

**NC COASTAL RESOURCES ADVISORY COUNCIL**  
**July 16, 2015**  
**NOAA/NERR Administration Building**  
**Beaufort, NC**

**9:30 CALL TO ORDER\* (Classroom)**

Debbie Smith, Chair

- Roll Call
- Announcements
- Approval of February 18, 2015 Meeting Minutes

**9:40 Continue Discussion of Sandbag Use within Proposed State Port Inlet AECs** Debbie Smith

**10:25 Old/New Business**

**10:30 Adjourn**



N.C. Division of Coastal Management  
[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)  
Next Meeting: September 22-23, 2015; TBA

## 15A NCAC 7H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
  - (a) a distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update" and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>; and
  - (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.
- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.
- (3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area extends landward from the mean low water line a distance sufficient to encompass that area within which the inlet shall migrate, based on statistical analysis, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet and external influences such as jetties and channelization. The areas identified as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Rick Carraway are incorporated by reference and are hereby designated as Inlet Hazard Areas except for:
  - (a) ~~the Cape Fear Inlet Hazard Area as shown on the map does not extend northeast of the Bald Head Island marina entrance channel; and~~
  - (b) ~~the former location of Mad Inlet, which closed in 1997.~~
  - (a) the location of a former inlet which has been closed for at least 15 years.
  - (b) inlets that due to shoreline migration, no longer include the current location of the inlet.
  - (c) inlets providing access to a State Port via a channel maintained by the United States Army Corps of Engineers.

In all cases, the Inlet Hazard Area shall be an extension of the adjacent ocean erodible areas and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area. This report is available for inspection at the Department of Environment and Natural Resources, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina or at the website referenced in Sub-item (1)(a) of this Rule. Photo copies are available at no charge.

- (4) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an Unvegetated Beach Area on either a permanent or temporary basis as follows:
  - (a) An area appropriate for permanent designation as an Unvegetated Beach Area is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following studies by the Division of Coastal Management. These areas shall be designated on maps approved by the Coastal Resources

Commission and available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at the website referenced in Sub-item (1)(a) of this Rule.

- (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an Unvegetated Beach Area for a specific period of time. At the expiration of the time specified by the Coastal Resources Commission, the area shall return to its prestorm designation.

(5) State Ports Inlet Management Area. Areas adjacent to and within inlets providing access to a State Port via a channel maintained by the United States Army Corps of Engineers. These areas are unique due to the influence of a federally mandated fixed channel location and the critical nature of maintaining adequate shipping access to North Carolina's state ports. As such, these areas may require specific management strategies not warranted at other inlets to address erosion, shoreline stabilization, and the beneficial use of sand within the littoral system. The State Ports Inlet Management Areas shall be designated on maps approved by the Coastal Resources Commission and available without cost from the Division of Coastal Management or the internet at the website referenced in Sub-item(1)(a) of this Rule.

### 15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Subchapter;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands;
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Subchapter would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, buildings shall be permitted seaward of the applicable setback line in ocean erodible areas and State Ports Inlet Management Areas, but not inlet hazard areas or unvegetated beach areas, if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line or static vegetation line, whichever is applicable;
- (3) The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Subchapter.
  - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
  - (B) The footprint of the structure shall be no more than 1,000 square feet, and the total floor area of the structure shall be no more than 2,000 square feet. For the purpose of this Section, roof covered decks and porches that are structurally attached shall be included in the calculation of footprint;
  - (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used;
  - (D) No portion of a building's total floor area, including elevated portions that are cantilevered,

knee braced or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most adjacent building. When the geometry or orientation of a lot precludes the placement of a building in line with the landward most adjacent structure of similar use, 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, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

