beach nourishment activities as well as local goals and priorities. Staff will use this region as a model in developing the Guidance Document. DCM staff also recently met with state and federal regulatory and resource agencies to determine the scope of a programmatic permitting approach, approval processes, and agency requirements in terms of allowable activities, restrictions, and monitoring. In the coming year, DCM will meet with other beach communities and stakeholder groups throughout the coast to gauge interest in regional strategies, understand the format of local regional agreements, and explore the potential for region-specific management strategies.

Rule Development: Policy staff has continued to work with the Department and the Office of State Budget and Management on the fiscal analyses associated with several rules approved by the Commission for public hearing.

- **15A NCAC 7H.0304** – Mad Inlet and Unvegetated Beach Designation at Hatteras Village– Fiscal Analysis in review by DENR. Originally, the amendments also included changes to the calculation of the Ocean Erodible AEC to reflect CRC adoption of the graduated oceanfront setbacks. Due to the complexity of the fiscal analysis, changes to the OEA will be processed as a separate action.
- **15A NCAC 7H .0312** – Sediment Criteria: Fiscal Analysis approved by DENR. Approved for public hearing at February 7, 2013 CRC meeting in Wilmington. Public hearing held May 2, 2013 in Morehead City. Public comment period ended June 14, 2013. Scheduled for adoption at the July 11, 2013 CRC meeting. Proposed effective date September 1, 2013.
- **15A NCAC 7H .0306(a)(2)** General Use Standards for Ocean Hazard Areas (*Permanent Rule*)– Fiscal Analysis approved by DENR. CRC approved for public hearing at November 16, 2012 meeting in Plymouth. Public hearing held April 10, 2013. Public comment period ended May 14, 2013. Scheduled for adoption at July 11, 2013 CRC meeting. Proposed effective date September 1, 2013.
- **15A NCAC 7I .0401 & .0406** – Amendments to Minor Permit Program. Fiscal Analysis approved by DENR and OSBM. Approved by CRC for public hearing at the November 16, 2012 CRC meeting. Public hearing held February 6, 2013 at CRC meeting in Wilmington. Adopted at May 9, 2013 CRC meeting in Beaufort. Proposed effective date July 1, 2013.
- **15A NCAC 7H .2600** - Wetland, Stream and Buffer Mitigation. Expansion of General Permit to include all mitigation bank and inline fee projects, and not just those related to the NCEEP and/or the NCWRP. Approved for public hearing at May 9, 2013 CRC meeting in Beaufort. Fiscal analysis in development.
- **15A NCAC 7H .1300** GP to Maintain, Repair and Construct Boat Ramps – Amendments to expanded allowable activities. Modifies the boat ramp General Permit to allow for a launch access dock and protective groins as associated structures authorized under this permit. Approved for public hearing at May 9, 2013 CRC meeting in Beaufort. Fiscal analysis in development.

Land Use Planning/Public Access: Staff completed an internal assessment of local Land Use Plans. The preliminary results will be outlined at the upcoming July CRC meeting. Planning staff will also be working with the Coastal Federation and the NC Business Alliance for a Sound Economy on a regional planning workshop to be held in early fall, 2013.

Planning staff preliminarily reviewed the Public Beach and Coastal Waterfront Access Grant Program Pre-application funding requests for the 2013 grant cycle. Thirty three (33) project requests were received totaling over \$4.1 million. DCM has notified local governments that invitations to submit final applications will be deferred until after a State Budget is adopted.

NC Shoreline Mapping and Coastal Atlas Workshop: DCM and ECU sponsored a workshop at the Coastal Studies Institute discuss the Division's recent shoreline mapping efforts and to gather feedback and guidance in the development of a NC Coastal Atlas. Participants discussed the preliminary results of the Estuarine Shoreline Mapping Project including the web-based interactive public use features. Participants were also introduced to a DCM and ECU collaborative effort to create a Coastal Atlas. The goal is to develop the NC Coastal Atlas into a web-based portal that can serve an array of data and visualization needs to aid management decisions and permit applicants. The initial version of the Atlas will utilize data that is readily available and present information through a user-friendly interface allowing for interactivity and basic analyses.

DENR Living Shoreline Strategy: DCM staff drafted a Living Shoreline Strategy with input from other DENR division representatives. The Draft Strategy identifies six short-term actions and four long-term actions for the Department to consider. The Strategy summarizes previous and ongoing estuarine shoreline stabilization research in the state, identifies information gaps, highlights the need for continued staff engagement and public awareness, and investigates potential grant programs or cost reductions for installations. The Strategy also recognizes the need to promote other living shoreline strategies (not just riprap sills), to develop training programs/certification for marine contractors, and to partner with other groups such as the military to increase the number of living shoreline demonstration sites. DCM is currently seeking comments on the draft strategy from other DENR divisions, and the draft strategy was recently presented to the Estuarine Biological and Physical Processes Workgroup for additional input. The final strategy will be presented to the Commission and DENR for approval and implementation.

Science Panel on Coastal Hazards: The Division has issued a call for nominations for four vacancies on the Science Panel (two geologists and two engineers) as well as for members of an ad hoc group to work on the update of the Commission's Sea Level Rise Assessment Report as required by House Bill 819 (S.L. 2012-202). Nominations for the four Panel vacancies are due June 30, 2013 and nominations for the ad hoc sea level rise report group are due July 31, 2013. Nominations will be reviewed by both the Science Panel and the CRC Executive Committee with appointments expected by the September 2013 CRC meeting.

Coastal Reserve Program

July 4 Holiday: Coastal Reserve staff are working closely with local law enforcement agencies to plan for an increased enforcement presence at the Masonboro Island Reserve on the Fourth of July holiday. Public safety and unlawful activity concerns are being addressed through increases in the number of officers and the number of hours of presence, as well as

improved coordination among the various agencies with jurisdiction on the island and in surrounding waters. Increased public relations efforts prior to the holiday highlighted the increased law enforcement approach and featured messages about safe and responsible use of the Reserve.

Coastal Training Program: The CTP will host an Estuarine Shoreline Stabilization workshop for Realtors and planners in Beaufort in September, 2013. Realtors will receive four continuing education credits and American Institute of Certified Planners will receive four certification maintenance credits for participation. Workshop participants will learn the value and function of estuarine habitats; become more familiar with permitting requirements for all methods of estuarine shoreline stabilization (including living shorelines); learn the techniques and design elements of all methods of estuarine shoreline stabilization, and learn about the Division's efforts to promote living shorelines.

Summer camps: Camps are underway at the Rachel Carson Reserve. These activities are conducted in partnership with the N.C. Maritime Museum. Pre-schoolers learned about hermit crabs during June's Preschool Storytime. Seashore Life campers enjoyed a nature hike to the island where they learned about habitats, plants, and animals. Our older campers have learned about water quality, plankton, and dissected a squid. Camps will run until the end of July.

The summer public field trips to the Rachel Carson Reserve are underway. These trips occur every Tuesday and Thursday from 8:30-10:30 am during June, July, and August. These volunteer-led field trips are either a nature hike or a boat ride to the Carrot Island boardwalk, depending on the tide. These trips are very popular and fill up quickly.

North Carolina
Coastal Resources Commission

May 23, 2013



Public Comments Processing
Atten: **FWS-R4-ES-2012-0103**
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive; MS 2042-PDM
Arlington, VA 22203

**Re: Concerns Regarding the Proposed Designation of Critical
Habitat for the Loggerhead Sea Turtle**

To Whom It May Concern:

On March 25, 2013, the United States Fish and Wildlife Service (USFWS) proposed to designate approximately 740 miles of shoreline in six states as critical habitat for the threatened Northwest Atlantic Ocean population of loggerhead sea turtles including 96 miles in North Carolina. I have been authorized by the North Carolina Coastal Resources Commission to submit comments on its behalf to USFWS on this issue. After reviewing the comments submitted on May 21, 2013 by John E. Skvarla, III, Secretary of the North Carolina Department of Environment and Natural Resources, we join in Secretary Skvarla's comments and request that USFWS take the following specific actions:

- 1) Submit a federal consistency determination for review of the proposed critical habitat designations, to be coordinated through the NC Division of Coastal Management;
- 2) Clarify the potential range of additional management efforts, regulatory reviews, and/or operational conditions that may be placed upon those activities listed as "threats" to designated critical habitats;
- 3) Prepare a comprehensive economic analysis of the potential impacts to coastal communities and stakeholders caused by additional management efforts;
- 4) Provide additional information on the data used to determine the proposed designations in North Carolina; and
- 5) Participate in a meeting with relevant NC agencies, local governments, and the National Marine Fisheries Service to discuss the potential for integrated environmental studies, streamlined permitting, and improved regulatory conditions for projects within critical habitat areas for threatened and endangered species on the coast of North Carolina.

Thank you for considering these comments and requests. We look forward to receiving your response.

Sincerely,

Robert R. Emory, Jr., Chairman
Coastal Resources Commission

PAT MCCRORY, GOVERNOR

ROBERT R. EMORY, JR.
CHAIRMAN

GWEN BAKER

LARRY BALDWIN

RENEE CAHOON

SCOTT CUTLER

JOSEPH "JOE" HESTER

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JAMES "ED" MITCHELL

JERRY L. OLD

WILLIAM R. PEELE, III

BENJAMIN "JAMIN" SIMMONS

DAVID WEBSTER

JOAN L. WELD

LEE WYNNS

BRAXTON C. DAVIS
EXECUTIVE SECRETARY



cc: Braxton C. Davis

Division of Coastal Management
Department of Environment and Natural Resources
400 Commerce Ave., Morehead City, N.C. 28557
Phone 252-808-2808 Fax 252-247-3330



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-13-22

TO: Coastal Resources Commission
FROM: Heather Coats
SUBJECT: Progress on Cape Fear River AEC Study
DATE: June 27, 2013

The 2012 N.C. General Assembly has directed the Commission (CRC) to study the feasibility of creating a new Area of Environmental Concern (AEC) for the lands adjacent to the mouth of the Cape Fear River. Session Law 2012-202 requires the CRC to consider the unique coastal morphologies and hydrographic conditions of the Cape Fear River region, and to determine if action is necessary to preserve, protect, and balance the economic and natural resources of this region through the elimination of current overlapping AECs by incorporating appropriate development standards into one single AEC unique to this location. For the purposes of this feasibility study, the CRC is directed to consider a region that encompasses the Town of Caswell Beach, the Village of Bald Head Island and surrounding areas. The Division of Coastal Management (DCM) is working with these municipalities and the landowners within and immediately adjacent to them to identify regulatory concerns and develop proposed strategies for a new regulatory framework.

As part of this study, DCM held a public workshop in Southport on June 26, 2013. At the workshop, DCM staff presented an overview of the CRC's regulatory jurisdictions, permitting processes, and development standards as they apply to the region. The Village of Bald Head Island and Town of Caswell Beach also presented their concerns and proposals. The public was also invited to provide their views related to the unique conditions of the area as well as the proposals presented. This information and all public comments received at the workshop will be presented to the CRC for consideration of the creation of a new AEC, and in a final report to the Department of Environment and Natural Resources and the N.C. General Assembly, by December 31, 2013, as required by S.L. 2012-202.

A brief summary of the information and comments received at the workshop will be presented at your next meeting on July 11 in Beaufort.



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-13-23

TO: Coastal Resources Commission

FROM: Matt Slagel

SUBJECT: Regional Planning and Permitting of Beach Nourishment Projects

DATE: June 27, 2013

The Beach and Inlet Management Plan (BIMP) identifies two changes that could support more cost-effective and environmentally sound management of the state's beaches and inlets: 1) Expanded use of regional planning for beach and inlet management projects; and 2) A dedicated state fund to support regional projects. The regional planning model could provide coordinated project planning and management within a region, maximizing efficiency and cost-saving opportunities such as area-wide sand search investigations, comprehensive shoreline monitoring for all projects in the region, and coordinated environmental investigations and studies. The Division of Coastal Management (DCM) is focusing on the regional planning recommendation as it implements the BIMP.

