

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Coastal Resources Commission

RULE CITATION: 15A NCAC 07H .0314

DEADLINE FOR RECEIPT: June 6, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the rule: Explain the authority to adopt a rule applicable to all uses of wheat straw bales for protecting dunes. Is not the CRC's jurisdiction limited to certain geographic areas pursuant to G.S. 113A-113? By including G.S. 113A-113 in the history note the CRC implies "natural hazard areas" but that is not in the language of the rule. In short, the rule needs to be cabined to certain areas. Perhaps areas designed by a process or rule. Or designated pursuant to G.S. 113A-113(b)(6). Or this rule shall only apply to..."

Lines 6 and 7: Shouldn't it be "have" rather than "has"?

Line 7: I believe you intend a comma after "association."

Lines 5 and 7-8: Consider "(a) Wheat straw bales for the purposes of building and protecting dunes shall only be installed..." Or consider whether the agency needs the "for the purposes..." language at all.

Line 29: Change "may" to "shall" or state the criteria used in the exercise of the discretion.

Line 32: Define "dune building material."

Line 34: Non-functioning, damaged what? Consider: Any non-functioning, damaged, or displaced wheat straw bales or stakes shall be repaired or removed by the permittee.

Line 34: What is a stake? A little more context please. Stakes used to anchor the bales?

Line 34-35: Explain the authority of the CRC to require repair or removal?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: May 21, 2025

1 15A NCAC 07H .0314 is adopted as published in 39:15 NCR 1040-1041 as follows:

2
3 15A NCAC 07H .0314 INSTALLATION AND MAINTENANCE OF WHEAT STRAW BALES FOR SAND
4 FENCING

5 (a) Wheat straw bales shall only be installed by local, state, or federal government or a local homeowners
6 association as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots
7 within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, for
8 the purpose of building and protecting dunes by trapping windblown sand.

9 (b) Wheat straw bales shall not impede existing public access to the beach, recreational use of the beach, or
10 emergency vehicle access. Wheat straw bales shall not be installed in a manner that impedes or restricts established
11 common law and statutory rights of public access and use of public trust lands and waters.

12 (c) Wheat straw bales shall not be installed in a manner that impedes, traps, or otherwise endangers sea turtles, sea
13 turtle nests, or sea turtle hatchlings. CAMA permit applications for wheat straw bales shall be subject to review by
14 the Wildlife Resources Commission and the U.S. Fish and Wildlife Service in order to determine whether the
15 proposed design or installation will have an adverse impact on sea turtles or other threatened or endangered species.

16 (d) The permittee shall remove any ties or binding from wheat straw bales during installation.

17 (e) Wheat straw bales shall be placed as far landward as possible to avoid interference with sea turtle nesting,
18 public access, recreational use of the beach, and emergency vehicle access. Additionally:

19 (1) Wheat straw bales shall not be placed on the wet sand beach;

20 (2) Wheat straw bale sections shall not exceed 2 feet in width, 3 feet in height as measured
21 from the bottom bale, and 10 feet in length;

22 (3) Wheat straw bales installed on or waterward of the crest of the frontal or primary dune
23 shall be installed at an angle no less than 45 degrees to the shoreline. No portion of a
24 wheat straw bale section shall extend more than 10 feet waterward of the following
25 locations as defined in 15A NCAC 07H .0305: the first line of stable and natural
26 vegetation, the toe of the frontal or primary dune, or the erosion escarpment of the frontal
27 or primary dune;

28 (4) Wheat straw bales along public accessways may span the length of the structural
29 accessway and may be aligned no less than 45 degrees to the shoreline on the waterward
30 end. The waterward location of the sections shall not exceed 10 feet waterward of the
31 locations identified in Subparagraph (3) of this Paragraph; and

32 (5) A minimum of seven feet of spacing shall be maintained between any sections of dune
33 building materials.

34 (f) Non-functioning, damaged, or wheat straw bale sections or stakes that have moved from their authorized
35 alignment shall be repaired or removed by the permittee.

36
37 History Note: Authority G.S. 113A-107; 113A-113(b)(6);

Eff. July 1, 2025.