- (5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.
- (c) Reconfiguration and development of lots and projects that have a grandfather status under Paragraph (b) of this Rule shall be allowed provided that the following conditions are met:
- (1) Development is setback from the first line of stable natural vegetation a distance no less than that required by the applicable exception;
  - (2) Reconfiguration shall not result in an increase in the number of buildable lots within the Ocean Hazard AEC or have other adverse environmental consequences. For the purposes of this Rule, an existing lot is 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. The footprint is defined as the greatest exterior dimensions of the structure, including covered decks, porches, and stairways, when extended to ground level.
- (d) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:
- (1) piers providing public access; and
  - (2) maintenance and replacement of existing state-owned bridges and causeways and accessways to such bridges.
- (e) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:
- (1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;
  - (2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;
  - (3) The pier house shall be limited to a maximum of two stories;
  - (4) A new pier house shall not exceed a footprint of 5,000 square feet and shall be located landward of mean high water;
  - (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 square feet, whichever is larger;
  - (6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and
  - (7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier house shall be permitted only if the pier is being replaced and returned to its original function.
- (f) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted on those nonoceanfront portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200 and 07K .0203.
- (g) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:
- (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule 07H .0305, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and
  - (2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.

## **15A NCAC 07H .0313 USE STANDARDS FOR STATE PORTS INLET MANAGEMENT AREAS**

(a) State Ports Inlet Management areas as defined by Rule .0304 of this Section are areas adjacent to and within inlets providing access to a State Port via a channel maintained by the United States Army Corps of Engineers. Due to the unique influence of a federally mandated fixed channel location and the critical nature of maintaining adequate access to North Carolina's state ports, development within these areas shall be permitted in accordance with the following standards:

(1) Clean, beach-quality material dredged from navigational channels within State Ports Inlet Management Areas shall not be removed permanently from the active nearshore, beach or inlet shoal system. This dredged material shall be disposed of on the ocean beach or shallow active nearshore area where it is environmentally acceptable and compatible with other uses of the beach:

Alternate (1) To the maximum extent practicable, clean, beach-quality material, as defined by 15A NCAC 07H .0312(3), dredged from navigation channels within State Ports Inlet Management Areas shall be placed on the adjacent ocean beaches where: (i) it is environmentally acceptable and compatible with other uses of the beach and (ii) in a manner that minimizes shoaling and replicates the natural littoral system and avoids detrimental changes in the littoral and sediment transport processes:

- (2) All development in the State Ports Inlet Management Areas shall be set back from the first line of stable natural vegetation or static vegetation line a distance equal to the setback required in the ocean hazard area, except for development exempted from the ocean setback rules in 15A NCAC 7H .0309.
- (3) Notwithstanding the use standards for temporary erosion control structures described in 15A NCAC 07H .0308(a)(2), a local government may seek protection of an imminently threatened frontal or primary dune and/or infrastructure within a State Ports Inlet Management Area. For the purpose of this rule, a frontal or primary dune or infrastructure shall be considered imminently threatened in a State Ports Inlet Management Area if:
  - i. Its foundation, septic system, right-of-way in the case of roads, or waterward toe of dune is less than 20 feet away from the erosion scarp; or
  - ii. site conditions, such as flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure; or
  - iii. the frontal dune or infrastructure will be imminently threatened within six (6) months as certified by persons meeting applicable State occupational licensing requirements ; or
  - iv. the rate of erosion from the erosion scarp or shoreline within 100 feet of the infrastructure or frontal dune was greater than 20 feet over the preceding 30 days.The Director of the Division of Coastal Management shall make the final determination as to whether a frontal dune or infrastructure is imminently threatened.
- (4) Sandbags used to construct temporary erosion control structures shall be tan in color with a base width not exceeding 20 feet, and a height not to exceed six feet.
- (5) Temporary sandbag erosion control structures constructed by a local government may remain in place for up to eight years from the date of approval. The local government shall be responsible for removal of the temporary erosion structure within 30 days of the end of the allowable time period. Removal of temporary erosion control structures is not required if they are covered by dunes with stable and natural vegetation.
- (6) Once the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project, an inlet relocation or stabilization project, it shall be removed by the local government within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.
- (7) Established common-law and statutory public rights of access to the public trust lands and waters in deep draft inlet management 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) Except where inconsistent with the above standards, all other rules in this Subchapter pertaining to development in the ocean hazard areas shall be applied to development within the State Ports Inlet Management Areas.