The communities on Bogue Banks in Carteret County (Atlantic Beach, Pine Knoll Shores, Indian Beach / Salter Path, and Emerald Isle) have initiated a "Bogue Banks Beach Master Nourishment Plan" in an effort to develop a comprehensive, multi-decadal erosion response program for the entire 25-mile long island. Working with Carteret County, the towns on Bogue Banks, the U.S. Army Corps of Engineers, and other state and federal regulatory and resource agencies, DCM intends to use the Bogue Banks plan as a model for developing a Guidance Document to implement the BIMP elsewhere in the state. The Guidance Document will facilitate the planning and permitting of regional beach and inlet management projects and address a range of anticipated beach nourishment activities.

DCM staff have met with the Carteret County Shore Protection Office, Town of Pine Knoll Shores, Town of Atlantic Beach, and Town of Emerald Isle to learn more about the development of the Bogue Banks Beach Master Nourishment Plan. These meetings helped DCM to assess past and planned beach nourishment activities on Bogue Banks, local goals and priorities, regulatory concerns, and proposed thresholds or monitoring strategies that could be incorporated into the Guidance Document. The local

perspectives revealed several common themes, including long-term funding concerns, the desire to be proactive rather than reactive in shoreline management approaches, the beneficial economies of scale that can be achieved through regional planning, ideas to improve geophysical and biological monitoring requirements, and the need for a three-tiered approach to regional sediment management, whereby 1) a beach commission provides the organizational structure, 2) a dedicated coordinator advises and staffs the commission, and 3) an approved planning, engineering, and funding document provides the framework for carrying out a long-term beach nourishment project.

DCM staff have also met with state and federal regulatory and resource agencies to determine the scope of a programmatic instrument, the approval process, and what the agency requirements would be in terms of allowable activities, restrictions, and monitoring. The agencies generally agree that DCM should look at recent nourishment projects for DCM and USACE permit conditions and use those as a starting point. Then, it can be determined if the agencies would have additional requirements for a long-term, multi-decadal nourishment permit. The agencies believe it may be possible to permit a multi-decadal nourishment project, but they have concerns about other activities such as inlet relocations.

To gauge interest in regional strategies, understand the format of local regional agreements, and explore potential region-specific implementation strategies, DCM will meet with other beach communities throughout the coast and with stakeholder groups including the N.C. Beach, Inlet, and Waterway Association, the Brunswick Beaches Consortium, and the New Hanover County Port, Waterways, and Beach Commission. The additional local perspectives gained from these meetings will be summarized and incorporated into the Guidance Document.

The Guidance Document will provide strategies for local governments to address a range of anticipated beach nourishment activities that could be incorporated into a regional plan. These activities could include Atlantic Intracoastal Waterway dredging with concurrent beach disposal, other beneficial use dredging projects, inlet channel realignment projects, FEMA reimbursement projects, or beach nourishment projects. It is anticipated that amendments will be drafted to the N.C. Coastal Resources Commission's Shoreline Erosion Policies [15A NCAC 7M .0202(h)] to include a region-based management approach for beach and inlet projects.

I look forward to discussing this further at your next meeting on July 11 in Beaufort.



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

(CRC -13-28)

MEMORANDUM

To: Coastal Resources Commission
From: Maureen Meehan, DCM Morehead City District Planner
Date: June 27, 2013
Subject: Characterization of Land Use Plans - Update

Over the past several months, Planning staff have been conducting an assessment of local land use plans certified, by the Commission under the 2002 7B CAMA Land Use Planning Guidelines. The purpose of the assessment is to provide a qualitative characterization of the local plans that when combined with planned regional and individual local government meetings, will aid in future revisions to the land use planning guidance.

The assessment focuses on common community attributes and plan characteristics related to the state's management topics, as well as planning concepts and topics of local interest. Attributes being documented include community size, planning capabilities, policy characteristics, and incorporation of other planning efforts. This assessment is expected to be completed by mid July. John Thayer will be presenting an overview of the process and preliminary results at the July 11, 2013 CRC meeting.



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

To: Coastal Resources Commission **CRC-13-29**
From: Charlan Owens, AICP, DCM Elizabeth City District Planner
Date: June 27, 2013
Subject: Currituck County Land Use Plan Implementation Status Report
[Information Only-No Action Required]

Overview

Per 15A NCAC 07L.0511 (a), a Land Use Plan (LUP) implementation status report is to be submitted by a local government every two (2) years following the date of LUP certification. The implementation status report for the following LUP is attached:

Currituck County 2006 LUP – certified on May 18, 2007; as amended through June 24, 2009

The implementation status report is based on the LUP Action Plan and identifies activities that the local government has undertaken in support of the LUP's policies and implementation actions.

The following must be included in the report:

- All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan
- Any actions that have been delayed and the reasons for the delays
- Any unforeseen land use issues that have arisen since certification of the CAMA land use plan
- Consistency of existing land use and development ordinances with current CAMA land use plan policies
- Current policies that create desired land use patterns and protection of natural systems.

Discussion

The implementation status report does not require approval by the CRC, but must be made available to the public and forwarded to DCM. Staff has reviewed the Currituck County report and finds that the local government has met the minimum requirements.



COUNTY OF CURRITUCK

Planning and Community Development Department
Planning and Zoning Division
153 Courthouse Road, Suite 110
Currituck, North Carolina 27929
Telephone (252) 232-3055 / Fax (252) 232-3026



June 11, 2013

Ms. Charlan Owens
NCDENR – Division of Coastal Management
1367 U.S. 17 South
Elizabeth City, NC 27909

RE: Currituck County 2006 CAMA Land Use Plan Update

Dear Ms. Owens:

Per the CAMA Local Planning and Management Grant guidelines Currituck County is respectfully submitting our two year Land Use Plan implementation status report. In addition to the general information included in this cover letter, a matrix of individual action items and their completion status is attached.

To date several local planning efforts have been undertaken or programmed to occur in order to successfully implement the Plan. One item of particular significance is the rewrite of the county's Unified Development Ordinance (UDO). The rewrite process took more than two years to complete and resulted in the successful completion of many of the action plan items included in the Land Use Plan.

The county also continues to expand the long range planning program. Planning staff has completed two small area plans and is undertaking a third planning process. Small area plans are typically more focused thus allowing the county to better address the long term needs of specific geographic areas. While not expressly set forth in the Land Use Plan, the idea of expanding long range planning efforts will allow the county to remain responsive to localized demographic or economic fluctuations.

Finally, the county is completing a public access and circulation plan for the Currituck Outer Banks. This planning effort, called "Connecting Corolla," is consistent with the Land Use Plan's policy direction for public access and the safe movement of people.

During the past two years the county has made significant progress in implementing the Land Use Plan. Many of the action items include detailed planning processes or changes to the Unified Development Ordinance, which were addressed as part of the UDO rewrite. Some of the action items, such as the establishment of Transfer of Development Rights (TDR's) or transportation improvements require local legislation or funding from the general assembly.

Since the adoption of the Land Use Plan in 2007, the sluggish economy has caused unforeseen land use issues to arise. The Plan was predicated on rapid growth rates, which occurred throughout the previous decade; however, the soft real estate market has provided some relief in the rapid expansion of county services. The economic downturn also provided the county with an opportunity to rewrite the UDO and expand the long-range planning program. As the local economy begins to recover the county has now implemented 60 percent of the Land Use Plan Action Plan and Schedule and is in a better position to create desired land use patterns that protect natural systems.

Should you have any questions or concerns, please feel free to contact me at your earliest convenience.

Regards,

A handwritten signature in black ink that reads "Ben E. Woody". The signature is written in a cursive style with a long, sweeping horizontal stroke at the end.

Ben E. Woody, AICP
Planning & CD Director

Cc: Mr. Dan Scanlon
Ms. Holly White

Enclosure

**Currituck County
2006 Land Use Plan**

| 1. Actions Concerning Public Access | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
|---|-------------------------------|-----------------|----------------------|---|---|
| Action PA-1: Develop a plan for public access to the ocean and sound, including opportunity sites for regional, local and neighborhood access facilities. | PA1, PA2, PA3, PA4, PA8, PA10 | Priority | 4 to 6 years | County Commissioners, County Planning Board | Underway - a draft public access study for the outer banks will be available summer 2013. |
| Action PA-2: Establish a developer fee in lieu of land dedication for park and recreation facilities, including funding for the acquisition and improvement of public access facilities to the sound and ocean. | PA1, PA2 | Priority | 4 to 6 years | County Manager | Complete. |
| Action PA-3: Amend the Currituck County Unified Development Ordinance to provide incentives to development proposals that reserve a strip of land for public access along the water's edge. | PA1, PA2 | Priority | 4 to 6 years | County Commissioners, County Planning Board | Not complete. |
| Action PA-4: Establish financial mechanisms by which non-resident visitors to the County might fund their fair share of the cost of acquiring and improving public access facilities to the sound and ocean. | PA1, PA2 | Low priority | Greater than 6 years | County Manager | Not complete. |
| Action PA-5: Open water marinas often "consume" large areas of public trust surface waters and can interfere with the rights of navigation for small sailing vessels and other water users. Amend the Currituck County Unified Development Ordinance to provide incentives for constructing non-wetland, upland marinas as opposed to open water marinas. | PA6 | Low priority | Greater than 6 years | County Commissioners, Currituck Planning Board | Not complete (UDO "encourages" upland marinas). |
| Action PA-6: The County shall continue to require major residential subdivisions that abut public trust waters to provide public access to those waters. Access for the general public is preferred. | PA1, PA2, PA9, PA10 | High priority | On-Going | County Commissioners, County Planning Board | Ongoing. |
| Action PA-7: The County shall actively pursue the elimination/removal of any structure that, due to erosion and subsequent damage, interferes with access to and movement on the public trust beaches of Currituck County. | PA9, PA10 | High priority | 1 to 3 Years | County Commissioners | Underway - structures in the off-road area have been declared nuisances. |
| 2. Actions Concerning Environmentally Sensitive Areas | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action ES-1: Conduct an examination of existing zoning districts and permitted land uses to eliminate potential threats to environmentally sensitive areas. | ES 1, ES3, ES5, ES8 | Priority | 4 to 6 years | County Planning Board | Complete. |
| Action ES-2: Currituck County will continue to support CAMA requirements concerning the preservation of open space buffers along estuarine shorelines. Further, consider adopting buffering standards greater than those required by CAMA. | ES4 | Priority | 4 to 6 years | County Planning Board | Complete. |
| Action ES-3: Explore the development of a wetlands mitigation bank, whether public or private, for the purpose of allowing desirable economic development to take place while conserving the total inventory of wetlands in Currituck County. | ES1, ES2, ES3 | Low priority | Greater than 6 years | County Commissioners, Planning Board and USACE | Not complete. |
| Action ES-4: The County shall consider amending the UDO to provide a higher level of protection for maritime forests and significant natural sand dunes as these features form the image of Currituck Outer Banks Beaches. | ES7 | Low priority | Greater than 6 years | County Commissioners, Planning Board | Complete. |
| Action ES-5: The County shall not support actions to commercialize the public beach rather permitting only clustered commercial development in Corolla and prohibiting commercial development in the four wheel drive area. | OB1, OB2, OB5 | Low priority | Greater than 6 years | County Commissioners, Planning Board | Ongoing. |
| 3. Actions Concerning Agricultural and Rural Area Preservation | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action AG-1: Have the Currituck County Planning Department, in its review of development proposals, refer to Soil Conservation Service mapping of prime agricultural soil in making determinations as to highly productive farmland. | AG1, AG2 | Priority | 4 to 6 years | Farmland Preservation Board, County Planning Department | Ongoing. |

**Currituck County
2006 Land Use Plan**

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| Action AG-2: Involve the Farmland Preservation Board in the review of sketch plans for major residential subdivisions for the purpose of preserving prime agricultural land. | AG1, AG2 | Priority | 4 to 6 years | Farmland Preservation Board, County Planning Department | Complete. |
| Action AG-3: Amend the Currituck County Unified Development Ordinance to allow open space, dedicated as part of a development proposal or set aside in a conservation easement, to be transferred and used for economic activity (e.g. <i>compatible</i> timber management or farming), so long as the restriction or easement preventing future development remains permanent, properly monitored, and lawfully recorded. | AG1, AG2 | High priority | 1 to 3 Years | County Planning Board, County Commissioners | Complete. |
| Action AG-4: The County, in cooperation with the Farmland Preservation Board, shall explore the merits of and opportunities for implementing voluntary mechanisms for property owners to preserve their farmland. Included among such mechanisms shall be a program for the transfer of development rights. | AG1, AG2, AG5 | Priority | 4 to 6 years | County Commissioners, Farmland Pres Board | Ongoing. Local legislation for TDR's has been submitted to the general assembly twice, but has died in committee both times. |
| 4. Actions Concerning Housing and Neighborhood Development | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action HN-1: Continue the initiative to amend the Currituck County Unified Development Ordinance to create a new multi-family zoning district or overlay, to be applied only in locations served by centralized water and sewer, adequate road infrastructure and convenient to services. | HN1, HN3, HN5 | High priority | 1 to 3 years | County Planning Board | Complete. |
| Action HN-2: The County recognizes that, as the baby boom generation ages into retirement, there will be growing demand for accessory housing that offers independence for senior citizens while still providing a measure of supervision and security. Therefore, amend the Unified Development Ordinance to allow, in specified locations, separate living quarters accessory to a principal residential structure. (To be allowed only in designated zoning districts and locations, after public input, and as may be consistent with the County's Adequate Public Facilities Ordinance.) | HN5, HN6 | Low priority | Greater than 6 years | County Planning Board | Complete. |
| Action HN-3: Explore possible requirements for a certain percentage of compatibly designed affordable homes to be set aside within major new subdivisions on the Mainland. | HN5 | Low priority | Greater than 6 years | County Planning Board | Proposed but denied by BOC. |
| Action HN-4: To curtail the rental abuses associated with large numbers of peak season employees piling into single family homes, and to reduce unnecessary traffic congestion on NC 12, explore requirements for businesses on the Outer Banks to provide compatibly designed affordable housing for their employees in suitable quarters built above or attached to the place of business. | HN5 | Priority | 4 to 6 years | County Planning Board | Not complete. |
| Action HN-5: Establish local nuisance law standards concerning the proper removal and disposal of old manufactured housing units prior to the issuance of a permit for the placement or construction of a new residence or other structure on the same site. | HN10 | Priority | 4 to 6 years | County Commissioners | Not complete. |
| 5. Actions Concerning Commercial Development | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action CD-1: In evaluating rezoning requests for commercial development, employ policies that: •Encourage the clustering, rather than stripping, of commercial uses •Encourage commercial uses at intersections, rather than in strips •Do not create spot zoning situations | CD1, CD2, CD3, CD4 | Low priority | Greater than 6 years | County Planning Department | Complete. |
| Action CD-2: Amend the Currituck County Unified Development Ordinance to establish regulatory standards for: •Low profile pole mounted signs, monument style signs and appropriate lighting •Connections between adjoining parking lots •Improved landscaping requirements •Prohibitions against pre-fab and metal building facades | CD7, CD8, CD9 | Priority | 4 to 6 years | County Planning Board | Complete. |

**Currituck County
2006 Land Use Plan**

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|---|---------------------------------|---------------|----------------------|-----------------------------|---|
| Action CD-3: Consider amending the UDO to prevent any PUD from redesignating open space or residential areas to any commercial district after initial sketch plan approval. | CD5 | Priority | 4 to 6 years | County Planning Board | Not complete. |
| 6. Actions Concerning Industrial Development | | | | | |
| Action ID-1: Amend the Currituck County Unified Development Ordinance to establish regulatory standards for certain aspects of mining operations, sludge disposal sites and similar activities not adequately addressed by state laws.(e.g. truck traffic, noise levels, exterior lighting levels, hours of operation, visual impacts, water management reclamation and reuse following closure of the site, etc.) | ID4, ID8 | Low priority | Greater than 6 years | County Planning Board | Complete. |
| Action ID-2: Currently, mining operations (e.g. borrow pits, one acre or less) are permitted by right in all zoning districts in the County. To provide for an improved measure of control over these operations, amend the Currituck County Unified Development Ordinance to limit minor mining operations and other similar activities to the agricultural district by right, and in other districts only by special use permit. | ID4, ID8 | Priority | 4 to 6 years | County Planning Board | Proposed but denied by BOC. |
| Action ID-3: Amend the Currituck County Unified Development Ordinance to require warehousing, storage and distribution facilities to provide a vegetated buffer strip along property boundaries facing a major public road or residential development. | ID5 | High priority | 1 to 3 Years | County Planning Board | Complete. |
| 7. Actions Concerning Transportation | | | | | |
| Action TR-1: The County shall continue to be an active participant in lobbying efforts for planned roadway improvements to US 158, NC 168, NC 34, and NC12. | TR1, TR3, TR4, TR10, TR15 | High priority | On Going | County Commissioners | Ongoing. |
| Action TR-2: Conduct a community involvement based process to evaluate proposals for improved access to and movement up and down the Currituck Outer Banks. Identify the pros and cons of the proposed mid-county bridge, improvements to NC 12, enhanced ferry service, or a combination of all three. | TR1, TR4, TR5, TR13, TR14 | High priority | On Going | County Commissioners | Not complete (mid-county bridge funding in jeopardy). |
| Action TR-3: Establish a Task Force to look at the broad implications of a mid county bridge and its potential impacts, such as growth in the RO2 COBRA zone, beach access and other infrastructure needs of increased numbers of day visitors, changes in county services such as law enforcement, economic impacts on the Mainland and the Outer Banks, etc. The findings of such a task force should be made available well in advance of the construction of the bridge. | TR13, TR14 | Priority | 4 to 6 years | County Commissioners | Not complete (mid-county bridge funding in jeopardy). |
| Action TR-4: Continue enforcing restrictions on curb cuts and driveway access to major state-maintained roads including, specifically, US 158, NC 168, NC 34 and NC 12. | TR2, TR3, TR4, TR5, TR6 | High priority | On-Going | County Planning Board | Ongoing. |
| Action TR-5: Amend the Currituck County Unified Development Ordinance to establish a special highway corridor overlay district for the US 158/ NC 168 highway corridor. The overlay district would include standards for façade materials (i.e. no metal buildings) signage, landscaping, parking lot connections and other factors to help preserve the appearance and function of this critical transportation artery. | TR4, TR5, TR6, TR14 | High priority | 1 to 3 Years | County Planning Board | Complete (base district standards). |
| Action TR-6: Revisit the 1994 US Highway 158 and NC Highway 168 Corridor Plan to determine those appearance and functional recommendations that remain appropriate for implementation (e.g. landscaping, signage, driveway cuts, lighting, etc.). | TR4, TR5, TR6, TR14 | High priority | 1 to 3 Years | County Planning Board | Complete. |
| Action TR-7: Adopt the Draft NCDOT Thoroughfare Plan (1999) or an updated version of the Plan. | TR2, TR3, TR4, TR10, TR13, TR15 | High priority | 1 to 3 Years | County Commissioners, NCDOT | Complete. |
| Action TR-8: The County shall continue to encourage street connectivity between similar land uses. | TR7, TR8 | High priority | On-Going | County Planning Board | Ongoing. |

**Currituck County
2006 Land Use Plan**

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| Action TR-9: The County shall actively pursue grants and exactions for the installation of bike paths, sidewalks and multi-use paths once a plan for these improvements has been adopted. | TR9, TR10 | Priority | 4 to 6 years | County Commissioners, NCDOT | Ongoing. |
| 8. Actions Concerning Water and Sewer Service | | | | | |
| | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action WS-1: Continue with on-going study to determine if Currituck County can become more independent from outside sources of potable water (i.e. Camden County) by creating sufficient water treatment capacity and obtaining the necessary discharge permits for disposing of brine. | WS1 | High priority | On-Going | County Commissioners | Complete. |
| Action WS-2: Establish an education program for the proper maintenance of septic tanks. Include a financial incentive, whereby the County arranges for a discounted pump-out service for septic tank owners who participate. | WS6 | Low priority | Greater than 6 years | County Commissioners | Not complete. |
| Action WS-3: Amend the Currituck County Unified Development Ordinance to require that package sewage treatment plants to be located and designed so as not to adversely impact nearby existing and proposed developments. Encourage such facilities to be located away from water bodies and exterior property lines if possible. | WS7, WS8 | Low priority | Greater than 6 years | County Planning Board | Complete. |
| Action WS-4: Prohibit any new wastewater treatment plant from locating in any Area of Environmental Concern (AEC) as designated by CAMA. | WS3, WS5, WS8 | High priority | 1 to 3 Years | County Planning Board | Complete. |
| Action WS-6: The County shall scrutinize the use and reliability of engineered septic systems (e.g. peat systems) in locations that would otherwise not be suitable for conventional septic systems. The County shall report its findings to the State. | ES1, HN1, WS6, WS7, WQ1 | Priority | 4 to 6 years | County Planning Department | Not complete. |
| 9. Actions Concerning School Facilities | | | | | |
| | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action SF-1: Form an interdepartmental project team whose purpose is to fully implement County objectives for growth management and adequate public facilities as applicable to schools and parks. Bring together top school administrators, planning department personnel, and the parks department, among others, to prepare a plan of action for review by the School Board and County Commissioners. | SF1 | Priority | 4 to 6 years | County Commissioners, County School Board | Parks and Recreation master planning process is underway. Joint facilities planning will be considered. |
| Action SF-2: Continue to pursue a "School Impact Fee" to address the capital cost associated with school construction. | SF1 | High priority | On-Going | County Commissioners, County School Board | Not complete. |
| 10. Actions Concerning Parks and Recreation | | | | | |
| | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action PR-1: Commission a master parks and recreation plan to identify park and recreation needs, suggest park and recreation additions and improvements, set forth cost estimates, and propose the means of financing. | PR1, PR2, PR5 | Priority | 4 to 6 years | County Commissioners, Parks Department | Complete. |
| Action PR-2: Set forth, as a goal for the County, the establishment of a system of district parks, serving districts as identified in the master parks and recreation plan. | PR1 | Low priority | Greater than 6 years | County Commissioners, Parks Department | Complete. |
| Action PR-3: Implement a fee in lieu of land dedication, to be applied to new developments, for the purpose of generating revenues for the development of park assets and additional public access opportunities in Currituck County. Consider placing such revenues in reserve accounts, tied to the designated districts within which the fees were generated. | PR6, PR1, PR5 | Priority | 4 to 6 years | County Commissioners, Parks Department, Planning Board | Complete. |
| Action PR-4: Form an interdepartmental project team whose mission is to orchestrate the full utilization of (1) the County's school properties for recreational use when not being employed for school purposes and (2) the County's park and recreation assets for school use. Bring together school facility managers and parks department personnel, among others, to prepare a plan of action for review by the School Board and County Commissioners. | PR3 | Low priority | Greater than 6 years | County Commissioners, County School Board | Not complete. |
| 11. Actions Concerning Solid Waste Management | | | | | |
| | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |

**Currituck County
2006 Land Use Plan**

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|---|--------------------------|-----------------|----------------------|--|---|
| Action SW-1: Continue to monitor the flow of waste into the County's transfer station and landfill. Periodically adjust the rates that the County charges to accept solid waste, including dumping fees for construction and demolition (C&D) materials. Ensure that the County's rates are on a par with other rates in the region. | SW1, SW6 | High priority | On-Going | County Commissioners | Ongoing. |
| Action SW-2: Pursue the development of a solid waste management program where recyclable materials are, in fact, recycled. | SW2, SW3, SW4, SW7 | Low priority | Greater than 6 years | County Commissioners | Completed. |
| Action SW-3: Require waste management companies operating in Currituck County to accept gasoline. | SW2, SW4 | Priority | 4 to 6 years | County Commissioners | Not complete. |
| Action SW-4: Implement a program to encourage property managers of rental houses to educate renters of their responsibilities (e.g. not parking in street, keeping trash off the beach, having an adequate number of waste receptacles for the volume of waste generated, etc. | SW2, SW4 | Low priority | Greater than 6 years | County Commissioners | Not complete. |
| Action SW-5: Make waste drop off at the County's waste collection and recycling centers more convenient by placing ramps in front of waste containers or lowering the containers into pits. | SW7 | Priority | 4 to 6 years | County Commissioners | Not complete. |
| 12. Actions Concerning Planning and Paying for Infrastructure and Services | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action PP-1: Continue the initiative for a legally defensible, rational process by which new residential units may be allocated to major subdivisions in a manner consistent with adequate public facilities (e.g. schools, parks, etc.) | PP2 | High priority | On-Going | County Planning Director | Ongoing. |
| Action PP-2: Conduct a study of the fiscal impacts of rental properties on the financial balance sheet of the County. Identify how seasonal demand for services affects the cost of capital facilities, equipment and certain year round personnel. Determine how these costs match up with the tax revenues coming back to the County from seasonal properties and their occupants. | PP3 | Low priority | Greater than 6 years | County Manager as directed by the County Commissioners | Not complete. |
| Action PP-3: The County shall explore the merits of and opportunities for financial tools for recovering infrastructure and service costs related to new growth and development. (e.g. impact fees, land transfer tax, upzoning fee, user fees, etc.) | PP3 | Priority | 4 to 6 years | County Manager as directed by the County Commissioners | Not complete. |
| 13. Actions Concerning Natural Hazard Areas | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action NH-1: Form an interagency task force whose purpose is to develop a plan for the RO-2 COBRA zone to address growth issues likely to come about as a result of the proposed mid-county bridge. Bring together personnel from the US Fish and Wildlife Service, the US Army Corps of Engineers, the State Division of Coastal Management, the Nature Conservancy, Currituck County, as well as area property owners, to prepare the plan. | NH1, NH2, NH3, NH4 | Priority | 4 to 6 years | County Commissioners to initiate the task force | Not complete (mid-county bridge funding in jeopardy). |
| Action NH-2: Require real estate agents to disclose problems of building in hazardous locations, such as along the oceanfront. Require similar disclosures on subdivision plats and publicize erosion rates, floodprone areas, etc. | NH1, NH2, | Low priority | Greater than 6 years | County Planning Board | Not complete. |
| Action NH-3: Continue to monitor and implement appropriate sections of the April 2004 Currituck County Hazard Mitigation Plan. | NH4 | High priority | On-Going | County Manager as directed by the County Commissioners | Complete (new plan adopted in 2011). |
| Action NH-4: Develop a "Shoreline/Sand Management Plan" as storm hazard mitigation tool. | NH1, NH2, NH4, NH7 | Low priority | Greater than 6 years | County Manager as directed by the County Commissioners | Not complete. |
| Action NH-5: Expand the Currituck County Mitigation Plan to include a Post Storm Reconstruction Plan. | NH1, NH2, NH3, NH4 | Low priority | Greater than 6 years | County Manager as directed by the County Commissioners | Complete. |

**Currituck County
2006 Land Use Plan**

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| Action NH-6: To improve the County's "Community Rating System, amend the UDO to require a minimum of one (1) foot of "freeboard" above the minimum NFIP base flood elevations as shown on the most recent Flood Insurance Rate Maps. | NH1, NH2, NH5 | Priority | 4 to 6 years | County Planning Board, County Commissioners | Complete. |
| 14. Actions Concerning Water Quality | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action WQ- 1: Facilitate the establishment of a new water quality monitoring program to focus on likely areas of pollution, such as near sewage treatment plants, land application areas for sewage effluent and septage, concentrations of septic tanks, and stormwater outfalls leading from developed areas. | WQ 1, WQ3, WQ4 | Low priority | Greater than 6 years | County Commissioners | Not complete. |
| Action WQ-2: Petition the State for a reexamination of water quality designations (e.g. SA, SB, SC) in Currituck Sound, to have those designations elevated if possible. | WQ2 | High priority | 1 to 3 Years | County Commissioners | Not complete. |
| Action WQ-3: Continue to implement the recently adopted amendment to the Currituck County Unified Development Ordinance requiring an engineer's certification that new development will not cause flooding on adjacent properties. | WQ3, WQ4 | High priority | On-Going | County Planning Department | Ongoing. |
| Action WQ-4: Amend the Currituck County Unified Development Ordinance to require limits on stormwater runoff that are more strict than those required by the State Division of Water Quality. (DWQ requires that only the first 1" of rain be retained on site.) | WQ3, WQ4 | Priority | 4 to 6 years | County Planning Board | Complete. |
| Action WQ-5: Prepare a countywide storm water management plan, including sub-area district plans to address problems in particular watersheds or sub-area drainage basins of the county. | WQ8 | High priority | 1 to 3 Years | County Engineer, as directed by the County Commissioners | Not complete. |
| Action WQ-6: Work with other government entities and nonprofit groups to identify parcels of land that should be considered for protection or restoration to preserve water quality. | WQ8 | High | 1 to 3 | County Engineer, as directed by the County Manager | Complete. |
| Action WQ-7: Amend the UDO to provide incentives for buffers and setbacks for development adjacent to public trust waters. | WQ3, WQ4, WQ5, WQ6 | Priority | 4 to 6 years | County Planning Board | Complete (UDO requires buffers). |
| Action WQ-8: Consider amending the UDO to incorporate "Low Impact Development" (LID) concepts for all new development in the County. LID concepts focus especially on minimizing impervious surface areas, preserving natural vegetative ground covers, absorbing stormwater runoff into the ground rather than collecting and piping it elsewhere, and ultimately cutting down on stormwater runoff into the estuary. | WQ3, WQ4, WQ5, WQ6, WQ7 | Low priority | Greater than 6 years | County Planning Board | Complete (UDO includes allowances and incentives). |
| 15. Actions Concerning Economic Development | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action ED-1: Finalize the Economic Development Plan for Currituck County and begin implementation. | ED2, ED3, ED4 | Priority | 4 to 6 years | County Econ Develop Director, Econ Develop Advisory Board, Planning Director | Complete. |
| Action ED-2: Amend the Currituck County Unified Development Ordinance to create an overlay district to accommodate significant entertainment-oriented developments. | ED1, ED2, ED3 | High priority | 1 to 3 Years | County Planning Board, Economic Development Commission | Not complete. |
| Action ED-3: Develop a certified industrial site program to include: •Identification of suitable sites for certification as "primary" or "secondary" sites •Zoning actions to protect suitable industrial sites •Utilities extension policies and capital improvements targeted to suitable industrial sites | ED2 | Low priority | Greater than 6 years | County Manager, Economic Development Commission, and Planning Director | Not complete. |
| 16. Actions Concerning Community Appearance | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |

**Currituck County
2006 Land Use Plan**

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| Action CA-1: Amend the Currituck County Unified Development Ordinance to establish a special highway corridor overlay district for the US 158/ NC 168 highway corridor. The overlay district would include standards for driveway cuts, signage, landscaping, parking lot connections and other factors to help preserve the appearance and function of this critical transportation artery. | CA1, CA2 | High priority | 1 to 3 Years | County Planning Board | Complete (base district standards). |
| Action CA-2: Amend the Currituck County Unified Development Ordinance to affirm prohibitions against off-site signs and businesses sharing the same lot (2 principal uses not allowed on same lot). | CA1, CA5 | Low priority | Greater than 6 years | County Planning Board | Not complete (not sure why the county would prohibit mixed use). |
| Action CA-3: Amend the Currituck County Unified Development Ordinance to clarify standards for on-site and off-site signage. | CA4 | Priority | 4 to 6 years | County Planning Board | Complete. |
| Action CA-4: Currituck County will continue to enforce the Junked Car Ordinance as developed under the State model for such local laws. | CA9 | High priority | On-Going | County Planning Department | Ongoing. |
| Action CA-5: Do not rezone property to either Light or Heavy Manufacturing if it fronts on either US 158 or NC 168. | CA1, CA5, | Priority | 4 to 6 years | County Planning Board, County Commissioners | Ongoing. |
| 17. Actions Concerning Historic Preservation | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action HP-1: Commission a state or foundation sponsored inventory and assessment of historic structures and sites in Currituck County. | HP1, HP2, HP3, HP4, HP5, HP6 | Priority | 4 to 6 years | County Commissioners | Complete. |
| Action HP-2: Appoint a task force made up of representatives of non-profit groups, private organizations, and interested citizens for the purpose of preserving and promoting the architectural and cultural heritage of Currituck County and its various "communities" e.g. Aydlett, Snowden, Gibbs Woods, etc.) | HP1, HP3, HP7 | Low priority | Greater than 6 years | County Commissioners | Not complete. |
| Action HP-3: Develop the areas around the Old Courthouse and in Corolla Village as historic districts or "community character districts", with consideration given to tying together the various amenities associated with these unique locations. | HP1, HP2, HP3, HP5, HP6, HP7 | High priority | 1 to 3 Years | County Commissioners | Not complete. |
| 18. Actions Concerning Public Safety | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action PS-1: Conduct a study of the need for additional public safety substations (i.e. fire and rescue, law enforcement) for strategic service areas of the County. | PS1 | Priority | 4 to 6 | County Manager, and Public Safety Service Providers | Underway. |
| 19. Special Actions Concerning the Mainland Area | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action ML-1: Explore the feasibility of establishing a program allowing for the purchase or transfer of development rights as a means of promoting open space preservation in Currituck County, particularly in designated areas of the Mainland. | ML1 | High priority | 1 to 3 Years | County Planning Board | Not complete. |
| Action ML-2: Enhance development standards for Class A manufactured homes, in terms of both their location and design (aesthetic) standards, and with an eye toward preserving open space and farmland. | ML4 | Low priority | Greater than 6 years | County Planning Board | Not complete. |
| 20. Special Actions Concerning the Outer Banks | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action OB-1: Amend the Currituck County UDO to address the real impacts of large "single family" homes. Employ lot coverage, floor area ratios, house massing, fire suppression issues, number of bedrooms and baths, and other factors to properly control the location, construction and use of these structures. | OB4, OB5 | High priority | 1 to 3 Years | County Planning Board | Not complete. |

**Currituck County
2006 Land Use Plan**

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| Action OB-2: Amend the Currituck County Unified Development Ordinance to create a new zoning district or zoning overlay district and related controls explicitly for large houses. Houses with more than 8 bedrooms would be required to locate in areas properly zoned for the new district. | OB4, OB5 | High priority | 1 to 3 Years | County Planning Board | Not complete. |
| Action OB-3: Amend the Currituck County Unified Development Ordinance to implement a zoning overlay district to preserve the historic character of Corolla Village. | OB6 | High priority | 1 to 3 Years | County Planning Board | Underway. (action item in Corolla Village small area plan - district framework is available). |
| Action OB-4: Continue to enforce the public nuisance ordinance concerning the condemnation and removal of buildings that, due to shoreline erosion, have become located in the public trust area of the beach. | OB8 | High priority | On-Going | County Planning Board | Underway - structures in the off-road area have been declared nuisances. |
| Action OB-5: Monitor the level of traffic volume driving on the beach by season, day of week, time of day, etc. Explore ordinance changes or a permit system for beach vehicular traffic to protect public health and safety. | OB8 | Priority | 4 to 6 years | County Planning Board | Not complete. |
| Action OB-6: Amend the County's UDO to affirm that only residential uses are permitted in the non-PUD areas of the RO1 district. | OB2 | High priority | 1 to 3 Years | County Planning Board | Complete. |
| 21. Special Actions Concerning Knotts Island | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action KI-1: Conduct a community needs assessment to evaluate public facility and service needs in the Knotts Island area, to include, for example, fire service, communications, library, and recreation. | KI3 | Priority | 4 to 6 years | County Planning Department | Not complete. |
| Action KI-2: Establish a stormwater management service district to address stormwater runoff and chronic flooding problems on Knotts Island. | KI2 | Priority | 4 to 6 years | County Manager/County | Not complete. |
| Action KI-3: Amend the Currituck County Unified Development Ordinance to create a new zoning district or zoning overlay district regulating the placement of new manufactured homes (i.e. mobile homes) on Knotts Island. | KI5 | Low priority | Greater than 6 years | County Planning Board | Not complete |
| 22. Actions Concerning Plan Distribution and Follow Up | Policy Foundation | Priority | Time | Who Leads | Status/ Completion Date |
| Action DF- 1: Members of appropriate Boards and Commissions of Currituck County, as well as all Department Heads and other appropriate staff, will be given copies of the Land Use Plan. | General | ASAP after adoption and printing. | NA | County Manager | Complete. |
| Action DF-2: Copies of the Land Use Plan will be placed in visible locations at the County Library, and other County offices frequented by the public. Such copies shall be available for inspection, and for purchase. | General | ASAP after adoption and printing. | NA | County Manager | Complete. |
| Action DF-3: Copies of the Land Use Plan shall be delivered to members of the news media for their information and reference. Delivery will be done in conjunction with an information session on the purpose and uses of the Plan. | General | ASAP after adoption and printing. | NA | County Planning Director | Complete. |
| Action DF-4: County staff will employ the policies of the Land Use Plan in evaluating development proposals and will quote such policies in drafting staff recommendations to the County Planning Board and County Commissioners. | General | ASAP after adoption. | NA | County Planning Director and Planning Staff | Ongoing. |
| Action DF-5: Appoint an implementation oversight group to meet semi-annually to review progress on various actions set forth in the land use plan. Involve a combination of "implementers" and citizens in the group. | General | At the time of adoption | NA | County Commissioners and various implementing agencies | Not complete. |
| Action DF-6: Prepare an annual report (one to two page memo) to the Board of County Commissioners summarizing actions taken to implement the Land Use Plan during the previous year. | General | 1 year after plan adoption | NA | County Manager with input from Oversight Group | Complete. |



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

TO: Coastal Resources Commission

FROM: Tancred Miller

SUBJECT: 15A NCAC 7H.0312 Technical Standards for Beach Fill Projects – Adoption

DATE: June 17, 2013

The 60-day public comment period on proposed amendments to 7H.0312 Technical Standards for Beach Fill Projects (aka Sediment Criteria rule) ended on June 14, 2013.

The proposed rule change is intended to reduce sampling intensity and costs in situations where past sampling and project history has shown that material from these areas has consistently been beach-compatible, making sampling each time an unnecessary burden. Average cost savings are expected to be over \$100,000 per year.

A public hearing on the proposed amendments and fiscal analysis was held in Morehead City on May 2nd with no-one appearing to comment. DCM did not receive any comments on the proposed amendments or fiscal analysis and no additional changes to the rule were requested.

Staff recommends adopting the rule at your July meeting. If the rule is adopted in July the anticipated effective date will be September 1st.

The proposed rule showing amendments is attached.

15A NCAC 07H .0312 TECHNICAL STANDARDS FOR BEACH FILL PROJECTS

Emplacement of sediment along the oceanfront shoreline ~~shall be~~ is referred to in this Rule as beach fill. Beach fill projects including beach nourishment, dredged material disposal, habitat restoration, storm protection, and erosion control may be permitted under the following conditions:

- (1) The applicant shall characterize the recipient beach according to the following methodology:
 - (a) Characterization of the recipient beach ~~shall not be~~ is not required for the placement of sediment directly from and completely confined to a ~~federally or state~~ maintained navigation ~~channel~~; channel or associated sediment basins within the active nearshore, beach or inlet shoal system;
 - (b) Sediment sampling and analysis shall be used to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system;
 - (c) Shore-perpendicular topographic and bathymetric surveying of the recipient beach shall be conducted to determine the beach profile. Topographic and bathymetric surveying shall occur along a minimum of five (5) shore-perpendicular transects evenly spaced throughout the entire project area. Each transect shall extend from the frontal dune crest seaward to a depth of 20 feet (6.1 meters) or to the shore-perpendicular distance 2,400 feet (732 meters) seaward of mean low water, whichever is in a more landward position. Transect spacing shall not exceed 5,000 feet (1,524 meters) in the shore-parallel direction. Elevation data for all transects shall be referenced to the North American Vertical Datum on 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83);
 - (d) No less than 13 sediment samples shall be taken along each beach profile transect. At least one (1) sample shall be taken from each of the following morphodynamic zones where present: frontal dune, frontal dune toe, mid berm, mean high water (MHW), mid tide (MT), mean low water (MLW), trough, bar crest and at even depth increments from 6 feet (1.8 meters) to 20 feet (6.1 meters) or to a shore-perpendicular distance 2,400 feet (732 meters) seaward of mean low water, whichever is in a more landward position. The total number of samples taken landward of MLW shall equal the total number of samples taken seaward of MLW;
 - (e) For the purpose of this Rule, sediment grain size categories ~~shall be~~ is defined as “fine” (less than 0.0625 millimeters), “sand” (greater than or equal to 0.0625 millimeters and less than 2 millimeters), “granular” (greater than or equal to 2 millimeters and less than 4.76 millimeters) and “gravel (greater than or equal to 4.76 millimeters and less than 76 millimeters). Each sediment sample shall report percentage by weight of each of these four (4) grain size categories;
 - (f) A composite of the simple arithmetic mean for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule shall be calculated for each transect. A grand mean shall be established for each of the four (4) grain size categories by summing the mean for each transect and dividing by the total number of transects. The value that characterizes grain size values for the recipient beach ~~shall be~~ is the grand mean of percentage by weight for each grain size category defined in Sub-Item (1)(e) of this Rule;

- (g) Percentage by weight calcium carbonate shall be calculated from a composite of all sediment samples along each transect defined in Sub-Item (1)(d) of this Rule. The value that characterizes the carbonate content of the recipient beach ~~shall be~~ is a grand mean calculated by summing the percentage by weight calcium carbonate for each transect and dividing by the total number of transects. For beaches on which fill activities have taken place prior to the effective date of this Rule, the Division of Coastal Management shall consider visual estimates of shell content as a proxy for carbonate weight percent;
 - (h) The total number of sediments and shell material greater than three (3) inches (76 millimeters) in diameter, observable on the surface of the beach between mean low water (MLW) and the frontal dune toe, shall be calculated for an area of 50,000 square feet (4,645 square meters) within the beach fill project boundaries. This area ~~shall be~~ is considered a representative sample of the entire project area and referred to as the “background” value;
 - (i) Beaches that have received sediment prior to the effective date of this Rule shall be characterized in a way that is consistent with Sub-Items (1)(a) through (1)(h) of this Rule and shall use data collected from the recipient beach prior to the addition of beach fill. If such data were not collected or are unavailable, a dataset best reflecting the sediment characteristics of the recipient beach prior to beach fill shall be developed in coordination with the Division of Coastal Management; and
 - (j) All data used to characterize the recipient beach shall be provided in digital and hardcopy format to the Division of Coastal Management upon request.
- (2) The applicant shall characterize the sediment to be placed on the recipient beach according to the following methodology:
- (a) The characterization of borrow areas including submarine sites, upland sites, and dredged material disposal area shall be designed to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system or dredged material disposal area;
 - (b) The characterization of borrow sites shall include sediment characterization data provided by the Division of Coastal Management;
 - (c) Seafloor surveys shall measure elevation and provide acoustic imagery of the seafloor. _Measurement of seafloor elevation at each submarine borrow site shall provide 100 percent coverage and use survey-grade swath sonar in accordance with current US Army Corps of Engineers standards for navigation and dredging. Seafloor imaging without an elevation component shall also provide 100 percent US Army Corps of Engineers standards for navigation and dredging. Because shallow submarine areas can provide technical challenges and physical limitations for acoustic measurements, alternative elevation surveying methods for water depths less than 10 feet (3 meters) may be evaluated on a case-by-case basis by the Division of Coastal Management and seafloor imaging without an elevation component may not be required for water depths less than_10 feet (3 meters). Elevation data shall be tide- and motion-corrected and referenced to the North American Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83). Seafloor imaging data without an elevation component shall be referenced to the NAD 83. All final seafloor survey data shall conform to standards for accuracy, quality control and quality

assurance as set forth either by the US Army Corps of Engineers, the National Oceanic and Atmospheric Administration, or the International Hydrographic ~~Organization~~; Organization. For offshore dredged material disposal sites, only one set of imagery without elevation is required. Sonar imaging of the seafloor without elevation is not required for borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system;

- (d) Geophysical imaging of the seafloor subsurface shall be used to characterize each borrow site and shall use survey grids with a line spacing not to exceed 1,000 feet (305 meters). Offshore dredged material disposal sites shall use a survey grid not to exceed 2,000 feet (610 meters) and only one set of geophysical imaging of the seafloor subsurface is required. Survey grids shall incorporate at least one (1) tie point per survey line. Because shallow submarine areas can pose technical challenges and physical limitations for geophysical techniques, subsurface data may not be required in water depths less than 10 feet (3 meters). Subsurface geophysical imaging ~~shall not be~~ are not required for federally or state borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system, or upland sites. All final subsurface geophysical data shall use accurate sediment velocity models for time-depth conversions and be referenced to the North American Datum of 1983 (NAD 83);
- (e) Sediment sampling of all borrow sites shall use a vertical sampling device no less than 3 inches (76 millimeters) in diameter. Characterization of each borrow site shall use no less than 10 evenly spaced cores or one (1) core per 23 acres (grid spacing of 1,000 feet or 305 meters), whichever is greater. Characterization of borrow sites completely confined to ~~federally or state~~ maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system shall use no less than five (5) evenly spaced vertical samples per channel or sediment basin, or sample spacing of no more than 5,000 linear feet (1,524 meters), whichever is greater. Two sets of sampling data (with at least one dredging event in between) from maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system may be used to characterize material for subsequent nourishment events from those areas if the sampling results are found to be compatible with Sub-Item 3(a) of this rule. In submarine borrow sites other than ~~federally or state~~ maintained navigation channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system where water depths are no greater than 10 feet (3 meters) geophysical data of and below the seafloor are not ~~acquired,~~ required, sediment sample spacing shall be no less than one (1) core per six (6) acres (grid spacing of 500 feet or 152 meters). Vertical sampling shall penetrate to a depth equal to or greater than permitted dredge or excavation depth or expected dredge or excavation depths for pending permit applications. All sediment samples shall be integrated with geophysical data to constrain the surficial, horizontal and vertical extent of lithologic units and determine excavation volumes of compatible sediment as defined in Item (3) of this Rule;
- (f) For offshore dredged material disposal sites, the grid spacing shall not exceed 2,000 feet (610 meters). Characterization of material deposited at offshore dredged material disposal sites after the initial

characterization are not required if all of the material deposited complies with Sub-Item 3(a) of this rule as demonstrated by at least two sets of sampling data with at least one dredging event in between;

- (f)(g) Grain size distributions shall be reported for all sub-samples taken within each vertical sample for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule. Weighted averages for each core shall be calculated based on the total number of samples and the thickness of each sampled interval. A simple arithmetic mean of the weighted averages for each grain size category shall be calculated to represent the average grain size values for each borrow site. Vertical samples shall be geo-referenced and digitally imaged using scaled, color-calibrated photography; ~~and~~
- (g)(h) Percentage by weight of calcium carbonate shall be calculated from a composite sample of each core. A weighted average of calcium carbonate percentage by weight shall be calculated for each borrow site based on the composite sample thickness of each core. Carbonate analysis ~~shall not be~~ is not required for sediment confined to ~~federally or state~~ maintained navigation channels; and channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system; and
- (h)(i) All data used to characterize the borrow site shall be provided in digital and hardcopy format to the Division of Coastal Management upon request.
- (3) The Division of Coastal Management shall determine sediment compatibility according to the following criteria:
- (a) Sediment completely confined to the permitted dredge depth of a ~~federally or state~~ maintained navigation channel shall be or associated sediment deposition basins within the active nearshore, beach or inlet shoal system is considered compatible if the average percentage by weight of fine-grained (less than 0.0625 millimeters) sediment is less than 10 percent;
 - (b) Sediment used solely to establish or strengthen dunes ~~shall not be~~ is not considered a beach fill project under this Rule;
 - (c) Sediment used solely to re-establish state-maintained transportation corridors across a barrier island breach in a disaster area as declared by the Governor ~~shall not be~~ is not considered a beach fill project under this Rule;
 - (d) The average percentage by weight of fine-grained sediment (less than 0.0625 millimeters) in each borrow site shall not exceed the average percentage by weight of fine-grained sediment of the recipient beach characterization plus five (5) percent;
 - (e) The average percentage by weight of granular sediment (greater than or equal to 2 millimeters and <less than 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of coarse-sand sediment of the recipient beach characterization plus five (5) percent;
 - (f) The average percentage by weight of gravel (greater than or equal to 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of gravel-sized sediment for the recipient beach characterization plus five (5) percent;
 - (g) The average percentage by weight of calcium carbonate in a borrow site shall not exceed the average percentage by weight of calcium carbonate of the recipient beach characterization plus 15 percent; and

- (h) Techniques that take incompatible sediment within a borrow site or combination of sites and make it compatible with that of the recipient beach characterization shall be evaluated on a case-by-case basis by the Division of Coastal Management.
- (4) Excavation and placement of sediment shall conform to the following criteria:
 - (a) Sediment excavation depth from a ~~federally or state~~ maintained navigation channel shall not exceed the permitted dredge depth of the channel;
 - (b) Sediment excavation depths for all borrow sites shall not exceed the maximum depth of recovered core at each coring location;
 - (c) In order to protect threatened and endangered species, and to minimize impacts to fish, shellfish and wildlife resources, no excavation or placement of sediment shall occur within the project area during times designated by the Division of Coastal Management in consultation with other State and Federal ~~agencies,~~ and; agencies; and
 - (d) Sediment and shell material with a diameter greater than three (3) inches (76 millimeters) ~~shall be~~ are considered incompatible if it has been placed on the beach during the beach fill project, is observed between mean low water (MLW) and the frontal dune toe, and is in excess of twice the background value of material of the same size along any 50,000-square-foot (4,645 square meter) section of beach.

History Note: Authority G.S. 113A-229; 113A-102(b)(1); 113A-103(5)(a); 113A-107(a); 113A-113(b)(5) and (6); 113A-118; 113A-124;
Eff. February 1, 2007;
Amended Eff. September 1, 2013; April 1, 2008.



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-24

June 27, 2013

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: 15A NCAC 7H .0306(a)(2) – Replacement of Single-Family or Duplex Residential Structures

House Bill 819 (SL2012-202), directed the Coastal Resources Commission to adopt temporary rules until permanent rules could be adopted allowing for the replacement of single-family or duplex residential structures greater than 5,000 sq. ft. constructed prior to August 11, 2009 that cannot meet the setback criteria of 15A NCAC 7H .0306(a)(2).

The temporary rules were approved and went into effect January 3, 2013. A public hearing on the permanent rule and fiscal note was held April 10th and the public comment period ended May 14, 2013. No comments have been received.

Staff is now recommending that the Commission to adopt the amendments to 15A NCAC 7H .0306(a)(2)(L) as **permanent** rules. No changes are proposed as SL2012-202 directs the Commission to adopt rules that are “substantively identical to the provisions of Section 3.(a) of this Act”.

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the CRC's Rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line or the measurement line, whichever is applicable. The setback distance is determined by both the size of development and the shoreline erosion rate as defined in 15A NCAC 07H .0304. Development size is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

- (A) The total square footage of heated or air-conditioned living space;
- (B) The total square footage of parking elevated above ground level; and
- (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load bearing.

Decks, roof-covered porches and walkways are not included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

- (2) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

- (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
- (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
- (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
- (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
- (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
- (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
- (I) Infrastructure that is linear in nature such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (J) Parking lots greater than or equal to 5,000 square feet requires a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater; **and**
- (K) Notwithstanding any other setback requirement of this Subparagraph, a building or other structure greater than or equal to 5,000 square feet in a community with a static line

exception in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the static vegetation line, the vegetation line or measurement line, whichever is farthest landward.
landward; and

- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of single-family or duplex residential structures with a total floor area greater than 5,000 square feet shall be allowed provided that the structure meets the following criteria:
- (i) the structure was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(2) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(2)(A) of this Rule; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (3) If a primary dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the crest of the primary dune or the ocean hazard setback, whichever is farthest from vegetation line, static vegetation line or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback but shall not be located on or oceanward of a frontal dune. The words "existing lots" in this Rule shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.
- (4) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot on which the development is proposed, the development shall be set landward of the frontal dune or landward of the ocean hazard setback whichever is farthest from the vegetation line, static vegetation line or measurement line, whichever is applicable.
- (5) If neither a primary nor frontal dune exist in the AEC on or landward of the lot on which development is proposed, the structure shall be landward of the ocean hazard setback.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- (7) Established common-law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.
- (8) Beach fill as defined in this Section represents a temporary response to coastal erosion, and compatible beach fill as defined in 15A NCAC 07H .0312 can be expected to erode at least as fast as, if not faster than, the pre-project beach. Furthermore, there is no assurance of future funding or beach-compatible sediment for continued beach fill projects and project maintenance. A vegetation line that becomes established oceanward of the pre-project vegetation line in an area that has received beach fill may be more vulnerable to natural hazards along the oceanfront. A development setback measured from the vegetation line provides less protection from ocean hazards. Therefore, development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the static vegetation line as defined in this Section. However, in order to allow for development landward of the large-scale beach fill project that is less than 2,500 square feet and cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraph (1) and (2)(A) of this Paragraph a local government or

community may petition the Coastal Resources Commission for a “static line exception” in accordance with 15A NCAC 07J .1200 to allow development of property that lies both within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(2)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner as well as the boundaries of the large-scale beach fill project. The procedures for a static line exception request are defined in 15A NCAC 07J .1200. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(2)(A) of this Rule;
- (B) Total floor area of a building is no greater than 2,500 square feet;
- (C) Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
- (D) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;
- (E) With the exception of swimming pools, the development defined in 15A NCAC 07H .0309(a) is allowed oceanward of the static vegetation line; and
- (F) Development is not eligible for the exception defined in 15A NCAC 07H .0309(b).

(b) In order to avoid weakening the protective nature of ocean beaches and primary and frontal dunes, no development is permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon which would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable, and any disturbance of any other dunes is allowed only to the extent allowed by 15A NCAC 07H .0308(b).

(c) Development shall not cause irreversible damage to historic architectural or archaeological resources documented by the Division of Archives and History, the National Historical Registry, the local land-use plan, or other sources.

(d) Development shall comply with minimum lot size and set back requirements established by local regulations.

(e) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(f) Development shall comply with general management objective for ocean hazard areas set forth in 15A NCAC 07H .0303.

(g) Development shall not interfere with legal access to, or use of, public resources nor shall such development increase the risk of damage to public trust areas.

(h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action,
- (2) restore the affected environment, or
- (3) compensate for the adverse impacts by replacing or providing substitute resources.

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to DCM that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(j) All relocation of structures requires permit approval. Structures relocated with public funds shall comply with the applicable setback line as well as other applicable AEC rules. Structures including septic tanks and other essential accessories relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location; septic tanks may not be located oceanward of the primary structure. In these cases, all other applicable local and state rules shall be met.

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under 15A NCAC 07H .0308(a)(2).

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985;
RRC Objection due to ambiguity Eff. January 24, 1992;
Amended Eff. March 1, 1992;
RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;
RRC Objection due to ambiguity Eff. May 18, 1995;
Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;
Temporary Amendment Eff. January 3, 2013.*



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

CRC-13-25

MEMORANDUM

TO: Coastal Resources Commission
FROM: David Moye, District Manager – Washington Regional Office
SUBJECT: Amendments to 7H.1200 GP to Construct Piers and Docking Facilities
DATE: July 11, 2013

At the February CRC meeting, the Commission heard a presentation on rules review and proposals for changes to rules and procedures in accordance with NCGS 150B-19.1(b) (NC Administrative Procedures Act). One of the focus areas in that presentation was to provide greater flexibility in the use of the General Permit (GP) for non-commercial piers and docking facilities.

Currently under your rules, piers and docking facilities shall be designed to provide docking space for no more than two boats on an individual pier and up to four boats on a shared pier. Over the years, staff has seen an increase in the use of personal water craft (PWC) and that has resulted in a number of permits elevated from a GP to the Major permit review process for the inclusion of a third docking space for a PWC or canoe or kayak. In addition, based on direction from the CRC in the late 90's, boats have been counted as slips whether they are in a wet slip, boat lift, boathouse, drive on jet dock, or simply placed on the existing platform(s). Applying slip counts in this manner has resulted in counting both slip number and platform size/ shading impact against the property owner.

In an effort to provide greater flexibility to the property owner in the use of the non-commercial docking facility, while continuing to adhere to the two boat docking space limit, staff is proposing a modification to the GP to alter how the CRC defines the use of platform(s) that has been accounted for as shaded impact. Again, it is important to note that this GP is for the exclusive use of the land owner, or occupant and shall not be leased or rented or used for any commercial purpose.

Staff has attached the proposed rule language for your review. Staff is requesting a modification to the pier and docking facilities GP, so that boats stored on platforms (floating or fixed) shall not count as docking spaces. Staff recommends that the CRC consider sending the draft rule revision, including any additional changes by the CRC, to the public hearing process. Staff looks forward to the discussion with the Commission.

Attachment

**SECTION .1200 – GENERAL PERMIT FOR CONSTRUCTION OF PIERS AND DOCKING FACILITIES:
IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS**

15A NCAC 07H .1201 PURPOSE

A permit under this Section shall allow the construction of new piers and docking facilities (including pile supported or floating) in the estuarine and public trust waters AECs and construction of new piers and docks within coastal wetlands AECs according to the authority provided in Subchapter 07J .1100 and according to the Rules in this Section. This permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than the adjacent Ocean Erodible Area.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. July 1, 2009; April 1, 2003.

15A NCAC 07H .1202 APPROVAL PROCEDURES

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant shall provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response will be interpreted as no objection. DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff finds that the comments are worthy of more in-depth review, DCM shall notify the applicant that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction shall be completed within 120 days of the issuance of the general authorization or the authorization shall expire and it shall be necessary to re-examine the proposed development to determine if the general authorization may be reissued.

(d) Any modification or addition to the authorized project shall require prior approval from the Division of Coastal Management.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. October 1, 2007; August 1, 1998; January 1, 1990.

15A NCAC 07H .1203 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00) by check or money order payable to the Department.

History Note: Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991..

15A NCAC 07H .1204 GENERAL CONDITIONS

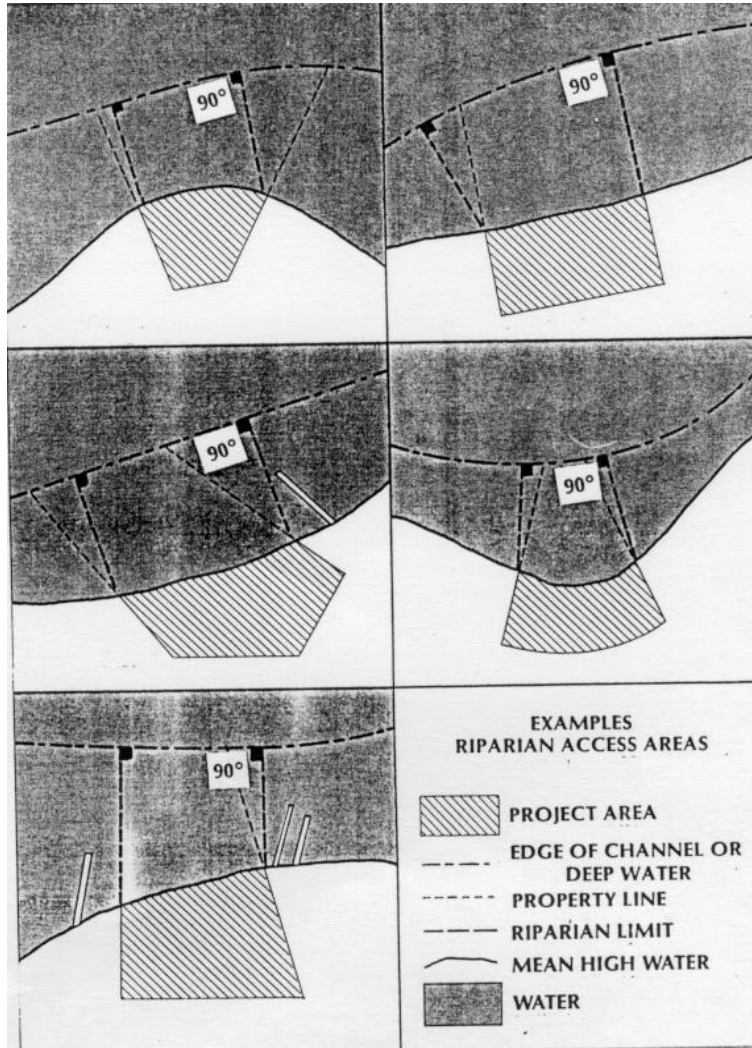
- (a) Piers and docking facilities authorized by this general permit shall be for the exclusive use of the land owner, or occupant and shall not be leased or rented or used for any commercial purpose. Except in the cases of shared piers as Ppiers and docking facilities shall designed to provide docking space for no more than two boats shall, and because of their greater potential for adverse impacts, shall be reviewed through the major permitting process and, therefore, are not authorized by this general permit, excluding the exceptions described in Section 7H .1205 of this Rule.
- (b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make periodic inspections at any time deemed necessary in order to be sure that the activity being performed under the authority of this general permit is in accordance with the terms and conditions prescribed herein.
- (c) There shall be no interference with navigation or use of the waters by the public by the existence of piers and docking facilities.
- (d) This permit shall not be applicable to proposed construction where the Department determines that the proposed activity will endanger adjoining properties or significantly affect historic, cultural, scenic, conservation or recreation values, identified in G.S. 113A-102 and G.S. 113A-113(b)(4).
- (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines, and local land use plans current at the time of authorization.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
Eff. March 1, 1984;
Amended Eff. May 1, 1990;
RRC Objection due to ambiguity Eff. May 19, 1994;
Amended Eff. July 1, 2009; August 1, 1998; July 1, 1994.

15A NCAC 07H .1205 SPECIFIC CONDITIONS

- (a) Piers and docking facilities may extend or be located up to a maximum of 400 feet waterward from the normal high water line or the normal water level, whichever is applicable.
- (b) Piers and docking facilities shall not extend beyond the established pier length along the same shoreline for similar use. This restriction shall not apply to piers and docking facilities 100 feet or less in length unless necessary to avoid interference with navigation or other uses of the waters by the public such as blocking established navigation routes or interfering with access to adjoining properties. The length of piers and docking facilities shall be measured from the waterward edge of any wetlands that border the water body.
- (c) Piers and docking facilities longer than 200 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least one foot at each 100 foot increment of pier length longer than 200 feet, or if the additional length is necessary to span some obstruction to navigation. Measurements to determine pier and docking facility lengths shall be made from the waterward edge of any coastal wetland vegetation, which borders the water body.
- (d) Piers shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.
- (e) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be 8 square feet per linear foot of shoreline with a maximum of 800 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total.
- (f) The maximum size of any individual component of the docking facility authorized by this General Permit shall not exceed 400 square feet.
- (g) Docking facilities shall not be constructed in a designated Primary Nursery Area with less than two feet of water at normal low water level or normal water level (whichever is applicable) under this permit without prior approval from the Division of Marine Fisheries or the Wildlife Resources Commission (whichever is applicable).
- (h) Piers and docking facilities located over shellfish beds or submerged aquatic vegetation (as defined by the Marine Fisheries Commission) may be constructed without prior consultation from the Division of Marine Fisheries or the Wildlife Resources Commission (whichever is applicable) if the following two conditions are met:
- (1) Water depth at the docking facility location is equal to or greater than two feet of water at normal low water level or normal water level (whichever is applicable).
 - (2) The pier and docking facility is located to minimize the area of submerged aquatic vegetation or shellfish beds under the structure.

- (i) Floating piers and floating docking facilities located in PNAs, over shellfish beds, or over submerged aquatic vegetation shall be allowed if the water depth between the bottom of the proposed structure and the substrate is at least 18 inches at normal low water level or normal water level, whichever is applicable.
- (j) Docking facilities shall have no more than six feet of any dimension extending over coastal wetlands and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking.
- (k) The width requirements established in Paragraphs (d), (e), (f), (g), (h), (i), and (j), of this Rule shall not apply to pier structures in existence on or before July 1, 2001 when structural modifications are needed to prevent or minimize storm damage. In these cases, pilings and cross bracing may be used to provide structural support as long as they do not extend more than of two feet on either side of the principal structure. These modifications shall not be used to expand the floor decking of platforms and piers.
- (l) Boathouses shall not exceed a combined total of 400 square feet and shall have sides extending no further than one-half the height of the walls as measured in a downward direction from the top wall plate or header and only covering the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline.
- (m) The area enclosed by a boat lift shall not exceed 400 square feet.
- (n) Piers and docking facilities shall be single story. They may be roofed but shall not allow second story use.
- (o) Pier and docking facility alignments along federally maintained channels shall also meet Corps of Engineers regulations for construction pursuant to Section 10 of the Rivers and Harbors Act.
- (p) Piers and docking facilities shall in no case extend more than 1/4 the width of a natural water body, human-made canal or basin. Measurements to determine widths of the water body, human-made canals or basins shall be made from the waterward edge of any coastal wetland vegetation which borders the water body. The 1/4 length limitation shall not apply when the proposed pier and docking facility is located between longer structures within 200 feet of the applicant's property. However, the proposed pier and docking facility shall not be longer than the pier head line established by the adjacent piers and docking facilities nor longer than 1/3 the width of the water body.
- (q) Piers and docking facilities shall not interfere with the access to any riparian property, and shall have a minimum setback of 15 feet between any part of the pier and docking facility and the adjacent property lines extended into the water at the points that they intersect the shoreline. The minimum setbacks provided in the rule may be waived by the written agreement of the adjacent riparian owner(s), or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the pier commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the Division of Coastal Management prior to initiating any development of the pier or docking facility. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the property, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. Application of this Rule may be aided by reference to the approved diagram in Paragraph (t) of this Rule illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier or docking facility shall be aligned to meet the intent of this Rule to the maximum extent practicable.
- (r) Piers and docking facilities shall ~~be designed to~~ provide docking space for no more than two boats (a boat is defined in 15A NCAC 07M.0602(a) as a vessel or watercraft of any size or type specifically designed to be self-propelled, whether by engine, sail, oar, or paddle or other means, which is used to travel from place to place by water) except when stored on a platform that has already been accounted for within the shading impacts condition of this general permit. Boats stored on floating or fixed platforms shall not count as docking spaces.
- (s) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed pier or docking facility would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.
- (t) The diagram shown below illustrates various shoreline configurations:



(u) Shared piers or docking facilities shall be allowed and encouraged provided that in addition to complying with (a) through (t) of this rule the following shall also apply:

- (1) The shared pier or docking facility shall be confined to two adjacent riparian property owners and the landward point of origination of the structure shall overlap the shared property line.
- (2) Shared piers and docking facilities shall be designed to provide docking space for no more than four boats.
- (3) The total square footage of shaded impact for docks and mooring facilities shall be calculated using (e) of this rule and in addition shall allow for combined shoreline of both properties.
- (4) The property owners of the shared pier shall not be required to obtain a 15-foot waiver from each other as described in subparagraph (q) of this rule as it applies to the shared riparian line for any work associated with the shared pier, provided that the title owners of both properties have executed a shared pier agreement that has become a part of the permit file.
- (5) The construction of a second access pier or docking facility not associated with the shared pier shall require authorization through the CAMA Major full review permit process.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124;
 Eff. March 1, 1984;
 Amended Eff. December 1, 1991; May 1, 1990; March 1, 1990;
 RRC Objection due to ambiguity Eff. March 18, 1993;
 Amended Eff. August 1, 1998; April 23, 1993;
 Temporary Amendment Eff. December 20, 2001;
 Amended Eff. July 1, 2009; April 1, 2003.
 Amended Eff. ????

DRAFT



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

Pat McCrory
Governor

Braxton C. Davis
Director

John E. Skvarla, III
Secretary

MEMORANDUM

CRC-13-26

TO: Coastal Resources Commission

FROM: Matt Slagel

SUBJECT: Amendments to 15A NCAC 7H .0312 Technical Standards for Beach Fill Projects

DATE: June 27, 2013

At the May 9 Commission meeting, I presented four additional potential changes to the Commission's sediment criteria - Rule 15A NCAC 7H .0312 that the Division of Coastal Management (DCM) was evaluating. The changes under consideration were:

- 1) Allowing single-beam bathymetry with adequate line spacing rather than requiring 100% coverage with swath bathymetry for borrow sites.
- 2) Allowing more flexibility in vibracore plans, especially for smaller borrow areas.
- 3) Expanding the granular "native + 5%" criteria to allow slightly more coarse-sand sediment to be placed on the beach. Granular sediment has a grain size greater than or equal to 2 millimeters and less than 4.76 millimeters.
- 4) Allowing excavation depths to exceed maximum core depths, only where remote sensed geophysical sub-bottom data clearly indicates the sediment below the maximum core depth is beach compatible and with appropriate permit conditions.

Based on continued discussions with DCM staff and coastal engineers and geologists, the four items above have been addressed as follows:

- 1) Multibeam (swath bathymetry) vs. Single-beam
 - DCM recommends that the requirement for 100% coverage with multibeam remains in the rule. Multibeam may be slightly more expensive (on the order of + 15%) compared to single-beam bathymetry, but it provides much greater assurance that hard bottoms won't be overlooked and impacted and that incompatible material won't be placed on the beach.

- The rule will be clarified to indicate that “swath sonar” refers to multibeam or similar technologies and that “seafloor imaging without an elevation component” refers to sidescan sonar or similar technologies. This change is intended to clarify the types of technology that the rule language describes.
- 2) Vibracore Spacing in Smaller Borrow Sites
- In Sub-Item (2)(e) of the rule, the minimum number of vibracores in a borrow site will be reduced from 10 to 5, but the 1,000-ft grid spacing (1 core per 23 acres) will remain, whichever is greater. For small borrow sites, this change will require at least 5 cores instead of 10. For larger borrow sites, it keeps the existing required spacing (5 cores on up depending on size). Since each core costs about \$4,000, the change will result in a savings when sampling smaller borrow areas while ensuring an adequate sample spacing.
- 3) Granular Fraction: “Native +5%”
- DCM recommends that the allowable granular fraction be expanded to native +10%. Gravel material would be kept at native +5%, and fine sediment would also be kept at native +5%. Expanding the allowable granular fraction to 10% above the native beach will provide flexibility for applicants to use sediment for nourishment that is close to the native composition but considered incompatible under the current rule. For example, if a beach has a native granular fraction of 10% and the proposed borrow area has a granular fraction of 17%, it would be considered incompatible under the current rule. Under this proposed change, and using the same example, the proposed borrow area could have a granular fraction up to 20%. This will allow slightly more coarse-sand sediment to be placed on the beach while continuing to limit fine sediment and gravel material to native +5%.
- 4) Excavation Below Maximum Core Depth
- The only way to definitively meet the sediment criteria standards is to perform grain size analysis on the sediment obtained from vibracores. The remote sensed geophysical data are useful for developing coring plans but are not sufficient by themselves to determine if sediment below the maximum core depth is beach compatible. Therefore, DCM proposes no changes to Sub-Item 4(b) of the rule.
- 5) Excavation Exceeding the Permitted Dredge Depth of a Maintained Channel
- While reviewing the rule, DCM staff also discussed Sub-Item 4(a), which states that “Sediment excavation depth from a maintained navigation channel shall not exceed the permitted dredge depth of the channel.” DCM believes that this sub-item is redundant, may lead to confusion, and should be removed from the rule. For example, if an inlet’s federally authorized depth is 10 feet and an applicant wishes to dredge to 15 feet to maximize the use of beach compatible material, it is not DCM’s intention to prevent the deeper dredging from occurring. A CAMA Major Permit and a USACE permit will both involve the review of proposed dredging depths and subsequently indicate the depth of dredging that may occur for a given project.

The attached document shows the current sediment criteria rule and includes previous changes that are scheduled for adoption at this meeting (reduced sampling requirements). The highlighted strikethroughs and underlines are the additional changes being proposed. DCM recommends that these additional changes be approved for public hearing separately so as not to delay implementation of the reduced sampling requirements for the upcoming dredging season.

15A NCAC 07H .0312 is proposed for amendment as follows:

15A NCAC 07H .0312 TECHNICAL STANDARDS FOR BEACH FILL PROJECTS

Emplacement of sediment along the oceanfront shoreline is referred to in this Rule as beach fill. Beach fill projects including beach nourishment, dredged material disposal, habitat restoration, storm protection, and erosion control may be permitted under the following conditions:

- (1) The applicant shall characterize the recipient beach according to the following methodology:
 - (a) Characterization of the recipient beach is not required for the placement of sediment directly from and completely confined to a maintained navigation channel or associated sediment basins within the active nearshore, beach or inlet shoal system;
 - (b) Sediment sampling and analysis shall be used to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system;
 - (c) Shore-perpendicular topographic and bathymetric surveying of the recipient beach shall be conducted to determine the beach profile. Topographic and bathymetric surveying shall occur along a minimum of five (5) shore-perpendicular transects evenly spaced throughout the entire project area. Each transect shall extend from the frontal dune crest seaward to a depth of 20 feet (6.1 meters) or to the shore-perpendicular distance 2,400 feet (732 meters) seaward of mean low water, whichever is in a more landward position. Transect spacing shall not exceed 5,000 feet (1,524 meters) in the shore-parallel direction. Elevation data for all transects shall be referenced to the North American Vertical Datum of ~~19~~1988 (NAVD 88) and the North American Datum of 1983 (NAD 83);

- (d) No less than 13 sediment samples shall be taken along each beach profile transect. At least one (1) sample shall be taken from each of the following morphodynamic zones where present: frontal dune, frontal dune toe, mid berm, mean high water (MHW), mid tide (MT), mean low water (MLW), trough, bar crest and at even depth increments from 6 feet (1.8 meters) to 20 feet (6.1 meters) or to a shore-perpendicular distance 2,400 feet (732 meters) seaward of mean low water, whichever is in a more landward position. The total number of samples taken landward of MLW shall equal the total number of samples taken seaward of MLW;
- (e) For the purpose of this Rule, sediment grain size categories **areis** defined as “fine” (less than 0.0625 millimeters), “sand” (greater than or equal to 0.0625 millimeters and less than 2 millimeters), “granular” (greater than or equal to 2 millimeters and less than 4.76 millimeters) and “gravel” (greater than or equal to 4.76 millimeters and less than 76 millimeters). Each sediment sample shall report percentage by weight of each of these four (4) grain size categories;
- (f) A composite of the simple arithmetic mean for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule shall be calculated for each transect. A grand mean shall be established for each of the four (4) grain size categories by summing the mean for each transect and dividing by the total number of transects. The value that characterizes grain size values for the recipient beach is the grand mean of percentage by weight for each grain size category defined in Sub-Item (1)(e) of this Rule;
- (g) Percentage by weight calcium carbonate shall be calculated from a composite of all sediment samples along each transect defined in Sub-Item (1)(d) of this Rule. The value that characterizes the carbonate content of the recipient beach is a grand mean calculated by summing the percentage by weight calcium carbonate for each transect and dividing by the total number of transects. For beaches on which fill activities have taken place prior to the effective date of this Rule, the Division of Coastal Management shall consider visual estimates of shell content as a proxy for carbonate weight percent;
- (h) The total number of sediments and shell material greater than three (3) inches (76 millimeters) in diameter, observable on the surface of the beach between mean low water (MLW) and the frontal dune toe, shall be calculated for an area of 50,000 square feet

- (4,645 square meters) within the beach fill project boundaries. This area is considered a representative sample of the entire project area and referred to as the “background” value;
- (i) Beaches that have received sediment prior to the effective date of this Rule shall be characterized in a way that is consistent with Sub-Items (1)(a) through (1)(h) of this Rule and shall use data collected from the recipient beach prior to the addition of beach fill. If such data were not collected or are unavailable, a dataset best reflecting the sediment characteristics of the recipient beach prior to beach fill shall be developed in coordination with the Division of Coastal Management; and
 - (j) All data used to characterize the recipient beach shall be provided in digital and hardcopy format to the Division of Coastal Management upon request.
- (2) The applicant shall characterize the sediment to be placed on the recipient beach according to the following methodology:
- (a) The characterization of borrow areas including submarine sites, upland sites, and dredged material disposal areas shall be designed to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system or dredged material disposal area;
 - (b) The characterization of borrow sites shall include sediment characterization data provided by the Division of Coastal Management;
 - (c) Seafloor surveys shall measure elevation and provide acoustic imagery of the seafloor. Measurement of seafloor elevation at each submarine borrow site shall provide 100 percent coverage and use survey-grade swath sonar (e.g. multibeam or similar technologies) in accordance with current US Army Corps of Engineers standards for navigation and dredging. Seafloor imaging without an elevation component (e.g. sidescan sonar or similar technologies) shall also provide 100 percent coverage in accordance with current US Army Corps of Engineers standards for navigation and dredging. Because shallow submarine areas can provide technical challenges and physical limitations for acoustic measurements, alternative elevation surveying methods for water depths less than 10 feet (3 meters) may be evaluated on a case-by-case basis by the Division of Coastal Management and seafloor imaging without an elevation component may not be required for water depths less than 10 feet (3 meters). Elevation

data shall be tide- and motion-corrected and referenced to the North American Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83). Seafloor imaging data without an elevation component shall be referenced to the NAD 83. All final seafloor survey data shall conform to standards for accuracy, quality control and quality assurance as set forth either by the US Army Corps of Engineers, the National Oceanic and Atmospheric Administration, or the International Hydrographic Organization. For offshore dredged material disposal sites, only one set of imagery without elevation is required. Sonar imaging of the seafloor without elevation is not required for borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system;

- (d) Geophysical imaging of the seafloor subsurface shall be used to characterize each borrow site and shall use survey grids with a line spacing not to exceed 1,000 feet (305 meters). Offshore dredged material disposal sites shall use a survey grid not to exceed 2,000 feet (610 meters) and only one set of geophysical imaging of the seafloor subsurface is required. Survey grids shall incorporate at least one (1) tie point per survey line. Because shallow submarine areas can pose technical challenges and physical limitations for geophysical techniques, subsurface data may not be required in water depths less than 10 feet (3 meters). Subsurface geophysical imaging ~~is~~ not required for borrow sites completely confined to maintained navigation channels, sediment deposition basins within the active nearshore, beach, or inlet shoal system, or upland sites. All final subsurface geophysical data shall use accurate sediment velocity models for time-depth conversions and be referenced to the North American Datum of 1983 (NAD 83);
- (e) Sediment sampling of all borrow sites shall use a vertical sampling device no less than 3 inches (76 millimeters) in diameter. Characterization of each borrow site shall use no less than ~~five (5)~~ 10 evenly spaced cores or one (1) core per 23 acres (grid spacing of 1,000 feet or 305 meters), whichever is greater. Characterization of borrow sites completely confined to maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system shall use no less than five (5) evenly spaced vertical samples per channel or sediment basin, or sample spacing of no more than 5,000 linear feet (1,524 meters), whichever is greater. Two sets of sampling

data (with at least one dredging event in between) from maintained navigation channels or sediment deposition basins within the active nearshore, beach or inlet shoal system may be used to characterize material for subsequent nourishment events from those areas if the sampling results are found to be compatible with Section 3(a) of this rule. In submarine borrow sites other than maintained navigation channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system where water depths are no greater than 10 feet (3 meters) geophysical data of and below the seafloor are not required, **and** sediment sample spacing shall be no less than one (1) core per six (6) acres (grid spacing of 500 feet or 152 meters). Vertical sampling shall penetrate to a depth equal to or greater than permitted dredge or excavation depth or expected dredge or excavation depths for pending permit applications. All sediment samples shall be integrated with geophysical data to constrain the surficial, horizontal and vertical extent of lithologic units and determine excavation volumes of compatible sediment as defined in Item (3) of this Rule;

- (f) For offshore dredged material disposal sites, the grid spacing shall not exceed 2,000 feet (610 meters). Characterization of material deposited at offshore dredged material disposal sites after the initial characterization are not required if all of the material deposited complies with Section 3(a) of this rule as demonstrated by at least two sets of sampling data with at least one dredging event in between;
- (g) Grain size distributions shall be reported for all sub-samples taken within each vertical sample for each of the four (4) grain size categories defined in Sub-Item (1)(e) of this Rule. Weighted averages for each core shall be calculated based on the total number of samples and the thickness of each sampled interval. A simple arithmetic mean of the weighted averages for each grain size category shall be calculated to represent the average grain size values for each borrow site. Vertical samples shall be geo-referenced and digitally imaged using scaled, color-calibrated photography;
- (h) Percentage by weight of calcium carbonate shall be calculated from a composite sample of each core. A weighted average of calcium carbonate percentage by weight shall be calculated for each borrow site based on the composite sample thickness of each core. Carbonate analysis is not required for sediment confined to maintained navigation

channels or associated sediment deposition basins within the active nearshore, beach or inlet shoal system; and

- (i) All data used to characterize the borrow site shall be provided in digital and hardcopy format to the Division of Coastal Management upon request.
- (3) The Division of Coastal Management shall determine sediment compatibility according to the following criteria:
- (a) Sediment completely confined to the permitted dredge depth of a maintained navigation channel or associated sediment deposition basins within the active nearshore, beach or inlet shoal system is considered compatible if the average percentage by weight of fine-grained (less than 0.0625 millimeters) sediment is less than 10 percent;
 - (b) Sediment used solely to establish or strengthen dunes is not considered a beach fill project under this Rule;
 - (c) Sediment used solely to re-establish state-maintained transportation corridors across a barrier island breach in a disaster area as declared by the Governor is not considered a beach fill project under this Rule;
 - (d) The average percentage by weight of fine-grained sediment (less than 0.0625 millimeters) in each borrow site shall not exceed the average percentage by weight of fine-grained sediment of the recipient beach characterization plus five (5) percent;
 - (e) The average percentage by weight of granular sediment (greater than or equal to 2 millimeters and less than 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of coarse-sand sediment of the recipient beach characterization plus ~~10~~five (5) percent;
 - (f) The average percentage by weight of gravel (greater than or equal to 4.76 millimeters) in a borrow site shall not exceed the average percentage by weight of gravel-sized sediment for the recipient beach characterization plus five (5) percent;
 - (g) The average percentage by weight of calcium carbonate in a borrow site shall not exceed the average percentage by weight of calcium carbonate of the recipient beach characterization plus 15 percent; and

- (h) Techniques that take incompatible sediment within a borrow site or combination of sites and make it compatible with that of the recipient beach characterization shall be evaluated on a case-by-case basis by the Division of Coastal Management.
- (4) Excavation and placement of sediment shall conform to the following criteria:
 - ~~(a) — Sediment excavation depth from a federally or state maintained navigation channel shall not exceed the permitted dredge depth of the channel;~~
 - (a) Sediment excavation depths for all borrow sites shall not exceed the maximum depth of recovered core at each coring location;
 - (b) In order to protect threatened and endangered species, and to minimize impacts to fish, shellfish and wildlife resources, no excavation or placement of sediment shall occur within the project area during times designated by the Division of Coastal Management in consultation with other State and Federal agencies; and
 - (c) Sediment and shell material with a diameter greater than three (3) inches (76 millimeters) are considered incompatible if it has been placed on the beach during the beach fill project, is observed between mean low water (MLW) and the frontal dune toe, and is in excess of twice the background value of material of the same size along any 50,000-square-foot (4,645 square meter) section of beach.

*History Note: Authority G.S. 113A-229; 113A-102(b)(1); 113A-103(5)(a); 113A-107(a); 113A-113(b)(5) and (6); 113A-118; 113A-124;
Eff. February 1, 2007;
Amended Eff. March 1, 2012; April 1, 2008.*